

Mayor

Derek Easterling

City Manager

Jeff Drobney, ICMA-CM

City Clerk

Lea Alvarez, CMC

**Council**

Madelyn Orochena

Tracey Viars

Pat Ferris

Antonio Jones

Anthony Gutierrez

City Council Work Session**Meeting Agenda**

December 9, 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
5. Presentations
6. Old Business
7. New Business
8. Committee and Board Reports
9. Public Hearing(s)
 - A. **Ordinance: Rezoning Request for 2112 & 2114 Old 41 Highway, 1620 North Roberts Road**
Consideration for approval of an ordinance authorizing a rezoning request submitted by Fabric Housing Acquisitions, LLC for the property located at 2112 & 2114 Old 41 Hwy, and 1620 N. Roberts Rd (20017501190, 20017501210, 20017500210, 20017400080). Case #RZ2024-04
10. **Consent Agenda**
 - A. **Minutes: November 25, 2024 Work Session**
Approval of the November 25, 2024, City Council work session minutes.
 - B. **Minutes: November 25, 2024 Executive Session**
Approval of the November 25, 2024, Executive Session minutes.

C. Minutes: December 2, 2024 Regular Meeting

Approval of the December 2, 2024, City Council regular meeting minutes.

11. General and Administrative

A. Resolution: GIRMA Fund for First Responder's PTSD Program

Consideration for approval of a Resolution to add membership into the Georgia Interlocal Risk Management Agency's (GIRMA) Fund for the First Responder's PTSD Program.

B. Alcohol License Renewal: Stop 2 Go Shell

Consideration for approval of the 2025 annual renewal of the Alcoholic Beverage License for Beer, Wine, and Sunday Sales for Damanis Food and Fuel, Inc. d/b/a Stop 2 Go Shell located at 2515 N Cobb Pkwy, Kennesaw, GA 30152.

C. Alcohol License Renewal: Racetrac #052

Consideration for approval of the 2025 annual renewal of the Alcoholic Beverage License for Beer, Wine, and Sunday Sales for Racetrac Petroleum, Inc. d/b/a Racetrac #052 located at 1625 Old 41 Hwy, Kennesaw, GA 30152.

D. Alcohol License Renewal: Cobb Food Mart

Consideration for approval of the 2025 annual renewal of the Alcoholic Beverage License for Beer, Wine, and Sunday Sales for RS Diamond Jubilee LLC d/b/a Cobb Food Mart located at 2651 N Cobb Pkwy, Kennesaw, GA 30152.

E. Alcohol License: Bottle Shop

Consideration for approval of an Alcohol License for Beer, Wine, Liquor, and Sunday Sales for MCRAA Inc. d/b/a Bottle Shop located at 2774 Cobb Pkwy #111 Kennesaw, GA 30152. Applicant: Chandulal Mendpara

F. Resolution: IGA between the City of Kennesaw and the KDA for the Jiles Place Property Transfer

Consideration for approval of a Resolution confirming the intergovernmental agreement (IGA) between the City of Kennesaw and the Kennesaw Development Authority (KDA) regarding the transfer of the Jiles Place Property.

G. Resolution: Dedication of remaining American Rescue Plan Act (ARPA) Funding

Consideration for approval of a Resolution dedicating remaining ARPA Funds of approximately \$250,000 to the Public Safety Facility and Real Time Crime Center.

12. Public Safety

A. Crime Statistics: November 2024

Consideration to accept the November 2024 crime statistics.

B. Resolution: Fusus Contract Extension

Consideration for approval of Resolution to extend the current contract with Axon (FUSUS) and authorization for the Mayor to execute the agreement.

13. Information Technology

14. Public Works and Building Maintenance

A. Resolution: Landscape Services

Consideration for approval of a Resolution awarding the bid and contract for landscape services to Creative Cuts Landscapes DBA Creative Landscape Group.

B. Resolution: Adams Park Restroom Facility Reconstruction

Consideration of approval for a Resolution to award construction of the Adams Park Restroom Facility to S.H. Creel Contracting.

15. Recreation and Culture

16. Community Development

A. Final Plat Application: 2640 S. Main Street

Consideration for approval of a final plat submitted by Station at South Main, LLC to subdivide existing parcel 20016701150 into five (5) commercial tracts. Case #PS2024-01

17. Public Comments

18. City Manager's Report

A. Reports, Discussions, and Updates

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.

22. Adjourn



Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: December 9, 2024

TITLE: **Ordinance: Rezoning Request for 2112 & 2114 Old 41 Highway, 1620 North Roberts Road**
 Consideration for approval of an ordinance authorizing a rezoning request submitted by Fabric Housing Acquisitions, LLC for the property located at 2112 & 2114 Old 41 Hwy, and 1620 N. Roberts Rd (20017501190, 20017501210, 20017500210, 20017400080). Case #RZ2024-04

Summary:

Said request is to amend the rezoning conditions outlined in Ordinance #2018-10 and #2022-09 on parcels located at 2112 & 2114 Old 41 Hwy and 1620N. Roberts Rd (Parcels 20017501190, 20017501210, 20017500210 & 20017400080). The project consists of 4.547 +/- acres and lies in Land Lot 174, 175 and Tax Parcel 119,121,21 & 8. This public hearing was advertised in the Marietta Daily Journal on October 18, 2024 and November 22, 2024, and public notice signs have been posted on site. The Planning Commission, at their regularly scheduled meeting on November 6, 2024, recommended approval of the request to amend the zoning conditions as outlined by the applicant with the conditions that sidewalks be added along the frontage of Old 41 Hwy and N. Roberts Rd. The applicant submitted a letter on December 2, 2024 requesting the December public hearings be postponed to the January 13, 2025, City Council work session and the January 21, 2025, City Council regular meeting.

Recommendation:

Zoning Administrator recommends accepting the attorney's letter dated December 2, 2024, to postpone the application to the January 13, 2025, City Council work session and the January 21, 2025, City Council regular meeting.

Fiscal Impact:

Attachments:

1. RZ2024-04 - 2112 & 2114 Old 41 Hwy_Request to Table to 01-2025 MC submitted 12-02-24
2. RZ2024-04_2112 & 2114 Old 41 Hwy_Staff Analysis
3. RZ2024-04_2112 & 2114 Old 41 Hwy_Application Packet
4. 11-06-24 PC Draft Minutes

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

MARIETTA, GEORGIA
EMERSON OVERLOOK
326 ROSWELL STREET
SUITE 100
MARIETTA, GEORGIA 30060
TELEPHONE (770) 429-1499

KNOXVILLE, TENNESSEE
408 N. CEDAR BLUFF ROAD
SUITE 500
KNOXVILLE, TENNESSEE 37923
TELEPHONE (865) 692-9039

JACKSONVILLE, FLORIDA
10201 CENTURION PARKWAY N.
SUITE 401
JACKSONVILLE, FLORIDA 32256
TELEPHONE (904) 428-1465

BRENTWOOD, TENNESSEE
12 CADILLAC DRIVE
SUITE 200
BRENTWOOD, TENNESSEE 37027
TELEPHONE (615) 425-7347

LEXINGTON, KENTUCKY
2408 SIR BARTON WAY
SUITE 375
LEXINGTON, KY 40509
TELEPHONE (859) 309-0026

ORLANDO, FLORIDA
390 N. ORANGE AVENUE
SUITE 625
ORLANDO, FLORIDA 32801
TELEPHONE (407) 367-6233

HARRISBURG, PENNSYLVANIA
101 ERFORD ROAD
SUITE 300
CAMP HILL, PA 17011
TELEPHONE (717) 790-2854

December 2, 2024

Via E-mail Only to dsimmons@kennesaw-ga.gov

Mr. Darryl Simmons
Zoning Administrator
Department of Community Development
City of Kennesaw, Georgia
2529 J.O. Stephenson Avenue
Kennesaw, Georgia 30144

RE: Application for Rezoning (Master Plan Amendment)
 Case No.: RZ2024-04
 Applicant: Fabric Housing Acquisitions, LLC
Property Owners: JLV Kennesaw Crossing, LLC;
 JLV Kennesaw Mixed Use, LLC
 Property: 4.547 acres, more or less, located at the
 intersection of Old 41 Highway and North
 Roberts Road, being more particularly known as
 2112 and 2124 Old 41 Highway and
 1620 N. Roberts Road; Land Lots 174 and 175,
 20th District, 2nd Section, City of Kennesaw,
 Cobb County, Georgia

Dear Darryl:

Please accept this correspondence as the request of Applicant and Owners in the above-referenced Application for Master Plan Amendment to table the pending Application from the December 9, 2024, Mayor and City Council Work Session and December 16, 2024, Mayor and City Council Hearing Agenda to the respective agenda dates in January 2025. Applicant continues its work on revising the master plan to incorporate City Staff comments. Moreover, the additional time will provide the Applicant an opportunity to continue its work with City Staff to incorporate potential revisions in response to expressed concerns; as well as, address outstanding items or issues arising out of the initial rezoning in 2018 and the subsequent master plan amendment approved in 2022.

Therefore, we respectfully request the Application be tabled to be presented at the Mayor and City Council Work Session on January 13, 2025, and subsequently be heard before the Mayor and City Council on January 21, 2025.

MOORE INGRAM JOHNSON & STEELE

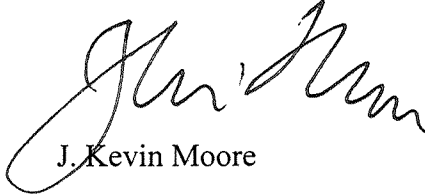
Mr. Darryl Simmons
Zoning Administrator
Department of Community Development
City of Kennesaw, Georgia
Page 2 of 2
December 2, 2024

As always, we appreciate your professional courtesy in handling of any application and would very much appreciate the opportunity to continue our work to produce a development that achieves the goals of all parties involved.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

c: Channelle Campbell
Assistant Zoning Administrator/Planner
Department of Community Development
City of Kennesaw
(Via E-mail Only)

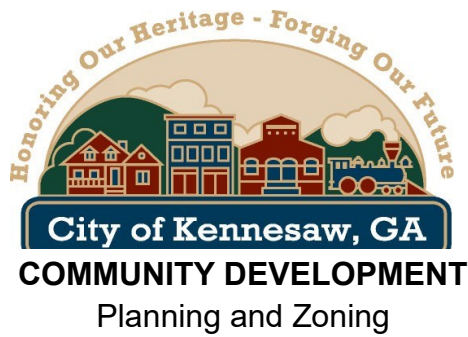
Fabric Housing Acquisitions, LLC
(Via E-mail Only)

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
NOVEMBER 18, 2024

PLANNING COMMISSION
NOVEMBER 6, 2024

LEGAL ADVERTISEMENTS
OCTOBER 18, 2024

PUBLIC NOTICE SIGN
OCTOBER 18, 2024

APPLICATION SUBMITTED
SEPTEMBER 19, 2024

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2024-04

Property Addresses

2112 & 2114 Old 41 Hwy; 1620 N. Roberts Rd

Applicant

Fabric Housing Acquisitions, LLC

Representative

Moore, Ingram, Johnson & Steele, LLP - J. Kevin Moore

Property Owner

JLV Kennesaw Crossing, LLC
JLV Kennesaw Mixed Use, LLC

Current Zoning

Planned Village Community (PVC)

Future Land Use Category

Community Activity Center (CAC)

Project Request: Amend rezoning conditions from Ordinance #2018-10 and #2022-09.

[Please see page 5 project request description.](#)

PROPERTY DETAILS

Within 1/2 mi from Unincorporated Cobb Co: Yes

Historic District: No

Cemetery: No **Floodplain:** No **Stream:** No

Parcel ID #: 20017501190, 20017501210,
20017500210 & 20017400080

Land Lot #: 174, 175 **Tax Parcel #:** 119,121,21,8

Land Area: 4.547 +/-



Aerial view of subject property (Cobb Tax Assessor)



Aerial view of subject property (Cobb Tax Assessor)

RECOMMENDATION

Staff Recommendation: **DENIAL**

[Please see page 29 - 30 for basis for recommendation.](#)

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2024-04

AERIAL MAP

LOCATION:

The 4.547 +/- acre tract lies at the intersection of Old 41 Hwy and N. Roberts Rd. Surrounding uses to the south zoned county General Commercial (GC), county Low Rise Office (LRO), county Light Industrial (LI) and county Heavy Industrial (HI) with various commercial and office uses including Advance Auto Parts, Loud Security Systems and LGE Community Credit Union. To the north and east are zoned county Light Industrial (LI) with the FedEx Ground Warehouse to the north and office uses to the east. To the west is currently zoned county General Commercial (GC) and county Tourist Services (TS) district with uses including a Shell gas station and Waffle House.

BACKGROUND:

In 2018, the site was rezoned from General Commercial (GC) to Planned Village Community (PVC). The intent of the rezoning was to develop a mixed-use development consisting of a four-five story hotel, two (2) one-story retail building consisting of approximately 22,000 sq. ft, three (3) four-five story multifamily buildings and two (2) office condominium buildings consisting of 9,750 sq. ft.

The applicant submitted a rezoning application in 2022 to amend the master plan approved in 2018. The application requested to replace the hotel requirement with a mixed-use development consisting of 12,000 sq. ft. of ground floor commercial component and multifamily with no more than 208 additional units. The request was approved by Mayor and Council on November 21, 2022 with added stipulations including outdoor plaza spaces, a parking deck with enough spaces to meet the minimum standards found in [section 6.06.09](#) for the multifamily units and square footage of either commercial retail, office and/or eating and drinking establishment and an eight foot multi-use trail.



ADJACENT PROPERTY DETAILS

Surrounding Zoning Dist. and Future Land Use

North: No Street

Zoning: County Light Industrial (LI)

Future Land Use: County Industrial (I)

South: North Roberts Rd

Zoning: County General Commercial (GC), County Low Rise Office District (LRO) and County Heavy Industrial (HI)

Future Land Use: County Community Activity Center (CAC) and County Industrial (I)

East: No Street

Zoning: County Light Industrial (LI)

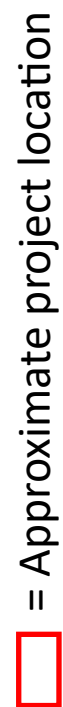
Future Land Use: County Industrial (I)

West: Old 41 Hwy

Zoning: County General Commercial (GC), County Tourist Service District (TS)

Future Land Use: County Industrial (I), County Community Activity Center (CAC)

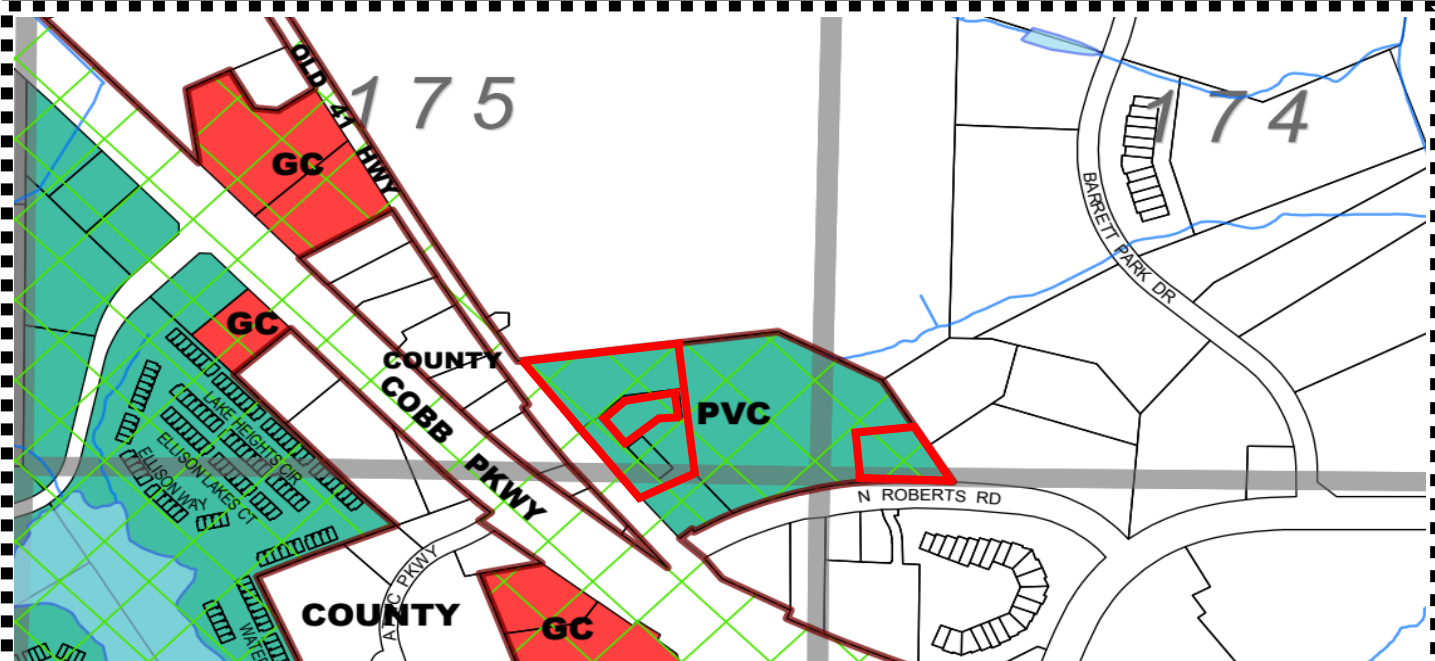
[Please see pages 4 for zoning map.](#)



STAFF ANALYSIS REPORT

ZONING CASE #: RZ2024-04

ZONING MAP



LEGEND

Zoning Districts

CBD	HGB	NS
CRC	HI	OI
FST	LI	PBSH
GC	MHP	PSC

NRC	PUD-R
NS	PVC
OI	R-10
PBSH	R-12
PSC	R-15

R-20	R-30
R-40	RA-4
RA-5	RA-6
RA-8	RA-12
RA-16	UVC

RA-6	RA-8
RA-12	RA-16
UVC	

Form Based Code

Open Space
T-3
T-4L
T-40
T-5

Zoning Overlays

Airport Hazard District
Conservation Subdivision
Historic Districts
Historic Preservation Village
Senior Living

Acworth City Limits
Kennesaw City Limits
Kennesaw Mtn Nat'l Battlefield
Land Lots
Marietta City Limits

PLANNED VILLAGE COMMUNITY(PVC)

The parcels were rezoned from General Commercial (GC) to Planned Village Community (PVC) in 2018. The Planned Village Community district is intended to create a vibrant, pedestrian-friendly commercial area within a village setting. The intent is to promote a mix of retail, dining and service businesses that fosters economic development and balances commercial needs with community focused development.

Per the [section 2.01.04](#) of the Unified Development Code, (1) Projects within the PVC should be designed to compact unified retail centers within the center of the community. (2) Projects developed within the PVC should occupy a quadrant of an intersection and only ingress and egress from a major or collector street or state highway. (3) Additionally, the desired quadrant location will provide for planned developments, one destination shopping, and service locations to serve [the] community, and to minimize traffic congestion.

STAFF ANALYSIS REPORT



ZONING CASE #: RZ2024-04

DESCRIPTION OF ZONING REQUEST

This is a rezoning amendment request to amend the zoning conditions approved under ordinances #2018-10 and #2022-09, specifically eliminating the ground floor commercial requirement and placing the remaining 12,000 sq. ft. of required retail along N. Roberts Rd. The project would eliminate the two office condominium buildings consisting of 9,750 sq. ft.

PROJECT DETAILS

PROPOSED MULTI-FAMILY

Number of Apartment Units: 120

Average Unit Size: 954 SF

Number of Floors: 4

PROPOSED OFFICE RETAIL

12,000 sq. ft. (consists of four 3,000 sq. ft suites)

PROPOSED PARKING DETAILS

Residential - 189 spaces (1.58 space/unit)

Retail Area - 50 spaces (1/200 SF)

Overflow Parking - 7 spaces

PROPOSED TRAIL

8-foot multi-use path

EXISTING COMMERCIAL

10,000 sq. ft. of retail

PROPOSED UNIT COUNT AND AVG. SIZES

# UNITS	BEDROOMS	AVG SF *
64	1-Bedroom	754 SF
48	2-Bedrooms	1,143 SF
8	3-Bedrooms	1,449 SF
120 Units Total		1,115 SF

* Sq. ft. of Heated Space

Pre-Application Meeting

August 15, 2024

Application Submitted

September 19, 2024

Fees Paid

\$375.00

Certified Letters Mailed

October 17, 2024

PROPERTY DETAIL #1

Address: 2112 Old 41 Highway

Parcel ID: 20017501210, 20017500210,

20017501200

Acres: +/- 2.02

Property Owner: JLV KENNESAW MIXED USE LLC

Current Zoning: PVC

PROPERTY DETAIL #2

Address: 2114 Old 41 Highway

Parcel ID: 20017501190

Acres: +/- 2.27

Property Owner: JLV KENNESAW CROSSING LLC

Current Zoning: PVC

PROPERTY DETAIL #3

Address: 1620 N. Roberts Rd

Parcel ID: 20017400080

Acres: +/- 1.10

Property Owner: JLV KENNESAW MIXED USE LLC

Current Zoning: PVC

EXISTING SITE CONDITIONS

The construction of the multi-family known as "The Ellison" was completed in 2021; the project consisted of 3 four story buildings totaling 250 units with singular access from N. Roberts Rd. The same year the construction of a 10,000 sq. ft. retail building was completed on parcel fronting Old 41 Hwy. The site consists of a total of 482 parking spaces; 414 parking spaces for the residential units and 68 for the retail/restaurant component of the project.

SITE SURVEY (MULTI-FAMILY DEVELOPMENT)

ZONING CASE #: RZ2024-04



SITE SURVEY (DENSITY DETAIL)

ZONING CASE #: RZ2024-04

[illegible]

Residential

Zoning: PVC Planning Village Community

Building
-Type V-A Wood Construction
-NFPA 13R Fire Protection@ Residential

Total Site: **Approx.. 4.547 Acres**

Residential - 4 Story Building

average with sizes 100 or

Building 460 Prototype

Building 460L Prototype

Total Units - 120 Units

Parking Required:

Multi Family = 1.75 Spaces per unit

Parking Provider: 400 24 00 10000

189 Surface Parking

Existing Retail Area

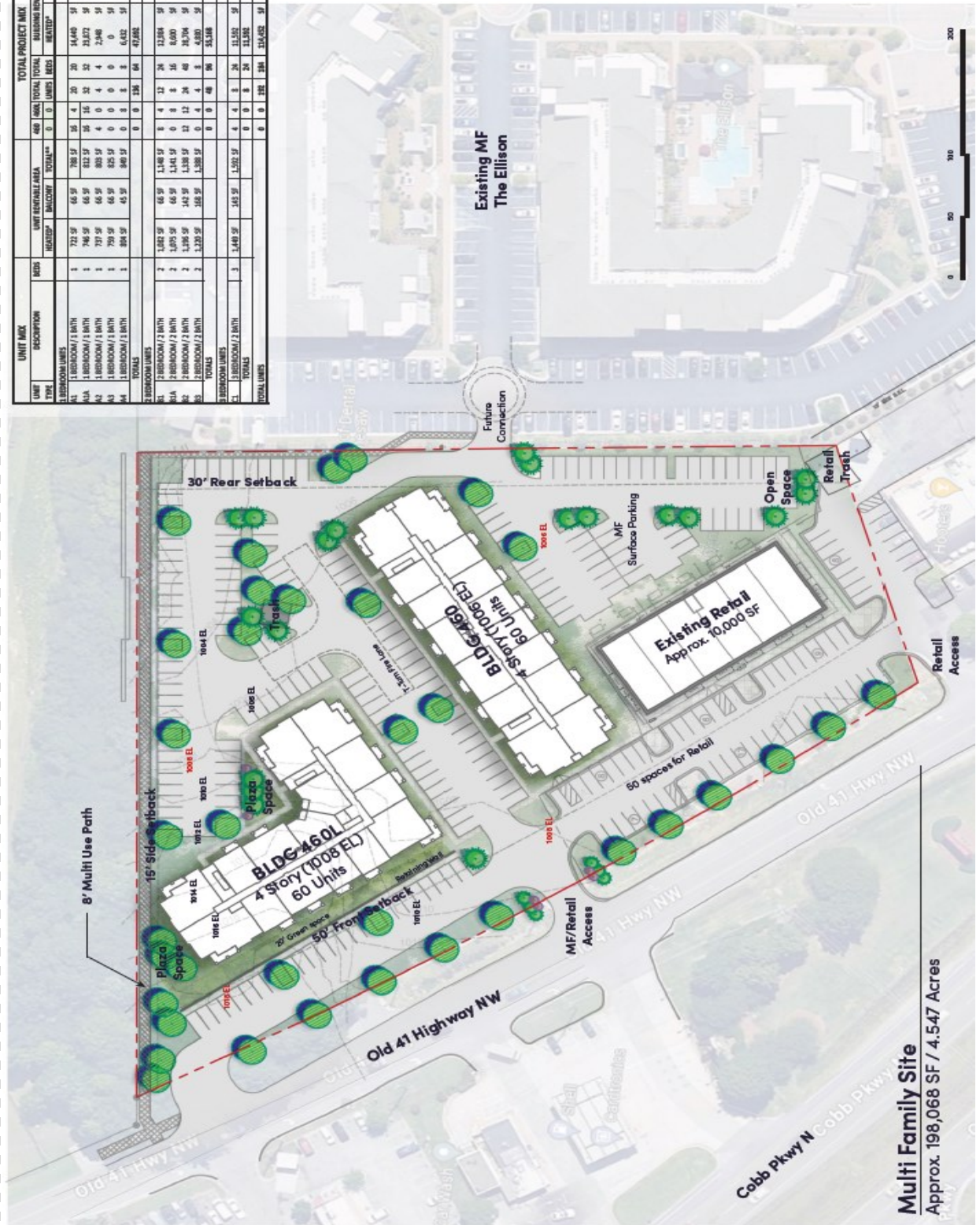
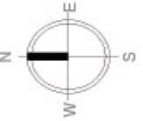
Approx. 10,000 sq

Parking Required:
Retail - 50 spaces (1/200 SF)

50 Spaces Parking

Parking Provided:
Retail - 50 spaces (1/200 SF)

Overflow - 7 spaces



Multi Family Site

Approx. 198,068 SF / 4.547 Acres

PROPOSED SITE PLAN - RETAIL BUILDING

ZONING CASE #: RZ2024-04



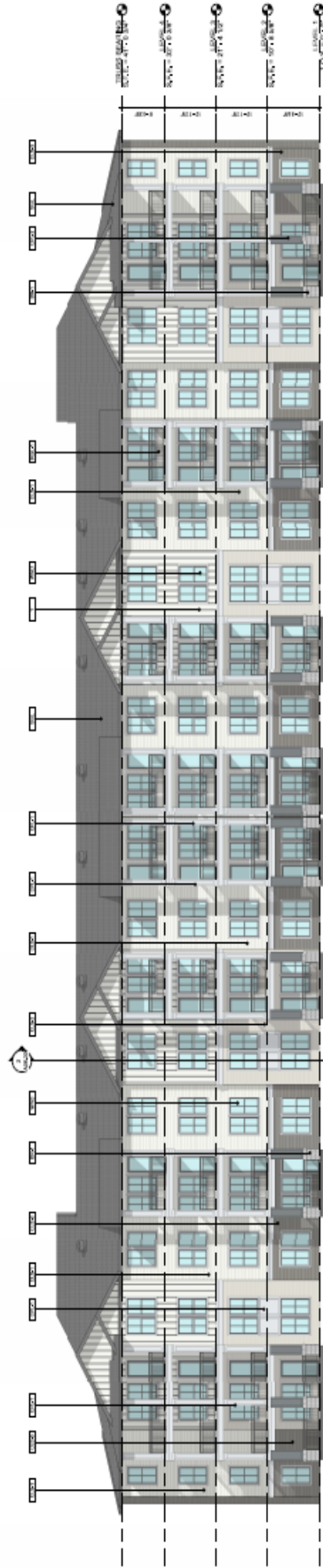
PROPOSED RENDERING (PAGE 1 OF 5)

ZONING CASE #: RZ2024-04

REVISIONS	
NO.	DESCRIPTION
1	REVISION 1: ADDITIONAL COMMENTS AND NOTES
2	REVISION 2: ADDITIONAL COMMENTS AND NOTES
3	REVISION 3: ADDITIONAL COMMENTS AND NOTES
4	REVISION 4: ADDITIONAL COMMENTS AND NOTES
5	REVISION 5: ADDITIONAL COMMENTS AND NOTES



1 BUILDING TYPE 460 FRONT ELEVATION
1/8" = 1'-0"



2 BUILDING TYPE 460 REAR ELEVATION
1/8" = 1'-0"

EXTERIOR FINISH SCHEDULE	
NO.	DESCRIPTION
1	EXTERIOR WALLS - STUCCO
2	EXTERIOR WALLS - BRICK
3	EXTERIOR WALLS - CONCRETE
4	EXTERIOR WALLS - METAL CLADDING
5	EXTERIOR WALLS - GLASS CURTAIN WALL
6	EXTERIOR WALLS - TERRAZZO
7	EXTERIOR WALLS - POLISHED CONCRETE
8	EXTERIOR WALLS - PAINTED CONCRETE
9	EXTERIOR WALLS - STONE
10	EXTERIOR WALLS - SLATE
11	EXTERIOR WALLS - MARBLE
12	EXTERIOR WALLS - GRANITE
13	EXTERIOR WALLS - CEMENTitious FIBER
14	EXTERIOR WALLS - CLAY TILE
15	EXTERIOR WALLS - CERAMIC TILE
16	EXTERIOR WALLS - GLASS BLOCK
17	EXTERIOR WALLS - TRANSPARENT GLASS
18	EXTERIOR WALLS - TINTED GLASS
19	EXTERIOR WALLS - REFLECTIVE GLASS
20	EXTERIOR WALLS - LOW E GLASS
21	EXTERIOR WALLS - INSULATED GLASS
22	EXTERIOR WALLS - DOUBLE GLAZED
23	EXTERIOR WALLS - TRIPLE GLAZED
24	EXTERIOR WALLS - ENERGY STAR
25	EXTERIOR WALLS - LEED CERTIFIED
26	EXTERIOR WALLS - GREEN BUILDING
27	EXTERIOR WALLS - SUSTAINABLE
28	EXTERIOR WALLS - ECO-FRIENDLY
29	EXTERIOR WALLS - RECYCLED
30	EXTERIOR WALLS - BIODIVERSITY
31	EXTERIOR WALLS - CLIMATE RESILIENT
32	EXTERIOR WALLS - ADAPTIVE
33	EXTERIOR WALLS - FLEXIBLE
34	EXTERIOR WALLS - INNOVATIVE
35	EXTERIOR WALLS - FUTURE-PROOF
36	EXTERIOR WALLS - LONGEVITY
37	EXTERIOR WALLS - DURABILITY
38	EXTERIOR WALLS - RESISTANCE
39	EXTERIOR WALLS - PROTECTION
40	EXTERIOR WALLS - MAINTENANCE
41	EXTERIOR WALLS - CLEANLINESS
42	EXTERIOR WALLS - HYGIENE
43	EXTERIOR WALLS - SAFETY
44	EXTERIOR WALLS - SECURITY
45	EXTERIOR WALLS - PRIVACY
46	EXTERIOR WALLS - SOUND
47	EXTERIOR WALLS - LIGHT
48	EXTERIOR WALLS - AIR
49	EXTERIOR WALLS - WATER
50	EXTERIOR WALLS - ENERGY
51	EXTERIOR WALLS - COST
52	EXTERIOR WALLS - VALUE
53	EXTERIOR WALLS - QUALITY
54	EXTERIOR WALLS - CRAFTSMANSHIP
55	EXTERIOR WALLS - ARTISANRY
56	EXTERIOR WALLS - DESIGN
57	EXTERIOR WALLS - AESTHETICS
58	EXTERIOR WALLS - FUNCTIONALITY
59	EXTERIOR WALLS - VERSATILITY
60	EXTERIOR WALLS - ADAPTABILITY
61	EXTERIOR WALLS - FLEXIBILITY
62	EXTERIOR WALLS - INNOVATION
63	EXTERIOR WALLS - CREATIVITY
64	EXTERIOR WALLS - IMAGINATION
65	EXTERIOR WALLS - INSPIRATION
66	EXTERIOR WALLS - MOTIVATION
67	EXTERIOR WALLS - ENTHUSIASM
68	EXTERIOR WALLS - PASSION
69	EXTERIOR WALLS - COMMITMENT
70	EXTERIOR WALLS - DEDICATION
71	EXTERIOR WALLS - PERSEVERANCE
72	EXTERIOR WALLS - RESILIENCE
73	EXTERIOR WALLS - COURAGE
74	EXTERIOR WALLS - BRAVERY
75	EXTERIOR WALLS - VALIANT
76	EXTERIOR WALLS - DAUNTLESS
77	EXTERIOR WALLS - UNDAUNTED
78	EXTERIOR WALLS - UNFETTERED
79	EXTERIOR WALLS - UNYIELDING
80	EXTERIOR WALLS - UNBOWING
81	EXTERIOR WALLS - UNBENDING
82	EXTERIOR WALLS - UNFLINNING
83	EXTERIOR WALLS - UNWAVERING
84	EXTERIOR WALLS - UNSHAKING
85	EXTERIOR WALLS - UNMOVING
86	EXTERIOR WALLS - IMMOVABLE
87	EXTERIOR WALLS - FIXED
88	EXTERIOR WALLS - STATIONARY
89	EXTERIOR WALLS - IMMOBILE
90	EXTERIOR WALLS - ANCHORED
91	EXTERIOR WALLS - SECURED
92	EXTERIOR WALLS - FASTENED
93	EXTERIOR WALLS - ATTACHED
94	EXTERIOR WALLS - JOINED
95	EXTERIOR WALLS - UNITED
96	EXTERIOR WALLS - COMBINED
97	EXTERIOR WALLS - Merged
98	EXTERIOR WALLS - Fused
99	EXTERIOR WALLS - Blended
100	EXTERIOR WALLS - Integrated

EXHIBIT B

PROPOSED RENDERING (PAGE 2 OF 5)

ZONING CASE #: RZ2024-04



PROPOSED RENDERING (PAGE 3 OF 5)

ZONING CASE #: RZ2024-04

REVISIONS	DATE	DESCRIPTION
1	08/20/2024	INITIAL DESIGN
2	09/10/2024	REVISIONS TO EXTERIOR FINISH SCHEDULE
3	09/10/2024	REVISIONS TO EXTERIOR FINISH SCHEDULE
4	09/10/2024	REVISIONS TO EXTERIOR FINISH SCHEDULE
5	09/10/2024	REVISIONS TO EXTERIOR FINISH SCHEDULE



1 BUILDING TYPE 400 L FRONT ELEVATION
1/8" = 1'-0"



2 BUILDING TYPE 400 L REAR ELEVATION
1/8" = 1'-0"

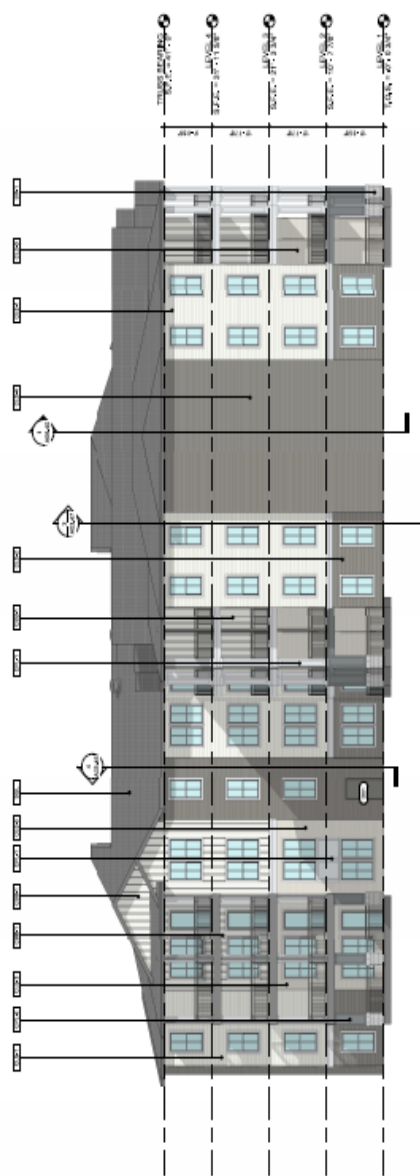
EXTERIOR FINISH SCHEDULE	
NO.	FINISH
1	ASPH/FLT SHingles
2	1" x 6" x 6" Cedar Siding
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5	1" x 6" x 6" Cedar Siding
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97	1" x 6" x 6" Cedar Siding
98	1" x 6" x 6" Cedar Siding
99	1" x 6" x 6" Cedar Siding
100	1" x 6" x 6" Cedar Siding

PROPOSED RENDERING (PAGE 4 OF 5)

ZONING CASE #: RZ2024-04



1 BUILDING TYPE 450 L SIDE 1 ELEVATION
1/8" = 1'-0"



2 BUILDING TYPE 460 L SIDE 2 ELEVATION
108" x 140"

EXTENSION FINISH SCHEDULE		DATE: 01/15/2012		REVISION:	
NO.	DESCRIPTION	START DATE	FINISH DATE	NO.	DESCRIPTION
1	CEILING	01/15/12	01/15/12	1	CEILING
2	WALL	01/15/12	01/15/12	2	WALL
3	FLOOR	01/15/12	01/15/12	3	FLOOR
4	DOOR	01/15/12	01/15/12	4	DOOR
5	WINDOW	01/15/12	01/15/12	5	WINDOW
6	PAINT	01/15/12	01/15/12	6	PAINT
7	PLASTER	01/15/12	01/15/12	7	PLASTER
8	ROOF	01/15/12	01/15/12	8	ROOF
9	MECHANICAL	01/15/12	01/15/12	9	MECHANICAL
10	ELECTRICAL	01/15/12	01/15/12	10	ELECTRICAL
11	PLUMBING	01/15/12	01/15/12	11	PLUMBING
12	HVAC	01/15/12	01/15/12	12	HVAC
13	LANDSCAPE	01/15/12	01/15/12	13	LANDSCAPE
14	INTERIOR	01/15/12	01/15/12	14	INTERIOR
15	EXTERIOR	01/15/12	01/15/12	15	EXTERIOR

PROPOSED RENDERING (PAGE 5 OF 5)

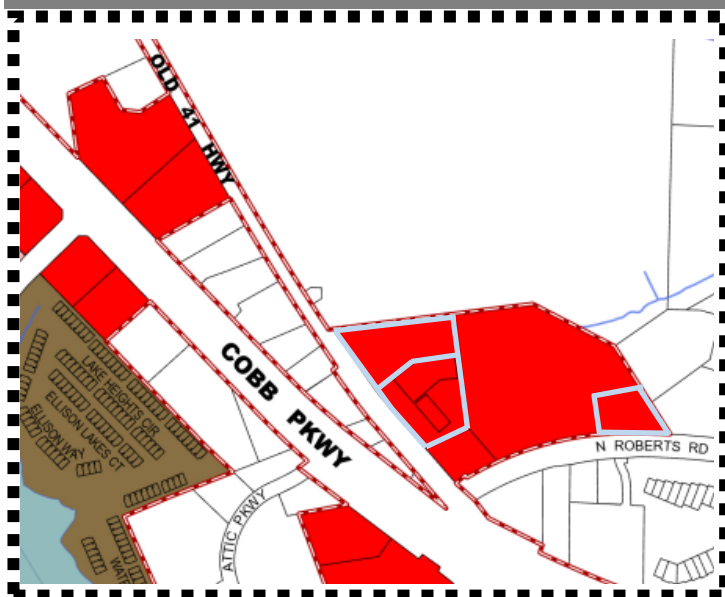
ZONING CASE #: RZ2024-04



STAFF ANALYSIS REPORT

ZONING CASE #: RZ2024-04

2022 COMPREHENSIVE PLAN - AREAS



LEGEND

- NAC - Neighborhood Activity Center
- CAC - Community Activity Center
- DAC - Downtown Activity Center
- RAC - Regional Activity Center
- RL - Residential Low/Medium

FUTURE LAND USE CATEGORY

CAC—COMMUNITY ACTIVITY CENTER

These areas provide services to the community but are not as intense as the Regional Activity Center.

FUTURE LAND USE ANALYSIS

The Comprehensive Plan designates the subject property to the property as Community Activity Center (CAC). The Community Activity Center category aims to meet the immediate needs of several neighborhoods or communities. Encouraged land uses include low to medium intensity office, retail, and commercial services. Community Activity Center land uses are primarily located adjacent to Cobb Parkway with a portion of the Moon Station Road included. Cobb Parkway is home to retail and commercial uses, including strip mall retail centers, automobile services, restaurants and motels.

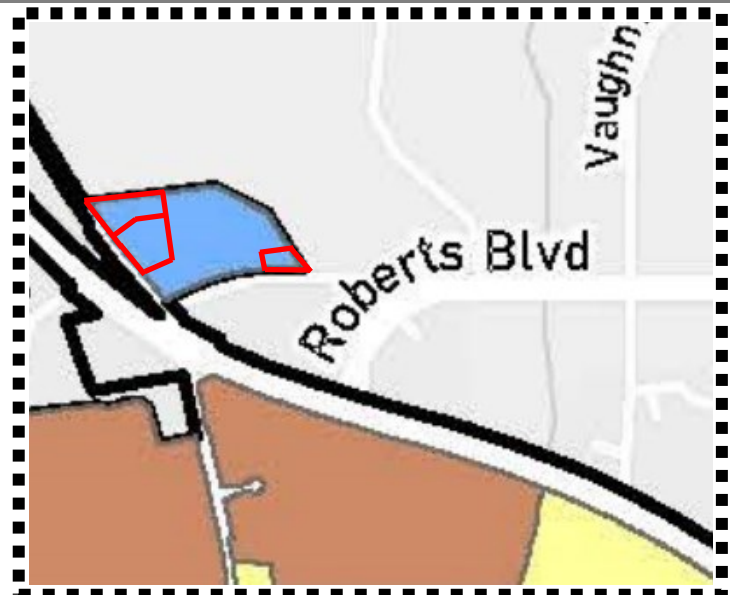
STAFF ANALYSIS REPORT

ZONING CASE #: RZ2024-04

2022 COMPREHENSIVE PLAN UPDATE

Kennesaw Areas

- Barrett and Old 41
- Campus Living
- Cherokee Street Commercial Corridor
- Cobb International Industrial Corridor
- Cobb Parkway Commercial Corridor
- East Pine Mountain Revitalization
- Historic Central Business District
- In-Town Living
- Jiles and Baker
- Kennesaw Due West
- Kennesaw Marketplace
- McCollum Industrial Corridor
- Moon Station Industrial Corridor
- North Cherokee



AREA DESIGNATION

COBB PARKWAY COMMERCIAL CORRIDOR

The Cobb Parkway Commercial Corridor is the most significant commercial corridor in Kennesaw. This approximately two-mile-long section of highway runs southeast to northwest through the lower third of the city limits. The corridor's appearance and function has been affected by vacant structures or structures that are in disrepair. Generally, there are no unifying architectural features, gateways or impressionable spaces or buildings that identify this corridor with a unique sense of place that is characteristic of Kennesaw; however, several segments of this corridor show promise.

AREA DESIGNATION ANALYSIS

The site is located within the Cobb Parkway Commercial Corridor. According to the Area Policy Matrix outlined in the Comprehensive Plan, development in this area should encourage redevelopment projects on multi-parcel basis, encourage a diverse mix of products and services and maintain adequate building and landscaping setbacks that promotes safety and market visibility. The project proposed eliminating the office component of the development and shifting the placement of the retail component from Old 41 Hwy to N. Roberts Rd. The intent of a commercial corridor is to enhance economic development by creating a dynamic environment where businesses can thrive by providing accessible commercial spaces and promoting pedestrian-friendly spaces.

FUTURE LAND USE CATEGORIES

- Regional Activity Center (RAC)
- Commercial Activity Center (CAC)
- Industrial (I)

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2024-04

TRANSPORTATION DATA

ROAD #1	AERIAL OF ROAD #1
Roadway Name Old 41 Hwy Roadway Classification Arterials Speed Limit 45 MPH Jurisdictional Control City of Kennesaw Minimum Width of Right-of-Way requirement 100-feet	
ROAD #2	AERIAL OF ROAD #2
Roadway Name North Roberts Rd. Roadway Classification Minor Collectors Speed Limit 35 MPH Jurisdictional Control Cobb County Minimum Right-of-Way Requirement N/A	

STAFF ANALYSIS REPORT

ZONING CASE #: RZ2024-04

ENVIRONMENTAL

Floodplain:

- ☐ Yes
☐ No
☒ Not Verified

Wetlands:

- ☐ Yes
☐ No
☒ Not Verified

Drainage Basin:

- ☐ None
☐ FEMA 100-year floodplain area
☐ Flood Damage Prevention Ordinance¹
☐ Project subject to Cobb County Damage Prevention Requirements
☐ Dam Breach Zone (Upstream)²
☐ Owner/Developer is responsible for obtaining any required wetland permits from the United States Army Corps of Engineers

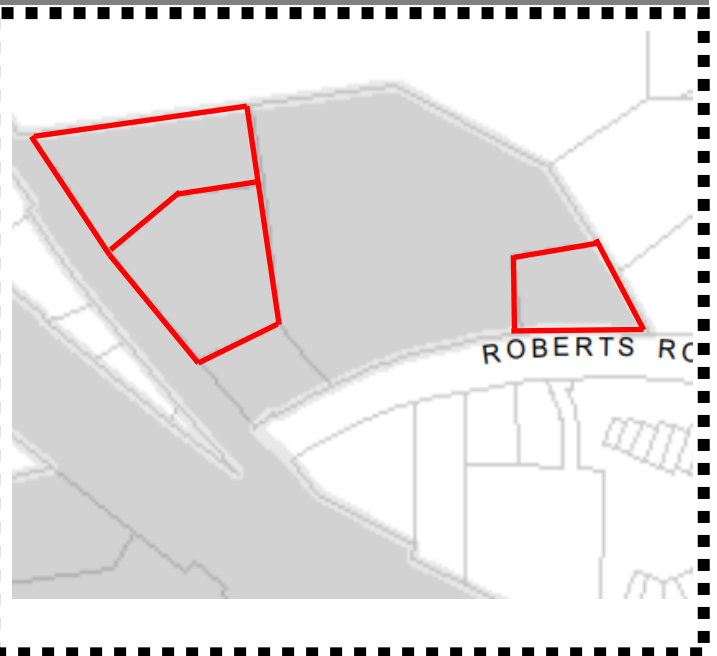
Streams and Creeks:

- ☐ Metropolitan River Protection Area³
☐ Chattahoochee River Corridor Tributary Area⁴
☐ Georgia Erosion-Sediment Control Law and County Ordinance⁵
☐ Georgia DNR Variance for work being done in 25-foot stream bank buffers (may be required)
☐ City Stream Buffer Required
☒ No Stream Buffer Required

Public Works Comments:

See page 28 for comments from Public Works.

FEMA FLOOD ZONE MAP



Special Flood Hazard Areas

2018 Flood Zones

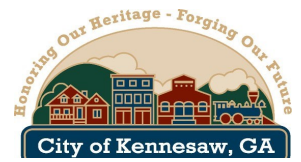
- AE
- AE, FLOODWAY
- X, 0.2 Pct Annual Chance
- Land Lots
- Kennesaw City Limits
- Subject Property

ADDITIONAL COMMENTS REGARDING PROJECT:

- Developer may be required to install/upgrade water mains based on fire flow test results or Fire Department code. This will be resolved in the plan review process.
- Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains and obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.
- Applicant will be responsible to meet all City of Kennesaw Development & Zoning Ordinance Standards, State, County and applicable Federal regulations as part of the plan review approval process. All conceptual representations submitted with the application and acted on by Mayor and Council does not relieve applicant and property owners from meeting all development standards.

1. Designated flood hazard
2. Need to keep residential buildings out of hazard.
3. Within 2000-feet of the Chattahoochee River. ARC review 35-feet undisturbed buffer each side of waterway.
4. Cobb County review (___-feet undisturbed buffer on each side)
5. State of Georgia and Cobb County review.

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ZONING CASE #: RZ2024-04

ORDINANCE #2022-09 (PAGE 1 OF 11)

CITY OF KENNESAW GEORGIA

ORDINANCE NO. 2022-09, 2022

AN ORDINANCE TO AMEND CONDITIONS OF REZONING UNDER ORDINANCE #2018-10, 2018 FOR THE PROPERTIES LOCATED AT 2112 & 2114 OLD 41 HIGHWAY (LAND LOT 175 TAX PARCELS 21, 119 & 121)

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

WHEREAS, VARNER DEVELOPERS, have submitted an application to amend conditions of rezoning under ordinance #2018-10, 2018 for the properties located at 2112 Old 41 Highway (20017500210), 2112 Old 41 Highway (20017501210) and 2114 Old 41 Highway (20017501190, identified as Land Lot 175 and Tax Parcels 21, 119 & 121 (as more particularly described below). The amendment is to eliminate any mention of a hotel component and replace it with a Mixed-Use Development of approximately 4.316 +/- acres; and

WHEREAS, notice was advertised in the Marietta Daily Journal on October 14, 2022 and October 21, 2022, of a public hearing before the Kennesaw Planning Commission held on November 2, 2022 and the Mayor and Council on November 21, 2022 and;

WHEREAS, the Kennesaw Planning Commission held a public hearing on this proposal at a meeting held on November 2, 2022 and;

WHEREAS, the Mayor and Council held a public hearing to consider this proposal at a meeting held on November 21, 2022

WHEREAS, the Mayor and Council have determined that the proposed amendment to the Official Zoning Map is in the public interest and meets the standards established in the Kennesaw Zoning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KENNESAW, COBB COUNTY, GEORGIA, AS FOLLOWS.

SECTION 1. The Official Zoning Map of the City of Kennesaw, Georgia is hereby amended so as to change the previously approved zoning conditions under ordinance #2018-10, 2018 to eliminate any mention of a hotel component and replace it with a Mixed-Use Development of approximately 4.316 +/- acres for the following described property:

LEGAL DESCRIPTION OF TOTAL SITE

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ZONING CASE #: RZ2024-04

ORDINANCE #2022-09 (PAGE 2 OF 11)

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 174, 175, 206 & 207 of the 20th District, City of Kennesaw, Cobb County, Georgia and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, commence from a point at the intersection of the northwesterly right-of-way line of North Roberts Road (Variable R/W) with the northeasterly right-of-way line of Old Highway 41 (Variable R/W); thence along said right-of-way line of Old Highway 41 North 41 degrees 0 minutes 19 seconds West a distance of 175.00 feet to a point and the TRUE POINT OF BEGINNING, from the TRUE POINT OF BEGINNING as thus established; thence continue Northwesterly along said right-of-way line North 41 degrees 0 minutes 19 seconds West a distance of 228.69 feet; thence 225.84 feet along an arc of a curve to the right, said curve having a radius of 1,730.66 feet and a chord bearing and distance of North 37 degrees 9 minutes 39 seconds West 225.68 feet to a point; thence North 33 degrees 56 minutes 58 seconds West a distance of 204.43 feet to a point; thence leaving said right-of-way line North 82 degrees 49 minutes 6 seconds East a distance of 517.77 feet to a point; thence North 82 degrees 49 minutes 6 seconds East a distance of 330.25 feet; thence South 62 degrees 34 minutes 4 seconds East a distance of 399.48 feet to a point; thence South 32 degrees 12 minutes 32 seconds East a distance of 436.81 feet to a point on said right-of-way line of North Roberts Road; thence along said right-of-way line the following courses and distances: North 87 degrees 10 minutes 20 seconds West a distance of 40.43 feet to a point; thence North 88 degrees 37 minutes 55 seconds West a distance of 127.46 feet to a point; thence 585.79 feet along an arc of a curve to the left, said curve having a radius of 1,334.05 feet and a chord bearing and distance of South 78 degrees 0 minutes 15 seconds West 581.09 feet to a point; thence North 41 degrees 22 minutes 57 seconds West a distance of 175.98 feet to a point; thence South 62 degrees 41 minutes 20 seconds West a distance of 197.70 feet to a point and the TRUE POINT OF BEGINNING.

Said tract containing 13.52 acres more or less.

SECTION 2. BE IT FURTHER ORDAINED THAT the amendment to the Official Zoning Map outlined in Section 1 above is adopted to change the zoning conditions under ordinance #2018-10, 2018 with the following stipulations adhered to with this rezoning as follows:

STIPULATION AMENDMENT OVERVIEW

All zoning stipulations under ordinance #2018-10 shall remain in effect; however, any reference to a hotel shall be replaced with a Mixed-Use Development of approximately 4.316 +/- acres, referred to as "Mixed-Use Development (4.316 +/- acres)" and consists of the following:

1. Multi-family residential of type IIIA construction with a maximum number of 208 units with the average unit size consisting of 975 square feet.
2. A minimum of 12,000 square feet of ground floor retail commercial
3. Outdoor plaza spaces as shown on the site plan prepared by Niles Bolton Associates and dated on October 19, 2022.

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ZONING CASE #: RZ2024-04

ORDINANCE #2022-09 (PAGE 3 OF 11)

4. A minimum of 6,000 square feet for leasing and amenity space for the multi-family residential.
5. A parking deck with enough spaces to meet the minimum standards found in section 6.06.09 for the number of multi-family units and the square footages of either commercial retail, office and/or eating and drinking establishments. Surface parking, as shown on the site plan, may count towards meeting this requirement.
6. Pedestrian access points connecting the proposed mixed-use development with the existing multi-family apartments.
7. An eight-foot multi-use trail.

Varner Developers and FedEx shall come to an agreement on how to reduce or eliminate any chance of noise and light pollution from the FedEx facility spilling over onto the proposed Mixed-Use Development to ensure protection of all parties involved.

STIPULATIONS APPLICABLE TO THE OVERALL MIXED-USE DEVELOPMENT

1. The revised stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form, which are currently in place concerning the Subject Property.
2. Varner Developers seek to rezone the Subject Property from GC to PVC in order to allow for the development and construction of a Mixed-Use Development in substantial conformity to the current revised site plan prepared by Planners and Engineers Collaborative, which is being submitted concurrently herewith.
3. The Subject Property consists of an approximate 13.52-acre tract of land, which shall be developed as a Mixed-Use Development including the components mentioned below with ancillary and permitted uses allowed under and pursuant to the PVC Zoning District, as follows:
 - a. A four-five story Hotel which will accommodate approximately 140 guest rooms with associated parking and commensurate amenities. A Mixed-Use Development (4.316 +/- acres) including the components mentioned above with ancillary and permitted uses allowed under and pursuant to the PVC Zoning District.
 - b. Two (2) one-story Class "A" Retail buildings consisting of a total amount of approximately 22,000 sq. ft. of Retail Commercial Space.
 - c. Three (3) four-five story Multi-Family buildings consisting of a total number of 274 Class "A", highly amenitized luxury Multi-Family homes.
 - d. Two (2) Office Condominium buildings consisting of a total 9,750 sq. ft. and consisting of approximately seven (7) Office Condo units ranging from 1,250 sq. ft. to 1500 sq. ft.
 - e. The positioning of future pedestrian connectivity to the Noonday Trail and other City and/or TCCID-planned pedestrian linkage and infrastructure.
4. Varner Developers shall be the Master Developer and will be involved with all aspects of the development including, but not limited to, all of the components located therein.
5. Concurrently with the issuance of final Certificates of Occupancy regarding the Multi-Family component, Varner Developers shall secure permits and commence the vertical construction of at least one of the two proposed retail buildings regarding the proposed Retail component as shown on the revised site plan.

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In addition, prior to the issuance of the final Multi-Family Certificates of Occupancy for the Multi-Family Development (4.316 +/- acres), Varner shall update the Master Protective Covenants for the Mixed-Use Development which shall include all phases. The Master Association will ultimately be responsible for the oversight, upkeep and maintenance of all entrance areas, common areas, community buildings and structures, open space areas, pedestrian connectivity and similar features contained within the overall Mixed-Use Development.

Varner Developers, shall guarantee (up to \$150,000.00) of the sums necessary for the demolition of the entirety of the shopping center, either within twenty-four (24) months from the Rezoning/Entitlement and/or prior to the issuance of Certificates of Occupancy regarding the Multi-Family component, whichever occurs first. If, for whatever reason, Varner Developers does not demolish the entirety of the existing shopping center within that time frame, then the City of Kennesaw shall be authorized to demolish the totality of the shopping center and place a lien on the retail and hotel components in an amount commensurate with the costs of demolition and associated remedial costs.

Varner Developers, upon the rezoning and entitlement of the Subject Property, either within twenty-four (24) months from the date of approval or prior to the issuance of Final Certificate of Occupancy permits for the Multi-Family component, whichever event first occurs, shall provide the City of Kennesaw with documentation which confirms that binding agreements with all existing tenants are in place reflecting the fact that the tenants' respective leases will terminate within a time frame which ensures that the entire shopping center (which solely references the multi-tenant building and NOT Hooter's Restaurant) will be demolished in its totality.¹

6. Prior to the issuance of the final Multi-Family Certificate of Occupancy, Varner Developers shall submit Master Protective Covenants for the Mixed-Use Development, which shall include all phases. Currently therewith, Master Association documents shall be submitted which will include all components of the proposed development. The Master Association will ultimately be responsible for the oversight, upkeep and maintenance of all entrance areas, common areas, community buildings and structures, Open Space areas, pedestrian connectivity and similar features contained within the overall Mixed-Use Development.
7. The Master Association shall have Architectural Design Regulations and other usual and customary Covenants and Restrictions to protect the quality and integrity of the Mixed-Use Development's architecture.
8. The architectural style and composition regarding the Mixed-Use Development shall be in reasonable conformity to the architectural renderings/elevations/photographs (depicting all components) which were submitted concurrently with the Applications on April 26, 2018 and May 1, 2018, respectively.

In addition, the architectural style and composition regarding the Mixed-Use Development (4.316 +/- acres) shall be in reasonable conformity to the architectural renderings/elevations/photographs (depicting all components) which were submitted concurrently with the Application on September 16, 2022. However, Varner will submit (under separate cover) renderings/elevations ("Imagery") depicting the

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ZONING CASE #: RZ2024-04

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architectural style and composition of the vertically-integrated components as seen from Old 41 Highway.

¹ The shopping center which is currently located on the Subject Property has experienced deferred maintenance, upkeep and attention. Many of its tenants operate businesses which are problematic on various levels and which, generally, do nothing to aesthetically enhance the Subject Property which is considered a "Gateway" to the City of Kennesaw.

In addition to the foregoing, the Multi-Family component's architectural style and composition (both interior and exterior) shall be in reasonable conformity to the photographs and additional imagery, which were submitted under separate cover on May 29, 2018.

9. Varner Developers agree to construct all of the necessary roadways and infrastructure improvements as more particularly shown and reflected on the current revised site plan. Additionally, Varner Developers agree to comply in all respects with the City's specifications concerning such infrastructure improvements, which are interior to the Mixed-Use Development.
10. Entrance signage shall be ground-based, monument-style signage with finish, materials and colors being in substantial conformity to the architectural style embodied in the Mixed-Use Development. Said signage may include building-attached, vertical marquee signage and other signage allowed under and pursuant to the City of Kennesaw Sign Ordinance. There shall be no temporary signs except for "Grand Opening" signage and signage indicating the coming development.
11. The entrance areas of the Mixed-Use Development shall be professionally designed, landscaped, maintained, irrigated and themed to the architectural style and composition of the proposed development.
12. Lighting with the proposed Mixed-Use Development shall be environmentally sensitive, decorative and themed to the architectural style and composition of the respective components of the development. Every effort shall be made to make all lighting as unobtrusive as possible.
13. All setback and buffer areas may be penetrated for purposes of grading, detention, utilities and storm water management as long as such encroachments satisfy City of Kennesaw developmental regulations and requirements.
14. All streets within the interior of the proposed Mixed-Use Development shall be private and shall be owned and maintained by Varner Developers and/or its successors in title and responsibility.
15. The granting of the following concurrent variances:
 - a. A reduction in the required parking spaces for high-rise Multi-Family luxury homes from 2.0 spaces per unit to 1.59 spaces per unit, which provides a minimum parking space count of 436 spaces.
 - b. A waiver of overall required parking spaces (parking ratio requirements) within the balance of the subject property to be reduced from 867 total spaces to 710 total spaces (a 6% reduction in required parking).
 - c. A reduction of the major side setback from twenty-five feet (25') to twenty feet (20').

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According to the Project's Multi-Family Developer and consistent with other information gleaned from the operational aspects of Multi-Family Communities in general, a parking ratio of 1.4 - 1.7 parking spaces per unit is sufficient for Multi-Family residents and guests. More specifically, Newport Developer Partners, LLC ("Newport") has stated that its last two Urban Multi-Family Communities were parked at 1.4 -1.41 parking spaces per unit, respectively. Newport's latest surfaced parked developed property is Aldridge Town Village, which is located just north of Town Center Mall. The parking ratio at that particular property is 1.50 for a Multi-Family Luxury Home Development at a density of 30 units per acre.

Ideally, the Multi-Family parking ratios which Newport currently uses provide 1.5 spaces for 1 bedroom homes, 1.75 spaces for 2 bedroom homes and 2.0 spaces for 3 bedroom homes. With Newport's anticipated mix of homes, that yields an overall ratio of 1.63 parking spaces per unit; however, alternatively, Newport also uses a ratio of 1.0 space per bedroom, which results in a 1.50 parking ratio per unit for its anticipated mix.

Evidently, current market indicators and trends are pointing in the direction of less parking rather than more parking particularly in light of ride services (such as Uber, Lyft, etc.) proliferating and the notable aversion of "millennials" concerning the ownership of cars makes sense of having less parking spaces for the overall development and less parking for the Multi-Family Community. Therefore, rather than establishing a "hardship" in connection with the granting of the requested parking ratio variances, it is important to note that the granting of said variances will not set an adverse precedent (and, in fact, are pointing the other way to the future) and do not impair the purpose, spirit and intent of the City's Zoning Ordinance regarding parking ratio requirements.²

16. Notwithstanding anything herein to the contrary, the maximum number of residential units shall not exceed 274 units and no more than 208 units for the proposed 4.316 +/- acre Mixed-Use Development.

17. Minor modifications to the within and foregoing stipulations/conditions, lighting, landscaping, signage, architecture, site fixtures and the like may be approved by the City's Planning and Zoning Administrator or his designee as needed or necessary.

18. In the event that Varner Developers does not close on the Subject Property; is determined to be undevelopable by Varner Developers; or, if at least one (1) developmental permit is not issued within a twenty-four (24) month period from the date of approval by the Mayor and City Council then the Subject Property's zoning classification shall revert to its current classification of GC without further action by the City of Kennesaw or the owner of the Subject Property.

19. Compliance with recommendations from the Manager of Cobb County International Airport ("McCollum Field") with respect to the height of buildings and construction equipment (such as cranes, etc.) utilized in connection with the construction of the Mixed-Use Development.

20. Recognizing the complexity, costs and developmental challenges associated with the development of Kennesaw Crossing, the City has indicated that it will consider

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ORDINANCE #2022-09 (PAGE 7 OF 11)

subsequent requests by Varner Developers, together with supporting documentation and evidence to sufficiently demonstrate:

- i. "But -for" the requested incentives, Varner Developers' project would have difficulty going forward;
- ii. Positive economic impact for the City of Kennesaw; and,

² Without a doubt, the consensus among Multi-Family Developers is that parking problems are untenable with the result being that proximity to the targeted demographics' luxury Multi-Family residences is much more important than the extra parking which historically goes unused. Finally, the positioning, configuration and number of parking spaces is a critical design issue inherent with all High-End Multi-family Communities and the Developers of those Communities.

- iii. Any other such material as may be reasonably required by the City of Kennesaw. However, nothing contained herein shall be construed to legally obligate the City of Kennesaw to provide any incentives for Varner Developers' proposed project.

21. Varner Developers agree to voluntarily convey and donate an easement in perpetuity to allow the construction of the Multi-Use Trail as shown on the revised site plan submitted concurrently herewith in order to ensure connectivity between Old Highway 41 and North Roberts Road, traversing the Subject Property, in order to ultimately connect to the Noonday Creek Trail System.

STIPULATIONS APPLICABLE TO THE NON-RESIDENTIAL COMPONENTS OF THE PROPOSED MIXED-USE DEVELOPMENT

1. Varner Developers propose a Hotel a Mixed Use Development (4.316 +/- acres) as stated verbatim in the "Stipulations Amendment Overview" section, Retail and Office Condo Space by utilizing the Mixed-Use Concept by varying facades, roof elevations and other aesthetically pleasing treatments in substantial conformity to the architectural renderings/elevations/ photographs & other imagery which were mentioned hereinabove and is attached.
2. The architectural style and composition shall be substantially similar to the architectural renderings/elevations and imagery or as may be approved during the Plan Review Process. It is understood that said architectural imagery is conceptual in nature and shall be refined, clarified and focused as the Mixed- Use Development proceeds through the Plan Review Process. Additionally, it is also understood that the positioning of certain components of the architecture; for example, windows, and patios and other such features, etc. may be revised during the final Plan Review Process as well.
3. The proposed Non-Residential components shall include a flexible mix of Hotel, a Mixed Use Development (4.316 +/- acres), Commercial, Retail and Office Space which will also include ancillary Commercial type uses for the Multi-Family Residential component (consisting of Leasing Offices, Recreational Amenities, Business Center, etc.).
4. Landscaping for the proposed development shall be pursuant to a specific landscape plan, which shall be submitted during the Plan Review Process, with reference being

STAFF ANALYSIS REPORT



ZONING CASE #: RZ2024-04

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- made to said landscape plan for more particular delineation and location of the plantings and species to be planted.
5. Parking area lighting shall be a maximum height of thirty feet (30') and shall be environmentally sensitive, energy efficient, horizontal cut-off luminaries, which will eliminate light pollution in order to prevent illumination from penetrating outside of the boundaries of the Subject Property.
 6. Hooded security lighting shall be utilized on the buildings within the Non-Residential areas as required by Kennesaw Developmental Regulations.
 7. Varner Developers agree to install and construct site lighting to a site lighting/ photometric plan, which shall be submitted to the City Staff for review and approval during the Plan and Review Process.
 8. Dumpsters will be positioned so as to prevent visual intrusion from streets, connection points to the community spaces and, wherever possible with screening by landscaping, walls and/or vegetation. Dumpsters shall have rubber lids and bumpers to minimize noise during their emptying. At grade trash compaction shall also be allowed and screened as appropriate.
 9. Any exhaust from restaurant facilities, which may be constructed, shall be filtered and/or attenuated to minimize odors.
 10. There shall be no outdoor paging system, phone bells or loud speakers. However, outdoor music systems and outdoor musical performances shall be allowed.
 11. The following uses shall be prohibited:
 - a. Video arcades as a primary use.
 - b. Adult themed book and novelty stores as a primary use.
 - c. Automotive sales, repair and/or service facilities.
 - d. Movie theaters.
 - e. Gas stations and convenience stores with gas sales.
 - f. Pawn shops.
 - g. Automotive wash service.
 - h. Boat sales and repairs.
 - i. Boarding and breeding kennels.
 - j. Dry cleaning plants.
 - k. Farm equipment sales and service.
 - l. Lumber, hardware and other building material establishments.
 - m. Mobile home and travel trailer sales.
 - n. Motorcycle sales and service.
 - o. Check cashing establishments.
 - p. Service stations.
 - q. Station terminals for bus and/or rail passenger service.
 - r. Taxi stands.
 - s. Tattoo parlors.
 - t. Massage parlors.
 - u. Pool halls.
 - v. Package stores (except within the context of wine/spirits sold in a market or specialty shop).
 12. The Non-Residential components will include pedestrian walkways between the proposed buildings and throughout the parking area subject to review and approval by the City's Staff. There will be pedestrian connectivity between the Non-Residential and the Residential components, including sidewalks along the Subject Property's

STAFF ANALYSIS REPORT



ZONING CASE #: RZ2024-04

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respective frontages on North Roberts Road and Old Highway 41 and the use of a multi-use path/trail as shown on the revised site plan and as mentioned above.

STIPULATIONS APPLICABLE TO THE RESIDENTIAL (MULTI-FAMILY LUXURY HOMES) COMPONENT OF THE PROPOSED MIXED-USE DEVELOPMENT

1. Within the Residential area of the proposed Mixed-Use Development (9.0± acres) there shall be a total maximum number of 274 highly amenitized Class A Luxury Multi-Family Homes.

Within the Residential area of the proposed Mixed-Use Development (4.316 +/- acres) there shall be a total maximum number of 208 highly amenitized Class A Luxury Multi-Family Homes, in addition to the stipulations as outlined below.

2. The proposed Residential Community shall have state of the art recreational facilities and amenities for the use and enjoyment of its residents as follows:
 - a. Conveniently located pool area, which will include a clubhouse, which will feature a lounge and flex coffee-style bar area.
 - b. A fitness center which will be fully equipped and which shall contain a separate yoga studio.
 - c. An outside courtyard and connectivity to existing and planned pedestrian connectivity by virtue of multi-use sidewalks and TCCID's existing or proposed Circulator Route.
 - d. Bicycle racks and storage.
 - e. Pet spa and dog walk area.
 - f. Controlled/gated vehicular and pedestrian access.
3. Floor plans and finishes within the Multi-Family homes shall consist, at a minimum, of the following:
 - a. A minimum of 9 feet ceiling heights from floor to finished ceilings and greater and a minimum of 10 feet between floors.
 - b. Wood framed cabinetry or its equivalent.
 - c. Enhanced granite, Corian, marble or other solid surface countertops.
 - d. High-end appliances consistent with luxury apartment and condominium finishes.
 - e. Deep stainless-steel kitchen sinks.
 - f. Wood-inspired plank flooring throughout.
 - g. Spacious, open floor plans including spacious walk-in closets.
 - h. High-speed internet wiring in all units.
 - i. Upgraded lighting package throughout each unit.
 - j. Brushed nickel or chrome bathroom and kitchen fixtures.
 - k. Wood-inspired plank flooring in all bathrooms and laundry rooms. Also, tile tub surround and tile showers in select units.
 - l. Window treatments throughout the units to present a uniform appearance.
 - m. First class landscape and hardscape throughout the proposed developed.
 - n. Energy efficient construction, which will meet and exceed the Georgia Energy Code.
 - o. Double paned, insulated windows in all units; and
 - p. Controlled access to buildings, parking and amenity areas.

STAFF ANALYSIS REPORT



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4. The leases concerning the luxury Multi-Family homes shall not include any provisions for indemnification, financial assistance or any other components requiring the signature of a Guarantor.
5. The overall lighting within the proposed development shall be environmentally sensitive, decorative and themed to the architectural style and composition of the buildings
6. Pedestrian lighting style and concept will be subject to review and approval by the Planning and Zoning Administrator during the Plan Review process. Additionally, hooded lighting shall be utilized on the buildings and throughout the walkways and surface parking areas.
7. Signage for the proposed development shall be ground-based, monument style and shall be constructed in the style and of the materials, which are complimentary to the proposed architecture as aforementioned and shall include vertical, building-attached marquee-type signage.
8. Compliance with recommendations from the City Engineer and Public Works Director with respect to hydrology, detention and downstream considerations.
9. Compliance with recommendations from the City Engineer and Public Works Director with respect to traffic and transportation issues. Additionally, compliance with the recommendations from the Traffic Assessment/Traffic Impact Study ("TIS") prepared by Calyx Engineers which was submitted under separate cover on May 29, 2018. Additionally, compliance with the following:
 - a. The construction of deceleration lanes and a dedicated and turning lanes as recommended by Calyx's TIS and based upon local City of Kennesaw standards.
 - b. Points of ingress/egress to the site with respect to turning movements shall follow the recommendations of Calyx Engineers with ultimate review and approval by the City of Kennesaw Staff.
10. All construction and employee vehicles and equipment will be parked and otherwise located on the Subject Property during the development of infrastructure and construction of the buildings unless agreements with adjacent property owners are negotiated.
11. Landscaping for the entrance area, signage areas, amenity and courtyard areas and all other common areas immediately surrounding the proposed buildings shall be professionally designed, implemented and maintained.³
12. All landscaping referenced herein shall be approved by the City of Kennesaw Arborist as a part of the Plan Review process and incorporated into the overall landscape plan for the proposed development.
13. All utilities servicing units within the proposed development shall be located underground.
14. Any retaining walls exposed to public rights-of-way or adjacent properties shall be faced with hard surfaced materials such as brick, stone, stacked stone and/or split-faced segmented block wall.
15. Any sidewalk, curb or guttering damaged or destroyed during construction shall be repaired or fully replaced during the completion of the project.

STAFF ANALYSIS REPORT



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³ The Multi-Family luxury home Developer is Newport Developer Partners, LLC and its President/ CEO, Robert F. Krause, Jr. As he did as a Principal of Post Properties, Mr. Krause and Newport will ensure the installation of compelling landscaping including colorful seasonal plantings and indigenous vegetation.

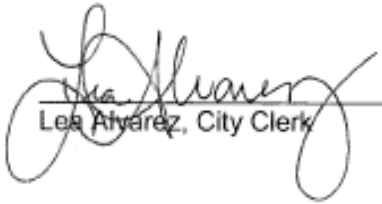
SECTION 3. BE IT FURTHER ORDAINED THAT it is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses, and phrases are severable, and if any section, paragraph, sentence, clause, and phrase are declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance.

SECTION 4. BE IT FURTHER ORDAINED THAT this Ordinance shall become effective from and after its adoption and execution by the Mayor, pursuant to Section 2.11 of the City Charter of the City of Kennesaw.

PASSED AND ADOPTED by the Kennesaw City Council on this 21st day of November 2022.

ATTEST:

CITY OF KENNESAW:


Lea Alvarez, City Clerk




Derek Easterling, Mayor

STAFF ANALYSIS REPORT



ZONING CASE #: RZ2024-04

PLANNING AND ZONING

Site Visit:

☒ Yes
☐ No

Staff Member:

Name: Chanelle Campbell
Date of Visit: 10/24/24

Land Use Recommendation:

Mixed – use development is compatible

Historic Preservation:

Not in the historic district

Cemetery Preservation:

No cemeteries on site; however site is located adjacent to the Roberts Cemetery in Cobb County.

Variance Approved in 2018 for the following:

- Reduction of parking from 2.0 to 1.59
- Reduction of overall parking for the entire site from 867 to 710 spaces
- Reduction of major side setback from 25 feet to 20 feet

DEPARTMENT COMMENTS

ENGINEERING:

No Comments

PUBLIC WORKS:

- Old Hwy 41 Improvement - per approved site plan in 2019, commercial site will include paving overlay Old 41 Hwy in required areas.

BUILDING SERVICES:

No Comments

COBB COUNTY FIRE:

None provided

COBB COUNTY WATER:

None provided

STAFF ANALYSIS:

The applicant, Fabric Housing Acquisition, LLC is requesting to amend the rezoning conditions on parcels 20017501190, 20017501210, 20017500210 & 20017400080. In 2018, Mayor and Council approved the rezoning of the parcels from General Commercial (GC) to Planned Village Community (PVC) with the intent of developing a mixed-used development. The proposal included a four-five story hotel, two (2) one story retail buildings consisting of approximately 22,000 sq. ft. retail commercial space, three (3) four-five story multi-family buildings consisting of 274 units and two (2) office condominium buildings consisting of a total of 9,750 sq. ft.

In 2022, the applicant received approval from Mayor and Council to amend the initial rezoning conditions eliminating the hotel stipulation from the development and replacing it with a mixed-used development to consist of:

1. Multi-family residential of type IIIA construction with a maximum number of 208 units with the average unit size consisting of 975 square feet.
2. A minimum of 12,000 square feet of ground floor retail commercial
3. Outdoor plaza spaces as shown on the site plan prepared by Niles Bolton Associates and dated on October 19, 2022. (Exhibit A, Please see page 31)
4. A minimum of 6,000 square feet for leasing and amenity space for the multifamily residential
5. A parking deck with enough spaces to meet the minimum standards found in section 6.06.09 for the number of multi-family units and the square footages of either commercial retail, office and/or eating establishments. Surface parking as shown on the site plan, may count towards meeting this requirement.
6. Pedestrian access points connecting the proposed mixed-use development with existing multi-family apartment.
7. An eight foot multi-use trail.

STAFF ANALYSIS REPORT



ZONING CASE #: RZ2024-04

The submitted application requests the elimination of ground retail from the proposed mixed used development fronting Old 41 Hwy and the relocation of the required 12,000 sq. ft. retail component to parcel with frontage on N. Roberts Rd. The new proposal includes eliminating the two office condominium buildings totaling 9,750 sq. ft. and reducing the number of proposed multifamily units from 208 to 120, with an average unit size of 954 sq. ft.

Old 41 Hwy falls within the Cobb Parkway Commercial Corridor intended to enhance economic development by creating a dynamic environment where businesses can thrive by providing accessible commercial spaces and promoting pedestrian-friendly spaces. The corridor aims to provide accessible commercial spaces and promote pedestrian-friendly areas. It is characterized by multi-parcel redevelopment projects that encourages a diverse mix of products and services while maintaining adequate building and landscaping setbacks to promote safety and market visibility.

Historically, the development pattern along both Cobb Parkway and Old 41 Hwy has been commercial, with office and retail services fronting both sides of these roadways. According to [section 2.01.04.08](#), the Planned Village Community (PVC) zoning district is intended for planned developments serving as destination shopping and service locations for the community and aimed at reduce traffic congestion.

Old 41 Hwy hosts a variety of retail and commercial uses, including retail centers, automobile services, restaurants and office spaces. The development of residential units along Old 41 would be contrary to the existing development pattern of retail, commercial, and office space currently in place; for these reasons, staff recommends denial of the proposed amendments to the master plan.

ZONING ADMINISTRATOR'S RECOMMENDATION: **DENIAL**

Based on the findings outlined in the analysis section of this staff report, City staff recommends **denial** to amend the zoning conditions as outlined in the request case #RZ2024-04.

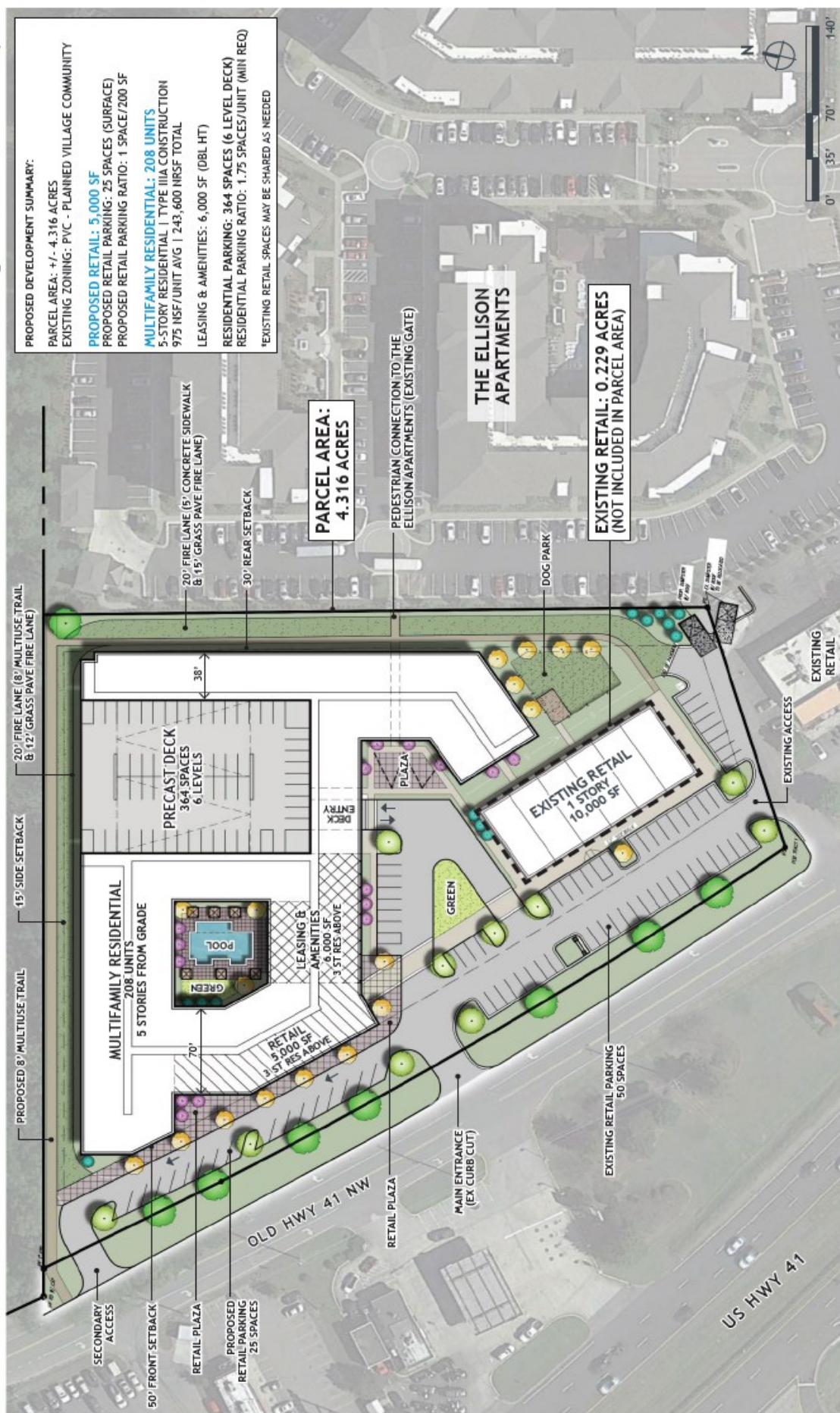
PLANNING COMMISSION RECOMMENDATION:

The Planning Commission, at their regularly scheduled meeting on November 6, 2024 recommended approval of the request to amend the zoning conditions as outlined by the applicant with conditions that sidewalks be added along the frontage of Old 41 Hwy and N. Roberts Rd.

MAYOR AND COUNCIL DECISION:

To be determined on December 16, 2024

Conceptual Site Plan



NILES BOLTON ASSOCIATES



REZONING APPLICATION

Required Fee \$375.00

Date Received 09/19/2024

Staff's Initials CMC

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.

Date of Consultation 08/14/2024; 09/13/2024

Staff's Initials _____

REZONING PROPERTY ADDRESS 2112 & 2114 Old 41 Highway; 1620 N. Roberts Road

Land Lot 174, 175, 206, 207 Tax Parcel 21, 121, 119, 8 Lot Size 4.547+/-

Resident Population 0 Housing Units 0 Other Buildings Existing Retail Building

Zoning Request from:

Present Zoning PVC To: PVC

For the purpose of: Master Plan Amendment

APPLICANT EMAIL

Applicant Name: Fabric Housing Acquisitions LLC

Applicant Address 233 South Wacker Drive, Suite 4700, Chicago, IL 60606

(Phone #) _____

Applicant Signature BY: Moore Ingram Johnson & Steele, LLP

Date September 19, 2024

Signed, sealed and delivered in presence of: J. Kevin Moore, Attorneys for Applicant

Carolyn E. Cook September 19, 2024

Notary

Commission Expires: January 10, 2027



REPRESENTATIVE Moore Ingram Johnson & Steele, LLP - J. Kevin Moore

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

Representative Signature BY: J. Kevin Moore, Attorneys for Applicant and Titleholders Date September 19, 2024

Signed, sealed and delivered in presence of: Carolyn E. Cook September 19, 2024

Notary

Commission Expires: January 10, 2027

Date



TITLEHOLDER: JLV Kennesaw Crossing, LLC

(Phone #) _____

Signature BY: John L. Varner, Manager Address 120 Interstate North Parkway, Suite 154, Atlanta, GA 30339

Signed, sealed and delivered in presence of: Carolyn E. Cook September 18, 2024

Notary

Commission Expires: January 10, 2027

Date





CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

Each applicant must complete a separate form

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

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

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

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

Not Applicable.

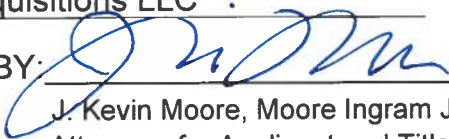
The dollar amount of each campaign contribution made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application and the date of each such contribution:

Not Applicable.

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 19th day of September, 2024
Fabric Housing Acquisitions LLC

Applicants Signature BY:


J. Kevin Moore, Moore Ingram Johnson & Steele, LLP
Attorneys for Applicant and Titleholders

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.



CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

Each applicant must complete a separate form

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

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

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

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

Not Applicable.

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:

Not Applicable.

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 19th day of September, 2024
Moore Ingram Johnson & Steele, LLP

Applicants Signature BY: J. Kevin Moore

J. Kevin Moore; Georgia Bar No. 519728
Attorneys for Applicant and Titleholders

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.

Deed Book 15570 Pg 6492
Filed and Recorded Sep-12-2018 03:01pm
2018-0118489
Real Estate Transfer Tax \$2,750.00
0332018023457


Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

After recording return to

David A. Weissmann
3495 Piedmont Road
Building 11, Suite 950
Atlanta, Georgia 30305

STATE OF GEORGIA

COUNTY OF COBB

TRUSTEE'S DEED

THIS DEED made this 5th day of September, 2018, between **SUNTRUST BANK, formerly known as TRUST COMPANY BANK, AS TRUSTEE UNDER AGREEMENT WITH THOMAS C. ERWIN III, DATED AUGUST 20, 1992 AS RENAMED THE THOMAS C. ERWIN, III REVOCABLE TRUST DATED MAY 13, 1997, AS AMENDED AND RESTATED ON MAY 14, 2012 ("Grantor") and JLV KENNESAW CROSSING, LLC, a Georgia limited liability company ("Grantee") (the terms Grantor and Grantee to include their respective heirs, successors and assigns, where the context hereof requires or permits).**

WITNESSETH THAT: Grantor, for and in consideration of the sum of ten and no/100ths Dollars (\$10.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt, adequacy and sufficiency of which being hereby acknowledged by Grantor, has granted, bargained, sold and conveyed, and by these presents does hereby grant, bargain, sell and convey unto Grantee, the following described real property (the "Property"), to wit:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 174, 175, 206 AND 207 OF THE 20TH DISTRICT, 2ND SECTION, COBB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED ON THE ATTACHED EXHIBIT A, WHICH BY REFERENCE IS INCORPORATED HEREIN IN ITS ENTIRETY.

TO HAVE AND TO HOLD the above described tract or parcel of land, 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 behoof of Grantee, forever, in **FEE SIMPLE**: in as full and ample a manner as the same was held, possessed and enjoyed, or might have been held, possessed and enjoyed, by the said deceased.

IT IS THE INTENT and express desire of the parties hereto and it is further expressly acknowledged and agreed that, notwithstanding that Grantee may be affiliated with Lender, neither Grantor nor Grantee intends that there be, and there shall not in any event be, a merger of any of the leasehold interest by the lease described on Exhibit B attached hereto and made a part hereof (the "Ground Lease") with the title or other interest of Grantee arising by virtue of this conveyance, and Grantor and Grantee expressly provide that the Ground Lease and leasehold interest created by the Ground Lease on the one hand, and the title hereby conveyed on the other hand, be, and shall remain at all times, separate and distinct, unless and until Grantee evidences contrary intent with regard to the Property, or any portion or portions thereof, at any time or times.

IN WITNESS WHEREOF, Grantor has signed and sealed this Deed t by its duly authorized representatives he day and year first above written.

Signed, sealed, and delivered
In the presence of:

Felicia Cleveland
Unofficial Witness

Debra Kay Brooks
Notary Public

My Commission Expires:

August 29, 2021

SUNTRUST BANK, formerly known as
TRUST COMPANY BANK, AS TRUSTEE
UNDER AGREEMENT WITH THOMAS C.
ERWIN III, DATED AUGUST 20, 1992 as
renamed the Thomas C. Erwin, III
Revocable Trust dated May 13, 1997, as
amended and restated on May 14, 2012

By:

Robin Boyd
Name: Robin Boyd

Title: Vice President

[BANK SEAL]

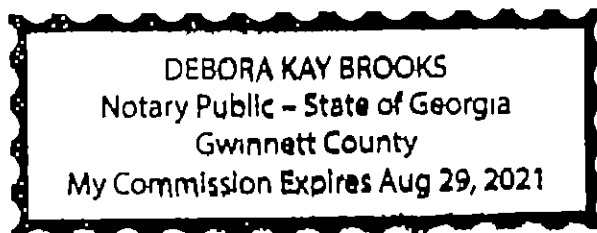


EXHIBIT A
LEGAL DESCRIPTION

TRACTS I and IV

All that tract or parcel of land lying and being in Land Lots 174, 175 and 206 of the 20th District, 2nd Section of Cobb County, Georgia, being more particularly described as follows:

BEGINNING at an iron pin placed at the intersection of the northwesterly right-of-way of Roberts Road (70-foot right-of-way) and the northeasterly right-of-way of Old U.S. Highway 41 (100-foot right-of-way); running thence along the northeasterly right of way of U.S. Highway 41 and following the curvature thereof a distance of 200.0 feet (said curve having a chord distance of 199.97 feet with a bearing of north 42 degrees 3 minutes west) to a point; running thence along the northeasterly right of way of Old U.S. Highway 41 and following the curvature thereof 500.0 feet (said curve having a chord distance of 499.68 feet with a bearing of north 41 degrees 18 minutes west) to a point; leaving said northeasterly right of way, running thence north 80 degrees 49 minutes east a distance of 180.0 feet to a point; running thence north 9 degrees 11 minutes west 133.1 feet to a point; running thence north 80 degrees 49 minutes east 600.8 feet to an iron pin found; running thence south 65 degrees 9 minutes 30 seconds east a distance of 181.3 feet to a point; running thence south 9 degrees 11 minutes east a distance of 496.4 feet to a point on the northwesterly right of way of Roberts Road; running thence along the northwesterly right of way of Roberts Road and following the curvature thereof 369.7 feet (said curve having a chord distance of 368.62 feet with a bearing of south 70 degrees 31 minutes 30 seconds west) to a point; running thence along the northwesterly right of way of Roberts Road and following the curvature thereof 150.0 feet (said curve having a chord distance of 149.98 feet with a bearing of south 61 degrees 53 minutes west) to an iron pin; running thence north 42 degrees 36 minutes 30 seconds west a distance of 19.0 feet to an iron pin; running thence south 47 degrees 23 minutes 30 seconds west a distance of 50.3 feet to a point on the northeasterly right of way of Old U.S. Highway 41, said point being the **POINT OF BEGINNING**; shown as Tracts I and IV and containing 11.31 acres on that certain plat of survey entitled "Kennesaw Crossing Shopping Center Prepared for NAJCO, Inc., Wachovia Bank, Chicago Title Insurance Company," prepared by David W. Lynch Surveyors, bearing the seal and certification of David W. Lynch, Georgia Registered Land Surveyor No. 1845, dated March 1, 1999.

TRACT II

All that tract or parcel of land lying and being in Land Lots 174 and 175 of the 20th District, 2nd Section, Cobb County, Georgia, more particularly described as follows:

TO FIND THE POINT OF BEGINNING OF TRACT II, commence at an iron pin placed at the intersection of the northeast right-of-way of Old U.S. Highway 41 (100-foot right-of-way) and the northwest right-of-way of Roberts Road (70-foot right-of-way); running thence north 47 degrees 23 minutes 30 seconds east a distance of 50.3 feet to an iron pin; running thence south 42 degrees 36 minutes 30 seconds east a distance of 19.0 feet to an iron pin placed on the northwesterly right-of-way of Roberts Road; running thence northeasterly along the curve of the

northwestern right-of-way of Roberts Road a distance of 150.0 feet (said curve having a chord distance of 149.98 feet with a bearing of north 61 degrees 53 minutes east); running thence northeasterly along the curve of the northwestern right-of-way of Roberts Road a distance of 369.7 feet (said curve having a chord distance of 368.62 feet with a bearing of north 70 degrees 31 minutes 30 seconds east) to the POINT OF BEGINNING OF TRACT II; running thence north 9 degrees 11 minutes west a distance of 496.4 feet to a point; running thence south 65 degrees 9 minutes 30 seconds east a distance of 219.0 feet to an iron pin; leaving said northwestern right of way, running thence south 35 degrees 08 minutes 30 seconds east a distance of 450.0 feet to an iron pin placed on the northwesterly right-of-way of Roberts Road; running thence south 88 degrees 51 minutes west along the northwesterly right-of-way of Roberts Road a distance of 36.2 feet to a point; leaving said northwesterly right-of-way, running thence north 35 degrees 2 minutes 30 seconds west a distance of 180.0 feet to a point; running thence south 72 degrees 4 minutes 30 seconds west a distance of 140.0 feet to a point; running thence south 18 degrees 02 minutes 30 seconds east a distance of 120.0 feet to the northwesterly right-of-way of Roberts Road; running thence southwesterly along the curve of the northwesterly right-of-way of Roberts Road a distance of 144.1 feet (said curve having a chord distance of 144.01 feet with a bearing of south 80 degrees 38 minutes west) to the POINT OF BEGINNING OF TRACT II; shown as Tract II and containing 2.12 acres on that certain plat of survey entitled "Kennesaw Crossing Shopping Center Prepared for: NAJCO, Inc., Wachovia Bank, Chicago Title Insurance Company," prepared by David W. Lynch Surveyors, bearing the seal and certification of David W. Lynch, Georgia Registered Land Surveyor No. 1845, dated March 1, 1999.

TRACT III

All that tract or parcel of land lying and being in Land Lot 175 of the 20th District, 2nd Section, Cobb County, Georgia; more particularly described as follows:

TO FIND THE POINT OF BEGINNING, commence at an iron pin placed at the intersection of the northeast right-of-way of Old U.S. Highway 41 (100-foot right-of-way) and the northwest right-of-way of Roberts Road (70-foot right-of-way); running thence along the curve of the northeast right-of-way of Old U.S. Highway 41 a distance of 200.00 feet (said curve having a chord distance of 199.97 feet with a bearing of north 42 degrees 03 minutes west); running thence along the curve of the northeast right-of-way of Old U.S. Highway 41 a distance of 500.0 feet (said curve having a chord distance of 499.68 feet with a bearing of north 41 degrees 18 minutes west) to the POINT OF BEGINNING; running thence north 36 degrees 38 minutes 30 seconds west along the northeast right-of-way of Old U.S. Highway 41 a distance of 150.0 feet to an iron pin found; leaving said northeast right of way, running thence north 80 degrees 49 minutes east a distance of 249.2 feet to a point; running thence south 9 degrees 11 minutes east a distance of 133.1 feet to a point; running thence south 80 degrees 49 minutes west a distance of 180.0 feet to the POINT OF BEGINNING; shown as Tract III and containing 0.65 acres on that certain plat of survey entitled "Kennesaw Crossing Shopping Center Prepared for: NAJCO, Inc., Wachovia Bank, Chicago Title Insurance Company," prepared by David W. Lynch Surveyors, bearing the seal and certification of David W. Lynch, Georgia Registered Land Surveyor No. 1845, dated March 1, 1999.

All that tract or parcel of land lying and being in Land Lot 174 of the 20th District, 2nd Section of Cobb County, Georgia, being more particularly described as follows:

BEGINNING at an iron pin placed at the intersection of the northwesterly right-of-way of Roberts Road (70-foot right-of-way) and the northeasterly right-of-way of Old U.S. Highway 41 (100-foot right-of-way) running thence north 47 degrees 23 minutes 30 seconds east a distance of 50.3 feet to an iron pin; running thence south 42 degrees 36 minutes 30 seconds east a distance of 19.0 feet to an iron pin; running thence along the northwesterly right-of-way line of Roberts Road and following the curvature thereof a distance of 150.0 feet (said curve having a chord distance of 149.98 feet with a bearing of north 61 degrees 53 minutes east) to a point; continuing thence along the northwesterly right-of-way of Roberts Road and following the curvature thereof a distance of 369.7 feet (said curve having a chord distance of 368.62 feet with a bearing of north 70 degrees 31 minutes 30 seconds east) to a point; continuing thence along the northwesterly right-of-way of Roberts Road and following the curvature thereof a distance of 144.1 feet (said curve having a chord distance of 144.01 feet with a bearing of north 82 degrees 3 minutes east) to the POINT OF BEGINNING; leaving said northwesterly right of way, running thence north 18 degrees 02 minutes 30 seconds west a distance of 120.0 feet to a point; running thence north 72 degrees 04 minutes 30 seconds east a distance of 140.0 feet to a point; running thence south 35 degrees 8 minutes 30 seconds east a distance of 180.0 feet to a point on the northwesterly right-of-way of Roberts Road; thence following the northwesterly right-of-way of Roberts Road and following the curvature thereof a distance of 200.0 feet (said curve having a chord distance of 199.90 feet with a bearing of south 87 degrees 08 minutes west) to the POINT OF BEGINNING; shown as Tract V and containing 0.53 acres on that certain plat of survey entitled "Kennesaw Crossing Shopping Center Prepared for NAJCO, Inc., Wachovia Bank, Chicago Title Insurance Company," prepared by David W. Lynah Surveyors, bearing the seal and certification of David W. Lynah, Georgia Registered Land Surveyor No. 1245, dated March 1, 1999,

TOGETHER WITH the buildings and improvements presently located on said land until the expiration or earlier termination of the lease.

EXHIBIT B

Lease dated December 17, 1969, between The Trust Company of Georgia, as the duly qualified and acting Trustee of the Trust created by Item VI of the Last Will and Testament of Mrs. Elsie C. Erwin, deceased, as Lessor, and Cousins Properties Incorporated, a Delaware corporation, as Lessee, for certain real property located in Fulton County, Georgia, as amended by that certain First Amendment to Lease dated December 15, 1977, between Trust Company Bank, formerly Trust Company of Georgia, as the duly qualified and acting Trustee of the Trust created by Item VI of the Last Will and Testament of Mrs. Elsie C. Erwin, deceased, as Lessor, and Lessee, wherein certain real property located in Land Lots 174, 175 and 206 of the 20th Land District, Second Section of Cobb County, Georgia, commonly known as Kennesaw Crossing Shopping Center was substituted for the real property located in Fulton County, Georgia, as further amended by that certain Second Amendment to Lease dated April 15, 1984, between Lessor and Lessee, as assigned by that certain Lease Assignment and Conveyance dated March 8, 1999, between Cousins Properties Incorporated, a Georgia corporation, as Assignor, and Najjar Holdings, LLC, a Georgia limited liability company, as Assignee, recorded in Deed Book 12282 Page 490, Cobb County, Georgia records, as terminated as of April 30, 2009, according to that certain Affidavit Concerning Termination of Leasehold Estate, executed by James N. Nevin, Vice-President of SunTrust Bank, f/k/a Trust Company Bank, f/k/a Trust Company of Georgia, as Trustee of the Elsie C. Erwin Trust and the Thomas C. Erwin, III Revocable Trust, dated July 15, 2009, recorded July 16, 2009 in Deed Book 14710, Page 3710, aforesaid records, as reinstated according to that certain Affidavit Concerning Reinstatement of Leasehold Estate by James N. Nevin, Vice-President of Sun Trust Bank, f/k/a Trust Company Bank, f/k/a Trust Company of Georgia, as Trustee of the Elsie C. Erwin Trust and the Thomas C. Erwin, III Revocable Trust, and recorded January 23, 2012 in Deed Book 14913, Page 2987, aforesaid records, as further amended by that certain Third Amendment to Lease dated January 24, 2011, between Sun Trust Bank, Inc. f/k/a SunTrust Bank, N.A. d/b/a SunTrust Bank, Atlanta, as sole Trustee of the Thomas C. Erwin, III Revocable Trust, as Lessor, and The Piedmont Bank, successor to Najjar Holdings, LLC, as Lessee, as assigned by The Piedmont Bank to TPB RE Holdings LLC, a Delaware limited liability company pursuant to that certain Assignment and Conveyance of Leasehold Estate dated February 28, 2012, recorded in Deed Book 14924, Page 5176 Cobb County, Georgia records, as further amended by Fourth Amendment to Lease dated as of June 28, 2018 Sun Trust Bank, Inc. f/k/a SunTrust Bank, N.A. d/b/a SunTrust Bank, Atlanta, as sole Trustee of the Thomas C. Erwin, III Revocable Trust, as Lessor, and TPB RE Holdings LLC, as assigned to JLV Kennesaw Crossing, LLC, as further assigned to Sea Marshes Development, LLC.

Deed Book 15604 Pg 1751
Filed and Recorded Feb-07-2019 02:47pm
2019-0013980
Real Estate Transfer Tax \$1,000.00
0332019002097



Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

Record and Return to:
MARTIN BAGWELL LUKE, P.C.
J. Marshall Martin III, Esq.
400 Northridge Road, Suite 1225
Atlanta, GA 30350

GENERAL WARRANTY DEED

4
THIS INDENTURE, made this 1st day of February, 2019, between **JLV KENNESAW CROSSING, LLC**, a Georgia limited liability company, as party of the first part, hereinafter referred to as "Grantor", and **JLV KENNESAW MIXED USE, LLC.**, a Georgia limited liability company, as party of the second part, hereinafter referred to as "Grantee", (the words "Grantor" and "Grantee" to include their respective heirs, successors, successors-in-title and assigns where the context requires or permits).

WITNESSETH THAT:

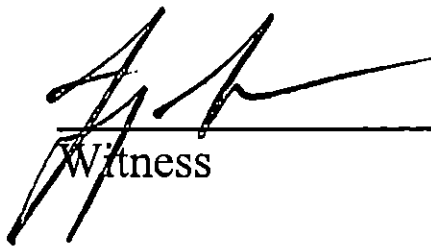
Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee all that tract or parcel of land lying and being in Cobb County, together with all improvements located thereon, and as more particularly described on Exhibit "A" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever, subject to taxes and assessments for the year 2019 and subsequent years, not due and payable.

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

Signed, sealed and delivered
in the presence of:

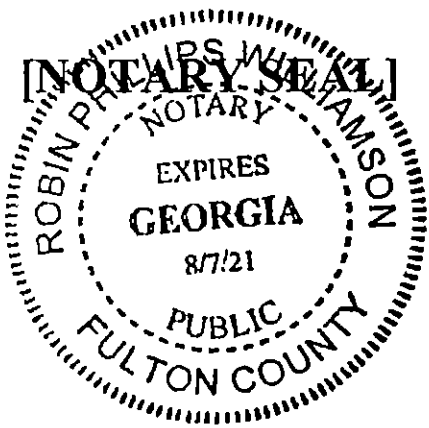


Witness



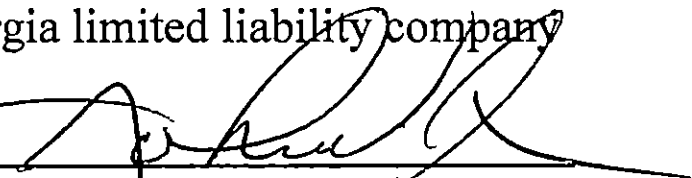
Notary Public

My Commission Expires: _____



GRANTOR:

JLV KENNESAW CROSSING, LLC,
a Georgia limited liability company

By: 

Name: John L. Varner
Title: Manager

[COMPANY SEAL]

Exhibit "A"**Legal Description****Retail Parcel**

All that tract or parcel of land lying and being in Land Lots 175 and 206 of the 20th District, 2nd Section, City of Kennesaw, Cobb County, Georgia and being more particularly described as follows:

To Reach the TRUE POINT OF BEGINNING commence at an iron pin set at the intersection of the Northwesternly Right of Way of Roberts Road (variable Right of Way), and the Easterly Right of Way of Old U.S. Highway 41 (100' right of Way); thence running along said Right of Way of Old U.S. Highway 41 along a curve to the left an arc length of 199.89 feet, (said curve having a radius of 3,333.25 feet, with a chord bearing of North 39° 17' 03" West, and a chord length of 199.86 feet) to an iron pin set and the TRUE POINT OF BEGINNING; thence running along a curve to the right an arc length of 315.39 feet, (said curve having a radius of 4033.97 feet, with a chord bearing of North 39° 51' 50" West, and a chord length of 315.31 feet); thence leaving said Right of Way North 48° 59' 41" East a distance of 191.82 feet to an iron pin set; thence North 82° 48' 21" East a distance of 203.15 feet to an iron pin set; thence South 07° 07' 54" East a distance of 316.11 feet to an iron pin set; thence South 66° 31' 49" West a distance of 200.00 feet to the TRUE POINT OF BEGINNING.

Said tract contains 2.273 Acres (99,027 Square Feet).

Office Parcel

Tract 1 as described on that certain Minor Subdivision Plat prepared for Kennesaw Crossing, LLC of Kennesaw Crossing, prepared by Technical Survey Services, dated November 6, 2018.

All that tract or parcel of land lying and being in Land Lots 174 & 207 of the 20th District, 2nd Section, City of Kennesaw, Cobb County, Georgia and being more particularly described as follows:

To Reach the TRUE POINT OF BEGINNING commence at an iron pin set at the northerly Right of way of Roberts Road (Variable R/W) and the northeasterly Right of Way of Old U.S. Highway 41 (100' R/W), thence running along said Right of Way of Roberts Road the following courses: North 50° 08' 19" East a distance of 50.30 feet to an iron pin set; thence South 39° 51' 41" East a distance of 19.00 feet to an iron pin set; thence North 64° 37' 49" East a distance of 149.98 feet to an iron pin set; thence running along a curve to the right an arc length of 445.51 feet, (said curve having a radius of 1375.95 feet, with a chord bearing of North 75° 09' 16" East, and a chord length of 443.57 feet) to an iron pin set and the TRUE POINT OF BEGINNING, from point thus established and leaving said Right of Way North 07° 10' 54" West a distance of 181.76 feet to an iron pin set; thence North 82° 49' 06" East a distance of 200.07 feet to an iron pin set;

1415526

thence South 32° 23' 21" East a distance of 237.81 feet to a 1/2" rebar and cap found on the northerly Right of Way of Roberts Road (Variable R/W); thence running along said Right of Way along a curve to the left an arc length of 235.49 feet, (said curve having a radius of 4142.07 feet, with a chord bearing of North 89° 54' 21" West, and a chord length of 235.45 feet) to an iron pin set; thence along a curve to the left an arc length of 67.90 feet, (said curve having a radius of 1375.95 feet, with a chord bearing of South 85° 50' 38" West, and a chord length of 67.89 feet) to the TRUE POINT OF BEGINNING,

Said tract contains 1.103 Acres (48,038 Square Feet).

Tract 4 as described on that certain Minor Subdivision Plat prepared for Kennesaw Crossing, LLC of Kennesaw Crossing, prepared by Technical Survey Services, dated November 6, 2018



Printed: 9/18/2024

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
John Varner

JLV KENNESAW MIXED USE LLC

Payment Date: 11/7/2023

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due
2023	20017400080	10/15/2023	Pay: N/A or	\$0.00

Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$61.29	\$333.57	\$0.00	\$0.00	\$7,066.33	\$0.00



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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 #						
20017400080	3/3-BOND - KENNESAW CITY		237234						
Property Owner/Location/Description			Fair Market Value	Taxable Value					
JLV KENNESAW MIXED USE LLC 1620 N ROBERTS RD			553,190	221,276					
Levies	Taxable Value	-	Exemptions	=	Net Assessment	X	Tax Rate	=	Net Tax
CITY OF KENNESAW	221,276		0		221,276		7.7500000000		\$1,714.89
BOND	221,276		0		221,276		1.5000000000		\$331.91

Exemptions:

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 changes 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 or taxoffice@kennesaw-ga.gov

Current Year Tax	\$2,046.80
Interest	\$0.00
Penalty	\$0.00
Other Fees	\$0.00
Payments Received	\$2,046.80
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: 20017400080
Amount Due: \$0.00
Bill#: 237234
Due Date: 12/01/2023

AMOUNT PAID

JLV KENNESAW MIXED USE LLC
120 INTERSTATE NORTH PKWY SUITE 154
ATLANTA, GA 30339

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



CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Printed: 9/18/2024

Cobb County Online Tax Receipt

Thank you for your payment!

Payer:

JLV KENNESAW MIXED USE LLC

Payment Date: 1/1/0001

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2024	20017500210	10/15/2024	Pay:	N/A	or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid		Balance
\$0.00	\$0.00	\$0.00	\$0.00			\$0.00



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KENNESAW, GA 30144-2780
(770) 429-4542

2023 Property Tax Bill

Parcel ID	Tax District		Bill #						
20017500210	3/3-BOND - KENNESAW CITY		237744						
Property Owner/Location/Description			Fair Market Value	Taxable Value					
JLV KENNESAW MIXED USE LLC 2112 OLD 41 HWY			100	40					
Levies	Taxable Value	-	Exemptions	=	Net Assessment	X	Tax Rate	=	Net Tax
CITY OF KENNESAW	40		0		40		7.7500000000		\$0.31
BOND	40		0		40		1.5000000000		\$0.06
Exemptions:									
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 changes 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 or taxoffice@kennesaw-ga.gov									

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: 20017500210
Amount Due: \$0.00
Bill#: 237744
Due Date: 12/01/2023

AMOUNT PAID

JLV KENNESAW MIXED USE LLC
120 INTERSTATE NORTH PKWY STE 154
ATLANTA, GA 30339

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



Printed: 9/18/2024

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Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
John Varner

JLV KENNESAW MIXED USE LLC

Payment Date: 11/7/2023

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2023	20017501210	10/15/2023	Pay:	N/A	or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance	
\$97.16	\$528.77	\$0.00	\$0.00	\$11,201.23	\$0.00	



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City of Kennesaw
PROPERTY TAX DIVISION
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KENNESAW, GA 30144-2780
(770) 429-4542

2023 Property Tax Bill

Parcel ID	Tax District		Bill #						
20017501210	3/3-BOND - KENNESAW CITY		238628						
Property Owner/Location/Description			Fair Market Value	Taxable Value					
JLV KENNESAW MIXED USE LLC 2112 OLD 41 HWY			876,890	350,756					
Levies	Taxable Value	-	Exemptions	=	Net Assessment	X	Tax Rate	=	Net Tax
CITY OF KENNESAW	350,756		0		350,756		7.7500000000		\$2,718.36
BOND	350,756		0		350,756		1.5000000000		\$526.13
Exemptions:									
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 changes 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 or taxoffice@kennesaw-ga.gov									

Current Year Tax	\$3,244.49
Interest	\$59.53
Penalty	\$0.00
Other Fees	\$0.00
Payments Received	\$3,304.02
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

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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: 20017501210
Amount Due: \$0.00
Bill#: 238628
Due Date: 12/01/2023

AMOUNT PAID

JLV KENNESAW MIXED USE LLC
120 INTERSTATE NORTH PKWY SUITE 154
ATLANTA, GA 30339

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



Printed: 9/18/2024

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
John Varner

JLV KENNESAW CROSSING LLC

Payment Date: 11/7/2023

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2023	20017501190	10/15/2023	Pay:	N/A	or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance	
\$67.35	\$366.53	\$0.00	\$0.00	\$7,764.55	\$0.00	



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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 #						
20017501190	3/3-BOND - KENNESAW CITY		238624						
Property Owner/Location/Description			Fair Market Value	Taxable Value					
JLV KENNESAW CROSSING LLC 2114 OLD 41 HWY			607,850	243,140					
Levies	Taxable Value	-	Exemptions	=	Net Assessment	X	Tax Rate	=	Net Tax
CITY OF KENNESAW	243,140		0		243,140		7.7500000000		\$1,884.34
BOND	243,140		0		243,140		1.5000000000		\$364.71
Exemptions:									
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 changes 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 or taxoffice@kennesaw-ga.gov									

Current Year Tax	\$2,249.05
Interest	\$0.00
Penalty	\$0.00
Other Fees	\$0.00
Payments Received	\$2,249.05
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

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City of Kennesaw Property Tax Division and
include the Parcel ID on your check.

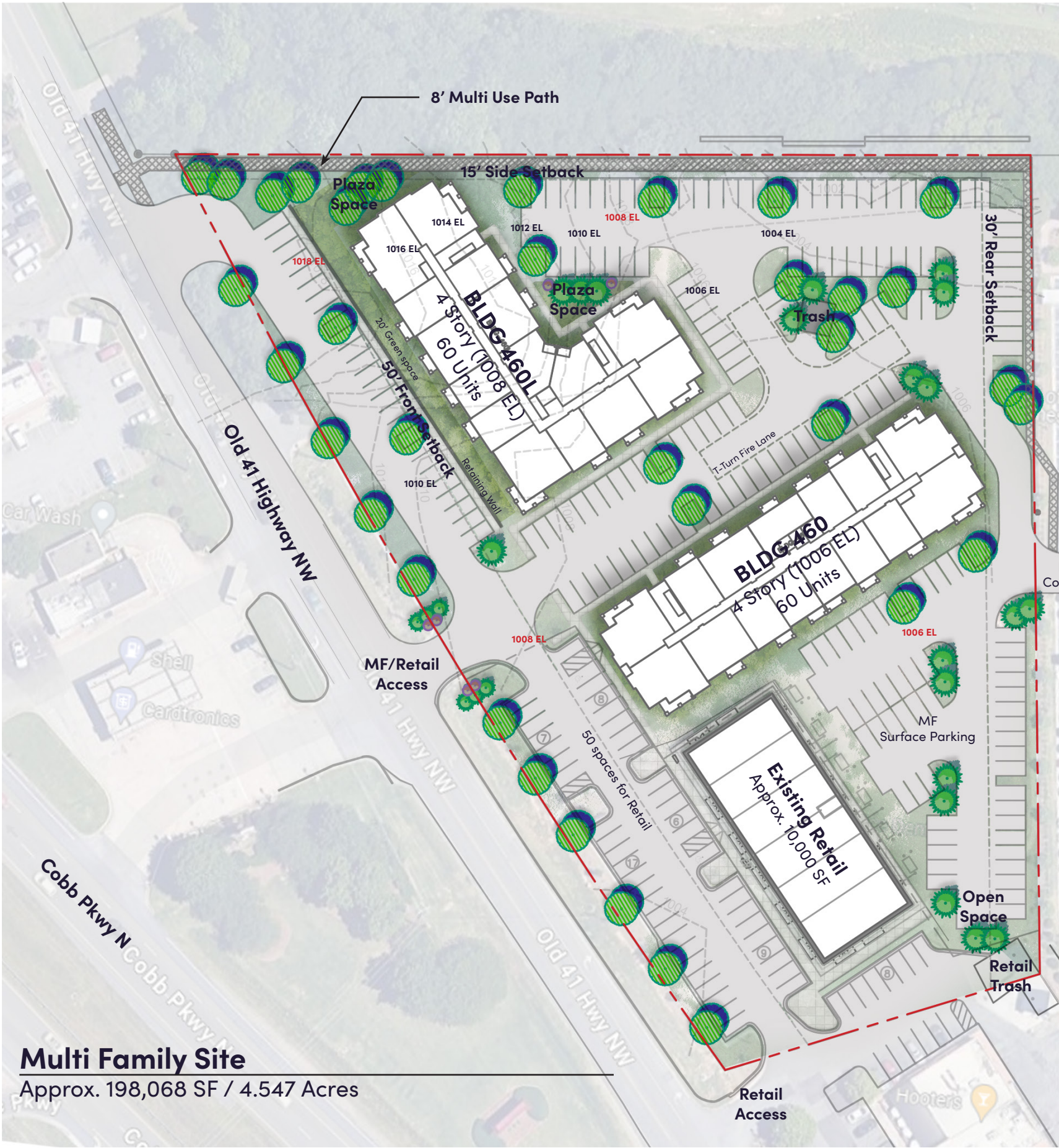
For your convenience, you may pay by check,
money order, Discover, Mastercard, AMEX,
VISA.
3% fee and \$3.50 per transaction fee added to
debit/credit card payments. \$1.25 fee per
ECheck transaction paid online.

Parcel ID: 20017501190
Amount Due: \$0.00
Bill#: 238624
Due Date: 12/01/2023

AMOUNT PAID

JLV KENNESAW CROSSING LLC
120 INTERSTATE NORTH PKWY SUITE 154
ATLANTA, GA 30339

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



UNIT MIX							TOTAL PROJECT MIX						TOTAL					4/17/2024	
UNIT TYPE	DESCRIPTION	BEDS	UNIT RENTABLE AREA			460	460L	TOTAL UNITS	TOTAL BEDS	BUILDING RENTABLE AREA		UNIT	TOTAL UNITS	TOTAL BEDS	TOTAL RENTABLE AREA				
			HEATED*	BALCONY	TOTAL**	0	0			HEATED*	GROSS*				HEATED*	GROSS*			
1 BEDROOM UNITS																			
A1	1 BEDROOM / 1 BATH	1	722 SF	66 SF	788 SF	16	4	20	20	14,440 SF	15,760 SF	A1	20	20	14,440 SF	15760 SF			
A1A	1 BEDROOM / 1 BATH	1	746 SF	66 SF	812 SF	16	16	32	32	23,872 SF	25,984 SF	A1A	32	32	23,872 SF	25984 SF			
A2	1 BEDROOM / 1 BATH	1	737 SF	66 SF	803 SF	4	0	4	4	2,948 SF	3,212 SF	A2	4	4	2,948 SF	3212 SF			
A3	1 BEDROOM / 1 BATH	1	759 SF	66 SF	825 SF	0	0	0	0	0 SF	0 SF	A3	0	0	0 SF	0 SF			
A4	1 BEDROOM / 1 BATH	1	804 SF	45 SF	849 SF	0	8	8	8	6,432 SF	6,792 SF	A4	8	8	6,432 SF	6792 SF			
TOTALS						0	0	136	64	47,692	51,748		64	64	47,692	51748			
2 BEDROOM UNITS																			
B1	2 BEDROOM / 2 BATH	2	1,082 SF	66 SF	1,148 SF	8	4	12	24	12,984 SF	13,776 SF	B1	12	24	12,984 SF	13776 SF			
B1A	2 BEDROOM / 2 BATH	2	1,075 SF	66 SF	1,141 SF	0	8	8	16	8,600 SF	9,128 SF	B1A	8	16	8,600 SF	9128 SF			
B2	2 BEDROOM / 2 BATH	2	1,196 SF	142 SF	1,338 SF	12	12	24	48	28,704 SF	32,112 SF	B2	24	48	28,704 SF	32112 SF			
B3	2 BEDROOM / 2 BATH	2	1,220 SF	168 SF	1,388 SF	0	4	4	8	4,880 SF	5,552 SF	B3	4	8	4,880 SF	5552 SF			
TOTALS						0	0	48	96	55,168	60,568		48	96	55,168	60568			
3 BEDROOM UNITS																			
C1	3 BEDROOM / 2 BATH	3	1,449 SF	143 SF	1,592 SF	4	4	8	24	11,592 SF	12,736 SF	C1	8	24	11,592 SF	12736 SF			
TOTALS						0	0	8	24	11,592	12,736		8	24	11,592	12736			
TOTAL UNITS						0	0	192	184	114,452 SF	125,052 SF		120	184	114,452 SF	125052 SF			
													UNIT AVERAGE			954 SF			

Residential

Zoning: PVC Planning Village Community

Building
-Type V-A Wood Construction
-NFPA 13R Fire Protection@ Residential

Total Site: Approx.. 4.547 Acres

Residential - 4 Story Building
Average Unit Size: 954 SF

Residential - 4 Story Building
Building 460 Prototype
60 Units x 1 Building = 60
Building 460L Prototype
60 Units x 1 Building = 60
Total Units - 120 Units

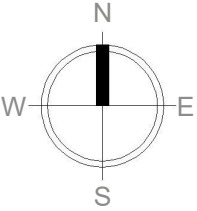
Parking Required:
Residential - 210 spaces (1.75 space/unit)
Multi Family = 1.75 Spaces per unit

Parking Provide:
Residential - 189 spaces (1.58 space/unit)
189 Surface Parking

Existing Retail Area
Approx. 10,000 SF

Parking Required:
Retail - 50 spaces (1/200 SF)
50 Spaces Parking

Parking Provided:
Retail - 50 spaces (1/200 SF)
Overflow - 7 spaces



Multi Family Site
Approx. 198,068 SF / 4.547 Acres

EXTERIOR LEGEND		EXTERIOR NOTES
	FDC	1. DECORATIVE LIGHTING, CENTER OVER GARAGE DOORS. 2. REFER TO CIVIL DRAWINGS FOR SITE RETAINING WALLS AND GRADING INFORMATION. 3. COVER ALL JOINTS BETWEEN CEMENTITIOUS BOARD WITH 3-1/2" BATTEN STRIPS. 4. Z-FLASHING AT HORIZONTAL BREAK AT FLOOR/CEILING FOR BOARD AND BATTEN

dwelldesignstudio

1280 HIGHTOWER TRAIL
ATLANTA, GA 30350
PHONE: 770.864.1035
dwelldesignstudio.com



1 BUILDING TYPE 460 FRONT ELEVATION
1/8" = 1'-0"



2 BUILDING TYPE 460 REAR ELEVATION
1/8" = 1'-0"

FABRIC - PROTOTYPE

PROTOTYPE IS NOT SITE SPECIFIC

FABRIC

ISSUE	DATE	DESCRIPTION	APPROVED
03/14/2023	03/14/2023	CONCEPTUAL DESIGN SET	X
03/14/2023	03/14/2023	SCHEMATIC DESIGN SET	X
03/14/2023	03/14/2023	SCHEMATIC DESIGN SET	X

REVISION	DATE	DESCRIPTION	REV

DISCLAIMER:
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SHEET NAME:
BUILDING TYPE 460 - OVERALL ELEVATIONS

JOB NUMBER: 2350701

DRAWN BY: TA
CHECKED BY: JT / LH

A05.30

EXTERIOR FINISH SCHEDULE			
NO.	MATERIAL DESCRIPTION	MANUFACTURER	REMARKS
	CEMENTITIOUS TRIM - DARK		
		BASIS OF DESIGN: TBD	
BR-1	BRICK	BASIS OF DESIGN: TBD	HIGH REFLECTIVE WHITE SW 7757
CBB-1	CEMENTITIOUS SIDING	BASIS OF DESIGN: TBD	
CLS-1	CEMENTITIOUS LAP SIDING-6"EXPOSURE	BASIS OF DESIGN: TBD	HIGH REFLECTIVE WHITE SW 7757
CLS-2	CEMENTITIOUS LAP SIDING- VARIED EXPOSURE	BASIS OF DESIGN: TBD	MODERNE WHITE SW 6168
CLS-3	CEMENTITIOUS LAP SIDING- 6"EXPOSURE	BASIS OF DESIGN: TBD	CLASSIC FRENCH GRAY SW 0077
CPL-1	CEMENTITIOUS LAP SIDING- VARIED EXPOSURE	BASIS OF DESIGN: TBD	CLASSIC FRENCH GRAY SW 0077
CPL-2	CEMENTITIOUS PANEL -	BASIS OF DESIGN: TBD	MODERNE WHITE SW 6168
RGL-1	THREE LINE METAL RAILING WITH VERTICAL PICKETS	BASIS OF DESIGN: TBD	
SGL	ROOF SHINGLES	BASIS OF DESIGN: TBD	
WND	VINYL- INSULATED GLAZING	BASIS OF DESIGN: TBD	

EXHIBIT B

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FABRIC - PROTOTYPE

PROTOTYPE IS NOT SITE SPECIFIC

A DEVELOPMENT FOR

FABRIC

ISSUE	DATE	DESCRIPTION	W/CD
03/14/2023		CONCEPTUAL DESIGN SET	X
04/05/2023		SCHEMATIC DESIGN SET	X
05/16/2023		DC PRESENTATION SET	X

REVISION	DATE	DESCRIPTION	REV

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SHEET NAME

BUILDING TYPE
460 -
PERSPECTIVES

JOB NUMBER:

2350701

DRAWN BY

TA

CHECKED BY

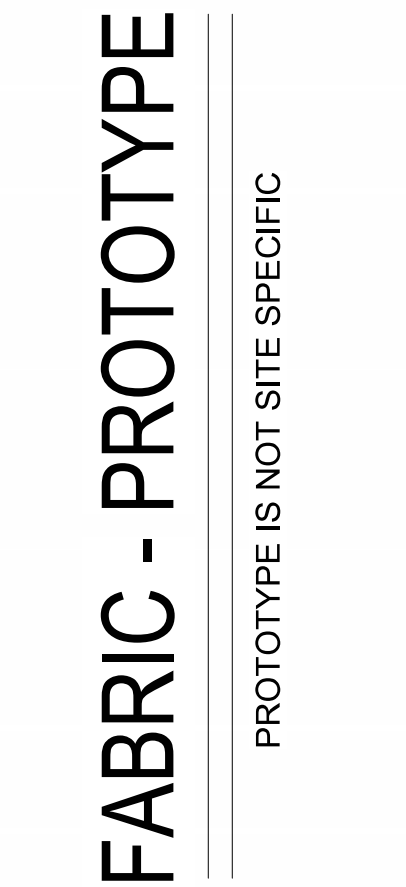
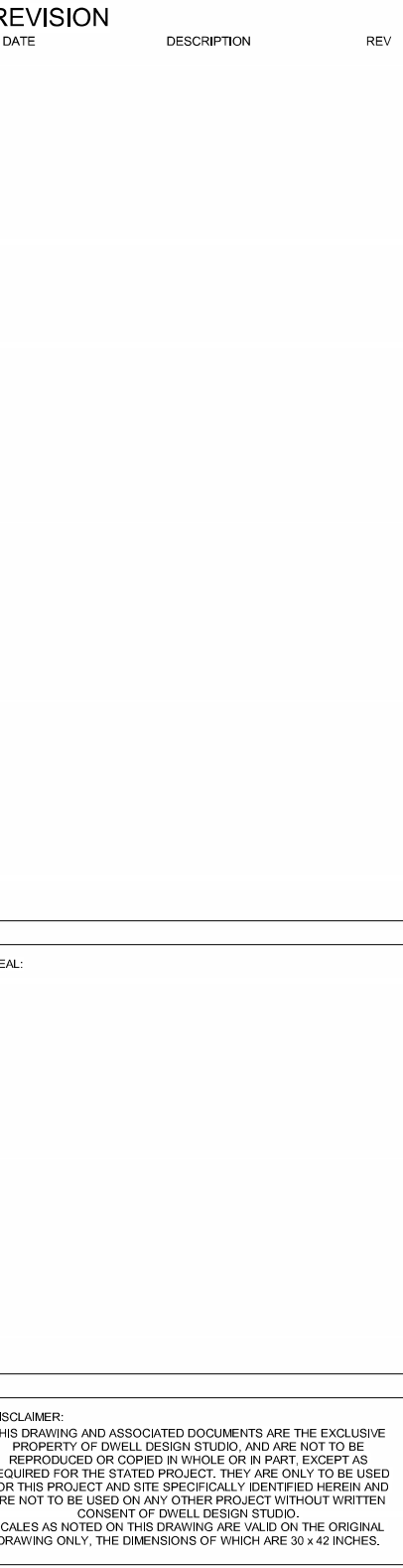
JT / JH

A05.32



**dwell
design
studio**

**1280 HIGHTOWER TRAIL
ATLANTA, GA 30350
PHONE: 770.864.1035
dwelldesignstudio.com**

[illegible]

PROJECT NAME: BUILDING TYPE
460L -
OVERALL
ELEVATIONS

OB NUMBER: 2350701	
DRAWN BY TA	CHECKED BY JT / IH

Page 65 of 65

EXTERIOR LEGEND		EXTERIOR NOTES
	FDC	1. DECORATIVE LIGHTING, CENTER OVER GARAGE DOORS. 2. REFER TO CIVIL DRAWINGS FOR SITE RETAINING WALLS AND GRADING INFORMATION. 3. COVER ALL JOINTS BETWEEN CEMENTITIOUS BOARD WITH 3-1/2" BATTEN STRIPS. 4. Z-FLASHING AT HORIZONTAL BREAK AT FLOOR/CEILING FOR BOARD AND BATTEN.



1280 HIGHTOWER TRAIL
ATLANTA, GA 30350
PHONE: 770.864.1035
dwelldesignstudio.com

FABRIC - PROTOTYPE

PROTOTYPE IS NOT SITE SPECIFIC

A DEVELOPMENT TOOL

FABRIC

ISSUE	DATE	DESCRIPTION	APPROVED
03/14/2023		CONCEPTUAL DESIGN SET	X
03/28/2023		SCHEMATIC DESIGN SET	X
03/28/2023		SCHEMATIC DESIGN SET	X

REVISION	DATE	DESCRIPTION	REV

REVISION	DATE	DESCRIPTION	REV

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SHEET NAME:

BUILDING TYPE 460L - OVERALL ELEVATIONS

JOB NUMBER: 2350701

DRAWN BY: TA
CHECKED BY: JT / IH

A05.41

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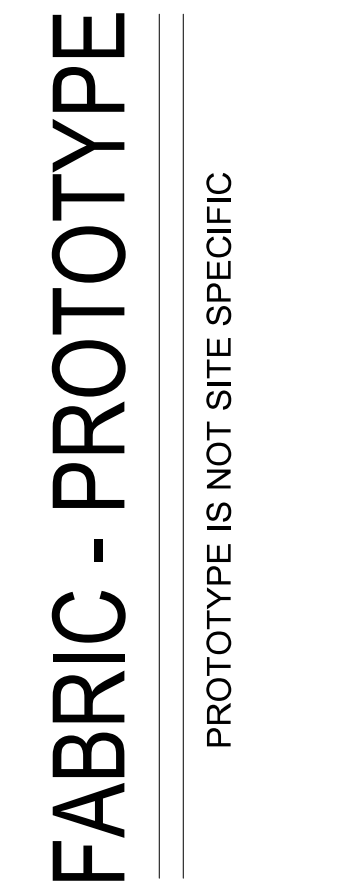


1 BUILDING TYPE 460 L SIDE 1 ELEVATION
1/8" = 1'-0"



2 BUILDING TYPE 460 L SIDE 2 ELEVATION
1/8" = 1'-0"

EXTERIOR FINISH SCHEDULE			
NO.	MATERIAL DESCRIPTION	MANUFACTURER	REMARKS
BR-1	CEMENTITIOUS TRIM - DARK		
BR-1	BRICK		
CBB-1	CEMENTITIOUS SIDING	BASIS OF DESIGN: TBD	
CFB-2	CEMENTITIOUS SIDING	BASIS OF DESIGN: TBD	
CLS-1	CEMENTITIOUS LAP SIDING - 6" EXPOSURE	BASIS OF DESIGN: TBD	
CLS-2	CEMENTITIOUS LAP SIDING - VARIED EXPOSURE	BASIS OF DESIGN: TBD	
CLS-3	CEMENTITIOUS LAP SIDING - 6" EXPOSURE	BASIS OF DESIGN: TBD	
CLS-4	CEMENTITIOUS LAP SIDING - VARIED EXPOSURE	BASIS OF DESIGN: TBD	
CPL-1	CEMENTITIOUS PANEL-	BASIS OF DESIGN: TBD	
CPL-2	CEMENTITIOUS PANEL-	BASIS OF DESIGN: TBD	
RGL-1	THREE LINE METAL RAILING WITH VERTICAL PICKETS	BASIS OF DESIGN: TBD	
SGL	ROOF SHINGLES	BASIS OF DESIGN: TBD	
WND	VINYL-INSULATED GLAZING	BASIS OF DESIGN: TBD	



PROTOTYPE IS NOT SITE SPECIFIC

FABRIC

[illegible]

REVISION		
DATE	DESCRIPTION	REV

RESULTS

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PROJECT NAME:
BUILDING TYPE
460L -
PERSPECTIVES

OB NUMBER: 2350701

DRAWN BY	CHECKED BY
TA	JT / IH

A05.42





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

10/16/24

Pamela Mabry, County Clerk
Cobb County
100 Cherokee Street, #355
Marietta, Georgia 30090-9679

Subject: City of Kennesaw Zoning Application (Case# RZ2024-04)
2112 Old 41 Hwy, 2114 Old 41 Hwy & 1620 N. Roberts Rd, Kennesaw, GA 30144
Parcel #: 20017501190, 20017501210, 20017400080 & 20017500210

Dear Ms. Mabry,

Attached, please find a zoning application submitted by Fabric Housing Acquisition, LLC to amend the zoning conditions for the above subject property. Because this case is within a half-mile from unincorporated Cobb County, this letter and enclosed application are being provided in accordance with the House Bill 489 Intergovernmental Agreement.

This case is set to go before the Kennesaw Planning Commission on November 6th at 6:30 p.m. for public hearing and Mayor and Council on November 18th at 6:30 p.m. for public hearing as well.

Thank you for your attention. Should you have any questions, you may call me at 770-590-8268 or send an e-mail to dsimmons@kennesaw-ga.gov.

Sincerely,

Darryl Simmons

Darryl Simmons
Planning and Zoning Administrator

Enclosure: Zoning Application

cc: Jessica Guinn, AICP, Community Development Agency Director (Via E-mail)
Dr. Jackie McMorris, Cobb County Manager (Via E-mail)
Phillip Westbrook, Senior Planner, Cobb County Community Development (Via E-mail)
Donald Wells, Intergovernmental Coordinator/Planner III, Cobb County Community Dev. (Via E-mail)
Dr. Jeff Drobney, City Manager, City of Kennesaw (Via E-mail)
Chanelle Campbell, Assistant Zoning Administrator & Planner, City of Kennesaw (Via E-mail)
Rebecca Goldstein, Community Development Administrative Assistant, City of Kennesaw (Via E-mail)

**CITY OF KENNESAW
LAND USE NOTICE**
APPLICATION # RZ2024-04
PURPOSE Amend the rezoning conditions
DATE OF PUBLIC MEETING 11/18/2024 TIME 6:30PM
DATE OF PUBLIC MEETING 11/18/2024 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](http://www.kennesaw-ga.gov)
FOR FURTHER INFORMATION PLEASE CALL:
PLANNING AND ZONING DEPARTMENT 770-435-8268

10.18.2024 11:55

**CITY OF KENNESAW
LAND USE NOTICE**

APPLICATION # **RZ2024-04**

PURPOSE **Amend the rezoning conditions**

DATE OF PUBLIC MEETING: **11/6/2024** TIME: **6:30PM**

DATE OF PUBLIC MEETING: **11/18/2024** 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

10.18.2024 11:56



**CITY OF KENNESAW
LAND USE NOTICE**
APPLICATION # RZ2024-04
PURPOSE Amend the rezoning conditions
DATE OF PUBLIC MEETING: 11/6/2024 TIME: 6:30PM
DATE OF PUBLIC MEETING: 11/18/2024 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
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[HTTP://WWW.KENNESAW-GA.GOV](http://www.kennesaw-ga.gov)
FOR FURTHER INFORMATION PLEASE CALL:
PLANNING AND ZONING DEPARTMENT 770-590-8268

WARNING/NOTICE
PRIVATE PARKING
NO PARKING
ANY VEHICLE
VIOLATING THIS
NOTICE WILL BE
TOWED AT
OWNER'S RISK
953-1176
1176-953-1176
1176-953-1176
1176-953-1176

10.18.2024 11:53

TIMES JOURNAL, INC.
P.O. BOX 1633
ROME GA 30162-1633
(770)795-3050

ORDER CONFIRMATION

Salesperson: ROSE MILLER

Printed at 10/16/24 13:04 by rmill-tj

Acct #: 110016

Ad #: 442524

Status: New WHOLD

CITY OF KENNESAW
2529 J.O. STEPHENSON AVE
KENNESAW GA 30144

Start: 10/18/2024 Stop: 10/18/2024

Times Ord: 1

Times Run: ***

LEG 1.00 X 2.96 Words: 200

Total LEG 2.96

Class: 8003 PUBLIC HEARING

Rate: LEGL

Cost: 30.00

Ad Descrpt: PH-7909 RZ2024-04

Descr Cont: MDJ-7909 GPN-16 CITY OF K

Given by: CHANELLE CAMPBELL

P.O. #:

Contact: LEA ALVAREZ

Phone: (770)424-8274

Fax#:

Email: LALVAREZ@KENNESAW-GA.GOV

Agency:

Created: rmill 10/16/24 13:00

Last Changed: rmill 10/16/24 13:04

PUB ZONE EDT TP RUN DATES
MDJ A 95 S 10/18

AUTHORIZATION

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.

Name (print or type)

Name (signature)

.

MDJ-7909
GPN-16
CITY OF KENNESAW
PUBLIC NOTICE

Notice is hereby given that the City of Kennesaw shall hold public hearings to give consideration for a rezoning request submitted by Fabric Housing Acquisitions, LLC. Said request is to amend the zoning conditions for parcels located at 2112 Old 41 Highway, 2114 Old 41 Highway, and 1620 N. Roberts Road (20017501190, 20017501210, 20017400080 & 20017500210), and lies in Land Lots 174 and 175, Tax Parcels 119, 121, 8, 21 of the 20th District, 2nd Section, Cobb County Georgia.

Said meetings shall be held before the Planning Commission on November 6, 2024 at 6:30 p.m. with a final scheduled hearing and adoption by the Mayor and Council to be considered on November 18, 2024 at 6:30 p.m. Meetings will be held in the Kennesaw City Council Chambers, 2529 J.O. Stephenson Avenue, Kennesaw, GA. 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.

10:18-2024

**MDJ-7909
GPN-16
CITY OF KENNESAW
PUBLIC NOTICE**

Notice is hereby given that the City of Kennesaw shall hold public hearings to give consideration for a rezoning request submitted by Fabric Housing Acquisitions, LLC. Said request is to amend the zoning conditions for parcels located at 2112 Old 41 Highway, 2114 Old 41 Highway, and 1620 N. Roberts Road (20017501190, 20017501210, 20017400080 & 20017500210) and lies in Land Lots 174 and 175, Tax Parcels 119, 121, 8, 21 of the 20th District, 2nd Section, Cobb County Georgia.

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Mayor and Council will be conducting their meeting in person and you can

8003	Public Hearing
------	----------------

access the meeting via the following link: <https://www.kennesaw-ga.gov/publicmeetings/>
Any interested citizens are invited to email kennesawcouncil@kennesaw-ga.gov.

10:18-2024



Community Development
Planning & Zoning Department
2529 J. O. Stephenson
Kennesaw, GA 30144

CERTIFICATION AUTHORIZATION

I hereby attest to the fact that a certified mailing to property owners within 200 feet was mailed out on October 17, 2024. in accordance with the application requirements.

MOORE INGRAM JOHNSON & STEELE, LLP

October 21, 2024

Date

BY:

J. Kevin Moore

Applicant or Authorized Agent

Georgia Bar No. 519728

Attorneys for Applicant and Property Owners

Sworn and subscribed before me this 21st day of October 2024

Carolyn E. Cook

Notary Public

My Commission Expires: January 10, 2027



Attach to this document a copy of the property/s that have been served notification along with the documentation supplied in the certified mailing.

MOORE INGRAM JOHNSON & STEELE, LLP

Attorneys at Law
326 Roswell Street, Suite 100
Marietta, Georgia 30060
(770) 429-1499

October 17, 2024

RE: NOTIFICATION OF NEARBY MASTER PLAN AMENDMENT APPLICATION

Applicant: Fabric Housing Acquisitions LLC
Applicant's
Representative: J. Kevin Moore, Esq., Moore Ingram Johnson & Steele, LLP
(770) 429-1499 – jkm@mijs.com
Property: 2112 and 2114 Old 41 Highway; 1620 N. Roberts Road
Parcel ID Nos.: 20017501190; 20017501210; 20017500210; and 20017400080

To Whom It May Concern:

The undersigned and this firm represent Fabric Housing Acquisitions LLC, who is the Applicant in the proposed Master Plan Amendment of certain property located in the City of Kennesaw, Cobb County, Georgia. This correspondence is to formally notify you the City of Kennesaw Planning and Zoning Department has received a Master Plan Amendment Application for property within two hundred (200) feet of your property. As a nearby property owner, you have the right to be informed of potential Master Plan changes.

The Application details are as follows:

Applicant Name:	Fabric Housing Acquisitions LLC
Property Address:	2112 and 2114 Old 41 Highway; 1620 N. Roberts Road
Parcel Identification Nos.:	20017501190; 20017501210; 20017500210; 20017400080
Description of Proposal:	Amend Conditions to the Master Plan

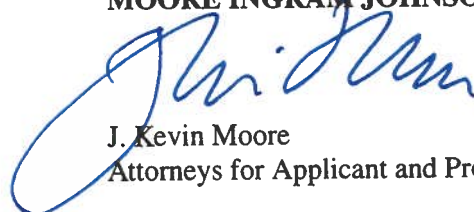
The Application will be reviewed and voted on at Public Hearings by the Planning Commission and the Mayor and City Council. The meeting details are as follows:

Planning Commission Meeting	Mayor and City Council Meeting
Date: November 6, 2024	Date: November 18, 2024
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, Georgia 30144. You may appear in person or be represented by an attorney to present any objections you may have. A copy of the Application, together with other documentation required by the City, is enclosed for your review. This notice is being sent to you by order of the Planning Commission and the Mayor and Council.

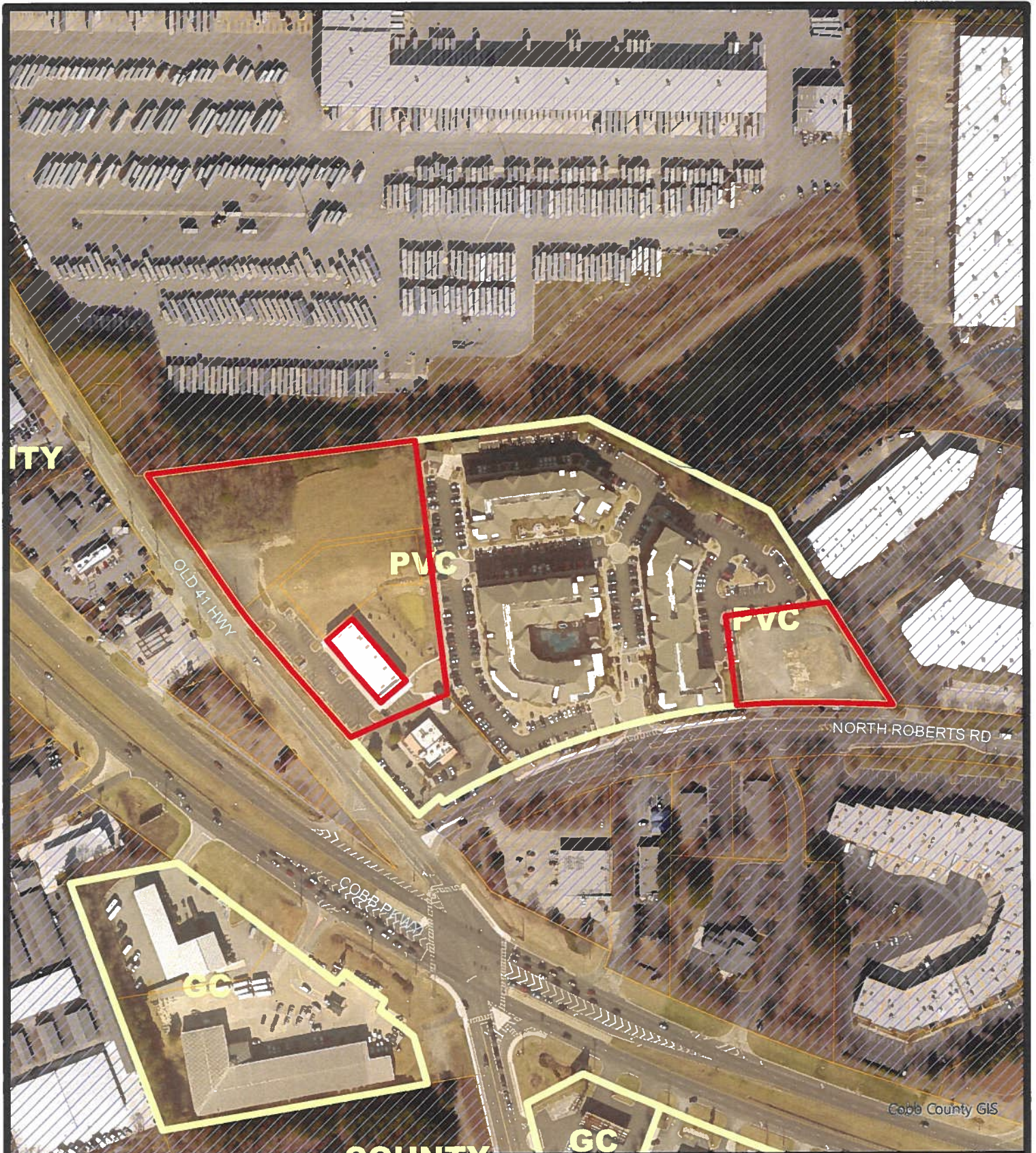
Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



J. Kevin Moore
Attorneys for Applicant and Property Owners

Enclosures



CASE NUMBER		LAND USE OR ZONING		2112, 2114 Old 41 Hwy & 1620 N Roberts Rd Land Lot 175, Tax Parcels 21, 119 & 121 Land Lot 174, Tax Parcel 08  Subject Property	
		FROM	TO		
AV	LU			 CITY OF KENNESAW PLANNING & ZONING DEPT. 770-590-8268 <i>David Eastman</i> Mayor <i>Lee Murray</i> City Clerk	Scale: 1" = 250' Print Date: 9/20/2024 RZ2024_004
AX	RZ 2024-003	PVC	PVC		
DX	AV – Administrative Variance AX – Annexation DX – De-annexation HBR – Historic Board Review	 ZONING			
HBR	LU – Land Use RZ – Re-zoning SLUP – Special Land Use ZV – Variance	 KENNESAW CITY LIMITS			
SLUP		 COBB COUNTY			
ZV		 LAND LOT			



REZONING APPLICATION

Required Fee \$375.00

Date Received 09/19/2024

Staff's Initials CMC

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.

Date of Consultation 08/14/2024; 09/13/2024

Staff's Initials _____

REZONING PROPERTY ADDRESS 2112 & 2114 Old 41 Highway; 1620 N. Roberts Road

Land Lot 174, 175, 206, 207 Tax Parcel 21, 121, 119, 8 Lot Size 4.547+/-

Resident Population 0 Housing Units 0 Other Buildings Existing Retail Building

Zoning Request from:

Present Zoning PVC To: PVC

For the purpose of: Master Plan Amendment

APPLICANT EMAIL

Applicant Name: Fabric Housing Acquisitions LLC

Applicant Address 233 South Wacker Drive, Suite 4700, Chicago, IL 60606

(Phone #) _____

Moore Ingram Johnson & Steele, LLP

Applicant Signature BY: [Signature] Date September 19, 2024

Signed, sealed and delivered in presence of: Carolyn E. Cook September 19, 2024

Notary _____ Date _____
Commission Expires: January 10, 2027



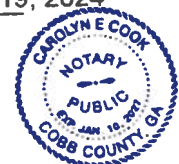
REPRESENTATIVE Moore Ingram Johnson & Steele, LLP - J. Kevin Moore

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

Representative Signature BY: [Signature] Date September 19, 2024

Signed, sealed and delivered in presence of: Carolyn E. Cook September 19, 2024

Notary _____ Date _____
Commission Expires: January 10, 2027



TITLEHOLDER: JLV Kennesaw Crossing, LLC

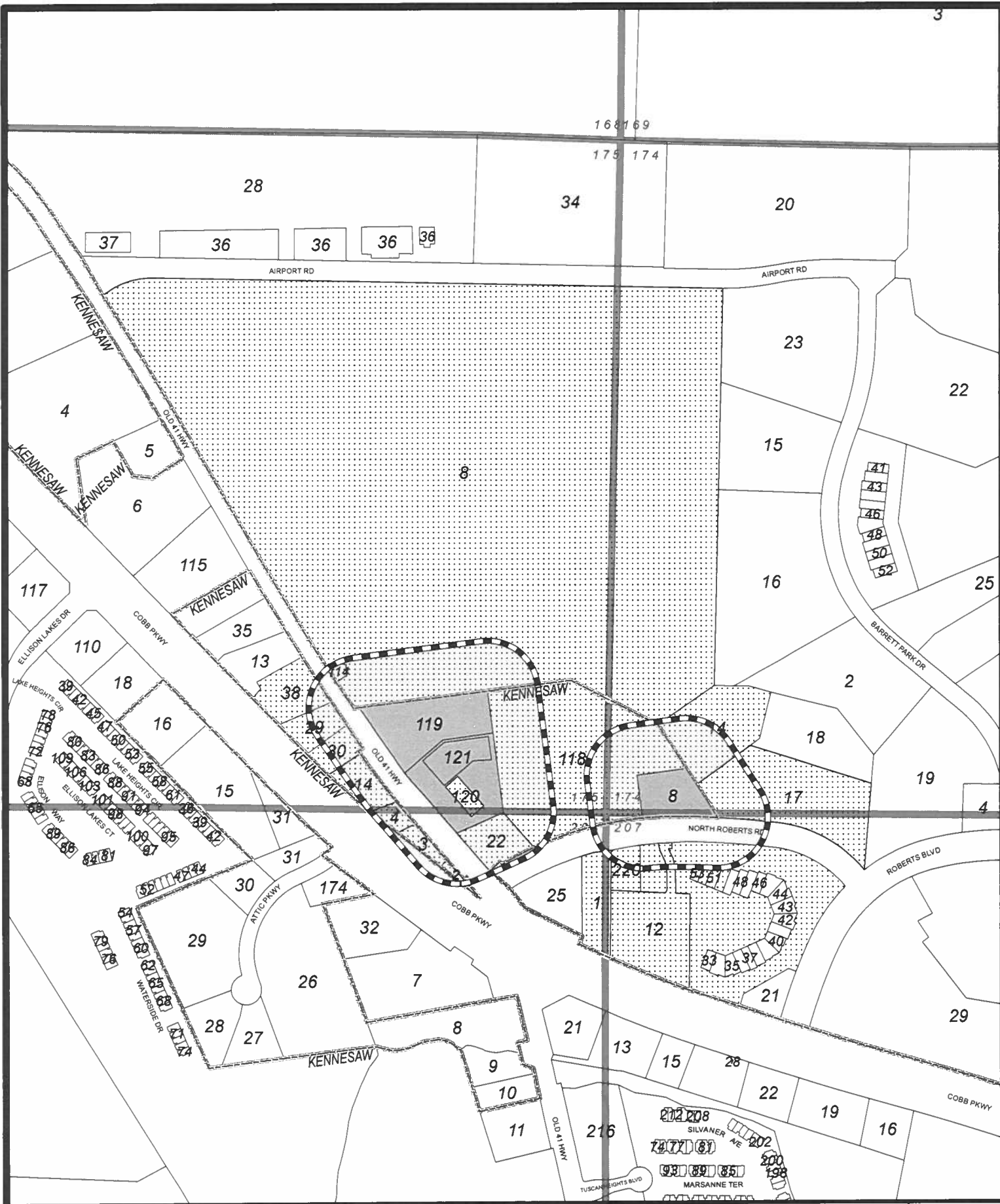
JLV Kennesaw Mixed Use, LLC (Phone #) _____

Signature BY: [Signature] Address 120 Interstate North Parkway, Suite 154, Atlanta, GA 30339

Signed, sealed and delivered in presence of: Carolyn E. Cook September 18, 2024

Notary _____ Date _____
Commission Expires: January 10, 2027





-  Subject Parcel
-  200' Radius
-  Properties Notified

2112, 2114 Old 41 Hwy & 1620 N Roberts Rd
Land Lot 175, Tax Parcels 21, 119, & 121
Land Lot 174, Tax Parcel 08

RZ2024-004
200' PROPERTY NOTIFICATION



CITY OF KENNESAW
 PLANNING & ZONING DEPT.
 770-590-8268

David Estroff
 Mayor
Jim Blasing
 City Clerk

Date: 9/30/2024
 RZ2024_004



7022 0410 0001 4901 6935

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☐ Adult Signature Restricted Delivery \$

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City, State, ZIP+

Tax Parcel - 20017501180
 PAC ELLISON LLC
 POST OFFICE BOX A3878
 CHICAGO, IL 60690

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City, State, ZIP+

Tax Parcel - 20017501200
 ETHAN WAID REAL ESTATE LLC
 316 HARVEST VIEW TERRACE
 WOODSTOCK, GA 30188

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City, State, ZIP+4®

Tax Parcel - 20020600220
 3700 DEKALB TECHNOLOGY PARKWAY LLC
 450 EAST PACES FERRY ROAD
 ATLANTA, GA 30305

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☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage

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Total Postage

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Sent To

Street and Apt.

City, State, ZIP+

Tax Parcel - 20017400140
 DIODATI RAY L. & DIODATI RICH
 POST OFFICE BOX 2595
 KENNESAW, GA 30156

PS Form 3800, April 2015 PSN 7530-02-000-9047

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☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage

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Total Postage and Fee

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Sent To

Street and Apt. No.

City, State, ZIP+

Tax Parcel - 20017400170
 DIODATI RAY L. & DIODATI RICH
 POST OFFICE BOX 2595
 KENNESAW, GA 30156

PS Form 3800, April 2015 PSN 7530-02-000-9047

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☐ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage

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Sent To

Street and Apt. No.

City, State, ZIP+

Tax Parcel - 20017500980
 FEDEX GROUND PACKAGE SYSTEM, INC.
 1000 FEDEX DRIVE
 MOON TOWNSHIP, PA 15108

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☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

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Total Postage \$

\$
Sent To

Street and Apt.

City, State, ZIP

Tax Parcel – 20017500140
LANG, INC.
1613 OLD HUNTERS TRACE
MARIETTA, GA 30062

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☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

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Street and Apt.

City, State, ZIP

Tax Parcel – 200175008290
D & S PROPERTY, LLC
307 BROOKE AVENUE
CANTON, GA 30114

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☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

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Total Postage \$

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Street and Apt.

City, State, ZIP

Tax Parcel – 20017500300
WAFFLE HOUSE, INC.
ATTENTION: TAX DEPARTMENT
POST OFFICE BOX 6450
NORCROSS, GA 30091-6450

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☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$
Total Postage \$

\$
Sent To

Street and Apt.

City, State, ZIP

Tax Parcel – 20017500380
GREER REAL ESTATE HOLDINGS LLC
419 PONDEROSA TRAIL
DALLAS, GA 30132

PS Form 3800, April 2015 PSN 7530-02-000-9047

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☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

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Sent To

Street and Apt.

City, State, ZIP

Tax Parcel - 20017501140
NOBLE BEN F.
438 CHOWNING PLACE
MARIETTA GA 30064

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☐ Adult Signature Restricted Delivery \$

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Total Postage \$

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City, State, ZIP

Tax Parcel – 20020600010
KARLEBACH PROPERTY MANAGEMENT LLC
833 HALLBROOK LANE
MILTON, GA 30004

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Tax Parcel – 20020660020
 GEORGIA STATE HIGHWAY DEPT.
 C/O TRANSPORTATION DEPT.
 2 CAPITOL SQUARE, S.W., SUITE 300
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Street and Apt. N

City, State, ZIP+

Tax Parcel – 20020690030
 GEORGIA STATE HIGHWAY DEPT.
 C/O TRANSPORTATION DEPT.
 2 CAPITAL SQUARE, S.W., SUITE 1150
 ATLANTA, GA 30334-0000

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- ☐ Adult Signature Restricted Delivery \$

Postage

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Sent To

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Tax Parcel – 20020600040
 GEORGIA STATE HIGHWAY DEPT.
 C/O TRANSPORTATION DEPT.
 2 CAPITOL SQUARE, S.W., SUITE 300
 ATLANTA, GA 30334-0000

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Postage

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Sent To

Street and Apt. N

City, State, ZIP+

Tax Parcel - 20020700120
 LGE COMMUNITY CREDIT UNION
 POST OFFICE BOX 1188
 MARIETTA, GA 30061

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- ☐ Adult Signature Restricted Delivery \$

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Sent To

Street and Apt. N

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Tax Parcel – 20020700500
 KEYCHEM INTERNATIONAL, INC.
 1690 ROBERTS BLVD., SUITE 118
 KENNESAW GA 30144

PS Form 3800, April 2015 PSN 7530-02-000-9047

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- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

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City, State, ZIP+

Tax Parcel – 20020700510
 KEYCHEM INTERNATIONAL, INC.
 1690 ROBERTS BLVD., SUITE 118
 KENNESAW, GA 30144

PS Form 3800, April 2015 PSN 7530-02-000-9047

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☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

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Tax Parcel – 20020700520
RYTECH MANAGEMENT, LLC
1690 ROBERTS BLVD, UNIT 120
KENNESAW, GA 30144

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MARIETTA GA 30060

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☐ Adult Signature Restricted Delivery \$

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Tax Parcel – 20020700530
STEVIE B'S PIZZA ENTERPRISES, INC.
1690 ROBERTS BLVD., N.W., SUITE 121
KENNESAW GA 30144

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☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

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Tax Parcel – 20020702200
REDHOUSE LLC
5201 OLD GAYDON ROAD
POWDER SPRINGS, GA 30127

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☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage
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Sent To
Street and Apt. N
City, State, ZIP+4

Tax Parcel – 20020702210
B & J TRUST
C/O MARY BULLOCK WARREN ANGELUCCI
4014 STONEBRIDGE LANE
RANCHO SANTE FE, CA 92091

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MARIETTA GA 30060

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USPS
Permit No. G-10

9590 942 2132 39

R7 2024-04

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CITY OF KENNESAW
 Planning & Zoning
 2529 J.O. Stephenson Avenue
 Kennesaw, GA 30144

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Postage & Fees Paid
USPS
Permit No. G-10

9590 9406 2952 2046 0656

R72024-04

United States
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Attention: Planning & Zoning
City of Kennesaw
1550 J.O. Stephenson Avenue
Kennesaw, GA 30144

USPS TRACKING#

ANTI-AMTAIN KEA | RDC 302

THE

9590 0656 2575 2730 93

RZ2024-04

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

CITY OF KENNESAW
Attention: Planning Commission

Attention: Planning & Zoning
City of Kennesaw
2529 J.O. Stephenson Avenue
Kennesaw, GA 30144

USPS TRACKING®

ATU ANTACCA RPD 302

9590 2098 2131 09

RZ2024-04

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Postal Service**

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

CITY OF KENNESAW
Attention: Planning & Zoning
City of Kennesaw
2529 J.O. Stephenson Avenue
Kennesaw, GA 30144

Page 86 of 377

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 - 20020702200
REDHOUSE LLC
5201 OLD GAYDON ROAD
POWDER SPRINGS, GA 30127



9590 9402 7567 2098 2132 39

2. Article Number (Transfer from service label)

7022 0410 0001 4901 7130

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

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent ☐ Addressee
B. Received by (Printed Name) C. Date of Delivery
Guy Walters 10/21/24
D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
☐ Priority Mail Express®
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail (over \$500)

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 - 20017501140
NOBLE BEN F.
438 CHOWNING PLACE
MARIETTA GA 30064



9590 9402 7567 2098 2131 54

2. Article Number (Transfer from service label)

7022 0410 0001 4901 7031

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

Domestic Return Receipt

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 - 20017400140
DIODATI RAY L. & DIODATI RICH
POST OFFICE BOX 2595
KENNESAW, GA 30156



9590 9402 7567 2098 2130 93

2. Article Number (Transfer from service label)

7022 0410 0001 4901 6966

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

Domestic Return Receipt

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 - 20017400170
DIODATI RAY L. & DIODATI RICH
POST OFFICE BOX 2595
KENNESAW, GA 30156



9590 9402 7567 2098 2131 09

2. Article Number (Transfer from service label)

7022 0410 0001 4901 6973

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

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent ☐ Addressee
B. Received by (Printed Name) C. Date of Delivery
Marie Walter 10/21/24
D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
☐ Priority Mail Express®
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail (over \$500)

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent ☐ Addressee
B. Received by (Printed Name) C. Date of Delivery
Marie Walter 10/21/24
D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
☐ Priority Mail Express®
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail (over \$500)

USPS TRACKING #



9590 9402 7567 2018 2132 84 R22024-04

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Oct 28 2024

CITY OF KENNESAW Planning & Zoning
City of Kennesaw

2529 J.O. Stephenson Avenue
Kennesaw, GA 30144

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

USPS TRACKING #



9590 9402 7567 2018 2132 84 R22024-04

United States
Postal Service

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Oct 28 2024

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Tax Parcel - 20017500080
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MOON TOWNSHIP, PA 15108



9590 9402 7567 2098 2131 16

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1. Article Addressed to:

Tax Parcel - 20017501200
ETHAN WARD REAL ESTATE LLC
316 HARVEST VIEW TERRACE
WOODSTOCK, GA 30188



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Planning & Zoning
City of Kennesaw
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A LIMITED LIABILITY PARTNERSHIP
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MARIETTA, GEORGIA 30060
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KNOXVILLE, TENNESSEE 37923
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SUITE 401
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TELEPHONE (904) 428-1465

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SUITE 200
BRENTWOOD, TENNESSEE 37027
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SUITE 375
LEXINGTON, KY 40509
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390 N. ORANGE AVENUE
SUITE 625
ORLANDO, FLORIDA 32801
TELEPHONE (407) 367-6233

HARRISBURG, PENNSYLVANIA
101 ERFORD ROAD
SUITE 300
CAMP HILL, PA 17011
TELEPHONE (717) 790-2854

November 8, 2024

Via E-mail Only to dsimmons@kennesaw-ga.gov

Mr. Darryl Simmons
Zoning Administrator
Department of Community Development
City of Kennesaw, Georgia
2529 J.O. Stephenson Avenue
Kennesaw, Georgia 30144

RE: Application for Rezoning (Master Plan Amendment)
 Case No.: RZ2024-04
 Applicant: Fabric Housing Acquisitions, LLC
Property Owners: JLV Kennesaw Crossing, LLC;
 JLV Kennesaw Mixed Use, LLC
 Property: 4.547 acres, more or less, located at the
 intersection of Old 41 Highway and North
 Roberts Road, being more particularly known as
 2112 and 2124 Old 41 Highway and
 1620 N. Roberts Road; Land Lots 174 and 175,
 20th District, 2nd Section, City of Kennesaw,
 Cobb County, Georgia

Dear Darryl:

Please accept this correspondence as the request of Applicant and Owners in the above-referenced Application for Master Plan Amendment to table the pending Application from the November 12, 2024, Mayor and City Council Work Session and November 18, 2024, Mayor and City Council Hearing Agenda to the respective agenda dates in December 2024. As we discussed, there appears to be outstanding items or issues arising out of the initial rezoning in 2018; as well as, the subsequent master plan amendment approved in 2022, which need to be addressed and resolved with City Staff prior to consideration by the Mayor and City Council. Moreover, the additional time will provide the Applicant an opportunity to continue its work with City Staff to incorporate potential revisions in response to expressed concerns. In this regard, this correspondence also serves to request a meeting with you and the City Manager to review any outstanding items or issues from prior approvals to determine how best this Applicant may address the situation and satisfy the City's concerns.

MOORE INGRAM JOHNSON & STEELE

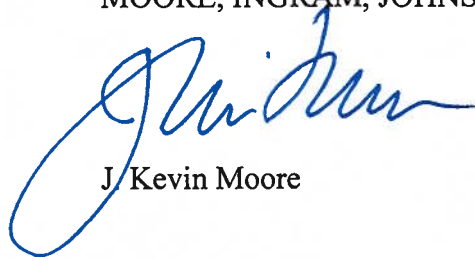
Mr. Darryl Simmons
Zoning Administrator
Department of Community Development
City of Kennesaw, Georgia
Page 2 of 2
November 8, 2024

As always, we appreciate your professional courtesy in handling of any application and would very much appreciate the opportunity to continue our work to produce a development that achieves the goals of all parties involved.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

c: Channelle Campbell
Assistant Zoning Administrator/Planner
Department of Community Development
City of Kennesaw
(Via E-mail Only)

Fabric Housing Acquisitions, LLC
(Via E-mail Only)

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

1. Call to Order / Roll Call

The meeting was called to order by Chairman Jackson at 6:31 p.m.

Roll Call: Chairman Jackson, Commissioner Ragus, Commissioner Patterson, Vice Chair Bodenhamer, Commissioner Vande Zande, Commissioner Trim

Absent: Commissioner Greenall

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

Speakers: John Gray (Founder and CEO of Fabric Housing, LLC), Kevin Moore (Attorney), Zack Gober (President of Lavista Associates), Vanita Keswani (Education and Exhibits Manager at Smith-Gilbert Gardens)

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 November 18, 2024.

3. Approval of the Meeting Minutes

- A. Approval of Meeting Minutes: October 2, 2024

Chairman Jackson called for a motion.

Motion to approve by Vice Chair Bodenhamer.

Seconded by Commissioner Trim.

Chairman Jackson proceeded with a roll call for approval.

Vote taken, Commissioner Ragus, Commissioner Patterson, Vice Chair Bodenhamer, and Commissioner Trim voted in favor. Commissioner Vande Zande abstained. Motion approved 4-0. Motion carried.

4. New Business

- A. **RZ2024-04** - Consideration to amend the zoning conditions for the property located at 2112 & 2114 Old 41 Hwy, and 1620 N. Roberts Rd (20017501190, 20017501210, 20017500210, 20017400080) as submitted by Fabric Housing Acquisitions, LLC. Said request is to amend the zoning conditions outlined in ordinances #2018-10 and #2022-09 to eliminate the ground floor commercial requirement and replace the two condominium buildings consisting of 9,750 sq. ft with the remaining 12,000 sq. ft of retail along N. Roberts Road. Property consists of 4.57 +/- acres and lies in land lot 174,175, 206, and 207 tax parcel 21, 121, 119, and 8.

Mr. Darryl Simmons approached the podium and stated Ms. Chanelle Campbell will be presenting this agenda item. He also stated he would be available to answer any questions from the Planning Commission or the public.

Ms. Chanelle Campbell introduced this agenda item; a rezoning application submitted by Fabric Acquisition Housing, LLC to amend the zoning condition from Ordinance #2018-10 and Ordinance #2022-09 on parcels located at 2112 and 2114 Old 41 Highway and 1620 North Roberts Road. Ms. Campbell shared that in 2018 the site was rezoned from General Commercial (GC) to Planned Village Community (PVC). The intent of the rezoning was to develop a mixed-use development consisting of a four to five-story hotel, two one-story retail buildings consisting of approximately 22,000 square feet, three four-to-five-story multi-family buildings, and two office condominium buildings consisting of approximately 9,750 square feet.

The construction of the multifamily development known as "The Ellison" was completed in 2021. The project consisted of three four-story buildings totaling 250 units with singular access from North Roberts Road. The same year, the construction of a 10,000 square foot retail building was completed on parcels fronting Old 41 Highway.

The applicant subsequently returned in 2022 to amend the master plan previously approved in 2018. The application at that time requested to replace the hotel requirement with a mixed-use development consisting of 12,000 square feet of ground floor commercial component and multifamily with no more than 208 additional units. The request was approved by Mayor and Council on November 21, 2022 with added stipulations to include outdoor plaza spaces, a parking deck, and an eight-foot multi-use trail.

The application before the Planning Commission today requests to eliminate the ground floor commercial requirement along Old 41 Highway, and place the remaining 12,000

square feet of required retail along North Roberts Road. The applicant is also requesting to eliminate the two-story office condominium building consisting of 9,750 square feet. The applicant additionally requests to construct a multifamily building consisting of 120 apartment units, which is less than what was approved in 2022, where the cap was 208 apartment units.

All the required public notice procedures were completed, including the placement of public notice signs on the property and an advertisement in the Marietta Daily Journal on October 18th.

Ms. Campbell noted that the ground retail component along Old 41 Highway will be eliminated in the revised plan. There is presently 10,000 square feet of retail that was developed as part of the mixed-use. The remaining 12,000 square feet of retail will be placed on North Robert Road as part of the new proposal.

Ms. Campbell continued her presentation and displayed the site plan submitted with the request for an amendment in 2022. The site plan detailed the multi-use trail, plazas, a parking deck, and a mixed-use component with retail on the ground floor.

Ms. Campbell stated that the development pattern along Cobb Parkway and Old 41 Highway has historically been commercial with office and retail services fronting both sides of the roadway. The intent of this area is to promote a mix of retail, dining services, and business that fosters economic development and balances commercial needs with community-focused developments. Because the development of a completely residential unit along Old 41 Highway would be contrary to the existing development pattern, staff recommends a denial of the proposal to amend the master plan that was approved back in 2022 with the remaining conditions from 2018.

Ms. Campbell announced that the applicants were present and will be able to answer any additional questions from the Planning Commission.

Chairman Jackson asked if the applicant wishes to make any additional comments.

Kevin Moore, representative of the applicant Fabric Housing, LLC., approached the podium and reintroduced the project, noting that the original approval in 2018 included a mixed-use development with a hotel, multifamily apartments, and retail, and that the 2022 amendment removed the hotel and replaced it with a multifamily building of 208 apartments, 12,000 square feet of ground floor retail, and an office component designated for 9,750 square feet.

Mr. Moore expressed that the applicant is looking at how the master plan can be executed successfully. He explained that the two parcels have been sitting vacant since the old cowboy shopping center was torn down and redevelopment began.

Due to changes in the market and economy, as well as the impacts from covid, the

office market has seen an increase in vacancy rate from a 7 percent vacancy rate to a 50 percent vacancy rate. Thus, building new offices next to already existing office spaces on North Roberts Road would not be economically feasible.

The 12,000 square feet of retail on fronting Old 41 Hwy has been marketed and has not received the reception it needs to be successful along Old 41 Highway. The applicant shared that the developers plan to reposition the 12,000 square feet of remaining retail to North Roberts Road so that it can be more successfully marketed. The project also downsized the entitled number of apartments from 208 to 120 units for consistency in the development.

Mr. Moore reiterated the applicant's belief in the necessity of a new vision for the redevelopment to ensure its completion. The applicant proposes relocating various elements of the master plan to more suitable locations while preserving key components approved by the Mayor and Council. These crucial elements include mixed-use areas, the multi-use trail, and plaza spaces, which were conditions of the master plan amendment in 2022.

Mr. Moore announced that John Gray of Fabric Housing, LLC is present and can speak to the overall vision, of the project. He also shares that Zack Gober from Lavista Associates, the broker and retail broker for the project, is present and can provide further details in response to any questions.

Mr. Moore respectfully requested the Planning Commission's recommendation of approval of this master plan amendment. He explained that while he understands staff's position there are other factors such as economics challenges that impacts the success of a project.

Chairman Jackson opened the floor to the public for comment. Hearing no public comment, Chairman Jackson closed the floor to public comment and opened the floor to Commissioner comments.

Vice Chair Bodenhamer asked if the overall retail square footage in the proposal was less than it was before and how it compares with the retail plus the office space component.

John Gray, CEO and Founder of Fabric Housing, LLC, approached the podium and explained that the originally approved retail space was 22,000 square feet. The total retail square footage remains the same, comprising 10,000 square feet of existing retail space and an additional 12,000 square feet to be developed along North Roberts Road.

Vice Chair Bodenhamer asked if the designated office component would be completely removed from the project.

John Gray confirmed that the designated office space is no longer part of the project.

Vice Chair Bodenhamer asked for clarification on whether or not the retail proposal would absorb the office square footage.

John Gray confirmed that the retail square footage would remain unchanged, while the overall commercial square footage would decrease by just over 9,000 square feet due to the elimination of the office component. He explained that with the current occupancy rate of 60 to 70 percent for the office condos to the southeast of the parcel on North Roberts Road, it would be inappropriate to construct new office buildings. He believes there is a better opportunity for retail. Additionally, he noted that having retail adjacent to the existing office park increases marketability and enhances walkability on the Cobb Commercial Corridor from the apartment community and office park.

Vice Chair Bodenhamer requested further explanation from staff regarding denial of the request.

Mr. Simmons approached the podium and explained that the role of Planning and Zoning staff in the rezoning process is to help guide not just the Boards and Mayor and Council, but also the development community. He shared that the applicant did their due diligence and met with the Plan Review Committee. During the meeting, staff shared other examples of successful mixed-use in the City of Kennesaw with ground floor retail and multifamily. He shared that staff acknowledge the hesitation for developing the office component, but he shared that staff provided additional uses such as medical, institutional, education and consulting that could benefit from the office space.

Mr. Simmons stated that due to prior concessions resulting in the elimination of the hotel for the development of mixed-used development along with the pre-existing pattern on Old 41 Highway established for retail, they stand on the approved Master Plan agreed upon by the applicant. Mr. Simmons explained the city has provided as much guidance as it can to promote the redevelopment, including agreeing to removing the hotel portion from the project.

Vice Chair Bodenhamer inquired whether staff's concern was related to the removal of the office component and the introduction of retail on North Roberts Road, or if it was about the lack of a retail component on Old 41 Highway. He also asked if staff would advise against retaining the proposed retail component on North Roberts Road while adding more retail on Old 41 Highway.

Mr. Simmons asked for further clarification.

Vice Chair Bodenhamer indicated that he was referring to placing retail on North Roberts Road, as proposed by the applicant, and adding ground floor retail on Old 41 Highway.

Mr. Simmons stated that staff is repeating the expectations from Mayor and Council and the City of Kennesaw back from 2018 to 2022, but expressed staff's openness to exploring the Vice Chair's suggestion.

Vice Chair Bodenhamer reiterated that he was exploring whether staff would agree to retail on North Roberts Road or if they wanted to keep retail on Old 41 Highway.

Mr. Simmons stated that staff always leaves the door open for solutions, and that the Vice Chair should direct his question to the applicant to see if they are amicable.

Mr. Gray shared that the master plan re-envisioned in 2022 had 10,000 square feet of retail on the ground floor of the proposed mixed-use apartment on Old 41 Hwy. Since its completion in 2021, one third of the existing 10,000 square foot retail building has remained vacant. He expressed that creating the mixed-use building became unappealing because they would be adding more retail in addition to retail that has not been successful in leasing.

Mr. Gray explained that some of the site's difficulty stems from the building being at the backside of a gas station and the Waffle House dumpster site. Retailers have expressed a lack of interest in being on the hidden side of Cobb Parkway where nobody is entering activated retail. This was part of the reasoning for moving the retail to the southeast portion of the master plan. Mr. Gray added that from a buildability perspective, the layout of the existing multifamily buildings would mean losing a quarter of the units to add more retail when the number of multifamily units has already been reduced by 42 percent going from 208 units to 120 units.

Vice Chair Bodenhamer noted that, although he is not involved in real estate or development, he speculates that the current retail building may be struggling due to the adjacent vacant parcel and the potential difficulty accessing the site with only one entrance. He suggested that if the area appeared more complete, it might attract more businesses.

Mr. Gray expressed that the accessibility is great for the 10,000 square foot building due to two entrances and surface parking at the front door of the space. He thinks it is a combination of the access and what's on the street that's prevented the leasability of the space.

Commissioner Trim requested the applicant provide further details on the vacancy rate for office uses.

Mr. Zack Gober, President of Lavista Associates, approached the podium and introduced himself and his brokerage firm. Mr. Gober explained that he ran an exercise on CoStar, a product that shows the availability of office space immediately to the east of the site and near Chastain Road, which includes approximately 30 buildings. The exercise showed 50 percent availability for office space on the market for lease and sublease. Mr. Gober conveyed that the office market is currently struggling, estimating that about 90% of office buildings are likely experiencing financial distress. Mr. Gober noted that placing the retail on North Roberts Road could serve as that walkability immediately to the office park.

Mr. Gober stated that Lavista Associates had been leasing this space since 2018; however, a new group took over leasing and they were also not able to get any leasing activity.

Chairman Jackson asked if there were additional comments from the commissioners. Hearing no further comments, Chairman Jackson called for a motion.

Commissioner Vande Zande made a motion to approve the zoning request as presented.

Seconded by Commissioner Ragus.

Mr. Simmons approached the podium to make an additional request if the Chairman would allow it.

Chairman Jackson agreed.

Mr. Simmons explained that if the Planning Commission decides to approve the request, the Public Works director, Ricky Stewart, requested the incorporation of sidewalk connectivity along the frontage of Old 41 Highway due to the change in use to residential. Mr. Simmons stated that the addition of sidewalks would continue the overall theme of connectivity throughout the development as it pertains to access to Old 41 Highway.

Commissioner Trim asked if the Planning Commission could add conditions as part of the rezone such as requiring each unit to have a pre-built grease trap.

Mr. Simmons responded that the relevant building and fire requirements will kick in based on use.

Commissioner Vande Zande asked if staff's request was to attach a condition to the motion requiring the installation of sidewalks along the Old 41 Highway. He asked where the sidewalks would lead.

Mr. Simmons responded that with new development, sidewalks are usually put along the frontage of the development.

Commissioner Vande Zande asked the applicant whether they would agree to the sidewalk condition.

Mr. Moore confirmed that they would be agreeable to installing new sidewalks along Old 41 Highway.

Commissioner Vande Zande retracted the first motion. He made a new motion to approve the zoning request with the condition of installing sidewalks along the frontage of the property. He asked Mr. Simmons if that was correct.

Mr. Simmons stated the sidewalk would be along Old 41 Highway and reiterated that the motion includes the removal of the office component on North Roberts as the applicant requested.

Commissioner Vande Zande asked if the sidewalks would extend to the North Roberts Road portion of the project.

Mr. Simmons confirmed.

Commissioner Vande Zande restated that the sidewalk will run from North Roberts Road to the end of the project on Old 41 Highway. He asked whether there is a trail head on Old 41 Highway.

Mr. Simmons stated that there is a previously approved trail that the sidewalk will tie into.

Chairman Jackson asked whether the sidewalk would be 8 feet or 5 feet.

Mr. Simmons stated that the minimum width is 5 feet, but staff would prefer wider sidewalks given the number of units to be added to the development. Depending on the engineering, curb cuts required to make the sidewalk safe, and space available, staff would prefer 8 feet sidewalks, but the minimum requirement is 5 feet.

Commissioner Vande Zande stated that he would not want to mandate 8ft. He stated that 5ft is the minimum requirement.

Chairman Jackson called for a motion.

Motion by Commissioner Vande Zande to approve with the condition that 5ft sidewalks be added along the frontage of Old 41 Highway and North Roberts Road.

Seconded by Commissioner Ragus.

Chairman Jackson proceeded with a roll call vote.

Vote taken, Commissioner Ragus, Commissioner Patterson, and Commissioner Vande Zande voted in favor. Vice Chair Bodenhamer and Commissioner Trim voted against.

Motion approved 3-2. Motion carried.

Mr. Simmons reiterated that the Planning Commission's recommendation will go to Mayor and Council for their November 18th meeting, at which time they will take action on this request. Mr. Simmons thanked Chairman Jackson.

- B. **MISC2024-03** - Consideration for approval of a text amendment request as submitted by the City of Kennesaw. Said request is to amend the Unified Development Code, Appendix A, " Unified Development Code" Section 2.03.00 and Section 8.04.00 of said chapters as submitted by the City of Kennesaw.

Mr. Simmons introduced this agenda item. This is a text amendment request submitted by the City of Kennesaw. Said request is to amend the Unified Development Code, Appendix A, "Unified Development Code," Section 2.03.00 and Section 8.04.00 of said chapters as submitted by the City of Kennesaw. This is a text amendment that will dissolve the Kennesaw Art and Culture Commission, which was put in place in 2013 to act as the approval and review arm for the City. The commission will be replaced with an Arts Programming Coordinator, which is a staff level position. An art advisory committee will be added and used, as needed, to assist staff to review. The purpose of this text amendment is to create a more efficient review process. Currently, anything approved for public art has to go through an extensive public notice process including the posting of signs and mailing of letters. Staff believes it would better serve the public to have a better, more efficient, and less arduous process. Staff took over a year looking at different models throughout the region, and came up with this language that went through our legal department. Staff believes this is a good solution to bring art programming downtown and create an easier process for local and national artists.

Vice Chair Bodenhamer disclosed that his wife served on the Kennesaw Arts and Culture Commission within the past year but no longer serves. He asked staff if there is a conflict of interest.

Mr. Simmons responded that there was not a conflict of interest.

Chairman Jackson asked if the purpose of the text amendment was to hire a new staff person.

Mr. Simmons responded that Ms. Vanita Keswani, who is acting as an art program coordinator for the city and possesses extensive experience in arts programming, will be appointed.

Chairman Jackson commented that he has enjoyed past art exhibits in Kennesaw and asks Mr. Simmons to introduce Ms. Keswani.

Mr. Simmons introduced the proposed Arts Programming Coordinator Ms. Vanita Keswani.

Ms. Vanita Keswani, Education and Exhibits Manager at Smith-Gilbert Gardens, approached the podium and introduced herself. Ms. Keswani shared her extensive background and experience in arts programming including creating a loan agreement program for Smith-Gilbert Gardens, growing partnerships with arts organizations in Metro Atlanta, exhibiting the works of professional artists at the gardens, and writing grants to provide stipends to artists. She noted that the current process, including the challenge of obtaining quorum for a commission meeting, adds additional time that can cause a loss of opportunities with partners.

Ms. Keswani provided additional details on the proposed text amendment. She shared

that there is a system for working with the City Manager's office and a committee created to ensure acquisitions are appropriate for the city and our community.

Chairman Jackson opened the floor to public comment. Hearing no public comment, Chairman Jackson opened the floor to Commissioner comments.

Commissioner Trim asked if the definition for "artist" in the proposed text amendment would exclude student artists.

Mr. Simmons stated that student artists can be added to the definition.

Vice Chair Bodenhamer inquired if the text amendment means public art applications are no longer brought before Mayor and Council.

Mr. Simmons responded that the proposed structure has applications going to the City Manager's office.

Vice Chair Bodenhamer further inquired if the approval process is shifting from approval by Mayor and Council to approval by the City Manager.

Mr. Simmons confirmed.

Ms. Keswani added that the ordinance provides staff with the ability to work with other departments. She explains that cooperating with other departments helps identify challenges and suggestions, which also improves the process.

Vice Chair Bodenhamer expressed that he is in favor of creating a more efficient process. He asked about the role of committee and how members are chosen.

Mr. Simmons responded that the committee is used as needed. Members would be appointed and approved by the City Manager's office. Members would have a background in art and programming. There is a structure on how to appoint an advisory committee, and they would meet as needed as determined by the coordinator.

Chairman Jackson asked for any additional comments or questions.

Chairman Jackson called for a motion.

Motion by Vice Chair Bodenhamer to approve with the condition that "student artist" be added to the definition of "Artist" in section 2.03.02.

Seconded by Commissioner Patterson.

Chairman Jackson proceeded with a vote for approval.

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

- C. **PP2024-01** - Consideration for approval of a preliminary plat as submitted by Tyler Shoop located at 3057 N. Main Street (Parcel ID: 20012702300) for the

development of a 38 unit townhome community. The property is located on 5.98+/- acres, and lies in land lot 127, tax parcel 23.

Mr. Simmons introduced this agenda item. This is a preliminary plat application submitted by Tyler Shoop located at 3057 North Main Street for the development of 38 townhome units. This property is located on 5.9 +/- acres in land lot 127, tax parcel 23.

The total project is 14.34 +/- acres and was done in two phases. The completed first phase, titled "Cantrell Crossing," has 70 townhomes on 8.36 +/- acres. This preliminary plat is for part two of the master plan approved in 2018. This phase has 38 units, which will meet the overall density and unit restrictions and zoning conditions for the whole master plan. The preliminary plat identifies potential issues with the proposed streets, access, layout, and greenspace. It is not a recorded document, but it requires review and approval by the Planning Commission. This preliminary plat went through plan review committee, public works, stormwater, and planning and zoning and meets all of our requirements. Staff recommends approval of the Preliminary Plat.

Mr. Simons noted that all identified and labeled roads will remain private.

Chairman Jackson asked for clarification on the verbiage on a road being public or private.

Mr. Simmons explained that when a development constructs roads to city standards, the city can choose to accept the roads, known as a dedication, or allow them to remain private. In the case of this Preliminary Plat, the city and the public works department have decided not to accept these roads, preferring they remain private and be maintained by the HOA and residents.

Chairman Jackson asked if there will be requirements for improvements along Rutledge Road.

Mr. Simmons responded that Rutledge Road will be part of a future S.P.L.O.S.T project. It will not affect access to the proposed townhomes or to the existing Cantrell Crossing townhomes.

Mr. Simmons shared that the roads for phase 2 "Towns at Cantrell", will share the main circular road with phase 1 "Cantrell Crossing". Private roads will then connect to the 38 units. Access will not be compromised. There will still be access off Rutledge Road.

Chairman Jackson asked if the HOA has to maintain the private roads and if the roads must be maintained to a specific standard.

Mr. Simmons responded that the HOA has to maintain the roads. They are required to put it into their covenants, have access, and have appropriate financing for future upgrades and paving.

Chairman Jackson commented that there is already a desire for pedestrians to cross

North Main Street for Swift Cantrell and Pelican's Snoballs. He expressed concern that more development will attract more pedestrians, particularly children, and create an increased safety risk, especially given the lack of a playground on the preliminary plat.

Mr. Simmons explained that the preliminary plat includes a substantial amount of green space fronting North Main Street, available for residents to use, featuring a walking area, a track, and other pedestrian-friendly amenities. This greenspace also acts as a landscape buffer between the homes and North Main Street and is a specific amenity for the new tenants. The city of Kennesaw is evaluating long-term transportation solutions and options for Rutledge Road and Cathey Lane, given the presence of the multi-million dollar facility, Swift Cantrell, across the street. The city's goal is to accommodate pedestrians who wishes to visit the park.

Mr. Simmons informed the Planning Commission that a preliminary plat is not a public hearing.

Vice Chair Bodenhamer commented that he would like staff to look at the line of sight on Rutledge Road. He stated there are visibility issues when turning left onto Rutledge Road that may become more problematic with more development.

Mr. Simmons thanked the Vice Chair for his comment.

Vice Chair Bodenhamer asked if there are sidewalks along the development's side of North Main Street.

Mr. Simmons stated that there are sidewalks.

Vice Chair Bodenhamer asked if the sidewalks fronting North Main Street continue to Pelican's and if the sidewalks will be connected by a crosswalk.

Mr. Simmons responded that a crosswalk would be the City's responsibility and part of the transportation plan.

Vice Chair Bodenhamer commented that he would like staff to look at a way to get pedestrians across North Main Street safely. He noted that currently pedestrians have to walk down to a 4-way stop to access a crosswalk.

Commissioner Trim commented that the distance is too short from the closest crosswalk to justify installing another crosswalk.

Chairman Jackson commented that kids on skateboards are unwilling to travel far to cross the street.

Commissioner Trim commented that the distance is less than a mile and cautions against putting too many crosswalks in one spot. He referenced the crosswalks in front of Revival on South Main Street as an example.

Vice Chair Bodenhamer stated that he wants to ensure people get across the street safely because kids run across the street to Pelican's. He noted that it is an issue worth looking into.

Mr. Simmons responded that ensuring safe pedestrian crossing will be a key part of the solutions being considered for that area. As more programs are introduced at Swift Cantrell and redevelopment continues on North Main Street, the city plans to accommodate increased traffic and pedestrian movement.

Chairman Jackson asked if the preliminary plat needs to be approved by the Planning Commission.

Mr. Simmons confirmed the preliminary plat requires approval by the Planning Commission. He noted that the document is not recorded and is used to identify infrastructure and roads. He added that there is a final plat process that goes before Mayor and Council to establish property lines and fee simple lines for townhomes.

Chairman Jackson called for a motion.

Motion by Vice Chair Bodenhamer to approve

Seconded by Commissioner Trim.

Chairman Jackson proceeded with a roll call vote.

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

5. Staff Comment

Mr. Simmons thanked the Commissioners for their service and notified the Commissioners that staff would send out notifications to any of the Commissioners whose term expires at the end of this year. Commissioners will be emailed and asked if they would like to continue to serve.

6. Adjourn

Chairman Jackson adjourned the meeting at 7:46 p.m.



Item Report

TO: The Honorable Mayor and City Council
FROM: Lea Alvarez, City Clerk
DATE: December 9, 2024
TITLE: **Minutes: November 25, 2024 Work Session**
Approval of the November 25, 2024, City Council work session minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. 2024-11-25 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: www.kennesaw-ga.gov/publicmeetings/
November 25, 2024
6:30 PM**

Present

Mayor Derek Easterling
Councilmember Madelyn Orochena
Councilmember Tracey Viars
Councilmember Pat Ferris
City Clerk Lea Alvarez
City Manager Jeff Drobney
City Attorney Randall Bentley, Sr.

Mayor Pro Tem Antonio Jones arrived at 7:05 p.m.
Councilmember Anthony Gutierrez participated virtually via
Zoom

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

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

4. **Announcements**
5. **Presentations**

A. Update: Taste of Kennesaw

Update on the Taste of Kennesaw to be provided by Mike Everhart of the Kennesaw Business Association at the December 2, 2024, regular meeting.

The update will be provided at the December 2, 2024, regular meeting.

B. Discussion: Bond Funding for Dale Hughes' Main Street Projects

Presentation on potential bond financing for Dale Hughes' Main Street projects from Raymond James, the City of Kennesaw's financial advisor.

Gordon Mortin, Managing Director of Raymond James, provided a synopsis of the proposed financing program for the Main Street project presented by Dale Hughes at the last work session. Mr. Mortin is proposing that the Kennesaw Downtown Development Authority (KDDA) issue \$7.5 million in taxable revenue bonds. He discussed further details about the proposal, including requirements for Mr. Hughes,

having the property titled to the KDDA, and that it will be a 20-year bond issue.

6. Old Business

7. New Business

8. Committee and Board Reports

A. Update: Kennesaw City Cemetery

Year in Review to be provided by Lewis Bramlett, Chair of the Cemetery Preservation Commission, at the December 2, 2024, regular City Council meeting.

The update will be provided at the December 2, 2024, regular meeting.

9. Public Hearing(s)

10. Consent Agenda

A. Minutes: November 12, 2024 Executive Session

Approval of the November 12, 2024, City Council executive session minutes.

B. Minutes: November 12, 2024 Work Session

Approval of the November 12, 2024, City Council work session minutes.

C. Minutes: November 18, 2024 Regular Meeting

Approval of the November 18, 2024, City Council regular meeting minutes.

11. General and Administrative

A. Discussion: House Bill (HB) 581 Local Opt-out Floating Homestead Exemption

Discussion of HB 581 Local Opt-out Floating Homestead Exemption, which contains multiple provisions related to property tax.

Assistant Finance Director Jennifer Gordy explained House Bill 581 Local Opt-out Floating Homestead Exemption, which contains multiple provisions related to property tax. Ms. Gordy noted that the bill was approved by voters in the November 2024 general election. This bill aims to change how property taxes are calculated and managed in Georgia. It grants a statewide homestead exemption that limits the taxable value of homes to no more than the inflation rate. Ms. Gordy explained that currently, in the City of Kennesaw, there is a floating homestead exemption that is referred to as a frozen floating homestead exemption. Since we already have a frozen floating homestead exemption in place, which is a better option since the taxable value will never increase, staff is recommending that the City opt out of the HB 581 Floating Homestead Exemption since it will not offer any relief to the taxpayers. Ms. Gordy emphasized that the exemption is only eligible for homestead properties, not for any rental or commercial properties.

City Manager Jeff Drobney provided some context to House Bill 581. The bill was on

the most recent ballot, and it came about because the legislature had received complaints regarding the rapid increase of property values, which was increasing the amount of property tax people were having to pay. This legislation was not aimed at Kennesaw or Cobb County, because we have a frozen homestead exemption. Instead, the intent was to create parameters which would relieve the burden of rapid increases in the amount of property taxes people were paying, especially for those cities and counties that did not have a homestead exemption. For Kennesaw, opting in would provide no benefit. Dr. Drobney pointed out that in the legislation, it says that if there is a better homestead exemption already in place, it takes precedence. There is one opportunity to opt-out, and it must be done by March 1, 2025. Dr. Drobney stated we could begin the opting out process in January 2025.

12. Public Safety

A. Discussion: Public Safety Facility

Update and discussion of funding for Public Safety Facility.

Dr. Drobney shared the City is at a point where some decisions have to be made regarding the funding for the Public Safety Facility. The City began planning for a Public Safety Facility going back to 2017 to be funded through SPLOST, which was adopted in 2020 and went into effect in 2022. Under that SPLOST funding, approximately \$8.7 million was committed to the Public Safety Facility, which was using building costs from 2018. Dr. Drobney said staff are trying to design a building to grow with the police department. The cost of the building has come back and is \$15.2 million, which is a difference of about \$6.5 million.

Dr. Drobney proposed a solution stating that the City has been collecting SPLOST proceeds over the last 33 months. The City was projected to collect approximately \$441,458 per month, which is a total collection projection of \$31,785,000. To date, we have collected \$25,421,908. So, in 33 months, we are 79% of the way there. Dr. Drobney stated we still had 39 months left to go. On average, the City has been collecting an additional \$328,902.84 per month over. Right now, we have taken those additional payments and set them to the side, which totals \$10,853,794.48 in excess collections. Dr. Drobney's recommendation is to use a portion of that overage to fund the additional \$6.5 million for the Public Safety Facility to allow for construction, emphasizing that the more we delay, the more the cost goes up.

[Mayor Pro Tem Jones arrived at 7:05 p.m.].

The Mayor and Council directed Dr. Drobney to put the item on the agenda for the regular meeting.

13. Information Technology

14. Public Works and Building Maintenance

A. Resolution: Right of Way Abandonment Process for 2995 and 2997 North Main Street

Consideration of approval for a Resolution authorizing the start of the Right of Way Abandonment Process for 2995 and 2997 North Main Street.

[Councilmember Orochena announced that she would recuse herself from any discussion or vote on 2995 and 2997 North Main Street as those properties are owned by her parents].

Public Works Director Ricky Stewart received a request from the property owner of 2995 and 2997 North Main Street for the City to entertain abandoning a portion of right of way in front of the two lots. Currently, the right of way in front of those two lots is 100 feet, 50 feet on either side of the centerline. Those two parcels are the only on that street that has right of way with that depth to it. From what Mr. Stewart could tell from plat research, 2985 North Main Street, which adjoins 2995 North Main Street, also had the same right of way that depth. In the early 2000s, the city did a land swap with 2985 North Main Street to gain some additional property for Adams Park. In exchange, a portion of the right of way was brought closer to the street side. Further, it appears the right of way for those three parcels was for some sort of turn lane for "Pine Street," which was an old right of way that separated 2985 North Main Street and 2995 North Main Street and was abandoned in the 1990s. He doesn't see an issue with abandoning the extra right of way as requested. Mr. Stewart said, ultimately, of the 50 feet, the City would abandon 30 feet of it to bring that side to 20 feet, matching the property at 2985 North Main Street.

Mr. Stewart recommended approval to start the abandonment process. It is a multistep process per state law.

Councilmember Ferris asked if the City was going to retain enough property for utilities and streetlights. Mr. Stewart stated that reducing 50 feet back to 20 feet would keep the sidewalk. Mr. Stewart clarified that in the abandonment, the City would have to make the property owner aware that any possible utility on the right of way would require an easement on that property. The only utilities Mr. Stewart was aware of were power and streetlights. If there are any unknown utilities that are underground, they would have to become an easement.

The Mayor stated the item would remain where it is on the agenda.

B. Resolution: City Hall Entrance Improvements

Consideration of approval for a Resolution approving the bid and awarding the contract for City Hall Entrance Improvements to S.H. Creel Contracting, LLC.

Mr. Stewart presented a resolution approving the bid and awarding the contract for City Hall Entrance Improvements to S.H. Creel Contracting, LLC. Mr. Stewart shared that when the City did the Dallas-Watts project in 2016, which included re-working the back of City Hall, discussions began regarding refreshing the front of City Hall. The City received three bids with S.H. Creel Contracting, LLC being the lowest bid of \$154,801.50. Mr. Stewart's recommendation was to approve the bid and award the contract to S.H. Creel Contracting, LLC to begin the work in front of City Hall.

Mayor Pro Tem Jones asked about the particulars of the project. Mr. Stewart shared the improvements include revamping the ADA parking lot, removing trees, removing and replacing the sidewalks, and improving the landscaping.

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

15. Recreation and Culture

16. Community Development

17. Public Comments

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

No comments

7:17 p.m. Floor Closed for Public Comments

18. City Manager's Report

A. Reports, Discussions, and Updates

Dr. Drobney wished everyone a Happy Thanksgiving.

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

Councilmember Gutierrez apologized for being absent for this meeting as he has a new job that required some travel. In the spirit of giving back to the community, he is fortunate enough to be more charitable this season and encouraged everyone to do the same and help those in need during this Christmas season.

Mayor Pro Tem Jones apologized for being late today as he was coming home from Florida.

Councilmember Ferris shared that he was in short sleeves tonight, which might be the last time he will be for many weeks. He is ready for spring!

Councilmember Orochena noted she is thankful for her family getting together for Thanksgiving this year.

Councilmember Viars wished everyone a Happy Thanksgiving. She mentioned there are always people who do not have anyone to spend this holiday with, so she

encouraged everyone make an extra plate and invite someone over.

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 Orochena to enter into Executive Session as allowed by O.C.G.A § 50-14-3 for the purpose of discussing personnel. Motion seconded by Councilmember Viars.

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

7:20 p.m. Recess to Executive Session

The Mayor, City Council, and City Attorney attended the Executive Session.

7:33 p.m. Reconvene to Open Session

Councilmember Orochena 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 7:33 p.m. The regular meeting will be held on Monday, December 2, 2024, at 6:30 p.m. in the Council Chambers. The public is encouraged to attend.

Lea Alvarez, City Clerk

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

11/25/2024

Public Comment Sign-in

Name

Address

Topic

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DRAFT



Item Report

TO: The Honorable Mayor and City Council
FROM: Lea Alvarez, City Clerk
DATE: December 9, 2024
TITLE: **Minutes: November 25, 2024 Executive Session**
Approval of the November 25, 2024, Executive Session minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:
None



Item Report

TO: The Honorable Mayor and City Council
FROM: Lea Alvarez, City Clerk
DATE: December 9, 2024
TITLE: **Minutes: December 2, 2024 Regular Meeting**
Approval of the December 2, 2024, City Council regular meeting minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. 2024-12-02 City Council DRAFT Minutes

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

**Livestream: www.kennesaw-ga.gov/publicmeetings/
December 2, 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
Deputy City Clerk Christie Burgner
City Manager Jeff Drobney
City Attorney Randall Bentley, Sr.

1. Invocation

City Attorney Randall Bentley, Sr. led the Invocation.

2. Pledge of Allegiance

Andrew Bramlett led the Pledge of Allegiance.

3. Call to Order

Mayor Easterling called the meeting to order at 6:31 p.m.

4. Announcements

5. Presentations

A. Update: Taste of Kennesaw

Update on the Taste of Kennesaw provided by Mike Everhart of the Kennesaw Business Association.

Mike Everhart with the Kennesaw Business Association (KBA) spoke about the 16th Annual Taste of Kennesaw. Mr. Everhart thanked Chief Westenberger, his officers, staff and commanders and advised they were delightful to work with. Mr. Everhart also thanked Public Works Director Ricky Stewart and his phenomenal crew. Over thirty restaurants participated in the event. The event received positive press from the Marietta Daily Journal and Mr. Everhart appreciates the relationship that the KBA has with the City. Years ago, the Taste of Kennesaw was rebuilt with KBA organizing the event and community service in mind. JRM worked the event for no fee. The KBA has given approximately \$230,000 back to the community over the last 15 years and this year will give \$20,000 to four local beneficiaries: Shop with a Warrior, Shop with a

Mustang, Shop with a Longhorn, Jerry Worthing Christmas Memorial Fund, and Kennesaw State Cares, a program designed to assist university students who struggle with food insecurity or homelessness. Mr. Everhart would like it to be known and celebrated that in addition to the KBA donations to Kennesaw State Cares, local high schools raised over 2000 non-perishable food items for the university students with food insecurity.

6. Public Comment/Business from the Floor

6:36 p.m. Floor Open for Public Comment

No comments.

6:37 p.m. Floor Closed for Public Comment

7. Old Business

8. New Business

A. Resolution: Transfer 2022 SPLOST Funds

Consideration of approval for a Resolution to transfer excess 2022 SPLOST funds to the Public Safety Facility SPLOST fund for an amount not to exceed \$7 million.

Dr. Drobney advised that the Public Safety facility has been long in the planning stages. Decisions can be made and construction moved forward with the additional amount stated in the resolution as discussed in the work session.

Motion by Mayor Pro Tem Jones to approve [RESOLUTION 2024-56, 2024](#) authorizing the transfer of 2022 SPLOST excess funds to the SPLOST 2022 Public Safety facility account. Seconded by Councilmember Gutierrez. There was no discussion. Vote unanimously approved 5-0. Motion passed.

9. Committee and Board Reports

A. Update: Kennesaw City Cemetery

Year in Review to be provided by Lewis Bramlett, Chair of the Cemetery Preservation Commission.

Kennesaw Cemetery Preservation Commission Chair Lewis Bramlett presented updates on the Kennesaw City Cemetery including information about members of the Commission and Foundation, kiosks, temporary grave markers, plant/tree removal, Section III survey work, lot markers, gravel road removal, City and DAR events, donations, structure maintenance, signs, and memorial trees. Kennesaw Cemetery Preservation Foundation Chair Stephen King provided information on the October "Life in the Cemetery" Tour which was their most successful event to date and netted almost \$7000 in donations. The Foundation will use those monies to support projects at the Kennesaw City Cemetery.

10. Public Hearing(s)

11. Consent Agenda

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

Mayor Pro Tem Jones. There was no discussion.

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

- A. **Minutes: November 12, 2024 Executive Session**
Approval of the November 12, 2024, City Council executive session minutes.
- B. **Minutes: November 12, 2024 Work Session**
Approval of the November 12, 2024, City Council work session minutes.
- C. **Minutes: November 18, 2024 Regular Meeting**
Approval of the November 18, 2024, City Council regular meeting minutes.
- D. **Resolution: City Clerk Contract Renewal**
Approval of a Resolution authorizing a contract renewal with the City Clerk.

[RESOLUTION 2024-57, 2024](#)

- E. **Resolution: City Manager Contract Renewal**
Approval of a Resolution authorizing a contract renewal with the City Manager.

[RESOLUTION 2024-58, 2024](#)

- F. **Resolution: City Hall Entrance Improvements**
Approval of a Resolution approving the bid and awarding the contract for City Hall Entrance Improvements to S.H. Creel Contracting, LLC.

[RESOLUTION 2024-59, 2024](#)

12. General and Administrative

13. Public Safety

14. Information Technology

15. Public Works and Building Maintenance

- A. **Resolution: Right of Way Abandonment Process for 2995 and 2997 North Main Street**
Consideration of approval for a Resolution authorizing the start of the Right of Way Abandonment Process for 2995 and 2997 North Main Street.

Councilmember Orochena recused herself from the discussion because her parents own the properties, and she left the dais.

Public Works Director Ricky Stewart advised about the agenda item. Public Works has received a request from the owner of 2995 and 2997 North Main Street that the City abandon 30 feet of the current 50 feet right of way. If the City did abandon the 30 feet, the right of way would then align with the neighboring properties on Main Street. Mr. Stewart researched the area and it is his belief that at some point that area may have been meant for a turn wing for a street that was abandoned in the 1980's. Mr. Stewart recommends approval for this first step of the process.

Motion by Councilmember Gutierrez to approve [RESOLUTION 2024-60, 2024](#) authorizing the start of the right of way abandonment process for 2995 and 2997 North Main Street. Seconded by Councilmember Viars. Discussion held regarding future need of the right of way. Mr. Stewart advised that due to the closeness of neighboring houses to Main Street, if there was a sidewalk widening it would most likely be done on the other side of the road. Councilmember Ferris inquired about utilities. Mr. Stewart stated that if there are unknown utilities in the portion that is to be abandoned, the utilities would have to work with the property owners. Any new utilities would be placed under the sidewalk or on the other side of the road. Councilmember Ferris asked that Mr. Stewart think about giving only 20 feet of right of way to the property owners instead of the 30 feet proposed. Mayor Pro Tem Jones asked if the utility companies would have to pay a fee to the owners for use of the property. Councilmember Ferris and City Attorney Bentley agreed that the utility company may pay a minimal fee.

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

Councilmember Orochena returned to the dais.

16. Recreation and Culture

17. Community Development

18. Public Comment/Business from the Floor

6:58 p.m. Floor Opened for Public Comment

ANDREW BRAMLETT [City Resident]: Mr. Bramlett presented a local history story regarding Kennesaw Postmasters. (See Exhibit A)

7:00 p.m. Floor Closed for Public Comment

19. City Manager's Report

A. Reports, Discussions, and Updates

Dr. Drobney thanked Communications Director Becca Graham & her team and Public Works Director Ricky Stewart & his team for their work on the holiday lights in downtown Kennesaw and encouraged residents to visit Depot Park. There are additional things to view this year.

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 Gutierrez thanked the Police Department for their quick actions over

the holiday weekend, and reminded everyone "if you see something, say something."

Councilmember Ferris advised he was thankful for the volunteers in the community like the KBA, the Cemetery Commission and Foundation and appreciated the incredible role they play to help make the city what it is.

Councilmember Orochena advised her family had a great Thanksgiving, and they are looking forward to the upcoming city events including A Day with Santa.

Mayor Pro Tem Jones had no comments.

Councilmember Viars advised of the downtown merchants Holiday Loyalty Program and encouraged residents to stop and shop at the local downtown vendors. The loyalty cards can be turned in to City Hall and a drawing will be held for three prizes.

Mayor Easterling thanked Mr. Everhart for his update and agreed with Councilmember Ferris that the City has great people who do great things for the community.

22. Executive Session

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

23. Adjourn

Mayor Easterling adjourned the meeting at 7:04 p.m. The next regularly scheduled meeting will be held on Monday, December 9, 2024, at 6:30 p.m. in the Council Chambers. The public is encouraged to attend or view via the Public Meeting Portal on the city's website.

Christie Burgner
Deputy City Clerk

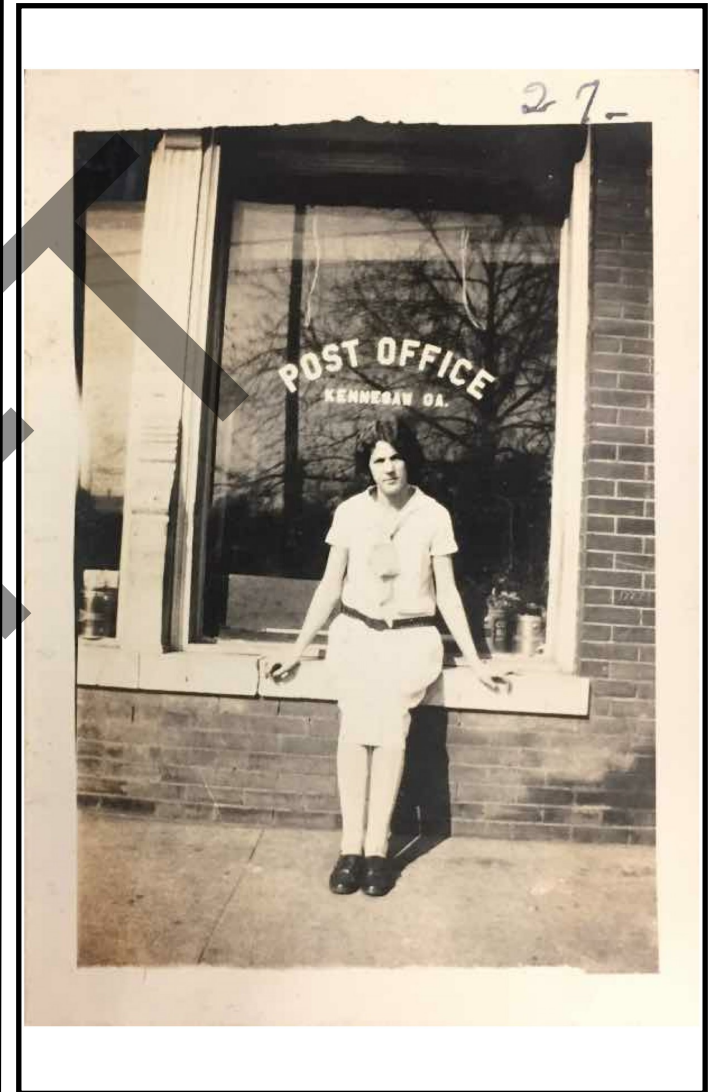
KENNESAW HISTORY

Postmasters

A post office named “Kenesaw” was established near Kennesaw Mountain on August 8, 1853, under postmaster William M. Elliott. It would be moved and renamed twice in the next decade. It first moved to Moon Station and then to Big Shanty. On January 25, 1869, the name of the Big Shanty post office was officially changed to Kennesaw. The first postmaster under the new name was Nelson Timlick.

Since that time, a number of notable citizens have led the post office. A very unique story comes from Sylvanus J. Baldwin, a Civil War veteran wounded at Kennesaw Mountain. He was appointed postmaster in 1895, but according to the *Marietta Journal* refused to serve because “there was too much gossip about it to suit Mr. Baldwin.”

The first woman to serve as Kennesaw’s postmaster was Carrie Plyant, who served as acting postmaster in 1934. The first woman to be full postmaster was Nancy Kemp Ellis, who was appointed in 1939. The best known local to serve in the role was Helen Odom, who led the post office from 1949 until 1972. Local folklore says she was the nation’s first female postmaster, but the rumor is sadly untrue.



Kennesaw Post Office, c. 1925
Image from Sara Dick

Presented by Andrew J. Bramlett at the December 2, 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

12/2/2024

Public Comment Sign-in

	Name	Address	Topic
1	Andrew J. Bramlett	2990 Summerfield Ct.	Local history
2	Lewis Bramlett	2990 Summerfield Ct 30152	covered
3	Michael Everhart	4502 Grapevine Ct NW 30162	Taste of Kennesaw
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Item Report

TO: The Honorable Mayor and City Council

FROM: Brian Acker, Human Resources

DATE: December 9, 2024

TITLE: **Resolution: GIRMA Fund for First Responder's PTSD Program**
 Consideration for approval of a Resolution to add membership into the Georgia Interlocal Risk Management Agency's (GIRMA) Fund for the First Responder's PTSD Program.

Summary:

The Ashley Wilson Act (the Act or HB 451) requires all public entities in Georgia to offer a supplemental benefit program (effective January 1, 2025) for eligible first responders diagnosed with post-traumatic stress disorder (PTSD) resulting from exposure to line-of-duty traumatic events. It creates two once per-lifetime financial safety nets to assist with uninsured costs associated with PTSD treatment and recovery. A first responder may access the benefits quickly and confidentially without worry over stigma or job loss. The Act does not impact employer health plans, which are required to provide coverage for PTSD and other mental health conditions.

By way of this resolution, we are requesting membership in the Georgia Interlocal Risk Management Agency's (GIRMA) fund for the First Responder PTSD program (underwritten by MetLife.)

Recommendation:

The Human Resources Director recommends approval.

Fiscal Impact:

Estimated Annual Premium \$10,508.00

Attachments:

1. RES 2024 - GIRMA Fund Membership for First Responders PTSD Program
2. GIRMA Fund C Enrollment Package- Existing Members
3. PTSD Quote Proposal - GMA GIRMA Fund C

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2024-__ 2024

**RESOLUTION TO ADD MEMBERSHIP IN A FUND OF GEORGIA INTERLOCAL RISK
MANAGEMENT AGENCY (GIRMA)**

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

WHEREAS, the Public Entity of the City of Kennesaw, located in Cobb County, Georgia (hereafter "Public Entity") is a current member of the Georgia Interlocal Risk Management Agency (hereafter GIRMA), an interlocal risk management agency formed pursuant to Chapter 85 of Title 36 of the Official Code of Georgia Annotated; and

WHEREAS, the governing authority of the Public Entity is currently a member of a GIRMA Fund and desires to add membership in an additional GIRMA Fund; and

WHEREAS, the governing authority of the Public Entity has reviewed the Fund Election Form attached as Appendix A and the Application and Participation Agreement applicable to the Fund and finds that it is in the best interest of its residents for the Public Entity to be a member of the Fund indicated on the Fund Election Form.

WHEREAS, in accordance with Georgia law O.C.G.A Title 32, Chapter 7, multiple steps must be followed to abandon public rights of way. The first step is approval from the governing body to start the abandonment process.

BE IT RESOLVED by the governing authority of the Public Entity:

1. The mayor of the Public Entity is authorized to act on behalf of Public Entity to elect membership in the Fund identified in the Election Form attached as Appendix A by executing the Application and Participation Agreement for such GIRMA Fund.
2. The mayor of the Public Entity is designated as the Public Entity's representative to GIRMA for purposes of Fund participation.
3. The Public Entity may change its representative by making a written request to Georgia Municipal Association, Inc., the Program Administrator for GIRMA.
4. This resolution shall be effective on the date of adoption.

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

ATTEST:

CITY OF KENNESAW

Lea Alvarez, City Clerk

Derek Easterling, Mayor

**GEORGIA INTERLOCAL RISK MANAGEMENT (GIRMA)
FIRST RESPONDER PTSD APPLICATION AND PARTICIPATION AGREEMENT**

Employers eligible to participate in GIRMA (hereinafter a “Participating Employer” or “Employer”) shall complete this Application and Participation Agreement in order to purchase First Responder PTSD coverage fully insured by MetLife under the GIRMA Fund C Master Policy for a Lump Sum PTSD Diagnosis Benefit, a PTSD Disability (Income Replacement) Benefit, or a Combined Lump Sum PTSD Diagnosis Benefit and PTSD Disability (Income Replacement) Benefit. Once approved by GIRMA’s Program Administrator, the Participating Employer will receive a one-page Summary of Benefits identifying the purchased coverage(s) (the “First Responder PTSD Policy”) and a link to the Policy Certificate for the purchased coverage(s), so it may make these available to individuals performing service for them as an employed or volunteer “First Responder” as defined below (“First Responders”).

Who Does What?

- GIRMA is the Policyholder of a First Responder PTSD Policy insured by MetLife, which provides a Lump Sum Benefit and a Disability (Income Replacement) Benefit. These coverages together are designed to meet the requirements of the Ashley Wilson Act (the “Act”), effective January 1, 2025.
- Georgia Municipal Association, Inc., (“GMA”) is the Program Administrator for GIRMA. GMA uses information from the First Responder census data provided by the Participating Employer to bill for the premiums due under the First Responder PTSD Policy and maintains (either directly or through the broker for the First Responder PTSD Policy) Participating Employers’ Application and Participation Agreements.
- Participating Employers are responsible for providing census data to GMA’s broker that identifies all First Responders (as defined below) performing first responder services for them, classifying the First Responders by statutory definition and as employed or volunteer, and identifying those First Responders who are First Responders for another Public Entity.
- Participating Employers are responsible for submitting complete and accurate census data and paying premiums to GMA, communicating with First Responders about the coverages the Employer provides, providing the Summary of Benefits and link to the applicable Certificate to First Responders, and providing all requested information and documentation requested by GMA’s broker to ensure the census is current.
- Participating Employers are responsible for designating an authorized member of human resources staff to receive inquiries from MetLife related to work requirements or work status for disability claims and provide all information requested by MetLife for that purpose.
- To comply with the confidentiality provisions of the Act, GMA and its broker will not inform Participating Employers whether a First Responder has submitted a claim for benefits or received any such benefits.
- Participating Employers are responsible for ensuring that any information in their possession related to claims, and any other information that would reasonably identify an individual as having been diagnosed with PTSD, is used only in accordance with applicable laws and is kept confidential in the same way as mental health information related to an employer sponsored major medical plan or employee assistance program.
- Participating Employers are prohibited by law from taking any employment action solely as a result of a First Responder’s diagnosis, claims, or benefits.
- MetLife evaluates claims and pays approved claims under the First Responder PTSD Policy. All claims for benefits must be submitted to MetLife.
- First Responders do not need to inform the Participating Employer that they are making a claim.
- Neither GIRMA nor GMA have any role in claim determination or payment.

Definition of First Responder. A First Responder for the Participating Employer is an individual who meets one or more of the following definitions as a result of services he or she performs for the Participating Employer as an employee or volunteer:

- (A) 'Communications officer' as defined in Code Section 37-12-1;
- (B) 'Correctional officer' as defined in Code Section 45-1-8;
- (C) 'Emergency medical professional' as defined in Code Section 16-10-24.2;
- (D) 'Emergency medical technician' as defined in Code Section 16-10-24.2;
- (E) 'Firefighter' as defined in Code Section 25-4-2;
- (F) 'Highway emergency response operator' as defined in Code Section 45-1-8;
- (G) 'Jail officer' as defined in Code Section 45-1-8;
- (H) 'Juvenile correctional officer' as defined in Code Section 45-1-8;
- (I) 'Peace officer' as defined in Code Section 35-8-2;
- (J) 'Probation officer' as defined in Code Section 45-1-8; and
- (K) Law enforcement officer with the Department of Natural Resources.

Employer Obligations:

- Employer shall not require any kind of contribution from First Responders for the coverage(s) provided under the First Responder PTSD Policy.
- Employer is solely responsible for identifying all First Responders (as defined above). Any questions about First Responder status should be resolved by contacting legal counsel. Participating Employers that are members of GIRMA's Property and Liability Fund may call the GIRMA HelpLine at 800-721-1998 for free legal advice about whether an individual meets the statutory definition.
- Employer is solely responsible for keeping an accurate list of all First Responders, and providing correct and complete information to GMA's broker.
- Employer shall submit initial First Responder census data to the GMA broker in the form requested, and must update this census data as requested in order to ensure that all First Responders are properly identified and classified.
- The Employer's cost for coverage under the First Responder PTSD Policy will be based on the most recent census data at the time of billing.
- Employer shall provide the Summary of Benefits and a link to the applicable Certificate to all First Responders at no charge, and shall provide a copy of the applicable Policy to First Responders upon request.
- If the Policy is terminated for any reason, Employer shall provide notification of termination to all First Responders.
- Whenever requested to do so by MetLife or GMA, Employer shall provide MetLife or GMA the information requested.

Benefits Exempt from Income Tax:

- MetLife has determined that benefits it will pay under the policy are not subject to state or federal income taxation. Accordingly, MetLife will not report benefits to the IRS or withhold any amounts from benefit payments.
- MetLife will advise benefit recipients that benefits are not subject to federal or state income tax, so MetLife will not withhold taxes or provide a 1099 or W-2 or report benefit payments to the IRS. MetLife will remind benefit recipients that the benefits may offset other benefits received by the recipient or have other tax consequences and encourage them to consult their tax advisor for guidance.
- MetLife will provide a summary of benefits to the benefits recipient upon request.
- Legal counsel to GIRMA has advised GIRMA of the following:

- The Ashley Wilson Act provides that benefits payable pursuant to the Ashley Wilson Act are not subject to Georgia income tax.
- Benefits payable under the policy to First Responders (as defined in the statute) are not subject to federal income tax because the Ashley Wilson Act is a statute in the nature of a workers' compensation act under Treas. Reg. Section 1.104-1(b) and the MetLife policy bases benefits solely on diagnosis of work-related injuries or sickness as described in the Act.
- Participating Employers have no tax obligations arising from payment of benefits to their First Responders.
- A copy of the opinion letter is available upon request.

Information Privacy and Security:

- See the attached PTSD Privacy Notice, which will be posted on the website where policy information is published. This Notice explains the privacy requirements of the Ashley Wilson Act and how individually identifiable information is used and shared.
- As a critical illness and disability policy, the PTSD Program is not subject to the federal information privacy and security law that applies to group health plans (HIPAA). However, GMA, the GMA broker, and MetLife protect individually identifiable information and use and share it only in accordance with the privacy provisions of the Ashley Wilson Act and any other applicable privacy laws.
- Participating Employers will provide census data to GMA's broker using a secure portal established by the broker.

Desired Coverage (See Attached Proposal for Estimated Annual Premiums):

Participating Employer is applying for and agreeing to purchase the First Responder PTSD Combined Lump Sum Diagnosis Benefit and PTSD Disability (Income Replacement) Benefit unless the following option is checked.

_____ First Responder Lump Sum PTSD Diagnosis Benefit Only* (*Alone, this coverage does NOT meet the requirements of the Ashley Wilson Act. Leave BLANK if you want the full coverage.*)

The coverage elected above automatically renews at each anniversary of the effective date, based on then current premiums established by the Program Administrator. Coverage may be terminated in accordance with the GIRMA Bylaws regarding termination of membership in a GIRMA Fund.

**On behalf of _____ [Name of Participating Employer], _____
County, Georgia, I submit this Application and Participation Agreement and agree to its terms.**

Signature: _____ Date: _____

Print Name: _____ Title: _____

Privacy Notice for Georgia First Responders PTSD Program

This Privacy Notice describes the individually identifiable information about First Responders that Program Administrators of the Georgia First Responders PTSD Program collect and how it is used and shared.

PROGRAM ADMINISTRATORS: Certain employees of Georgia Municipal Association (“GMA”) and Association County Commissioners of Georgia (“ACCG”) provide administrative services for the PTSD Program. The Southeastern Series of Lockton Companies, Inc. serves as broker for the MetLife insurance policy that is offered through the PTSD Program. GMA, ACCG, and Lockton are all Program Administrators of the PTSD Program.

PRIVACY OBLIGATIONS UNDER ASHLEY WILSON ACT: The Ashley Wilson Act contains privacy requirements for information that “could reasonably be used to identify individuals making claims or who have made claims or who have received benefits.” These privacy requirements were included because federal privacy law (HIPAA) does not apply to the Program. Program Administrators and MetLife treat this information as “sensitive mental health information” and only use and share the information to operate the Program, prepare aggregated reports, comply with the law, or as authorized by the First Responder.

Communications between First Responders (or their representatives) and Program Administrators or MetLife are confidential and privileged.

The Act ensures that First Responders can get the lump sum benefit in a confidential manner similar to receiving mental health benefits under a group health plan (subject to HIPAA) or under an employee assistance program, and limits interactions with the employer for disability benefits to those allowed for other mental health disability benefits.

- First Responders submit their claims for benefits directly to MetLife and do not need to inform the Employer.
- MetLife will not inform Program Administrators of claims or benefits without the First Responder’s express authorization.
- MetLife and Program Administrators will never tell Employers whether a First Responder has made a claim for or received a lump sum benefit (without express authorization).
- For the disability benefit, MetLife will only communicate with a human resources contact at the Employer about work requirements and work status, which will indicate that the First Responder has submitted a claim for disability benefits.
- Due to the nature of the Program, MetLife does not need to and will not provide any reports of benefits to the IRS or the Employer.
- If an Employer learns of a claim or benefits from the First Responder or otherwise,

the Employer is prohibited by law from taking any employment action solely as a result of a First Responder's diagnosis, claims, or benefits.

- Employers are required to treat any information they may learn about claims or benefits confidentially as they would treat mental health information associated with a group health plan or employee assistance program.
- Employers are required to designate an employee who is authorized to securely submit eligibility information about First Responders to the Program Administrators' eligibility portal. This information identifies which employees and volunteers meet the definition of First Responder and does not contain any information about claims or benefits.

PROTECTED INDIVIDUALLY IDENTIFIABLE INFORMATION MAINTAINED BY PROGRAM ADMINISTRATORS; USE AND SHARING

Eligibility Data: A designated representative of each Employer that offers the Program securely submits the following information to the eligibility portal twice a year: **first and last name, social security number, date of birth, type of First Responder (by statutory definition), and employed or volunteer status.** This information is used to ensure proper billing of premiums and is securely shared with MetLife to enable MetLife to validate identity and determine eligibility for benefits when First Responders submit claims. To comply with the Act's privacy requirements, MetLife will NOT check with the Employer to determine eligibility when a claim is made.

Information Provided by First Responder: If a First Responder contacts a Program Administrator with questions about the Program, the Program Administrator may collect individually identifiable information necessary to answer the questions or direct the First Responder to the right resource and otherwise communicate with the First Responder. This information may include name, phone number, email, employer, employment status, and other information shared by the First Responder. This information is used to answer the questions and may be shared with other Program Administrators or MetLife as appropriate for answering the question and for customer service purposes.

Information About First Responder Claims or Receipt of Benefits: Program Administrators do not have access to information about whether a First Responder has submitted a claim for benefits or has received benefits unless the First Responder shares that information with the Program Administrator(s). MetLife is prohibited from sharing individually identifiable information about claims and benefits with the Program Administrators without an express written authorization from the First Responder. However, Program Administrators may learn about claims or benefits from a First Responder or someone acting on behalf of the First Responder. Program Administrators may share this information with other Program Administrators and MetLife as they deem appropriate for the operation of the Program.

Reports that Do Not Include Direct Identifiers: Program Administrators may request reports from MetLife that show use of benefits for purposes of evaluating the Program. These reports will not contain names or other direct identifiers. However, the reports may contain information (such as type of First Responder and geographic location of employer) that could be used with other information to identify individuals. These reports will be used as the Program Administrators deem appropriate for the operation of the Program and may be shared among the Program Administrators and with MetLife. Reports that could reasonably be used to identify an individual shall not be shared except as required by law.

PROTECTION OF INDIVIDUALLY IDENTIFIABLE INFORMATION

The Program Administrators and MetLife have privacy and information security policies and procedures and safeguards designed to ensure that individually identifiable information is protected from unauthorized access, misuse, and destruction. These controls are designed to meet a variety of applicable laws. For more information about MetLife's privacy practices, refer to the MetLife Privacy Notice posted on GFRPTSDInsurance.com.

**A RESOLUTION TO ADD MEMBERSHIP IN A FUND OF GEORGIA INTERLOCAL RISK
MANAGEMENT AGENCY (GIRMA)**

WHEREAS, the Public Entity of _____, located in _____ County, Georgia ("Public Entity") is a current member of the Georgia Interlocal Risk Management Agency (hereafter GIRMA), an interlocal risk management agency formed pursuant to Chapter 85 of Title 36 of the Official Code of Georgia Annotated; and

WHEREAS, the governing authority of Public Entity is currently a member of a GIRMA Fund and desires to add membership in an additional GIRMA Fund; and

WHEREAS, the governing authority of Public Entity has reviewed the Fund Election Form attached as Appendix A and the Application and Participation Agreement applicable to the Fund and finds that it is in the best interest of its residents for Public Entity to be a member of the Fund indicated on the Fund Election Form;

NOW THEREFORE BE IT RESOLVED by the governing authority of Public Entity:

1. The [Insert title of Chief Officer] of Public Entity is authorized to act on behalf of Public Entity to elect membership in the Fund identified in the Election Form attached as Appendix A by executing the the Application and Participation Agreement for such GIRMA Fund.
2. The [Insert title of Chief Officer] of Public Entity is designated as Public Entity's representative to GIRMA for purposes of Fund participation.
3. Public Entity may change its representative by making a written request to Georgia Municipal Association, Inc., the Program Administrator for GIRMA
4. This resolution shall be effective on the date of adoption.

Adopted this _____ day of 20 _____ [Name of Public Entity]_____

By: _____,

[Print Name of Person Authorized to Sign Resolutions, Title]

Attest: _____,

[Print Name of Person Authorized to Attest, Title]

**Georgia Interlocal Risk Management Agency ("GIRMA") Fund C Election Form
for Existing GIRMA Members**

As stated in Section 6.1 of the Intergovernmental Contract, a GIRMA member must participate in at least one Fund established by the GIRMA Board of Trustees. The Intergovernmental Contract and GIRMA Bylaws apply to all GIRMA members, regardless of the Fund or Funds in which they participate. Terms and conditions specific to a Fund are set forth in the Coverage Description for the Fund.

This election form is for use by current GIRMA Members who wish to join GIRMA Fund C and thereby offer PTSD Benefits to eligible First Responders.

Fund C Application Information: GIRMA established Fund C on September 4, 2024. Fund C will provide fully- insured lump sum benefits and disability benefits for first responders entitled to such benefits under the Ashley Wilson Act. A coverage description for Fund C has been filed with the Georgia Department of Insurance and will be made available to Fund C members after approval of membership in Fund C by Georgia Municipal Association, Inc., the Program Administrator for GIRMA, and the insurance carrier.

To join Fund C, the governing body of the GIRMA Member must adopt a Resolution to Add Membership in a GIRMA Fund and the individual authorized to serve as the Public Entity's primary contact for Fund participation must complete and sign the First Responder PTSD Application and Participation Agreement. Membership in Fund C is effective when the Application is approved by the Program Administrator and the carrier.



GMA - GIRMA Georgia First Responder PTSD Program Proposal for Coverage

Effective Date: January 1, 2025

Anniversary Date: January 1

Member: City of Kennesaw

Member Number: 0000133

Insurer: Metropolitan Life Insurance Company (MetLife)

There are two coverage components required by House Bill 451 (2024) effective January 1, 2025:

- 1) Lifetime Critical Illness Lump Sum PTSD Diagnosis Benefit
- 2) Lifetime Long-Term PTSD Disability Benefit (Income Replacement)

The GMA-GIRMA Critical Illness Lump Sum PTSD Diagnosis Benefit and Long-Term Disability (Income Replacement) coverage components are designed to comply with House Bill 451 when purchased together. However, a city is permitted to purchase only one component if you have existing coverage that complies with the new law.

Estimated annual premiums are based on the Eligible First Responder census data provided by the city. While the premiums below are estimated annual amounts, the city will be billed on a semiannual basis in an amount that reflects the city's updates to the census.

Component 1: Lump Sum PTSD Diagnosis Benefit –		
All First Responders		
Lifetime Benefit per first responder:	\$3,000	(Mandated Limit)
Lump Sum PTSD Diagnosis Benefit - Estimated Annual Premium for All First Responders:		\$3,266.00

Component 2: PTSD Disability Limit		
Employed First Responders		
Monthly benefit:	60% of pre-disability first responder earnings	
Maximum monthly benefit per first responder:	\$5,000	
Estimated Annual Premium for Employed First Responders:		\$7,242.00
Volunteer First Responders		
Monthly Benefit per first responder:	\$1,500	
Estimated Annual Premium for Volunteer First Responders:		\$0.00
PTSD Disability Limit – Estimated Annual Premium for All First Responders:		\$7,242.00

Estimated Annual Premium for Components 1 & 2:		\$10,508.00
Lump Sum PTSD Diagnosis Benefit and PTSD Disability Benefit		

This proposal is valid for 30 days after proposal is issued or until the effective date, whichever is later.
This overview is not a part of the policy(ies) and does not provide or explain all provisions of the policy(ies).

11/4/2024



Optional Limits for Consideration:

The coverage limits reflected for Lump Sum PTSD (\$3,000) and PTSD Disability Benefit (60% of earnings for employees and \$1,500/month for volunteers) on Page 1 of the Proposal for Coverage reflect the mandated amounts required by HB 451. However, if your city would like to purchase additional limits above the mandated amounts, the pricing is outlined in the table below. You can select a higher limit for Lump Sum PTSD only, a higher limit for PTSD Disability only, or a higher limit for both coverages. To elect a higher limit, please check the box beside the chosen limit(s).

***If you do NOT want to elect a higher limit, you can disregard this form. If optional limits are not selected, coverage will default to the minimum required limits in HB 451.**

In order to bind coverage for this program (mandated OR optional limits), the executed Application and Participation Agreement as well as the enrollment documents are required.

Lump Sum PTSD Diagnosis Limit	Total Premium Cost at Higher Limit	Check to increase limit
\$5,000	\$11,218.00	
\$10,000	\$13,064.00	
\$15,000	\$14,910.00	

PTSD Disability Benefit (Class 2 Volunteers ONLY)	Total Premium Cost at Higher Limit	Check to increase limit
\$2,000	\$10,508.00	

This document must be signed and returned to Lockton at gfrptsd@lockton.com for the higher limits to be effective.

City Name: _____

Name of Authorized City Employee: _____

Title of Authorized City Employee: _____

Signature of Authorized City Employee: _____

Date: _____

This proposal is valid for 30 days after proposal is issued or until the effective date, whichever is later.
This overview is not a part of the policy(ies) and does not provide or explain all provisions of the policy(ies).

11/4/2024



Item Report

TO: The Honorable Mayor and City Council

FROM: LaMaya Edmonds, Business License Manager

DATE: December 9, 2024

TITLE: **Alcohol License Renewal: Stop 2 Go Shell**
 Consideration for approval of the 2025 annual renewal of the Alcoholic Beverage License for Beer, Wine, and Sunday Sales for Damanis Food and Fuel, Inc. d/b/a Stop 2 Go Shell located at 2515 N Cobb Pkwy, Kennesaw, GA 30152.

Summary:

This is an existing business with a current alcoholic beverage license. The business was cited on June 24, 2024, for providing alcohol to an underage person. The License Review Board suspended the Alcohol License for a period of 30 days effective August 3, 2024. The business has not had any further violations.

Recommendation:

Finance Director recommends approval.

Fiscal Impact:

Attachments:

1. (REDACTED) 28026 STOP 2 GO SHELL ALCOHOL RENEWAL



OCTOBER 11, 2024

RE: 2025 ALCOHOL LICENSE RENEWAL

Dear Alcohol Licensee:

It is time to renew your alcohol license for the year 2025. Your license will expire at the end of the year and sufficient time should be allowed for the renewal process. License fees must be paid on or before December 31, 2024, by certified funds, credit card, or cashier's check only. Failure to renew your license by December 31, 2024, will result in the automatic revocation of your alcohol license.

Please return the attached renewal application forms plus the following:

- Copies of preceding twelve (12) months' state sales tax returns.
- Copy of a state issued identification for each consent form submitted.

All applications must be returned to this office no later than December 6, 2024. If you have any questions or require additional information please contact us at (770) 429-4540 or by email at businesslicense@kennesaw-ga.gov.

Fee Schedule:

Manufacturer: \$1000

Off Premise Consumption each location:

Beer	\$300
Wine	\$300
Liquor	\$2000
Sunday Sales	\$300

On Premise Consumption each location:

Beer	\$550
Wine	\$550
Liquor	\$3000
Sunday Sales	\$550

Note: You are not subject to a hearing before the Mayor & Council unless you have had a change in ownership, ownership type, change of partners, or have had any local or state alcohol violations, including but not limited to the listed violations below:

- | | |
|--|--|
| ☐ <i>Underage Sales</i> | ☐ <i>Non-payment of excise taxes</i> |
| ☐ <i>Selling without a permit</i> | ☐ <i>Business currently on suspension</i> |
| ☐ <i>Transport of alcohol beverages</i> | ☐ <i>Any state violation</i> |

If you have had a violation, allow a minimum of 3 weeks prior to the hearing date, for this office to process your renewal application.

Sincerely,

Business License Department

Do you have any questions or comments regarding the ordinances, laws, regulations or application?

☐ Yes ☒ No

If yes, give details _____



Business License Department
3080 Moon Station Rd. Kennesaw, Ga. 30144
Phone-770-424-8274 Fax 770-429-4559

2024 ALCOHOL LICENSE RENEWAL APPLICATION

Full Name of Business: Stop 2 Go Shell

Address of Business: 2515 North Cobb Pkwy. Kennesaw, GA 30152

Name of Licensee: Damanis Food and Fuel Inc.

Name of Owner if different: Shahid ALi

Circle all that apply:

Applying for: ☒ Beer ☒ Wine ☐ Liquor ☒ Sunday Sales

License Type: ☒ Pouring ☒ Package ☐ Wholesale ☐ Manufacturer

Package only - not
pouring - business
marked pouring in
error

Type of Establishment: Convenience Store

Type of Ownership: ☐ Sole Proprietor ☐ Partnership ☒ Corporation

If Corporation: List all stockholders other than the owner or licensee with 20% or more ownership on a separate sheet. Include name, date of birth, social security number, address, and phone number.

Has there been any change to your lease agreement?

☐

YES

☒

NO

If yes, please attach a current copy.

Have you had any State or local violations [REDACTED] since your last renewal?

☒

YES

☐

NO

If yes, please attach copies.

For Office Use Only

☐ Account: 28626
☐ Received: 11/1/2024

Fee \$ [REDACTED]
Ck# [REDACTED]

- ☐ State License 63688
- ☐ Violations Type/ Date Providing alcohol to a minor / June 24, 2024
- ☐ Current Lease N/A
- ☐ Background Check Approved rec'd back 11/6/2024
- ☐ Receipt of Alcoholic Beverage Code & Summary
- ☐ Completed Workshop

Agenda Date: December 16, 2024

Disposition:

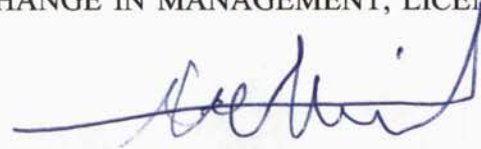
Approved ☐

Denied ☐

GEORGIA, City of Kennesaw

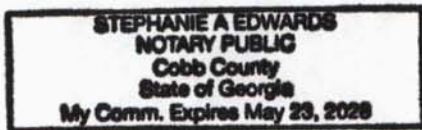
I, Shahid ALI, BEING DULY SWORN TO LAW, DO SWEAR THAT THE STATEMENTS MADE BY ME IN THE ABOVE AND FOREGOING ANSWERS TO QUESTIONS ARE TRUE, AND NO FALSE, OR FRAUDULENT STATEMENT IS MADE HEREIN AND SUCH STATEMENTS WERE MADE IN ORDER TO PROCURE THE GRANTING OF SUCH A LICENSE, I HEREBY AUTHORIZE THE KENNESAW POLICE DEPARTMENT TO OBTAIN AND REVIEW COPIES OF ANY CRIMINAL AND OR DRIVER'S HISTORIES IN MY NAME OR ANY ALIAS USED BY ME IN THE PAST OR AT THE PRESENT.

I FURTHER CERTIFY THAT I WILL NOTIFY THE CITY OF KENNESAW BUSINESS LICENSE DIVISION OF ANY CHANGE IN MANAGEMENT, LICENSEE, OR OWNERSHIP IMMEDIATELY.



SIGNATURE OF APPLICANT

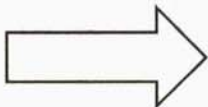
SWORN TO AND SUBSCRIBED BEFORE ME THIS 01 DAY OF NOV, 20 24.



Stephanie A Edwards
NOTARY PUBLIC

SIGNATURE AND TITLE OF PERSON OTHER THAN APPLICANT FILLING OUT THIS APPLICATION.

TELEPHONE NUMBER



ALL QUESTIONS MUST BE ANSWERED

RECEIVED IN KENNESAW BUSINESS LICENSE DEPARTMENT

BY: Kevin Checkwood
BUSINESS LICENSE CLERK

DATE: 11/1/2024

Acknowledgment

I acknowledge that the City of Kennesaw Chapter 6 and Chapter 82, Article III Alcoholic Beverage Ordinances are available for reference on the City website.



Licensee Signature

10/30/24

Date

Shahid ALI

Licensee Name (Printed)



City of Kennesaw Alcohol License

Permit No.
A-164

Renewal: Yes ☒ 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 received any Georgia and/or national criminal history record information as authorized by state and federal law. City Ordinance 22-9 Criminal Background Check/Fingerprinting.

Full Name (print)	Shahid ALI		
Applicant's Address	891 Indian Hills Pkwy - Kennesaw Marietta, GA 30068		
Sex	Race	Date of Birth	Social Security Number
M	South Asian	70	

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

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

Offense/Charge	Arresting Agency	Date	Disposition

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

I 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 the requested information will result in the denial of my application.**

Signature of Applicant

For Department Use Only

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 Phone: _____

GCIC Operator #: CM ran 11/06/2024 @ 1015

Reviewed by Chief of Police or designee: Philip Stroud

Reviewed by Business License

Approved ☒ Denied ☐

LaMaya Edmonds

FOOD SALES AND ALCOHOLIC BEVERAGE SALES AFFIDAVIT

NAME OF ESTABLISHMENT: Damanis food and fuel Inc.
 ADDRESS OF ESTABLISHMENT: 2515 North Cobb Pkwy, Kennesaw, GA 30152
 LICENSEE'S NAME: Shahid Ali BUSINESS LIC #: _____

FOOD SALE AND ALCOHOLIC BEVERAGE SALE. *Financial reports must be attached to support the reported total or CPA certification must be completed attesting to the reported sale.* 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: 01-01-23 to 12-31-23 (IF EXISTING BUSINESS, MUST BE 12 MONTH PERIOD, IF NEW BUSINESS, MUST BE 12 MONTH ESTIMATE)

Gross Receipts from food sales this period: \$ _____ (92 %)

Gross Receipts from Alcoholic beverage Sales this period: \$ _____ (8 %)

Total Food Sales and Alcoholic Beverage Sales this period: \$ _____ (100 %)

Briefly describe the method by which receipts are segregated daily into food sale and alcoholic beverage sale:

POS system
Scanning system

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 sales totals for the period specified.

CPA NAME: (PRINTED) _____ NAME OF CPA FIRM _____ PHONE _____

CPA SIGNATURE _____ BUSINESS ADDRESS _____

SWORN UNDER OATH THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC

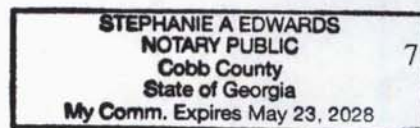
I hereby affirm that I understand that the privilege of selling alcoholic beverages on Sunday from 12:30 p.m. until Monday 2:55 a.m. requires valid alcoholic beverage pouring license, valid Sunday Sales pouring license and that at least 50% of the licensed establishment's annual gross food and alcoholic 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 an alcoholic beverage pouring license, including a Sunday Sales pouring license. I further affirm that I understand that the City of Kennesaw Business License Division may audit our records to verify same at its discretion.

Signature of Licensee/Owner

Notary Public

Sworn under oath this 01 day of November, 2024.





Item Report

TO: The Honorable Mayor and City Council

FROM: LaMaya Edmonds, Business License Manager

DATE: December 9, 2024

TITLE: **Alcohol License Renewal: Racetrac #052**
Consideration for approval of the 2025 annual renewal of the Alcoholic Beverage License for Beer, Wine, and Sunday Sales for Racetrac Petroleum, Inc. d/b/a Racetrac #052 located at 1625 Old 41 Hwy, Kennesaw, GA 30152.

Summary:

This is an existing business with a current alcoholic beverage license. The business was cited on June 24, 2024, for providing alcohol to an underage person. The License Review Board suspended the Alcohol License for a period of 30 days effective August 3, 2024. The business has not had any further violations.

Recommendation:

Finance Director recommends approval.

Fiscal Impact:

Attachments:

1. (REDACTED) RACETRAC ALCOHOL RENEWAL APPLICATION 2025



OCTOBER 11, 2024

RE: 2025 ALCOHOL LICENSE RENEWAL

Dear Alcohol Licensee:

It is time to renew your alcohol license for the year 2025. Your license will expire at the end of the year and sufficient time should be allowed for the renewal process. License fees must be paid on or before December 31, 2024, by certified funds, credit card, or cashier's check only. Failure to renew your license by December 31, 2024, will result in the automatic revocation of your alcohol license.

Please return the attached renewal application forms plus the following:

- Copies of preceding twelve (12) months' state sales tax returns.
- Copy of a state issued identification for each consent form submitted.

All applications must be returned to this office no later than December 6, 2024. If you have any questions or require additional information please contact us at (770) 429-4540 or by email at businesslicense@kennesaw-ga.gov.

Fee Schedule:

Manufacturer: \$1000

Off Premise Consumption each location:

Beer	\$300
Wine	\$300
Liquor	\$2000
Sunday Sales	\$300

On Premise Consumption each location:

Beer	\$550
Wine	\$550
Liquor	\$3000
Sunday Sales	\$550

Note: You are not subject to a hearing before the Mayor & Council unless you have had a change in ownership, ownership type, change of partners, or have had any local or state alcohol violations, including but not limited to the listed violations below:

- | | |
|--|--|
| ☐ <i>Underage Sales</i> | ☐ <i>Non-payment of excise taxes</i> |
| ☐ <i>Selling without a permit</i> | ☐ <i>Business currently on suspension</i> |
| ☐ <i>Transport of alcohol beverages</i> | ☐ <i>Any state violation</i> |

If you have had a violation, allow a minimum of 3 weeks prior to the hearing date, for this office to process your renewal application.

Sincerely,

Business License Department

Do you have any questions or comments regarding the ordinances, laws, regulations or application?

☐ Yes ☒ No

If yes, give details N/A



Business License Department
3080 Moon Station Rd. Kennesaw, Ga. 30144
Phone-770-424-8274 Fax 770-429-4559

2024 ALCOHOL LICENSE RENEWAL APPLICATION

Full Name of Business: RaceTrac, Inc. d/b/a RaceTrac #52

Address of Business: 1625 Old Hwy. 41, Kennesaw, GA 30152

Name of Licensee: Vincent (Vinny) Plaskan

Name of Owner if different: RaceTrac, Inc.

Circle all that apply:

Applying for: ☐ Beer ☐ Wine ☐ Liquor ☒ Sunday Sales

License Type: ☐ Pouring ☒ Package ☐ Wholesale ☐ Manufacturer

Type of Establishment: Convenience store with gas sales

Type of Ownership: ☐ Sole Proprietor ☐ Partnership ☒ Corporation

If Corporation: List all stockholders other than the owner or licensee with 20% or more ownership on a separate sheet. Include name, date of birth, social security number, address, and phone number.

Has there been any change to your lease agreement? ☐ YES ☒ NO
If yes, please attach a current copy.

Have you had any State or local violations [REDACTED] since your last renewal? ☒ YES ☐ NO
If yes, please attach copies. Please see attached Exhibit "A", violations list.

For Office Use Only

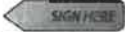
- ☐ Account: 27273 Fee \$ [REDACTED]
☐ Received: 11/15/2024 Ck# [REDACTED]
☐ State License 42341
☐ Violations Type/ Date Providing alcohol to a minor / June 24, 2024
☐ Current Lease N/A
☐ Background Check Approved rec'd back 11/21/2024
☐ Receipt of Alcoholic Beverage Code & Summary
☐ Completed Workshop

Agenda Date: December 16, 2024 Disposition: Approved () Denied ()

GEORGIA, City of Kennesaw

I, Vincent (Vinny) Plaskan, BEING DULY SWORN TO LAW, DO SWEAR THAT THE STATEMENTS MADE BY ME IN THE ABOVE AND FOREGOING ANSWERS TO QUESTIONS ARE TRUE, AND NO FALSE, OR FRAUDULENT STATEMENT IS MADE HEREIN AND SUCH STATEMENTS WERE MADE IN ORDER TO PROCURE THE GRANTING OF SUCH A LICENSE, I HEREBY AUTHORIZE THE KENNESAW POLICE DEPARTMENT TO OBTAIN AND REVIEW COPIES OF ANY CRIMINAL AND OR DRIVER'S HISTORIES IN MY NAME OR ANY ALIAS USED BY ME IN THE PAST OR AT THE PRESENT.

I FURTHER CERTIFY THAT I WILL NOTIFY THE CITY OF KENNESAW BUSINESS LICENSE DIVISION OF ANY CHANGE IN MANAGEMENT, LICENSEE, OR OWNERSHIP IMMEDIATELY.

 
SIGNATURE OF APPLICANT

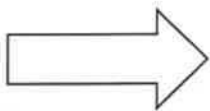
SWORN TO AND SUBSCRIBED BEFORE ME THIS 1 DAY OF Nov., 20 24



 
NOTARY PUBLIC

 Kyle Baker - Attorney
SIGNATURE AND TITLE OF PERSON OTHER THAN APPLICANT
FILLING OUT THIS APPLICATION.


TELEPHONE NUMBER



ALL QUESTIONS MUST BE ANSWERED

RECEIVED IN KENNESAW BUSINESS LICENSE DEPARTMENT

BY: LaMaya Edmonds DATE: 11/15/2024
BUSINESS LICENSE CLERK

Acknowledgment

I acknowledge that the City of Kennesaw Chapter 6 and Chapter 82, Article III Alcoholic Beverage Ordinances are available for reference on the City website.


Licensee Signature

11-07-2024

Date

SIGN HERE

Vincent (Vinny) Plaskan
Licensee Name (Printed)



City of Kennesaw Alcohol License

Permit No.
A- 178

Renewal: Yes ☒ 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 received any Georgia and/or national criminal history record information as authorized by state and federal law. City Ordinance 22-9 Criminal Background Check/Fingerprinting.

Full Name (print)	Vincent (Vinny) Matthew Plaskan		
Applicant's Address	978 Camry Circle, Dallas, GA 30157		
Sex	Race	Date of Birth	Social Security Number
M	W	1984	

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

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

Offense/Charge	Arresting Agency	Date	Disposition
N/A			

Are you currently on probation or parole for a drug or alcohol offense? 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 the requested information will result in the denial of my application.

Signature of Applicant  

For Department Use Only

NON-CRIMINAL JUSTICE PURPOSES	
X	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 Phone: _____

ran 11/21/2024 @ 1339

GCIC Operator #: CM

Reviewed by Chief of Police or designee: Philip Stroud

Reviewed by Business License

Approved ☒ Denied ☐

LaMaya Edmonds

FOOD SALES AND ALCOHOLIC BEVERAGE SALES AFFIDAVIT

NAME OF ESTABLISHMENT: RaceTrac, Inc. d/b/a RaceTrac #52
 ADDRESS OF ESTABLISHMENT: 1625 Old Hwy. 41, Kennesaw, GA 30152
 LICENSEE'S NAME: Vincent (Vinny) Plaskan BUSINESS LIC #: 023209

FOOD SALE AND ALCOHOLIC BEVERAGE SALE. Financial reports must be attached to support the reported total or CPA certification must be completed attesting to the reported sale. 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: 10/01/24-09/30/24 (IF EXISTING BUSINESS, MUST BE 12 MONTH PERIOD, IF NEW BUSINESS, MUST BE 12 MONTH ESTIMATE)

Gross Receipts from food sales this period: \$ [REDACTED] (85%)

Gross Receipts from Alcoholic beverage Sales this period: \$ [REDACTED] (15%)

Total Food Sales and Alcoholic Beverage Sales this period: \$ [REDACTED] (100)

Briefly describe the method by which receipts are segregated daily into food sale and alcoholic beverage sale:
POS system

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 sales totals for the period specified.

Merlix Reynolds RaceTrac, Inc. [REDACTED]
 CPA NAME: (PRINTED) NAME OF CPA FIRM PHONE
[Signature] 200 Galleria Pkwy., Ste. 900, Atlanta, GA 30339
 CPA SIGNATURE BUSINESS ADDRESS

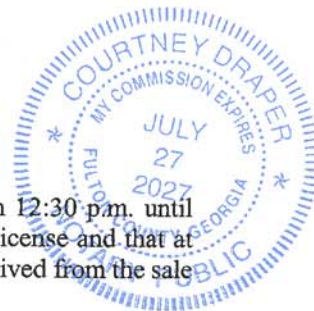
SWORN UNDER OATH THIS 12 DAY OF Nov., 2024.

[Signature] **NOTARIZE**
 NOTARY PUBLIC

I hereby affirm that I understand that the privilege of selling alcoholic beverages on Sunday from 12:30 p.m. until Monday 2:55 a.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 an alcoholic beverage pouring license, including a 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] [Signature]
 Signature of Licensee/Owner Notary Public
 Sworn under oath this 12 day of Nov., 2024.



USA Georgia DRIVER'S LICENSE

GOVERNOR Nathan Deal 100184

DL NO. [REDACTED] DOB [REDACTED] 1984
CLASS C EXP [REDACTED] 2025

VINCENT MATTHEW PLASKAN

130 HILLCREST CIR
HIRAM, GA 30141-5256
PAULDING

Restrictions A End NONE

Iss 09/29/2017

Sex M Eyes BRO
Hgt 5'-10" Wgt 140 lb

DDI 321701610110041719

COMMISSIONER [Signature]



Rev 07/01/2015 3217016101100401

 www.dds.ga.gov
(678) 413-8400

MEDICAL INFORMATION:
None

CLASS: C-S 26,000 lbs. GVWR and Trailer ≤ 10,000 lbs. All recreational vehicles included

ENDORSEMENTS: None

RESTRICTIONS: A-None

Georgia 1776

[REDACTED] 1984

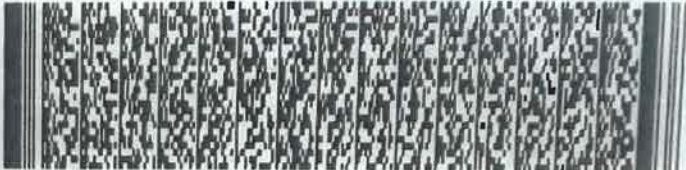


Exhibit "A"

Store #	Violation Date	Jurisdiction	Violation	Details	Penalty
202	01/16/24	FL DBPR	Alcohol/Tobacco	Underage Sale	Warning
2629	02/06/24	AL ATC	Alcohol	Underage Sale	\$1,000.00
283	02/07/24	TBD	TBD	Underage Sale	NA - EE Only
176	02/15/24	Grand Prairie PD	Tobacco	Underage Sale	NA - EE Only
360	12/21/23	LA ATC	Alcohol/Tobacco	Administrative	\$750.00
2579	02/02/24	LA ATC	Alcohol	Underage Sale	\$500.00
2579	02/02/24	LA ATC	Tobacco	Underage Sale	\$500.00
2323	02/27/24	FL DBPR	Alcohol	Underage Sale	WARNING
2566	02/21/24	GA DOR	Alcohol	Underage Sale	\$950.00
82	02/16/24	FL DBPR	Alcohol/Tobacco	Administrative	WARNING
645	02/29/24	LA ATC	Tobacco	Underage Sale	\$250.00
645	02/29/24	LA ATC	Alcohol	Underage Sale	\$250.00
57	03/01/24	FL DBPR	Alcohol/Tobacco	Underage Sale	Pending
191	03/01/24	LA ATC	Tobacco	Underage Sale	\$500.00
380	01/17/24	LA ATC	Alcohol/Tobacco	Administrative	\$300.00
528	03/15/24	TABC	Alcohol	Underage Sale	Restrained Order
2407	03/07/24	Martin County, FL	Alcohol	Underage Sale	NA - EE Only
2618	03/26/24	City of Huntsville	Alcohol	Underage Sale	NA - EE Only
2410	04/05/24	Palm Beach County	Alcohol	Underage Sale	NA - EE Only
2624	04/09/24	Monroe County	Alcohol	Underage Sale	NA - EE Only
2615	03/07/24	KENTUCKY ABC	Alcohol	On-Premises Consumption	\$2,500.00
469	04/18/24	FDA	Tobacco	Underage Sale	Pending
134	04/12/24	Haltom City	Unknown	Underage Sale	NA - EE Only
240	03/23/24	TABC	Tobacco	Underage Sale	Restrained Order
2403	04/19/24	TABC	Alcohol	Underage Sale	\$2,400.00
2426	04/23/24	FL DBPR	Alcohol	Underage Sale	WARNING
2608	05/01/24	AL ATC	Tobacco	Underage Sale	\$200.00
2332	05/07/24	LA ATC	Alcohol	Underage Sale	\$750.00
2332	05/07/24	LA ATC	Tobacco	Underage Sale	\$750.00
2400	05/14/24	FL DBPR	ALC/TOB	Underage Sale	WARNING
2618	06/12/24	AL ATC	Alcohol	Underage Sale	\$1,000.00
52	06/24/24	City of Kennesaw	Alcohol	Underage Sale	30-day suspension
2600	06/24/24	Okeechobee County		Underage Sale	NA - EE Only
2430	06/28/24	LA ATC	Alcohol	Underage Sale	\$250.00
2430	06/28/24	LA ATC	Tobacco	Underage Sale	\$250.00
2473	07/18/24	TABC	Alcohol	Underage Sale	\$2,400.00
2634	07/19/24	SLED	Tobacco	Underage Sale	Pending
102	08/06/24	FDA	Tobacco	Underage Sale	Pending
266	08/18/24	LA ATC	Alcohol/Tobacco	Underage Sale	\$500.00
2372	08/19/24	LA ATC	Alcohol	Underage Sale	\$250.00
2372	08/19/24	LA ATC	Tobacco	Underage Sale	\$250.00
2405	08/20/24	LA ATC	Alcohol/Tobacco	Administrative	\$250.00
206	09/24/24	GA DOR	Alcohol	Underage Sale	Pending
2548	09/25/24	City of Gallatin	Alcohol	Underage Sale	NA - EE Only
654	10/05/24	LA ATC	Alcohol	Underage Sale	Pending
654	10/05/24	LA ATC	Tobacco	Underage Sale	Pending
2629	09/23/24	AL ATC	Alcohol	Administrative	WARNING
2427	10/08/24	LA ATC	Alcohol	Underage Sale	Pending
2427	10/08/24	LA ATC	Tobacco	Underage Sale	Pending
618	10/23/24	City of Acworth	Alcohol	Underage Sale	NA - EE Only

Courtney Draper
Direct Dial: (404) 640-5945
Email: cdraper@taylorenchlish.com

November 13, 2024

VIA FEDEX

City of Kennesaw
Attn: Business License
2529 J.O. Stephenson Avenue
Kennesaw, GA 30144

RE: RaceTrac, Inc. d/b/a RaceTrac #52 – 1625 Old Highway 41, Kennesaw, GA 30152

Dear Sir or Madam:

Enclosed please find our client's 2025 Alcohol License Renewal Application and payment in the amount of [REDACTED] for the above business.

Please advise if you require any further information or documentation regarding this matter.

Sincerely,


Courtney L. Draper
Paralegal

/cd
Enclosures



Item Report

TO: The Honorable Mayor and City Council
FROM: LaMaya Edmonds, Business License Manager
DATE: December 9, 2024
TITLE: **Alcohol License Renewal: Cobb Food Mart**
Consideration for approval of the 2025 annual renewal of the Alcoholic Beverage License for Beer, Wine, and Sunday Sales for RS Diamond Jubilee LLC d/b/a Cobb Food Mart located at 2651 N Cobb Pkwy, Kennesaw, GA 30152.

Summary:

This is an existing business with a current alcoholic beverage license. The business was cited on June 24, 2024, for providing alcohol to an underage person and for failure to obtain a server permit. The License Review Board suspended the Alcohol License for a period of 7 days effective August 3, 2024. The business has not had any further violations.

Recommendation:

Finance Director recommends approval.

Fiscal Impact:

Attachments:

1. (REDACTED) 29601 COBB FOOD MART ALCOHOL RENEWAL 2025



OCTOBER 11, 2024

RE: 2025 ALCOHOL LICENSE RENEWAL

Dear Alcohol Licensee:

It is time to renew your alcohol license for the year 2025. Your license will expire at the end of the year and sufficient time should be allowed for the renewal process. License fees must be paid on or before December 31, 2024, by certified funds, credit card, or cashier's check only. Failure to renew your license by December 31, 2024, will result in the automatic revocation of your alcohol license.

Please return the attached renewal application forms plus the following:

- Copies of preceding twelve (12) months' state sales tax returns.
- Copy of a state issued identification for each consent form submitted.

All applications must be returned to this office no later than December 6, 2024. If you have any questions or require additional information please contact us at (770) 429-4540 or by email at businesslicense@kennesaw-ga.gov.

Fee Schedule:

Manufacturer: \$1000

Off Premise Consumption each location:

Beer	\$300
Wine	\$300
Liquor	\$2000
Sunday Sales	\$300

On Premise Consumption each location:

Beer	\$550
Wine	\$550
Liquor	\$3000
Sunday Sales	\$550

Note: You are not subject to a hearing before the Mayor & Council unless you have had a change in ownership, ownership type, change of partners, or have had any local or state alcohol violations, including but not limited to the listed violations below:

- | | |
|--|--|
| ☐ <i>Underage Sales</i> | ☐ <i>Non-payment of excise taxes</i> |
| ☐ <i>Selling without a permit</i> | ☐ <i>Business currently on suspension</i> |
| ☐ <i>Transport of alcohol beverages</i> | ☐ <i>Any state violation</i> |

If you have had a violation, allow a minimum of 3 weeks prior to the hearing date, for this office to process your renewal application.

Sincerely,

Business License Department

Do you have any questions or comments regarding the ordinances, laws, regulations or application?

☐ Yes ☒ No

If yes, give details_____



Business License Department
3080 Moon Station Rd. Kennesaw, Ga. 30144
Phone-770-424-8274 Fax 770-429-4559

2024 ALCOHOL LICENSE RENEWAL APPLICATION

Full Name of Business: RS DIAMOND JUBILEE LLC

Address of Business: 2651 COBB PKWY NW, KENNESAW GA - 30152

Name of Licensee: Sahil Wadhvaniya

Name of Owner if different: _____

Circle all that apply:

Applying for: ☒ Beer ☒ Wine ☐ Liquor ☒ Sunday Sales

License Type: ☐ Pouring ☒ Package ☐ Wholesale ☐ Manufacturer

Type of Establishment: Convenience store with gasoline

Type of Ownership: ☒ Sole Proprietor ☐ Partnership ☒ Corporation

Corporation - Not a Sole Proprietor - marked in error by business

If Corporation: List all stockholders other than the owner or licensee with 20% or more ownership on a separate sheet. Include name, date of birth, social security number, address, and phone number.

Has there been any change to your lease agreement? ☐ YES ☒ NO
If yes, please attach a current copy.

Have you had any State or local violations ~~xxxxxxxx~~ since your last renewal? ☒ YES ☐ NO
If yes, please attach copies.

For Office Use Only

☐ Account: 29601 Fee \$ [REDACTED]
☐ Received: 11/14/2024 Ck# 3139

- ☐ State License 87654 Providing alcohol to minor and failure to
- ☐ Violations Type/ Date obtain a server permit / June 24, 2024
- ☐ Current Lease N/A
- ☐ Background Check Approved rec'd back 11/21/2024
- ☐ Receipt of Alcoholic Beverage Code & Summary
- ☐ Completed Workshop

Agenda Date: December, 2024 Disposition: Approved ☐ Denied ☐

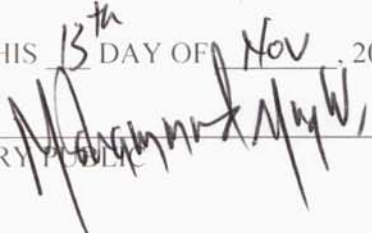
GEORGIA, City of Kennesaw

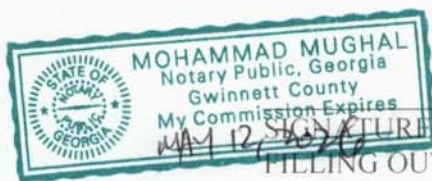
I, SAHIL WADHWANIYA, BEING DULY SWORN TO LAW, DO SWEAR THAT THE STATEMENTS MADE BY ME IN THE ABOVE AND FOREGOING ANSWERS TO QUESTIONS ARE TRUE, AND NO FALSE, OR FRAUDULENT STATEMENT IS MADE HEREIN AND SUCH STATEMENTS WERE MADE IN ORDER TO PROCURE THE GRANTING OF SUCH A LICENSE, I HEREBY AUTHORIZE THE KENNESAW POLICE DEPARTMENT TO OBTAIN AND REVIEW COPIES OF ANY CRIMINAL AND OR DRIVER'S HISTORIES IN MY NAME OR ANY ALIAS USED BY ME IN THE PAST OR AT THE PRESENT.

I FURTHER CERTIFY THAT I WILL NOTIFY THE CITY OF KENNESAW BUSINESS LICENSE DIVISION OF ANY CHANGE IN MANAGEMENT, LICENSEE, OR OWNERSHIP IMMEDIATELY.


SIGNATURE OF APPLICANT

SWORN TO AND SUBSCRIBED BEFORE ME THIS 13th DAY OF Nov, 2024


NOTARY PUBLIC



SIGNATURE AND TITLE OF PERSON OTHER THAN APPLICANT
FILLING OUT THIS APPLICATION.

TELEPHONE NUMBER



ALL QUESTIONS MUST BE ANSWERED

RECEIVED IN KENNESAW BUSINESS LICENSE DEPARTMENT

BY: Kevin Checkwood
BUSINESS LICENSE CLERK

DATE: 11/14/2024



City of Kennesaw Alcohol License

Permit No.
A- 173
Renewal: Yes ☒ 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 received any Georgia and/or national criminal history record information as authorized by state and federal law. City Ordinance 22-9 Criminal Background Check/Fingerprinting.

Full Name (print)	Sahil Wadhvaniya		
Applicant's Address	65 lankford rd, tucker GA 30084		
Sex	Race	Date of Birth	Social Security Number
M	Asian	1992	

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

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

Offense/Charge	Arresting Agency	Date	Disposition

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

I 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 the requested information will result in the denial of my application.**

Signature of Applicant

For Department Use Only

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 Phone: _____

GCIC Operator #: CM

ran 11/21/2024 @ 1252

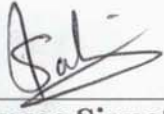
Reviewed by Chief of Police or designee: PS

Approved ☒ Denied ☐

Reviewed by Business License
LaMaya Edmonds

Acknowledgment

I acknowledge that the City of Kennesaw Chapter 6 and Chapter 82, Article III Alcoholic Beverage Ordinances are available for reference on the City website.



Licensee Signature

11/03/24

Date

SAHIL WADHWANIYA

Licensee Name (Printed)

FOOD SALES AND ALCOHOLIC BEVERAGE SALES AFFIDAVIT

NAME OF ESTABLISHMENT: RS DIAMOND JUBILEE LLC

ADDRESS OF ESTABLISHMENT: 2651 COBB PKWY NW, KENNESAW, GA 30152

LICENSEE'S NAME: SAHIL WADHWANIYA

BUSINESS LIC #:

FOOD SALE AND ALCOHOLIC BEVERAGE SALE, Financial reports must be attached to support the reported total or CPA certification must be completed attesting to the reported sale. 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: Oct 23 to Nov 24 (IF EXISTING BUSINESS, MUST BE 12 MONTH PERIOD, IF NEW BUSINESS, MUST BE 12 MONTH ESTIMATE)

Gross Receipts from food sales this period: \$ [REDACTED] (59 %)

Gross Receipts from Alcoholic beverage Sales this period: \$ [REDACTED] (41 %)

Total Food Sales and Alcoholic Beverage Sales this period: \$ [REDACTED] (100 %)

Briefly describe the method by which receipts are segregated daily into food sale and alcoholic beverage sale:

SALES REPORT MONTHLY

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 sales totals for the period specified.

AMIR ALI

MAN ACCOUNTING SERVICES INC

CPA NAME: (PRINTED)

NAME OF CPA FIRM

PHONE

CPA SIGNATURE

6040 UNITY DRIVE SUITE O, NORCROSS, GA 30071

BUSINESS ADDRESS

SWORN UNDER OATH THIS

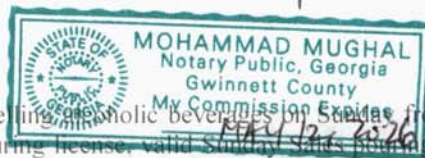
13th

DAY OF

Nov

, 20 24

NOTARY PUBLIC



I hereby affirm that I understand that the privilege of selling alcoholic beverages on Sunday from 12:30 p.m. until Monday 2:55 a.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 an alcoholic beverage pouring license, including a Sunday Sales pouring license. I further affirm that I understand that the City of Kennesaw Business License Division may audit our records to verify same at its discretion.

Signature of Licensee/Owner

Notary Public

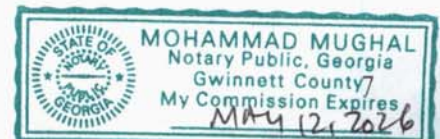
Sworn under oath this

13th

day of

Nov

, 20 24





Business License
3080 Moon Station Rd.
Kennesaw, GA 30144

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

License Renewal
Alcoholic Beverage

Instructions and Important Information:

As we approach Alcohol License Renewal Season, we would like to provide you with important information regarding alcohol regulations and licensing.

Georgia Department of Revenue:

The State of Georgia Department of Revenue sets forth various license types applicable within the state. These include, but are not limited to:

1. **Retail Consumption on Premise:** The sale and consumption of alcohol on the licensed premise. This typically applies to bars, restaurants, and similar establishments.
2. **Retail Package:** The sale of sealed containers of alcohol for off-site consumption. Commonly issued to liquor stores and convenience stores.
3. **Brewpub:** Eating establishment in which beer or malt beverages are manufactured.
4. **Manufacturer:** The production, packaging, and distribution of alcoholic beverages.
5. **Wholesaler/Distributor:** The sale of alcoholic beverage to other licensed wholesalers, importers, retailers, or to retail consumption dealers.
6. **Off-Premise Special Event Permit:** Required for events where alcoholic beverage will be served and no permanent license has been issued for the requested premise.

For detailed information on each license type and their respective requirements, please refer to the State of Georgia Department of Revenue's official website: [Alcohol Licensing | Department of Revenue \(georgia.gov\)](http://Alcohol Licensing | Department of Revenue (georgia.gov)).

City of Kennesaw Code of Ordinances: Alcohol Regulation

Our local ordinances supplement the state regulations and outline specific requirements and procedures applicable within the City of Kennesaw. It is crucial that you familiarize yourself with these ordinances to ensure compliance.

Excise Tax Requirements:

In accordance with city regulations, excise taxes must be remitted to the City of Kennesaw on a monthly basis. Failure to do so may result in penalties and jeopardize the renewal of your alcohol license for the year 2024.

Year-End Settlement:

Please note that any **remaining excise taxes due for the year must be paid in full, along with all associated alcohol fees, in order to obtain the renewed license.** This is a crucial step in maintaining compliance with both state and local regulations.

We encourage you to review these resources thoroughly to ensure that you are in full compliance with all applicable regulations.



Item Report

TO: The Honorable Mayor and City Council

FROM: LaMaya Edmonds, Business License Manager

DATE: December 9, 2024

TITLE: **Alcohol License: Bottle Shop**
 Consideration for approval of an Alcohol License for Beer, Wine, Liquor, and Sunday Sales for MCRAA Inc. d/b/a Bottle Shop located at 2774 Cobb Pkwy #111 Kennesaw, GA 30152. Applicant: Chandulal Mendpara

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.

Recommendation:

Finance Director recommends approval.

Fiscal Impact:

100-0000-32-1900 Application Fee \$350

Attachments:

1. (REDACTED) 2024 ALCOHOL APPLICATION MCRAA INC. DBA BOTTLE SHOP



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: MCRRA INC.
Doing Business As (DBA): BOTTLE SHOP
Anticipated start date of business: DEC 1st 2024
2. Business location: 2774 COBB PKWY #111, KENNESAW, GA-30145
Email address: [REDACTED]
Phone Number: [REDACTED]
Mailing address: 1165 BAGWELL DR, KENNESAW, GA-30152
3. Do you have a certified survey of the location of the property? EXISTING LIQUOR STORE AT THIS LOCATION
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:

Number of video game machines:

Size of dance floor:

Amount of cover charge:

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

N/A
N/A
N/A
N/A
N/A

5. How many square feet are the following:

a. Dining area:

b. Bar area:

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

N/A
N/A
N/A

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

How is the proposed location zoned? Highway General Business (HGB)

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 [Signature]

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 N/A

If Partnership or LLP:

6. Partnership or LLP Name: N/A

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

Social Security #: N/A
Date of Birth: _____
% of Ownership: _____

Home Address: N/A

City: N/A
State: _____
ZIP: _____

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

Social Security #: N/A
Date of Birth: _____
% of Ownership: _____

Home Address: N/A

City: N/A
State: _____
ZIP: _____

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

If Corporation or LLC:

7. Corporation or LLC Name: MCR AA, INC.

President/Member: CHANDUJAL MENDPARA Social Security #: [REDACTED]
Email Address: [REDACTED] Date of Birth: [REDACTED] 1959
Phone Number: [REDACTED] % of Ownership: 100%

Home Address: 1165 BAGWELL DRIVE City: KENNESAW
KENNESAW, GA-30152 State: GEORGIA
ZIP: 30152

VP/Member: N/A Social Security #: N/A
Email Address: N/A Date of Birth: N/A
Phone Number: N/A % of Ownership: N/A

Home Address: N/A City: N/A
State: N/A
ZIP: N/A

Secretary/Member: RITA C. MENDPARA Social Security #: [REDACTED]
Email Address: [REDACTED] Date of Birth: [REDACTED] 1965
Phone Number: [REDACTED] % of Ownership: 0

Home Address: 1165 BAGWELL DRIVE City: KENNESAW
State: GEORGIA
ZIP: 30152

Treasurer/Member: N/A Social Security #: N/A
Email Address: N/A Date of Birth: N/A
Phone Number: N/A % of Ownership: N/A

Home Address: N/A City: N/A
State: N/A
ZIP: N/A

****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
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
_____	_____	_____

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
<u>_____</u>	<u>_____</u>	<u>N/A</u>	<u>_____</u>	<u>_____</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

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
<u>BHARIL MENDPARA</u>	<u>LIGHTHOUSE LIQUOR</u>	<u>2810 OLD DAWSON RD</u>
_____	_____	<u>ALBANY, GA-31707</u>
_____	_____	_____

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
<u>_____</u>	<u>N/A</u>	<u>_____</u>
_____	_____	_____
_____	_____	_____

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

Property Owner: SV COBB LLC A GA. LTD LIABILITY company
 Address: 440 ERNEST BARRETT PKWY #40
KENNESAW, GA-30144

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

\$ [REDACTED]

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

Licensee/Owner	\$ <u>[REDACTED]</u>
Other Owners	\$ <u>[REDACTED]</u>

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	N/A	0	NA	N/A

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

Name	Address	Compensation
Chandler Mendonça	1640 Powers Ferry Road Kennesaw, GA - 30152	\$ [REDACTED]

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

Name	Address
John Quattrocchi	1640 Powers Ferry Road 19 Governor's Ridge Suite - 200 Marietta, GA - 30067

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

If yes, give full details.

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

Arrested	☐ Yes	☒ 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.

N/A

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

NO

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

OWNER TOOK TRAINING INSTITUTE FOR RESPONSIBLE VENDOR CLASS, 3 HOURS, ANNUALLY 1 HOUR

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

ALL CITY & STATE COMPLIANCE. LOCAL LAWS
SIGN PRINTED & WRITTEN MATERIALS, BADGES
RESPONSIBLE BEVERAGE SERVICE TRAINING

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

Yes ☒ No ☐

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

Yes ☒ No ☐

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

POS SYSTEM CASH REGISTERS REQUIRE TO ENTER ID
TO BEFORE PROCESS OF SALE. POSTED SIGN, PHYSICALLY
CHECK ID REGARDLESS OF AGE

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

POS SYSTEM SCAN ID, CAMERA, POSTED SIGN
ENTER ID IN CASH REGISTERS.
PLUS PHYSICALLY CHECK ID REGARDLESS OF AGE

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

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

From/To Month/Year	Company	City	State	Position/Salary
JAN 2022 - PRESENT	BEKO TECHNOLOGY	ATLANTA	GA	PRODUCTION TECHN.
MAY 2008 - AUGUST 2021	LIGHTHOUSE LIQUOR	ALBANY	GA	MANAGER - CIA

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

From/To Month/Year	Address	City	State
AUGUST 2021 - PRESENT	1165 BAGWELL DRIVE	KENNESAW	GA - 30152
APRIL 2012 - JULY 2021	3409 BELLINGHAM LANE	ALBANY	GA - 31721

KENNESAW, GEORGIA
COBB COUNTY

I, CHANDALLAL L. MENDAPARA 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.

Chandallal L. Mendapara
Signature of Applicant
Rita Mendapara
Signature of Spouse of Applicant

Sworn to and subscribed before me this
9 day of October, 2024

Kiana Lee
Notary Public

KIANA LEE
NOTARY PUBLIC
Paulding County
State of Georgia
My Comm. Expires July 28, 2026

Kiana Lee
Signature and title of person other than
applicant filing out this application
[REDACTED]
Phone Number

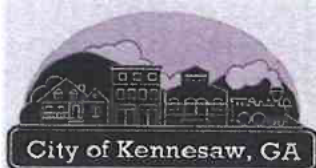
Application received in Kennesaw City Hall by:

Kamaya Samuel

Application to be heard by Mayor & Council

Date & Time: [REDACTED]

A REPRESENTATIVE MUST BE PRESENT AT THE MAYOR & COUNCIL MEETING



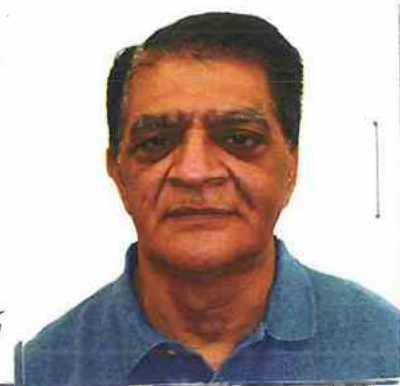
Business License
2529 J.O. Stephenson Ave.
Kennesaw, GA 30144

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

License Application:
Alcoholic Beverage

OWNER/LICENSEE PERSONAL STATEMENT INFORMATION

1. Full name of licensee (No initials): CHANDULAL LAXMIDAS MENDPARA
(Include maiden names and alias names if any)
2. Phone Numbers:
a. Business: 770-426-5555
b. Cell: [REDACTED]
c. Home: [REDACTED]
3. Home Address: 1166 BAGWELL DRIVE, KENNESAW, GA 30145
4. Business Address: 2774 COBB PARKWAY NW #111, KENNESAW, GA 30152
5. Please fill out the following:
Age: 65 Sex: MALE Height: 5'7" Color of Hair: BLACK
Race: ASIAN Weight: 165 LB Color of Eyes: BROWN
6. Social Security #: [REDACTED]
7. Place of Birth: JILANA INDIA Date of Birth: [REDACTED] 1959
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 #: N/A
and submit copy of I-551 card
Derived Parents Certificate #'s: N/A
Date & Port of Entry: N/A
8. How long have you resided in the City of Kennesaw or Cobb County? 18 YEARS
9. Number of years at this present address? 3 YEARS
10. Are you (Choose one): ☐ Single ☒ Married ☐ Widowed ☐ Divorced
11. If married, complete the following information on spouse.
Full Name of Spouse: RITA CHANDULAL MENDPARA
Social Security #: [REDACTED] Spouse's Maiden Name: RITA MAGANLAL GHE-
Place of Birth: KHIRASARA, INDIA Date of Birth: [REDACTED] 1965
Place of Marriage: 2IPLETA, INDIA Date of Marriage: 11/06/1986



Name of spouse's employer: AMERIS BANK

Address of employer: _____

U.S. Citizen: YES ☐ By Birth ☒ Naturalized

If a naturalized citizen, provide certificate #: _____

and submit original naturalization certificate or U. S. Passport

If a legal permanent resident, provide alien registration #: _____

and submit copy of I-551 card

Derived Parents Certificate #'s: _____

Date & Port of Entry: _____

12. Give names and addresses of all children and stepchildren (regardless of age).

Full Name	Address	Age	Birth Place
<u>RACHANA CHANDLER MENDARA</u>	<u>3348 POLO CLUB BLVD</u>	<u>34</u>	<u>INDIO, CALIFORNIA</u>
	<u>LEXINGTON, KY - 40509</u>		
<u>CHIRAG CHANDLER MENDARA</u>	<u>1165 BASWELL DR</u>	<u>28</u>	<u>AUSTELL, GEORGIA</u>
	<u>KENNESAW GA - 30152</u>		

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

Full Name	Address
Parents: <u>N/A</u>	<u>N/A</u>

Siblings: <u>BHARU LAXMI DAS MENDARA</u>	<u>9247 WHITE ASH DRIVE, DOLTEWA</u>
<u>KANTA BABULAL THUMMAR</u>	<u>316 ASPENRIDGE DRIVE, TN-3736</u>
In-Laws: <u>N/A</u>	<u>N/A</u>
	<u>MILPITAS, CA - 95035</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:

- NO -

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

- NO -

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

M/YR to	M/YR	School	Address	City	State	Degree
MAY-1980	APRIL-1982	ITI TRAINING	OP S.T DEPOT	Kanpur	INDIA	YES
MAY 1976	APRIL 1980	SARSWATI HIGH SCHOOL	JILANA	GUJARAT	INDIA	GRADUATE YES



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: CHARNDIAL MENDRARA Date of Birth: [REDACTED] 1959
Social Security #: [REDACTED] Name of Spouse: RITA MENDRARA
Residence Address: 1165 BAGWELL DRIVE Business/Organization: MCRPA, INC
City/State/Zip: KENNESAW, GA-30152 Business Phone: 770-769-6588
Residence Phone: [REDACTED] 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 TOB
Bonus & Commissions
Alimony, Child Support, or Separate Income
Itemize all loan sources & Interest
Other Income (Itemize)
Total Income

Salary
Dividends

Unsatisfied judgments or lawsuits pending? ☐ Yes ☒ No
Are any income tax returns made by you for prior years being contested? ☐ Yes ☒ No
If so, what do you estimate as the additional amount you may be required to pay? 0
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? NO Beneficiary: N/A
Who is named as your executor? N/A Executor: N/A

As of OCT 10 2024

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](#).

 CHANDULAC MENDIPARA 10/24/2024
Signature Print Name Date

Training Institute for Responsible Vendors, Inc.

certifies that

Chandulal L. Mendpara

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

In witness thereof the undersigned have affixed their names
this 29th day of September, 2024

Sd/-



President

Training Institute for Responsible Vendors, Inc.

certifies that

Rita C. Mendpara

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

In witness thereof the undersigned have affixed their names
this 29th day of September, 2024

Seal



A stylized, handwritten signature in black ink, appearing to read "Rita C. Mendpara", positioned over the name of the President.

President

THE UNITED STATES OF AMERICA

CERTIFICATE OF



NATURALIZATION

No. [REDACTED]

Personal description of holder
as of date of naturalization:

INS Registration No. A38 964 806

Date of birth: [REDACTED] 1959

I certify that the description given is true, and that the photograph affixed
hereto is a likeness of me.

Sex: MALE

Chandulal Laxmidas Mendpara
(Complete and true signature of holder)

Height: 5 feet 06 inches

Marital status: MARRIED

Be it known that, pursuant to an application filed with the Attorney General

Country of former nationality:

at: ATLANTA, GA

INDIA

The Attorney General having found that:



CHANDULAL LAXMIDAS MENDPARA

then residing in the United States, intends to reside in the United States when so
required by the Naturalization Laws of the United States, and had in all other
respects complied with the applicable provisions of such naturalization laws and was
entitled to be admitted to citizenship, such person having taken the oath of allegiance
in a ceremony conducted by the

U.S. IMMIGRATION & NATURALIZATION SERVICE

at: ATLANTA, GA

on: DEC 07 1998

that such person is admitted as a citizen of the United States of America.

IT IS PUNISHABLE BY U. S. LAW TO COPY,
PRINT OR PHOTOGRAPH THIS CERTIFICATE
WITHOUT LAWFUL AUTHORITY.

Baris Meisner
Commissioner of Immigration and Naturalization

DEPARTMENT OF JUSTICE

THE UNITED STATES OF AMERICA

No. [REDACTED]



CERTIFICATE OF

NATURALIZATION

Personal description of holder
as of date of naturalization:

INS Registration No. A41 489 147

Date of birth: [REDACTED] 1965

I certify that the description given is true, and that the photograph affixed
hereto is a likeness of me.

Sex: FEMALE

Rita Chandul Mendpara
(Complete and true signature of holder)

Height: 5 feet 01 inches

Marital status: MARRIED

Country of former nationality:

INDIA

Be it known that, pursuant to an application filed with the Attorney General

at: ATLANTA, GA

The Attorney General having found that:

RITA CHANDULAL MENDPARA

then residing in the United States, intends to reside in the United States when so
required by the Naturalization Laws of the United States, and had in all other
respects complied with the applicable provisions of such naturalization laws and was
entitled to be admitted to citizenship, such person having taken the oath of allegiance
in a ceremony conducted by the

U.S. IMMIGRATION & NATURALIZATION SERVICE



at: ATLANTA, GA

on: OCT 23 1996

that such person is admitted as a citizen of the United States of America.

IT IS PUNISHABLE BY U. S. LAW TO COPY,
PRINT OR PHOTOGRAPH THIS CERTIFICATE,
WITHOUT LAWFUL AUTHORITY.

Rita Mendpara
Commissioner of Immigration and Naturalization

DEPARTMENT OF JUSTICE



DBHDD



GEORGIA DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION

WARNING

**DRINKING
ALCOHOLIC
BEVERAGES
DURING
PREGNANCY CAN
CAUSE BIRTH
DEFECTS**

THIS NOTICE MUST BE POSTED IN A CONSPICUOUS PLACE
OFFICIAL CODE OF GEORGIA ANNOTATED § 3-1-5



DBHDD



GEORGIA DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION

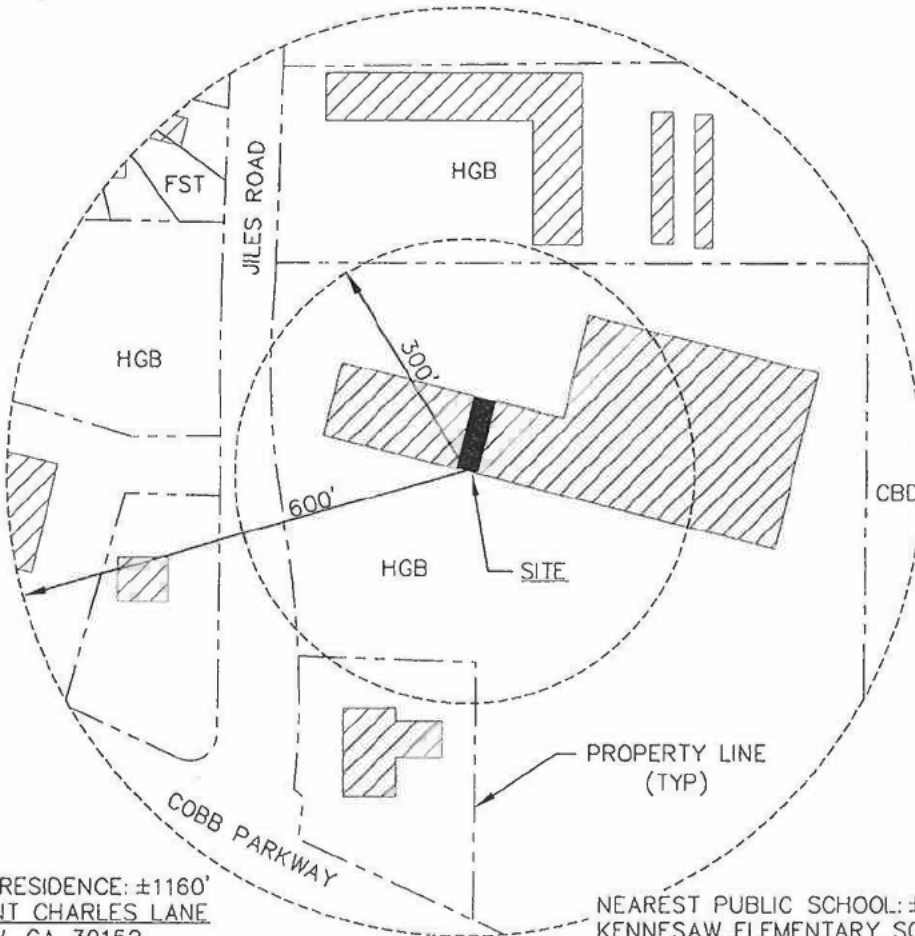
NOTICE

IT IS A VIOLATION OF GEORGIA LAW TO:

- **PURCHASE OR POSSESS ALCOHOLIC BEVERAGES IF YOU ARE UNDER THE LEGAL DRINKING AGE OR TO MISREPRESENT YOUR AGE IN ANY WAY FOR THE PURPOSE OF PURCHASING ALCOHOLIC BEVERAGES**
- **TO PURCHASE, ACQUIRE OR FURNISH ALCOHOLIC BEVERAGES FOR OR ON BEHALF OF A PERSON UNDER THE LEGAL DRINKING AGE**
- **FOR ALCOHOLIC BEVERAGE LICENSEES OR THEIR EMPLOYEES TO SELL OR FURNISH ALCOHOLIC BEVERAGES TO ANY PERSON UNDER THE LAWFUL DRINKING AGE**

THIS NOTICE MUST BE POSTED IN A CONSPICUOUS PLACE
OFFICIAL CODE OF GEORGIA ANNOTATED § 3-1-5

SITE:
2774 NORTH COBB PKWY, SUITE 111
KENNESAW, GA 30152



NEAREST RESIDENCE: $\pm 1160'$
2600 SAINT CHARLES LANE
KENNESAW, GA 30152

NEAREST CHURCH:
 $\pm 2,575'$ (DOOR TO DOOR)
FIRST BAPTIST CHURCH OF KENNESAW
2958 NORTH MAIN ST,
KENNESAW, GA 30144

NEAREST PUBLIC PARK:
 $\pm 1,498'$ (DOOR TO STREET ENTRANCE)
ADAMS PARK
2600 PARK DRIVE
KENNESAW, GA 30144

NEAREST PUBLIC LIBRARY: $\pm 2,640'$
KENNESAW BRANCH LIBRARY
2250 LEWIS ST NW
KENNESAW, GA 30144

NEAREST PUBLIC SCHOOL: $\pm 4,224'$
KENNESAW ELEMENTARY SCHOOL
3155 JILES RD NW,
KENNESAW, GA 30152
NEAREST DAYCARE: $\pm 2,358'$
12 BUCKLE MY SHOE INC
3025 KENNESAW DR NW
KENNESAW, GA 30152
NEAREST LIQUOR STORE: $\pm 3,168'$
KINGS LIQUOR
2699 COBB PARKWAY
KENNESAW, GA 305112
NEAREST ALCOHOL TREATMENT
CENTER: $\pm 11,088'$
AGAPE COUNSELING CENTER
3513 TIMBER LAKE RD NW
KENNESAW, GA 30144

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zone, inc. LAND SURVEYING SERVICES
WWW.BOUNDARYZONE.COM
(770) 271-5772 / (919) 363-9226

GRAPHIC SCALE - IN FEET

4195 SOUTH LEE STREET
SUITE I,
BUFORD, GA 30518
235 PEACHTREE STREET NE
SUITE 400,
ATLANTA, GA 30303
2205-C CANDUN DRIVE
APEX, NC 27523

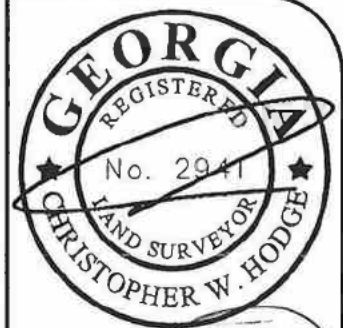


MAGNETIC
NORTH

SCALE: 1"=250'

ALCOHOL SURVEY

PREPARED FOR:
ABC LIQUOR CO. INC., D.B.A. BOTTLE SHOP
LAND LOT 139,
20TH DISTRICT, 2ND SECTION
CITY OF KENNESAW, COBB COUNTY,
GEORGIA - 04/06/12



04/06/12

FOR THE FIRM
BOUNDARY ZONE, INC.
NOT VALID WITHOUT
ORIGINAL SIGNATURE

PROJECT
1233301

SHEET

Mail body: Fwd: POS Screenshot AND Survey

Sent from my iPhone

Begin forwarded message:

From: [REDACTED]
Date: October 9, 2024 at 11:12:07â€™ AM EDT
To: [REDACTED]
Subject: Fwd: POS Screenshot AND Survey

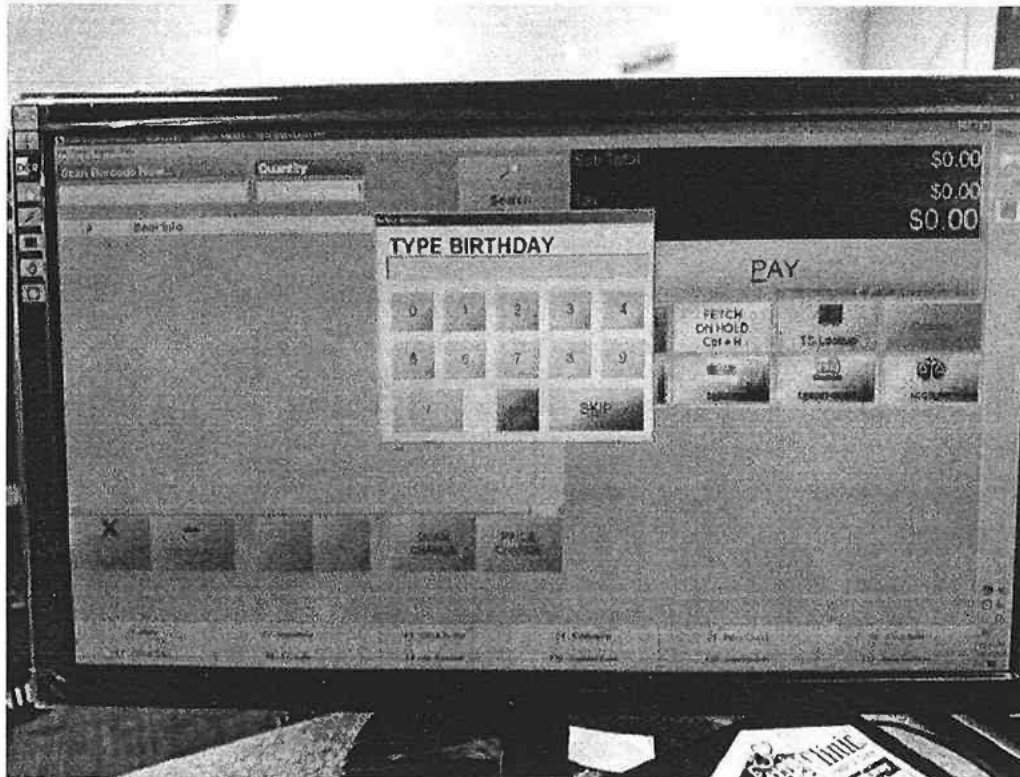
📎

Begin forwarded message:

From: [REDACTED]
Date: October 4, 2024 at 12:49:08â€™ PM EDT
To: [REDACTED]
Subject: POS Screenshot AND Survey

📎

Please see the attached.



<Alcohol Survey 2774 Cobb Pkwy Ste 111.pdf>



Item Report

TO: The Honorable Mayor and City Council

FROM: Gina Auld, Finance Director

DATE: December 9, 2024

TITLE: **Resolution: IGA between the City of Kennesaw and the KDA for the Jiles Place Property Transfer**
 Consideration for approval of a Resolution confirming the intergovernmental agreement (IGA) between the City of Kennesaw and the Kennesaw Development Authority (KDA) regarding the transfer of the Jiles Place Property.

Summary:

The City and the KDA entered into a Fourth Amendment to an Intergovernmental Agreement executed on May 7, 2018, whereby the Jiles Place Property was transferred to the City by Warranty Deed in exchange for the satisfaction of an outstanding loan to the KDA. The City seeks to transfer the Jiles Place Property back to the KDA for the purpose of ratifying an existing lease of the property to a third party, said lease funds to be retained by the KDA, and for the purpose of approving a sale by the KDA to that third party as well as to address repayment of funds to the KDA.

Recommendation:

Finance Director recommends approval.

Fiscal Impact:

Attachments:

1. Resolution Approving Intergovernmental Agreement.11.25.24
2. INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND KDA.11.25.24
3. EXHIBIT A to Intergovernmental Agreement.11.25.24

CITY OF KENNESAW

GEORGIA

RESOLUTION NO. 2024-____, 2024

**RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF KENNESAW, GEORGIA AND THE KENNESAW
DEVELOPMENT AUTHORITY FOR THE JILES PLACE PROPERTY TRANSFER**

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

WHEREAS, the City of Kennesaw “City” and the Kennesaw Development Authority “KDA” entered into a Fourth Amendment to Intergovernmental Agreement executed on May 7, 2018, whereby the Jiles Place Property was transferred to the City by Warranty Deed in exchange for the satisfaction of an outstanding loan to the KDA;

WHEREAS, the City seeks to transfer the Jiles Place Property back to the KDA for the purpose of ratifying an existing lease of the property to a third party, said lease funds to be retained by the KDA and for the purpose of approving a sale by the KDA to that third party as well as to address the repayment of funds to the KDA;

WHEREAS, pursuant to Article 9, Section 3, Paragraph 1 of the Constitution of the State of Georgia, the City and the KDA are authorized to enter into intergovernmental agreements; and

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Kennesaw hereby approves the Intergovernmental Agreement, attached hereto, between the City and the Kennesaw Development Authority related to the transfer and future sale of the Jiles Place Property.

BE IT FURTHER RESOLVED that this hereby authorizes the Mayor to sign and execute the Intergovernmental Agreement between the City of Kennesaw and the Kennesaw Development Authority, attached.

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

ATTEST

CITY OF KENNESAW

Lea Alvarez, City Clerk

Derek Easterling, Mayor

SEAL

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF KENNESAW,
GEORGIA AND THE KENNESAW DEVELOPMENT AUTHORITY**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is entered into this _____ day of _____, 2024, by and between the City of Kennesaw, Georgia (the “City”) and the Kennesaw Development Authority (the “KDA”).

WITNESSETH:

WHEREAS, the KDA was created to promote the revitalization and redevelopment of properties within the City and to develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities and promote the general welfare of this State by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce, all as more fully and particularly described in the Development Authorities Law (O.C.G.A. § 36-62-1 *et seq*, as amended from time to time);

WHEREAS, the City and the KDA entered into a Fourth Amendment to Intergovernmental Agreement executed on May 7, 2018, whereby the Jiles Place Property was transferred to the City by Warranty Deed in exchange for the satisfaction of an outstanding loan;

WHEREAS, the City seeks to transfer the Jiles Place Property described in the attached Exhibit “A” back to the KDA for the purpose of leasing and possible sale of the property to a third party, said lease funds to be retained by the KDA;

WHEREAS, pursuant to Article 9, Section 3, Paragraph 1 of the Constitution of the State of Georgia, the City and the KDA are authorized to enter into intergovernmental agreements;

NOW THEREFORE, in consideration of ten dollars (\$10.00) in hand paid and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Title Jiles Place Property:** The City hereby agrees to convey in fee simple with good and marketable title, free and clear of all liens and taxes the Jiles Place Property to the City by General Warranty Deed subject only to the Permitted Exceptions. Marketable title shall be determined according to the applicable Title Standards adopted by the State Bar of Georgia. The Limited Warranty Deed shall be prepared in substantial conformity to that which is attached hereto as Exhibit “A”;
2. **KDA to Execute a Note:** As part of the transfer of title described herein, the KDA shall execute a note in favor of the City of Kennesaw in the amount of \$35,000.00;
3. **Future Sale of Jiles Place Property:** At such time as the Jiles Place Property is subsequently sold by the KDA, the KDA agrees to repay the City for said property;
4. **Cooperation:** The parties agree to cooperate fully and to execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement;
5. **Interpretation and governing law:** This Agreement shall be construed and interpreted in accordance with the laws of the State of Georgia, with the sole and exclusive venue for the

resolution of any dispute arising out of or related to this Agreement being in the State and/or Superior Court of Cobb County, Georgia;

6. **Severability:** If any sentence, phrase, provision, portion, or clause of this Agreement should at any time be adjudged invalid, unlawful, unconstitutional, or unenforceable for any reason, said adjudication shall in no manner or way affect the other sentences, phrases, provisions, portions or clauses hereof, and all remaining portions shall remain in full force and effect as if the portion adjudged or declared invalid was not originally a part hereof;
7. **Entire Agreement:** This Agreement constitutes the entire agreement between these Parties and supersedes all prior agreements regarding the subject matter, whether any such prior agreements are written or oral;
8. **Execution:** This Agreement may be executed in any number of copies and each copy signed shall constitute an original. Any party transmitting its signature by facsimile shall be deemed to have accepted and adopted such facsimile signature as such party's original signature and that same is sufficient to bind such party to this Agreement as if such party's original handwritten signature is attached hereto. This Agreement may be modified only by written instrument signed by all parties;
9. **Authority:** The parties hereby affirmatively represent that each such party has authority to enter into this Agreement and that this Agreement has been properly and duly approved by each respective party;
10. **Headings:** The descriptive headings in this Agreement are included for convenience or reference only and shall not affect in any way the meaning or interpretation of this Agreement; and
11. **Time of Essence:** Time is of the essence of this Agreement.

[SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WEHREOF, the Parties have hereunto set their hands and seals
this day and year first above written.

APPROVED AS TO FORM:

City Attorney

CITY OF KENNESAW, GEORGIA

Derek Easterling, Mayor

ATTEST:

City Clerk

Sworn to and subscribed before me
this the ____ day of _____, 2024.

Notary

(SEAL)

KENNESAW DEVELOPMENT AUTHORITY

By: _____

Title: _____

Chairman

ATTEST:

Print name

Attesting signature

Sworn to and subscribed before me
this the ____ day of _____, 2024.

Notary

(SEAL)

EXHIBIT “A”
to
Intergovernmental Agreement between City of
Kennesaw and the Kennesaw Development
Authority

**After recording, please return to
Bentley, Bentley & Bentley
241 Washington Ave.
Marietta, Georgia 30060**

LIMITED WARRANTY DEED

GEORGIA, COBB COUNTY

THIS INDENTURE, made this _____ day of _____, 2024, by and between the CITY OF KENNESAW, GEORGIA, as party or parties of the first part, hereinafter referred to as "Grantor", and the KENNESAW DEVELOPMENT AUTHORITY, as party or parties of the second part, hereinafter referred to as "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 DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATIONS (\$10.00) in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey, and confirm unto the said Grantee,

All that tract or parcel of land lying and being in Land Lots 62 and 63 of the 20th District, 2nd Section, Cobb County, Georgia in the City of Kennesaw, Georgia being one parcel as more particularly described on Exhibit "A" attached hereto and made a part hereof by reference thereto for a more complete description of the property.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members, and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit, and behoof of the said Grantee forever in FEE SIMPLE. Grantor hereby warrants that Grantor has the right to sell and convey said land and bind himself, his heirs, executors, and administrators forever to defend by virtue of these presents.

AND THE SAID Grantor will provide a limited warranty and forever defend the right and title to the above-described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has hereunto set his hand and seal the day above written.

CITY OF KENNESAW

Derek Easterling, Mayor

Notary Public

[NOTARY SEAL]

My commission expires:_____

ATTEST:

SEAL

Signed, sealed, and delivered in the presence of:

Unofficial witness

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 62 and 63 of the 20th District, 2nd Section, Cobb County, Georgia, the same being more particularly described as follows:

BEGINNING at the point of intersection of the southerly right of way line of the CSX Railroad (f/k/a the Western Atlantic Railroad; having a 100 foot wide right of way) and the westerly right of way line of Moon Station Road (having a 60 foot wide right of way); running thence North 35 degrees 20 minutes 00 seconds West along the southerly right of way line of said CSX Railroad a distance of 400.00 feet to a point; running thence northwesterly along a curve to the right along the southerly right of way line of the CSX Railroad a distance of 291.80 feet to a point (said curve having a chord line running North 44 degrees 50 minutes 00 seconds West a distance of 290.00 feet); running thence South 18 degrees 25 minutes 00 seconds West a distance of 297.30 feet to a point on the northerly right of way line of Giles Road (having a 50 foot wide right of way); running thence northeasterly, easterly and southeasterly along a curve to the left along the northerly right of way line of Giles Road to a point (said curve having a chord line running South 81 degrees 45 minutes 00 seconds East a distance of 212.00 feet); running thence South 52 degrees 00 minutes 00 seconds East along the northerly right of way line of Giles Road a distance of 225.00 feet to a point; running thence South 52 degrees 29 minutes 05 seconds East along the northerly right of way line of Giles Road a distance of 175.00 feet to the point of intersection of the northerly right of way line of Giles Road with the westerly right of way line of Moon Station Road with the southerly right of way line of the CSX Railroad and the POINT OF BEGINNING; said property containing 1.910 acres as shown on plat of survey for Mrs. Myrtice Franklin, dated January 18, 1985, prepared and certified by Thomas E. Williams, Georgia Registered Land Surveyor, which plat is incorporated herein by reference; and being a portion of the property conveyed in that certain Limited Warranty Deed originally recorded in Deed Book 7059, Page 264, Cobb County records, and re-recorded in Deed Book 10324, Page 276, and re-recorded in Deed Book 14715, Page 543 of aforesaid records.



Item Report

TO: The Honorable Mayor and City Council

FROM: Jeff Drobney, City Manager

DATE: December 9, 2024

TITLE: **Resolution: Dedication of remaining American Rescue Plan Act (ARPA) Funding**
Consideration for approval of a Resolution dedicating remaining ARPA Funds of approximately \$250,000 to the Public Safety Facility and Real Time Crime Center.

Summary:

All ARPA funds received in 2021 and 2022 must be dedicated by December 31, 2024, and expended by December 31, 2026. To date, the City has approximately \$250,000 remaining that has yet to be dedicated to an approved project. It is recommended that these funds be dedicated to the Public Safety Facility and Real Time Crime Center.

Recommendation:

The City Manager recommends approval.

Fiscal Impact:

Attachments:

1. RES 2024 - ARPA Funds Dedicated to Public Safety Facility

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2024-__, 2024

**RESOLUTION AUTHORIZING THE DEDICATION OF UNCOMMITTEED ARPA
FUNDS TO THE PUBLIC SAFETY FACILITY AND REAL TIME CRIME CENTER**

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

WHEREAS, the City of Kennesaw received \$12,725,590 of funding via the American Rescue Plan Act (ARPA) in 2021 and 2022; and

WHEREAS, the City has approximately \$250,000 remaining that has yet to be dedicated to an approved project; and

WHEREAS, all ARPA funding must be dedicated by December 31, 2024, and expended by December 31, 2026; and

WHEREAS, the City can dedicate the remaining balance to the Public Safety Facility and Real Time Crime Center.

NOW THEREFORE, BE IT RESOLVED, the Kennesaw City Council authorizes the remaining ARPA funds of approximately \$250,000 to be dedicated to the Public Safety Facility and Real Time Crime Center.

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

ATTEST:

CITY OF KENNESAW

Lea Alvarez, City Clerk

Derek Easterling, Mayor



Item Report

TO: The Honorable Mayor and City Council
FROM: Bill Westenberger, Chief of Police
DATE: December 9, 2024
TITLE: **Crime Statistics: November 2024**
Consideration to accept the November 2024 crime statistics.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. November 2024 Crime Statistics (M+C)



November 2024 Crime Statistics

Crimes	Nov 2024	Nov 2023	YTD (01/01/24 - 11/30/24)	YTD (01/01/23 - 11/30/23)
Assault Offenses	36	23	328	350
Motor Vehicle Theft	3	1	30	12
Burglary	2	3	33	29
Homicide Offenses	1	0	3	0
Larceny	12	9	129	155
Sex Offenses	1	2	15	20
Robbery	0	0	3	9
Total	55	38	541	575

	Nov 2024	Nov 2023	YTD (01/01/24 - 11/30/24)	YTD (01/01/23 - 11/30/23)
Dispatched Calls for Service	815	754	8,546	9,035
Self-Initiated Activity	1,071	981	13,010	11,033
Traffic Citations	512 (-109)	621	6,237 (-2,136)	8,373
Traffic Warnings*	608 (+196)	412	6,716 (+3,682)	3,034
Arrests**	53	79	934	939

* Warnings do not include verbal warnings

** Arrests do not include juvenile arrests

	Nov 2024	Nov 2023	YTD (01/01/24 - 11/30/24)	YTD (01/01/23 - 11/30/23)
Auto Accidents	122 (-8)	130	1201 (-7)	1,208
Accident W/ Injury	13	13	100 (-23)	123
Hit and Run	8 (-1)	9	130 (-32)	162
Hit and Run W/ Injury	0	0	1 (+1)	0
Person Hit by Auto W/ Injury	1 (-1)	2	7 (-1)	8

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: Bill Westenberger, Chief of Police

DATE: December 9, 2024

TITLE: **Resolution: Fusus Contract Extension**
 Consideration for approval of Resolution to extend the current contract with Axon (FUSUS) and authorization for the Mayor to execute the agreement.

Summary: The Police Department requests an extension of our current contract with Axon (FUSUS), which was approved via Resolution No. 2023-41. We have been awarded a state grant of \$75,000 per year specifically for FUSUS, and our existing contract is set to expire at the end of 2026. We propose extending the contract to a seven-year term. This extension offers significant cost savings as the price is set to increase starting in 2027. By locking in the 7-year contract, we would pay:

- \$104,000 in 2027
- \$108,160 in 2028
- \$112,486.40 in 2029
- \$116,985.86 in 2030

These savings total \$70,575.18 over the four-year period. Additionally, the contract includes a provision allowing us to terminate if we are unable to continue funding the annual cost. This ensures flexibility while securing substantial savings for the city.

Recommendation:

The Police Chief recommends the approval of the extension and the authorization for the Mayor to sign the agreement.

Fiscal Impact:

Attachments:

1. RES 2024 - Fusus Contract Extension

2. 12.5 Kennesaw Fusus 7 Year
3. 12.5 Kennesaw Master Services and Purchasing Agreement - KPD

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2024-__, 2024

**RESOLUTION AUTHORIZING A CONTRACT EXTENSION WITH AXON (FUSUS)
AND THE MAYOR TO EXECUTE THE AGREEMENT**

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

WHEREAS, through Resolution No. 2023-41, the Kennesaw Police Department entered into an agreement with Axon (FUSUS); and

WHEREAS, FUSUS provides a video and data collaboration platform to expedite intelligence gathering and efficiency of response to situations as they unfold throughout the community; and

WHEREAS, the Kennesaw Police Department would like to extend its contract with FUSUS, which is set to expire at the end of 2026; and

WHEREAS, the contract extension would be for a seven year term offering a cost savings of \$70,575.18 over a four-year period and will include a provision allowing the Kennesaw Police Department to terminate if it is unable to continue funding the annual cost.

WHEREAS, the agreement for the solution is attached as Exhibit A.

NOW THEREFORE, BE IT RESOLVED, the Mayor and City Council authorize an extension of the contract with FUSUS and the Mayor to sign and execute the attached agreement.

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

ATTEST:

CITY OF KENNESAW:

Lea Alvarez City Clerk

Derek Easterling, Mayor



Axon Enterprise, Inc.
17800 N 85th St.
Scottsdale, Arizona 85255
United States
VAT: 86-0741227
Domestic: (800) 978-2737
International: +1.800.978.2737

Q-623221-45631.671DP

Issued: 12/05/2024

Quote Expiration: 12/15/2024

Estimated Contract Start Date: 09/05/2024

Account Number: 321492

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Kennesaw Police Department - GA 2539 J O Stephenson Ave NW Kennesaw, GA 30144-2780 USA	Kennesaw Police Department - GA 2539 J O Stephenson Ave NW Kennesaw GA 30144-2780 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Drew Patterson Phone: +1 5132038037 Email: dpatterson@axon.com Fax:	Kevin Mitchell Phone: (770) 422-2505 Email: kmitchell@kennesaw-ga.gov Fax: (770) 429-4537

Quote Summary

Program Length	84.3333 Months
TOTAL COST	\$666,632.26
ESTIMATED TOTAL W/ TAX	\$666,632.26

Discount Summary

Average Savings Per Year	\$10,068.22
TOTAL SAVINGS	\$70,757.18

Payment Summary

Date	Subtotal	Tax	Total
Aug 2024	\$75,000.00	\$0.00	\$75,000.00
Aug 2025	\$75,000.00	\$0.00	\$75,000.00
Aug 2026	\$75,000.00	\$0.00	\$75,000.00
Aug 2027	\$104,000.00	\$0.00	\$104,000.00
Aug 2028	\$108,160.00	\$0.00	\$108,160.00
Aug 2029	\$112,486.40	\$0.00	\$112,486.40
Aug 2030	\$116,985.86	\$0.00	\$116,985.86
Total	\$666,632.26	\$0.00	\$666,632.26

Quote Unbundled Price:	\$737,389.44
Quote List Price:	\$737,389.44
Quote Subtotal:	\$666,632.26

Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
A la Carte Software									
101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	36		\$8,678.24	\$6,250.00	\$225,000.00	\$0.00	\$225,000.00
101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	48		\$8,853.60	\$9,200.67	\$441,632.26	\$0.00	\$441,632.26
A la Carte Warranties									
101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	36		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	48		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total							\$666,632.26	\$0.00	\$666,632.26

Delivery Schedule

Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
A la Carte	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	09/05/2024	09/14/2027
A la Carte	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	09/15/2027	09/14/2031

Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
A la Carte	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	09/05/2024	09/14/2027
A la Carte	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	09/15/2027	09/14/2031

Shipping Locations

Location Number	Street	City	State	Zip	Country
1	2539 J O Stephenson Ave NW	Kennesaw	GA	30144-2780	USA

Payment Details

Aug 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$25,313.81	\$0.00	\$25,313.81
Year 1	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$49,686.19	\$0.00	\$49,686.19
Year 1	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Year 1	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Total				\$75,000.00	\$0.00	\$75,000.00

Aug 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$49,686.19	\$0.00	\$49,686.19
Year 2	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$25,313.81	\$0.00	\$25,313.81
Year 2	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Year 2	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Total				\$75,000.00	\$0.00	\$75,000.00

Aug 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$25,313.81	\$0.00	\$25,313.81
Year 3	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$49,686.19	\$0.00	\$49,686.19
Year 3	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Year 3	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Total				\$75,000.00	\$0.00	\$75,000.00

Aug 2027

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$35,101.81	\$0.00	\$35,101.81
Year 4	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$68,898.19	\$0.00	\$68,898.19
Year 4	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Year 4	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Total				\$104,000.00	\$0.00	\$104,000.00

Aug 2028

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$36,505.88	\$0.00	\$36,505.88
Year 5	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$71,654.12	\$0.00	\$71,654.12
Year 5	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Year 5	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Total				\$108,160.00	\$0.00	\$108,160.00

Aug 2029						
Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 6	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$74,520.28	\$0.00	\$74,520.28
Year 6	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$37,966.12	\$0.00	\$37,966.12
Year 6	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Year 6	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Total				\$112,486.40	\$0.00	\$112,486.40

Aug 2030						
Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 7	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$77,501.09	\$0.00	\$77,501.09
Year 7	101362	AXON RESPOND - FUSUSONE - PRO LEVEL SAAS	1	\$39,484.77	\$0.00	\$39,484.77
Year 7	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Year 7	101424	AXON RESPOND - FUSUSCORE - EXTENDED WARRANTY	16	\$0.00	\$0.00	\$0.00
Total				\$116,985.86	\$0.00	\$116,985.86

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at <https://www.axon.com/sales-terms-and-conditions>), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at www.axon.com/legal/sales-terms-and-conditions), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Exceptions to Standard Terms and Conditions

Agency has existing contract(s) originated via Quote(s):

FUSUS REFERENCE INV1239

Agency is terminating those contracts effective 9/5/2024 Any changes in this date will result in modification of the program value which may result in additional fees or credits due to or from Axon.

Signature

12/5/2024

Date Signed





This Master Services and Purchasing Agreement ("**Agreement**") is between Axon Enterprise, Inc. ("**Axon**"), and the customer listed below or, if no customer is listed below, the customer on the Quote attached hereto ("**Customer**"). This Agreement is effective as of the later of the (a) last signature date on this Agreement or (b) date of acceptance of the Quote ("**Effective Date**"). Axon and Customer are each a "**Party**" and collectively "**Parties**". This Agreement governs Customer's purchase and use of the Axon Devices and Services detailed in the Quote as defined below. It is the intent of the Parties that this Agreement will govern all subsequent purchases by Customer for the same Axon Devices and Services in the Quote, and all such subsequent quotes accepted by Customer shall be also incorporated into this Agreement by reference as a Quote. The Parties agree as follows:

1. **Definitions.**

- 1.1. "**Axon Cloud Services**" means Axon's web services, including but not limited to, Axon Evidence, Axon Records, Axon Dispatch, FUSUS services and interactions between Axon Evidence and Axon Devices or Axon client software. Axon Cloud Service excludes third-party applications, hardware warranties, and my.evidence.com.
- 1.2. "**Axon Device**" means all hardware provided by Axon under this Agreement. Axon-manufactured Devices are a subset of Axon Devices.
- 1.3. "**Quote**" means an offer to sell and is only valid for devices and services on the offer at the specified prices. Any inconsistent or supplemental terms within Customer's purchase order in response to a Quote will be void. Orders are subject to prior credit approval. Changes in the deployment estimated ship date may change charges in the Quote. Shipping dates are estimates only. Axon is not responsible for typographical errors in any Quote by Axon, and Axon reserves the right to cancel any orders resulting from such errors.
- 1.4. "**Services**" means all services provided by Axon under this Agreement, including software, Axon Cloud Services, and professional services.

2. **Term.** This Agreement begins on the Effective Date and continues until all subscriptions hereunder have expired or have been terminated ("**Term**").

- 2.1. All subscriptions including Axon Evidence, Axon Fleet, Officer Safety Plans, Technology Assurance Plans, and TASER 7 or TASER 10 plans begin on the date stated in the Quote. Each subscription term ends upon completion of the subscription stated in the Quote ("**Subscription Term**").
- 2.2. Upon completion of the Subscription Term, the Subscription Term will automatically renew for an additional 5 years ("**Renewal Term**"). For purchase of TASER 7 or TASER 10 as a standalone, Axon may increase pricing to its then-current list pricing for any Renewal Term. For all other purchases, Axon may increase pricing on all line items in the Quote by up to 3% at the beginning of each year of the Renewal Term. New devices and services may require additional terms. Axon will not authorize services until Axon receives a signed Quote or accepts a purchase order, whichever is first.

3. **Payment.** Axon invoices for Axon Devices upon shipment, or on the date specified within the invoicing plan in the Quote. Payment is due net 30 days from the invoice date. Axon invoices for Axon Cloud Services on an upfront annual basis prior to the beginning of the Subscription Term and upon the anniversary of the Subscription Term. Payment obligations are non-cancelable. Unless otherwise prohibited by law, Customer will pay interest on all past-due sums at the lower of one-and-a-half percent (1.5%) per month or the highest rate allowed by law. Customer will pay invoices without setoff, deduction, or withholding. If Axon sends a past due account to collections, Customer is responsible for collection and attorneys' fees.

4. **Taxes.** Customer is responsible for sales and other taxes associated with the order unless Customer provides Axon a valid tax exemption certificate.

5. **Shipping.** Axon may make partial shipments and ship Axon Devices from multiple locations. All shipments are EXW (Incoterms 2020) via common carrier. Title and risk of loss pass to Customer upon Axon's delivery to the common carrier. Customer is responsible for any shipping charges in the Quote.

6. **Returns.** All sales are final. Axon does not allow refunds or exchanges, except warranty returns or as provided by state or federal law.

7. **Warranty.**

- 7.1. **Limited Warranty.** Axon warrants that Axon-manufactured Devices are free from defects in workmanship and materials for one (1) year from the date of Customer's receipt, except Signal Sidearm which Axon warrants for thirty (30) months from Customer's receipt and Axon-manufactured accessories, which Axon warrants for ninety (90) days from Customer's receipt, respectively, from the date of Customer's receipt. Used conducted energy weapon ("**CEW**") cartridges are deemed to have operated properly. Extended warranties run from the expiration of the one (1) year hardware warranty through the extended warranty term purchased.

Title: Master Services and Purchasing Agreement between Axon and Customer

Department: Legal

Version: 22

Release Date: 8/2/2024

- 7.2. **Disclaimer.** All software and Axon Cloud Services are provided "AS IS," without any warranty of any kind, either express or implied, including without limitation the implied warranties of merchantability, fitness for a particular purpose and non-infringement. Axon Devices and Services that are not manufactured, published or performed by Axon ("Third-Party Products") are not covered by Axon's warranty and are only subject to the warranties of the third-party provider or manufacturer.
- 7.3. **Claims.** If Axon receives a valid warranty claim for an Axon-manufactured Device during the warranty term, Axon's sole responsibility is to repair or replace the Axon-manufactured Device with the same or like Axon-manufactured Device, at Axon's option. A replacement Axon-manufactured Device will be new or like new. Axon will warrant the replacement Axon-manufactured Device for the longer of (a) the remaining warranty of the original Axon-manufactured Device or (b) ninety (90) days from the date of repair or replacement.
- 7.3.1. If Customer exchanges an Axon Device or part, the replacement item becomes Customer's property, and the replaced item becomes Axon's property. Before delivering an Axon-manufactured Device for service, Customer must upload Axon-manufactured Device data to Axon Evidence or download it and retain a copy. Axon is not responsible for any loss of software, data, or other information contained in storage media or any part of the Axon-manufactured Device sent to Axon for service.
- 7.4. **Spare Axon Devices.** At Axon's reasonable discretion, Axon may provide Customer a predetermined number of spare Axon Devices as detailed in the Quote ("**Spare Axon Devices**"). Spare Axon Devices are intended to replace broken or non-functioning units while Customer submits the broken or non-functioning units, through Axon's warranty return process. Axon will repair or replace the unit with a replacement Axon Device. Title and risk of loss for all Spare Axon Devices shall pass to Customer in accordance with shipping terms of this Agreement. Axon assumes no liability or obligation in the event Customer does not utilize Spare Axon Devices for the intended purpose.
- 7.5. **Limitations.** Axon's warranty excludes damage related to: (a) failure to follow Axon Device use instructions; (b) Axon Devices used with equipment not manufactured or recommended by Axon; (c) abuse, misuse, or intentional damage to Axon Device; (d) force majeure; (e) Axon Devices repaired or modified by persons other than Axon without Axon's written permission; or (f) Axon Devices with a defaced or removed serial number. Axon's warranty will be void if Customer resells Axon Devices.
- 7.5.1. **To the extent permitted by law, the above warranties and remedies are exclusive. Axon disclaims all other warranties, remedies, and conditions, whether oral, written, statutory, or implied. If statutory or implied warranties cannot be lawfully disclaimed, then such warranties are limited to the duration of the warranty described above and by the provisions in this Agreement. Customer confirms and agrees that in deciding whether to sign this Agreement, Customer has not relied on any statement or representation by Axon or anyone acting on behalf of Axon related to the subject matter of this Agreement that is not in this Agreement.**
- 7.5.2. **Axon's cumulative liability to any party for any loss or damage resulting from any claim, demand, or action arising out of or relating to this Agreement will not exceed the purchase price paid to Axon for the Axon Device, or if for Services, the amount paid for such Services over the twelve (12) months preceding the claim. Neither Party will be liable for special, indirect, incidental, punitive or consequential damages, however caused, whether for breach of warranty or contract, negligence, strict liability, tort or any other legal theory.**
- 7.6. **Online Support Platforms.** Use of Axon's online support platforms (e.g., Axon Academy and MyAxon) is governed by the Axon Online Support Platforms Terms of Use Appendix available at www.axon.com/sales-terms-and-conditions.
- 7.7. **Third-Party Software and Services.** Use of software or services other than those provided by Axon is governed by the terms, if any, entered into between Customer and the respective third-party provider, including, without limitation, the terms applicable to such software or services located at www.axon.com/sales-terms-and-conditions, if any.
- 7.8. **Axon Aid.** Upon mutual agreement between Axon and Customer, Axon may provide certain products and services to Customer, as a charitable donation under the Axon Aid program. In such event, Customer expressly waives and releases any and all claims, now known or hereafter known, against Axon and its officers, directors, employees, agents, contractors, affiliates, successors, and assigns (collectively, "**Releasees**"), including but not limited to, on account of injury, death, property damage, or loss of data, arising out of or attributable to the Axon Aid program whether arising out of the negligence of any Releasees or otherwise. Customer agrees not to make or bring any such claim against any Releasee, and forever release and discharge all Releasees from liability under such claims. Customer expressly allows Axon to publicly announce its participation in Axon Aid and use its name in marketing materials. Axon may terminate the Axon Aid program without cause immediately



upon notice to the Customer.

8. **Statement of Work.** Certain Axon Devices and Services, including Axon Interview Room, Axon Channel Services, and Axon Fleet, may require a Statement of Work that details Axon's Service deliverables ("**SOW**"). In the event Axon provides an SOW to Customer, Axon is only responsible for the performance of Services described in the SOW. Additional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in fees or schedule. The SOW is incorporated into this Agreement by reference.
9. **Axon Device Warnings.** See www.axon.com/legal for the most current Axon Device warnings.
10. **Design Changes.** Axon may make design changes to any Axon Device or Service without notifying Customer or making the same change to Axon Devices and Services previously purchased by Customer.
11. **Bundled Offerings.** Some offerings in bundled offerings may not be generally available at the time of Customer's purchase. Axon will not provide a refund, credit, or additional discount beyond what is in the Quote due to a delay of availability or Customer's election not to utilize any portion of an Axon bundle.
12. **Insurance.** Axon will maintain General Liability, Workers' Compensation, and Automobile Liability insurance. Upon request, Axon will supply certificates of insurance.
13. **IP Rights.** Axon owns and reserves all right, title, and interest in Axon-manufactured Devices and Services and suggestions to Axon, including all related intellectual property rights. Customer will not cause any Axon proprietary rights to be violated.
14. **IP Indemnification.** Axon will indemnify Customer against all claims, losses, and reasonable expenses from any third-party claim alleging that the use of Axon-manufactured Devices, Axon Cloud Services or Axon software ("**Axon Products**") infringes or misappropriates the third-party's intellectual property rights. Customer must promptly provide Axon with written notice of such claim, tender to Axon the defense or settlement of such claim at Axon's expense and cooperate fully with Axon in the defense or settlement of such claim. Axon's IP indemnification obligations do not apply to claims based on (a) modification of Axon Products by Customer or a third-party not approved by Axon; (b) use of Axon Products in combination with hardware or services not approved by Axon; (c) use of Axon Products other than as permitted in this Agreement; or (d) use of Axon Products that is not the most current software release provided by Axon.
15. **Customer Responsibilities.** Customer is responsible for (a) Customer's use of Axon Devices; (b) Customer or an end user's breach of this Agreement or violation of applicable law; (c) disputes between Customer and a third-party over Customer's use of Axon Devices; (d) secure and sustainable destruction and disposal of Axon Devices at Customer's cost; and (e) any regulatory violations or fines, as a result of improper destruction or disposal of Axon Devices.
16. **Termination.**
 - 16.1. **For Breach.** A Party may terminate this Agreement for cause if it provides thirty (30) days written notice of the breach to the other Party, and the breach remains uncured thirty (30) days after written notice. If Customer terminates this Agreement due to Axon's uncured breach, Axon will refund prepaid amounts on a prorated basis based on the effective date of termination.
 - 16.2. **By Customer.** If sufficient funds are not appropriated or otherwise legally available to pay the fees, Customer may terminate this Agreement. Customer will deliver notice of termination under this section as soon as reasonably practicable.
 - 16.3. **Effect of Termination.** Upon termination of this Agreement, Customer rights immediately terminate. Customer remains responsible for all fees incurred before the effective date of termination. If Customer purchases Axon Devices for less than the manufacturer's suggested retail price ("**MSRP**") and this Agreement terminates before the end of the Term, Axon will invoice Customer the difference between the MSRP for Axon Devices received, including any Spare Axon Devices, and amounts paid towards those Axon Devices. Only if terminating for non-appropriation, Customer may return Axon Devices to Axon within thirty (30) days of termination. MSRP is the standalone price of the individual Axon Device at the time of sale. For bundled Axon Devices, MSRP is the standalone price of all individual components.
17. **Confidentiality.** "**Confidential Information**" means nonpublic information designated as confidential or, given the nature of the information or circumstances surrounding disclosure, should reasonably be understood to be confidential. Each Party will take reasonable measures to avoid disclosure, dissemination, or unauthorized use of the other Party's Confidential Information. Unless required by law, neither Party will disclose the other Party's Confidential Information during the Term and for five (5) years thereafter. To the extent permissible by law, Axon pricing is Confidential Information and competition sensitive. If Customer receives a public records request to disclose Axon

Confidential Information, to the extent allowed by law, Customer will provide notice to Axon before disclosure. Axon may publicly announce information related to this Agreement.

18. **General.**

- 18.1. **Force Majeure.** Neither Party will be liable for any delay or failure to perform due to a cause beyond a Party's reasonable control.
- 18.2. **Independent Contractors.** The Parties are independent contractors. Neither Party has the authority to bind the other. This Agreement does not create a partnership, franchise, joint venture, Customer, fiduciary, or employment relationship between the Parties.
- 18.3. **Third-Party Beneficiaries.** There are no third-party beneficiaries under this Agreement.
- 18.4. **Non-Discrimination.** Neither Party nor its employees will discriminate against any person based on race; religion; creed; color; sex; gender identity and expression; pregnancy; childbirth; breastfeeding; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local, state, or federal law.
- 18.5. **Export Compliance.** Each Party will comply with all import and export control laws and regulations.
- 18.6. **Assignment.** Neither Party may assign this Agreement without the other Party's prior written consent. Axon may assign this Agreement, its rights, or obligations without consent: (a) to an affiliate or subsidiary; or (b) for purposes of financing, merger, acquisition, corporate reorganization, or sale of all or substantially all its assets. This Agreement is binding upon the Parties respective successors and assigns.
- 18.7. **Waiver.** No waiver or delay by either Party in exercising any right under this Agreement constitutes a waiver of that right.
- 18.8. **Severability.** If a court of competent jurisdiction holds any portion of this Agreement invalid or unenforceable, the remaining portions of this Agreement will remain in effect.
- 18.9. **Survival.** The following sections will survive termination: Payment, Warranty, Axon Device Warnings, Indemnification, IP Rights, Customer Responsibilities and any other Sections detailed in the survival sections of the Appendices.
- 18.10. **Governing Law.** The laws of the country, state, province, or municipality where Customer is physically located, without reference to conflict of law rules, govern this Agreement and any dispute arising from it. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.
- 18.11. **Notices.** All notices must be in English. Notices posted on Customer's Axon Evidence site are effective upon posting. Notices by email are effective on the sent date of the email. Notices by personal delivery are effective immediately. Notices to Customer shall be provided to the address on file with Axon. Notices to Axon shall be provided to Axon Enterprise, Inc., Attn: Legal, 17800 North 85th Street, Scottsdale, Arizona 85255 with a copy to legal@axon.com.
- 18.12. **Entire Agreement.** This Agreement, the Appendices, including any applicable Appendices not attached herein for the products and services purchased, which are incorporated by reference and located in the Master Purchasing and Services Agreement located at <https://www.axon.com/sales-terms-and-conditions>, Quote and any SOW(s), represents the entire agreement between the Parties. This Agreement supersedes all prior agreements or understandings, whether written or verbal, regarding the subject matter of this Agreement. This Agreement may only be modified or amended in a writing signed by the Parties.



Master Services and Purchasing Agreement for Customer

Each Party, by and through its respective representative authorized to execute this Agreement, has duly executed and delivered this Agreement as of the date of signature.

AXON:

Axon Enterprise, Inc.

Signature: _____

Name: _____

Title: _____

Date: _____

CUSTOMER:

Signature: _____

Name: _____

Title: _____

Date: _____



Axon Cloud Services Terms of Use Appendix

1. Definitions.

- a. **"Customer Content"** is data uploaded into, ingested by, or created in Axon Cloud Services within Customer's tenant, including media or multimedia uploaded into Axon Cloud Services by Customer. Customer Content includes Evidence but excludes Non-Content Data.
 - b. **"Evidence"** is media or multimedia uploaded into Axon Evidence as 'evidence' by a Customer. Evidence is a subset of Customer Content.
 - c. **"Non-Content Data"** is data, configuration, and usage information about Customer's Axon Cloud Services tenant, Axon Devices and client software, and users that is transmitted or generated when using Axon Devices. Non-Content Data includes data about users captured during account management and customer support activities. Non-Content Data does not include Customer Content.
 - d. **"Provided Data"** means de-identified, de-personalized, data derived from Customer's TASER energy weapon deployment reports, related TASER energy weapon logs, body-worn camera footage, and incident reports.
 - e. **"Transformed Data"** means the Provided Data used for the purpose of quantitative evaluation of the performance and effectiveness of TASER energy weapons in the field across a variety of circumstances.
2. **Access.** Upon Axon granting Customer a subscription to Axon Cloud Services, Customer may access and use Axon Cloud Services to store and manage Customer Content. Customer may not exceed more end users than the Quote specifies. Axon Air requires an Axon Evidence subscription for each drone operator. For Axon Evidence Lite, Customer may access and use Axon Evidence only to store and manage TASER CEW and TASER CAM data ("**TASER Data**"). Customer may not upload non-TASER Data to Axon Evidence Lite.
3. **Customer Owns Customer Content.** Customer controls and owns all right, title, and interest in Customer Content. Except as outlined herein, Axon obtains no interest in Customer Content, and Customer Content is not Axon's business records. Customer is solely responsible for uploading, sharing, managing, and deleting Customer Content. Axon will only have access to Customer Content for the limited purposes set forth herein. Customer agrees to allow Axon access to Customer Content to (a) perform troubleshooting, maintenance, or diagnostic screenings; and (b) enforce this Agreement or policies governing use of the Axon products.
4. **Security.** Axon will implement commercially reasonable and appropriate measures to secure Customer Content against accidental or unlawful loss, access or disclosure. Axon will maintain a comprehensive information security program to protect Axon Cloud Services and Customer Content including logical, physical access, vulnerability, risk, and configuration management; incident monitoring and response; encryption of uploaded digital evidence; security education; and data protection. Axon agrees to the Federal Bureau of Investigation Criminal Justice Information Services Security Addendum for its digital evidence or records management systems.
5. **Customer Responsibilities.** Customer is responsible for (a) ensuring Customer owns Customer Content or has the necessary rights to use Customer Content (b) ensuring no Customer Content or Customer end user's use of Customer Content or Axon Cloud Services violates this Agreement or applicable laws; (c) maintaining necessary computer equipment and Internet connections for use of Axon Cloud Services and (d) verify the accuracy of any auto generated or AI generated reports. If Customer becomes aware of any violation of this Agreement by an end user, Customer will immediately terminate that end user's access to Axon Cloud Services.
- a. Customer will also maintain the security of end usernames and passwords and security and access by end users to Customer Content. Customer is responsible for ensuring the configuration and utilization of Axon Cloud Services meet applicable Customer regulation and standards. Customer may not sell, transfer, or sublicense access to any other entity or person. If Customer provides access to unauthorized third-parties, Axon may assess additional fees along with suspending Customer's access. Customer shall contact Axon immediately if an unauthorized party may be using Customer's account or Customer Content, or if account information is lost or stolen.
6. **Privacy.** Customer's use of Axon Cloud Services is subject to the Axon Cloud Services Privacy Policy, a current version of which is available at <https://www.axon.com/legal/cloud-services-privacy-policy>. Customer agrees to allow Axon access to Non-Content Data from Customer to (a) perform troubleshooting, maintenance, or diagnostic



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screenings; (b) provide, develop, improve, and support current and future Axon products and related services; and (c) enforce this Agreement or policies governing the use of Axon products.

7. **Axon Body Wi-Fi Positioning.** Axon Body cameras may offer a feature to enhance location services where GPS/GNSS signals may not be available, for instance, within buildings or underground. Customer administrators can manage their choice to use this service within the administrative features of Axon Cloud Services. If Customer chooses to use this service, Axon must also enable the usage of the feature for Customer's Axon Cloud Services tenant. Customer will not see this option with Axon Cloud Services unless Axon has enabled Wi-Fi Positioning for Customer's Axon Cloud Services tenant.

8. **Storage.** For Axon Unlimited Device Storage subscriptions, Customer may store unlimited data in Customer's Axon Evidence account only if data originates from Axon Capture or an Axon Device. Axon may charge Customer additional fees for exceeding purchased storage amounts. Axon may place Customer Content that Customer has not viewed or accessed for six (6) months into archival storage. Customer Content in archival storage will not have immediate availability and may take up to twenty-four (24) hours to access.

For Third-Party Unlimited Storage the following restrictions apply: (i) it may only be used in conjunction with a valid Axon's Evidence.com user license; (ii) is limited to data of the law enforcement Customer that purchased the Third-Party Unlimited Storage and the Axon's Evidence.com end user or Customer is prohibited from storing data for other law enforcement agencies; and (iii) Customer may only upload and store data that is directly related to: (1) the investigation of, or the prosecution of a crime; (2) common law enforcement activities; or (3) any Customer Content created by Axon Devices or Evidence.com.

9. **Location of Storage.** Axon may transfer Customer Content to third-party subcontractors for storage. Axon will determine the locations of data centers for storage of Customer Content. For United States agencies, Axon will ensure all Agency Content stored in Axon Cloud Services remains within the United States. Ownership of Customer Content remains with Customer.

10. **Suspension.** Axon may temporarily suspend Customer's or any end user's right to access or use any portion or all of Axon Cloud Services immediately upon notice, if Customer or end user's use of or registration for Axon Cloud Services may (a) pose a security risk to Axon Cloud Services or any third-party; (b) adversely impact Axon Cloud Services, the systems, or content of any other customer; (c) subject Axon, Axon's affiliates, or any third-party to liability; or (d) be fraudulent. Customer remains responsible for all fees incurred through suspension. Axon will not delete Customer Content because of suspension, except as specified in this Agreement.

11. **Axon Cloud Services Warranty.** Axon disclaims any warranties or responsibility for data corruption or errors before Customer uploads data to Axon Cloud Services.

12. **TASER Data Science Program.** Axon will provide a quantitative evaluation on the performance and effectiveness of TASER energy weapons in the field across a variety of circumstances.

If Customer purchases the TASER Data Science Program, Customer grants Axon, its affiliates, and assignees an irrevocable, perpetual, fully paid, royalty-free, and worldwide right and license to use Provided Data solely for the purposes of this Agreement and to create Transformed Data. Customer shall own all rights and title to Provided Data. Axon shall own all rights and title to Transformed Data and any derivatives of Transformed Data.

Axon grants to Customer an irrevocable, perpetual, fully paid, royalty-free, license to use to TASER Data Science report provided to Customer for its own internal purposes. **The Data Science report is provided "as is" and without any warranty of any kind.**

In the event Customer seeks Axon's deletion of Provided Data, it may submit a request to privacy@axon.com. Where reasonably capable of doing so, Axon will implement the request but at a minimum will not continue to collect Provided Data from Customer.

13. **Axon Records.** Axon Records is the software-as-a-service product that is generally available at the time Customer purchases an OSP 7 or OSP 10 bundle. During Customer's Axon Records Subscription Term, if any, Customer will be entitled to receive Axon's Update and Upgrade releases on an if-and-when available basis.

- a. The Axon Records Subscription Term will end upon the completion of the Axon Records Subscription as documented in the Quote, or if purchased as part of an OSP 7 or OSP 10 bundle, upon completion of the OSP 7 or OSP 10 Term ("**Axon Records Subscription**")



Master Services and Purchasing Agreement for Customer

- b. An "**Update**" is a generally available release of Axon Records that Axon makes available from time to time. An "**Upgrade**" includes (i) new versions of Axon Records that enhance features and functionality, as solely determined by Axon; and/or (ii) new versions of Axon Records that provide additional features or perform additional functions. Upgrades exclude new products that Axon introduces and markets as distinct products or applications.
 - c. New or additional Axon products and applications, as well as any Axon professional services needed to configure Axon Records, are not included. If Customer purchases Axon Records as part of a bundled offering, the Axon Record subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Records to Customer.
 - d. Users of Axon Records at the Customer may upload files to entities (incidents, reports, cases, etc) in Axon Records with no limit to the number of files and amount of storage. Notwithstanding the foregoing, Axon may limit usage should the Customer exceed an average rate of one-hundred (100) GB per user per year of uploaded files. Axon will not bill for overages.
14. **Axon Cloud Services Restrictions.** Customer and Customer end users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to:
- a. reverse engineer, disassemble, or decompile Axon Cloud Services or apply any process to derive any source code included in Axon Cloud Services, or allow others to do the same;
 - b. copy, modify, tamper with, repair, or create derivative works of any part of Axon Cloud Services;
 - c. access or use Axon Cloud Services with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas;
 - d. use Axon Cloud Serves as a service bureau, or as part of an Customer infrastructure as a service;
 - e. use trade secret information contained in Axon Cloud Services, except as expressly permitted in this Agreement;
 - f. access Axon Cloud Services to build a competitive device or service or copy any features, functions, or graphics of Axon Cloud Services;
 - g. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within Axon Cloud Services; or
 - h. use Axon Cloud Services to store or transmit infringing, libelous, or other unlawful or tortious material; material in violation of third-party privacy rights; or malicious code.
15. **Draft One** Axon may impose usage restrictions if a single user generates more than one hundred (100) reports per month for two or more consecutive months.
16. **After Termination.** Axon will not delete Customer Content for ninety (90) days following termination. Axon Cloud Services will not be functional during these ninety (90) days other than the ability to retrieve Customer Content. Customer will not incur additional fees if Customer downloads Customer Content from Axon Cloud Services during this time. Axon has no obligation to maintain or provide Customer Content after these ninety (90) days and will thereafter, unless legally prohibited, delete all Customer Content. Upon request, Axon will provide written proof that Axon successfully deleted and fully removed all Customer Content from Axon Cloud Services.
17. **Post-Termination Assistance.** Axon will provide Customer with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring Customer Content, including requests for Axon's data egress service, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.
18. **U.S. Government Rights.** If Customer is a U.S. Federal department or using Axon Cloud Services on behalf of a U.S. Federal department, Axon Cloud Services is provided as a "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data", as defined in the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. If Customer is using Axon Cloud Services on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, Customer will immediately discontinue use of Axon Cloud Services.



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19. **Survival.** Upon any termination of this Agreement, the following sections in this Appendix will survive: Customer Owns Customer Content, Privacy, Storage, Axon Cloud Services Warranty, Customer Responsibilities and Axon Cloud Services Restrictions.



Axon Application Programming Interface Appendix

This Appendix applies if Axon's API Services or a subscription to Axon Cloud Services is included on the Quote.

1. **Definitions.**

- 1.1. **"API Client"** means the software that acts as the interface between Customer's computer and the server, which is already developed or to be developed by Customer.
- 1.2. **"API Interface"** means software implemented by Customer to configure Customer's independent API Client Software to operate in conjunction with the API Service for Customer's authorized Use.
- 1.3. **"Axon Evidence Partner API, API or Axon API"** (collectively **"API Service"**) means Axon's API which provides a programmatic means to access data in Customer's Axon Evidence account or integrate Customer's Axon Evidence account with other systems.
- 1.4. **"Use"** means any operation on Customer's data enabled by the supported API functionality.

2. **Purpose and License.**

- 2.1. Customer may use API Service and data made available through API Service, in connection with an API Client developed by Customer. Axon may monitor Customer's use of API Service to ensure quality, improve Axon devices and services, and verify compliance with this Agreement. Customer agrees to not interfere with such monitoring or obscure from Axon Customer's use of API Service. Customer will not use API Service for commercial use.
- 2.2. Axon grants Customer a non-exclusive, non-transferable, non-sublicensable, worldwide, revocable right and license during the Term to use API Service, solely for Customer's Use in connection with Customer's API Client.
- 2.3. Axon reserves the right to set limitations on Customer's use of the API Service, such as a quota on operations, to ensure stability and availability of Axon's API. Axon will use reasonable efforts to accommodate use beyond the designated limits.

3. **Configuration.** Customer will work independently to configure Customer's API Client with API Service for Customer's applicable Use. Customer will be required to provide certain information (such as identification or contact details) as part of the registration. Registration information provided to Axon must be accurate. Customer will inform Axon promptly of any updates. Upon Customer's registration, Axon will provide documentation outlining API Service information.

4. **Customer Responsibilities.** When using API Service, Customer and its end users may not:

- 4.1. use API Service in any way other than as expressly permitted under this Agreement;
- 4.2. use in any way that results in, or could result in, any security breach to Axon;
- 4.3. perform an action with the intent of introducing any viruses, worms, defect, Trojan horses, malware, or any items of a destructive nature to Axon Devices and Services;
- 4.4. interfere with, modify, disrupt or disable features or functionality of API Service or the servers or networks providing API Service;
- 4.5. reverse engineer, decompile, disassemble, or translate or attempt to extract the source code from API Service or any related software;
- 4.6. create an API Interface that functions substantially the same as API Service and offer it for use by third parties;
- 4.7. provide use of API Service on a service bureau, rental or managed services basis or permit other individuals or entities to create links to API Service;
- 4.8. frame or mirror API Service on any other server, or wireless or Internet-based device;
- 4.9. make available to a third-party, any token, key, password or other login credentials to API Service;
- 4.10. take any action or inaction resulting in illegal, unauthorized or improper purposes; or
- 4.11. disclose Axon's API manual.

5. **API Content.** All content related to API Service, other than Customer Content or Customer's API Client content, is



considered Axon's API Content, including:

- 5.1. the design, structure and naming of API Service fields in all responses and requests;
 - 5.2. the resources available within API Service for which Customer takes actions on, such as evidence, cases, users, or reports;
 - 5.3. the structure of and relationship of API Service resources; and
 - 5.4. the design of API Service, in any part or as a whole.
6. **Prohibitions on API Content**. Neither Customer nor its end users will use API content returned from the API Interface to:
- 6.1. scrape, build databases, or otherwise create permanent copies of such content, or keep cached copies longer than permitted by the cache header;
 - 6.2. copy, translate, modify, create a derivative work of, sell, lease, lend, convey, distribute, publicly display, or sublicense to any third-party;
 - 6.3. misrepresent the source or ownership; or
 - 6.4. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices).
7. **API Updates**. Axon may update or modify the API Service from time to time ("**API Update**"). Customer is required to implement and use the most current version of API Service and to make any applicable changes to Customer's API Client required as a result of such API Update. API Updates may adversely affect how Customer's API Client access or communicate with API Service or the API Interface. Each API Client must contain means for Customer to update API Client to the most current version of API Service. Axon will provide support for one (1) year following the release of an API Update for all depreciated API Service versions.



FUSUS APPENDIX

1. **Access.** Upon Axon granting Customer a subscription to FUSUS cloud services in the Quote, Customer may access and use FūsusONE Real Time Interoperability Solution services to for the purpose of viewing and managing Customer Content. Some Customer content contained in Axon's Evidence.com may not be accessible or transferable to the FUSUS cloud services.

2. **Product Limits.** The following limitations apply to the below products:

	Lite	Basic	Pro	Enterprise	Enterprise Plus
Total Number of Managed End Points	150	150	500	1500	4500
Max Number of Video Streams Connected	0	150	500	1500	4500
Indefinite Cloud Storage		2TB	5TB	10TB	30TB

Overages may result in additional fees or the need to upgrade products.

3. **Disclaimer.** Customer is responsible for use of any internet access devices and/or all third-party hardware, software, services, telecommunication services (including Internet connectivity), or other items used by Customer to access the service ("Third-Party Components") are the sole and exclusive responsibility of Customer, and Axon has no responsibility for such Third-party Components, FUSUS cloud services, or Customer relationships with such third parties. Customer agrees to at all times comply with the lawful terms and conditions of agreements with such third parties. Axon does not represent or warrant that the FUSUS cloud services and the Customer Content are compatible with any specific third-party hardware or software or any other Third-Party Components. Customer is responsible for providing and maintaining an operating environment as reasonably necessary to accommodate and access the FUSUS cloud services.
4. **Data Privacy.** Axon may collect, use, transfer, disclose and otherwise process Customer Content in the context of facilitating communication of data with Customer through their use of FUSUS cloud services FUSUS app (iOS or Android interface), complying with legal requirements, monitoring the Customer's use of FUSUS systems, and undertaking data analytics. Customer Content saved in Axon Cloud Services is the sole property of Customer and may not be distributed by Axon to any third parties outside of the Customer's organization without the Customer's expressed written consent.



Item Report

TO: The Honorable Mayor and City Council

FROM: Ricky Stewart, Public Works Director

DATE: December 9, 2024

TITLE: **Resolution: Landscape Services**
 Consideration for approval of a Resolution awarding the bid and contract for landscape services to Creative Cuts Landscapes DBA Creative Landscape Group.

Summary:

The City issued a Request for Proposals (RFP) for landscape services for City Hall, Watts Drive medians, Southern Museum, Depot Park (including the Plaza area), Gateway Park, and Commemorative Park. The bids received included a base bid for maintenance of each site as well as an added alternate bid for mulching and annual flowers for each site. Four proposals were received with Creative Landscape Group being the lowest bid of \$107,405.25 per year. This will be a three-year contract with five one-year renewal options.

Recommendation:

It is the Public Works Director's recommendation that Council approve the bids and award the contract to Creative Cuts Landscapes DBA Creative Landscape Group.

Fiscal Impact:

100-4200-52-125000-00000 Other Professional Services

Attachments:

1. RES 2024 - Landscape Services Creative Landscape
2. 2024 Landscape Services Agreement (Final)
3. Proposal
4. Bid Tab
5. 2024 RFP Landscape Services

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2024-____, 2024

**RESOLUTION TO APPROVE BIDS AND AWARD THE CONTRACT FOR LANDSCAPE
SERVICES TO CREATIVE CUTS LANDSCAPES DBA CREATIVE LANDSCAPE GROUP**

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

WHEREAS, the City issued a Request for Proposals (RFP) for landscape services for City Hall, Watts Drive medians, Southern Museum, Depot Park (including the Plaza area), Gateway Park and Commemorative Park; and

WHEREAS, the bids received included a base bid for maintenance of each site, as well as an add alternate bid for mulching and annual flowers for each site; and

WHEREAS, four proposals were received with Creative Landscape Group being the lowest bid of \$107,405.25 per year.

THEREFORE, BE IT RESOLVED the Kennesaw City Council authorizes the mayor to execute an agreement with Creative Cuts Landscapes DBA Creative Landscape Group for landscape services.

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

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

ATTEST:

CITY OF KENNESAW

Lea Alvarez, City Clerk

Derek Easterling, Mayor

LANDSCAPE SERVICES AGREEMENT

This Landscape Service Agreement (this "Agreement") is made and entered into this the _____ day of _____, 2024, by and between the City of Kennesaw, Georgia, hereinafter referred to as ("City"), and Creative Cuts Landscapes DBA Creative Landscape Group hereinafter referred to as ("Contractor").

WITNESSETH

WHEREAS, The City issued a Request for Proposals ("RFP"), for "Landscape Services" a copy of which is attached hereto as Attachment A and incorporated herein by reference, seeking proposals for landscape services for City Hall, Watts Drive medians, Southern Museum, Depot Park (including the Plaza area), Gateway Park and Commemorative Park; and

WHEREAS, the bids received included a base bid for maintenance of each site, as well as an add alternate bid for mulching and annual flowers for each site; and

WHEREAS, The Contractor submitted a proposal response to the RFP, which is attached hereto as Attachment B and incorporated herein by reference;

WHEREAS, City Council voted on _____, 2024 to enter into an Agreement with the Contractor, which included landscape services for City Hall, Watts Drive medians, Southern Museum, Depot Park (including the Plaza area), Gateway Park and Commemorative Park and installation of mulch and annual flowers for the City of Kennesaw.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. DEFINITIONS

As used herein, and notwithstanding any other contrary definition given these terms under Georgia law, the parties hereto specifically agree that the terms defined below shall, for the purpose of this Agreement, have the meanings as set forth in this Section. The words "shall," "will" and "must" are always mandatory and not merely discretionary. The word "may" indicates something that is not mandatory but permissible. When not inconsistent with the context, words in the plural shall include the singular and vice versa, words importing persons shall include firms and corporations, words in the present tense shall include the future tense and use of the masculine gender shall include the feminine gender. The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms, shall refer to this Agreement; the term "heretofore" shall mean before the date of adoption of this Agreement; and the term "hereafter" shall mean after the initial date of adoption of this Agreement.

2. TERM

This Agreement shall be binding on all parties for a period of three (3) years with five (5), one (1) year renewal options beginning January 1, 2025, and ending December 31, 2032 ("Initial Term"). The Initial Term will be automatically extended for subsequent additional five (5) one (1) year periods (each one (1) year period an "Extension Term" and together with the Initial Term, the "Term") unless either party provides written notice to the other of its intention not to extend this Agreement not less than ninety (90) days prior to the expiration of the then-current term. This Agreement is subject to the multi-year contractual provisions of O.C.G.A 36-60-13(a). This Agreement shall terminate absolutely and without further obligation on the part of the City at the close of the fiscal year in which it is executed and at the close of each succeeding fiscal year for which it may be renewed. This Agreement shall automatically renew each fiscal year unless the City provides ninety (90) days written notice to the Contractor of its intention to terminate the Agreement at the end of the then current fiscal year.

3. PERFORMANCE BOND

- 3.1 Contractor will be required to furnish for each year of this Agreement a corporate surety bond as security for the performance of this Agreement (the "Performance Bond"), as set forth in Appendix A hereto. Said surety bond must be in an amount equal to the annual contract price or \$500,000.00, whichever is greater and shall be provided annually at the beginning of each contract year.
- 3.2 The premium for the Performance Bond described above shall be paid by Contractor. A certificate from the surety showing that the bond premiums are paid in full shall accompany the Performance Bond.
- 3.3 The surety on the bond shall be a duly authorized corporate surety company authorized to transact business in the State of Georgia.
- 3.4 Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended).
- 3.5 Power of Attorney: Attorneys-In-fact who sign performance bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney. The Contractor will be required to furnish a performance bond as security for the faithful performance of the contract.

4. SERVICES

4.1 TURF MAINTENANCE

The Contractor shall provide mowing of each site on a weekly basis between the dates of April 1 and October 31. Mowing will be bi-monthly between November 1 and March 31. Cutting height is to meet the required needs of the turf and may vary throughout the season.

4.2 TRIMMING / EDGING

The Contractor shall provide string trimming around all buildings, trees, etc. weekly, regardless of mowing schedule. Edging of bed lines, curbs and sidewalks shall be provided weekly, regardless of mowing schedule.

4.3 BED MAINTENANCE

The Contractor shall prune all shrubs as needed to maintain shape throughout the year with a minimum three prunings. Trees shall be pruned as needed to maintain shape and walking clearances. Beds will remain weed free by pulling and/or spraying on a weekly basis.

4.4 FALL MAINTENANCE

Leaf removal shall be the responsibility of the Contractor. Leaves shall be disposed of offsite unless an approved area is provided on site.

4.5 WINTER MAINTENANCE

The Contractor shall be responsible for heavy pruning and tree limbing from January through March. This shall include decorative grasses, roses, crepe myrtles, etc. The Contractor will be responsible for the removal and disposal of the pruning debris.

4.6 INSECT CONTROL

It will be the Contractor's responsibility to maintain an insect free site. Applications for ants or other insects will be required as needed.

4.7 GENERAL MAINTENANCE

The Contractor shall blow all curbs, sidewalks and parking lots upon each visit. Litter will be removed and disposed of from each site.

4.8 MULCH / PINESTRAW

Brown wood mulch shall be installed once per year, in January. Old wood mulch shall be removed and disposed of before the installation of new wood mulch. Wood mulch is to be used in all beds and tree wells. Pine straw shall be installed twice per year, in January and July. Pine straw is to be used on the steep slopes of Depot Park, the perimeter of the wetlands of Depot Park and the slope above the railroad underpass of the plaza area.

4.9 ANNUAL FLOWERS

Annual flowers shall be installed twice per year, in spring and in fall. Plant selection shall be approved by the City. Removal of the old material, installation of mulch and fertilizer application shall be included.

5. BILLING

The Contractor shall provide the City with a monthly invoice equivalent to 1/12 of the annual contract amount.

6. ADJUSTMENTS

- 6.1 The Contractor and the City shall reach a mutual agreement prior to any cost increases being approved. Proposed annual adjustments must be submitted to the City by October 1 for consideration for the next contract year. Contract terms will be from January 1 through December 31.
- 6.2 Adjustments of quantities by reason of change in site size or scope shall be a negotiated increase or deduction to the annual contract cost. Any adjustment shall be reflected in the next monthly invoice.

7. BOOKS AND RECORDS

The City and Contractor shall maintain at their respective places of business adequate books and records relating to the performance of their respective duties under the provisions of this Agreement and such books and records shall be made available at any time during business hours for inspection by the other party, at the inspecting party's expense, upon reasonable advance notice. The Contractor will maintain, for a period of five (5) years after termination of this Agreement, a copy of all records.

8. DAMAGES FOR FAILURE TO PERFORM AND TERMINATION FOR CAUSE

- 8.1 The City expects a high level of service. Performance failures will be discouraged, to the extent possible, through penalties for certain infractions and through default and termination under more serious performance failures.
- 8.2 The Contractor will be penalized the amount of Five Hundred Dollars (\$500.00) per day for each day it fails to provide services as required in this agreement.

9. INDEPENDENT CONTRACTOR

Contractor, in the performance of this Agreement, is acting as an independent contractor and not as an employee, agent, partner, or joint venture of City, and neither party shall not hold itself out as such or knowingly permit another to rely on such belief. Nothing in this Agreement is intended or shall be construed to create any association, partnership, joint venture, or employment relationship between the parties, nor shall the Contractor have any right to enter into any agreement or commitment on behalf of City or to bind the City in any respect whatsoever. Contractor's personnel shall not be considered employees of the City by reason of their performance of the Services or other work or services contemplated by this Agreement and Contractor shall bear sole responsibility for all payroll and employment taxes, workers compensation, or other benefit relating to Contractor's personnel.

10. REPRESENTATIONS OF CONTRACTOR

- 10.1 Contractor currently has, and will maintain throughout the term, all permits and licenses required by law for the provision of the services, and will provide the services in accordance in all material respects with applicable laws. Contractor will comply with all Federal and State requirements concerning fair employment and concerning the treatment of all employees without regard or discrimination by reason of race, color, religion, sex, national origin, or physical disability.
- 10.2 Employment Eligibility Verification. 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. A federal immigration verification 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.

11. BREACH: TERMINATION

If either party reasonably concludes that the other is in material breach of this Agreement, such party shall so notify the other party in writing, including a detailed description of the material breach. Unless otherwise set forth herein, the party alleged to be in breach shall be allowed up to thirty (30) days after notice by the other party in which to make necessary adjustments to remedy said deficiencies or to take action to remedy any deficiencies that require longer than thirty (30) days to cure. In the event the breaching party fails to correct (or take action to correct) such deficiencies within thirty (30) days after written notice of the deficiencies or breach, then the other party may terminate this Agreement. Neither party shall be liable to the other for any special, consequential, or punitive damages.

12. INDEMNIFICATION

Contractor agrees to indemnify and hold the City, its elected officials, officers, employees, appointees, and attorneys harmless from and against any and all claims, liabilities, demands, and causes of action arising out of Contractor's negligence in performance of the Services or arising out of Contractor's failure to comply with the provisions of this Agreement. Notwithstanding the foregoing, under no circumstances will Contractor be required to indemnify City with respect to any claims, liabilities, demands, or causes of action arising out of the City's negligence, willful misconduct, or failure to comply with the provisions of this Agreement.

13. FORCE MAJEURE

- 13.1. If the City or Contractor is unable to perform or is delayed in its performance of any of its obligations under this Agreement by reason of any event of Force Majeure, such inability or delay shall be excused at any time during which compliance therewith is prevented by such event and during such period thereafter as may be

reasonably necessary for the City or Contractor to correct the adverse effect of such event of Force Majeure.

- 13.2. An event of "Force Majeure" shall mean any events or circumstances beyond the reasonable control of the affected party to the extent that the events or circumstances delay the City or Contractor from performing any of the obligations under the Agreement, including, but not limited to, ; Acts of God, tornadoes, hurricanes, floods, sinkholes, fires, and explosions (except those caused by negligence of Contractor, its agents, and assigns), landslides, earthquakes, epidemics, quarantine, pestilence, and extremely abnormal and excessively inclement weather; and acts of a public enemy, acts of war, terrorism, effects of nuclear radiation, blockages, insurrections, riots, civil disturbances, or national or international calamities.
- 13.3. In order to be entitled to the benefit of this section, a party claiming an event of Force Majeure shall give prompt written notice to the other party specifying in detail the event of Force Majeure and shall further use its best efforts to cure the event of Force Majeure.
- 13.4. The City will grant such variances in routes and schedules as are reasonably required in the event of Force Majeure, and will negotiate with Contractor fees for any additional work that Contractor may agree to perform in such event. At all times, the City reserves the right to enter into contracts for the waste generated in a Force Majeure event with additional and/or other available companies as needed if the parties cannot agree to the terms for such additional work.

14. ASSIGNMENT

Neither party may assign this Agreement, or the rights hereunder, without prior written approval of the other, which approval will not be unreasonably withheld; provided, however, that City may assign this Agreement to an affiliate of City without the prior approval of Contractor.

15. INSURANCE

Contractor shall be required to furnish the City of Kennesaw with satisfactory proof of insurance coverage via an Accord 25 Certificate. The City shall be named as an additional insured on all liability insurance coverage policies. A copy of the insurance requirements are shown in Attachment 3 of this Agreement.

16. NOTICE

All notices and other communications hereunder will be in writing and may be given by personal delivery, nationally recognized express courier, registered or certified mail (return receipt requested), or facsimile (receipt confirmed). Such notice will be deemed effective when received if it is given by personal delivery, nationally recognized express courier, or facsimile, and will be effective three (3) days after mailing by registered or certified mail, so long as it is actually received within five (5) days (and, if not so received within five (5) days, is effective when actually received) by the parties at the following addresses (or at such other address for a party as will be specified by like notice):

If to Contractor, to:

Creative Landscape Group
1265 Acworth Due West Rd NW
Kennesaw, GA 30152
Attn: General Manager
Telephone No.: (770) 757-9891

If to City, to:

City of Kennesaw, Public Works
3080 Moon Station Road
Kennesaw, GA 30144
Attn: Public Works Director
Telephone No: 770-421-8582

17. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding between the parties, and cancels and supersedes all prior negotiations, understandings, and agreements, oral or written, relating to the provision of the services described herein.

18. SEVERABILITY

If any part of this Agreement for any reason is declared invalid, such decision shall not affect the validity of any remaining portion, which remaining portion shall remain in force and effect as if this Agreement had been executed with the invalid portion thereof eliminated. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. It is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including any such part, parts or portions which may, for any reason, be hereinafter declared invalid.

19. NO WAIVER

Neither any failure nor any delay by any party in exercising any right, power, or privilege under this Agreement or any of the documents referred to in this Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege.

20. EXECUTION IN COUNTERPARTS

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

21. GOVERNING LAW

This Agreement shall be construed, enforced, and interpreted in accordance with the laws of the State of Georgia. Venue and jurisdiction over all disputes under this Agreement shall lie exclusively in the Superior Court of Cobb County, Georgia

22. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and the Parties agree to execute all documents and to proceed with due diligence to complete all covenants and conditions set forth herein.

23. CONSTRUCTION

The terms of this Agreement are a joint effort of the parties, and it should be construed with fairness as between the parties and no more strictly enforced against one or the other.

IN WITNESS WHEREOF, the City of Kennesaw and Republic Services Waste Industries LLC have executed this Sanitation Collection Services Agreement as of the date first set forth above.

CITY OF KENNESAW, GEORGIA

Derek Easterling, Mayor
City of Kennesaw

ATTEST:

Approved as to form:

City Clerk

City Attorney

CONTRACTOR: Creative Cuts Landscapes DBA Creative Landscape Group

By: _____

Title: _____

ATTEST:

Corporate Secretary (Seal)

Sworn and subscribed before me this

____ day of _____, 2024. _____
WITNESS

Notary Public
Commission Expires

ATTACHMENT 3

INSURANCE REQUIREMENTS

The Contractor shall be responsible to the City from the time of the signing of the agreement or the beginning of the first work, whichever shall be earlier, for all injury or damage of any kind resulting from any negligent act or omission or breach, failure, or other default regarding the Work by the Contractor, or any of its subcontractors, its agents, employees, or others working at the direction of the Contractor or on its behalf. The Contractor shall procure the insurance coverage identified below at the Contractor's expense and shall furnish the City an insurance certificate listing the City of Kennesaw as the certificate holder and as an additional insured and should read "The City of Kennesaw, Georgia, 2529 J.O. Stephenson Ave., Kennesaw, GA 30144". Occurrence coverage is required. Claims-made coverage is not acceptable. The insurance certificate must provide the following:

- (a) Name and address of authorized representative
- (b) Name and address of insured
- (c) Name of insurance company(ies)
- (d) Description of policies
- (e) Policy Number(s)
- (f) Policy Period(s)
- (g) Limits of liability
- (h) Name and address of City as certificate holder
- (i) Project Name and Number
- (j) Signature of authorized representative
- (k) Telephone number of authorized representative
- (l) Email address of authorized representative
- (m) Mandatory thirty-day notice of cancellation or non-renewal of General Liability and Auto Liability policies via insurer's authorized representative.

The insurance coverage required below shall be issued by a company licensed by the Georgia Insurance Commissioner to transact the business of insurance in the State of Georgia for the applicable line of insurance and shall be an insurer with a Best Policyholders Rating of "A-" or better and with a financial size rating of Class V or larger. Each such policy shall contain the following provisions:

- (a) The insurance company agrees that the policy shall not be canceled, materially changed, allowed to lapse or non-renew until thirty days after the City has received written notice thereof, as evidenced by return receipt of certified mail or statutory mail, or until such time as other insurance coverage providing protection equal to protection called for in the contract shall have been received, accepted and acknowledged by the City.
- (b) The policy shall not be subject to invalidation as to any insured by reason of any act or omission of another insured or any of its officers, employees, agents, or other representatives.
- (c) All deductibles shall be paid for by the Contractor.
- (d) These policies shall be primary, noncontributing with any applicable insurance carried by the City of Kennesaw and shall contain a severability of interests clause in respect to

cross liability, protecting each additional insured as though a separate policy had been issued to each.

- (e) An Accord 25 Certificate evidencing each policy shall be furnished, in duplicate, to the City, at least fifteen (15) days prior to commencement of services under the signed contract.

The Contractor also agrees to purchase insurance and have the authorized agent stated on the insurance certificate that the Contractor has purchased the following types of insurance coverage, consistent with the policies and requirements of O.C.G.A. §50-21-37. The minimum required coverage and liability limits are as follows:

- (a) The Contractor agrees to provide Workers' Compensation coverage in accordance with the statutory limits as established by the General Assembly of the State of Georgia. A group insurer must submit a certificate of authority from the Insurance Commissioner approving the group insurance plan. The Contractor shall require all subcontractors performing work under the contract to obtain an insurance certificate showing proof of Workers' Compensation Coverage and shall submit a certificate on the letterhead of the Contractor in the following language: *This is to certify that all Subcontractors performing work on this Project are covered by their own workers' compensation insurance or are covered by the Contractor's workers' compensation insurance.*

State of Georgia statutory limits required:

- (i) \$1,000.000 Worker's Compensation;
 - (ii) \$1,000.000 each accident;
 - (iii) \$1,000.000 disease policy limit; and
 - (iv) \$1,000.000 disease each employee.
- (b) The Contractor shall provide Commercial General Liability Insurance that shall include, but need not be limited to, coverage for bodily injury and property damage arising from premises and operations liability, products and completed operations liability, blasting and explosion, collapse of structures, underground damage, personal injury liability and contractual liability. The CGL policy must include separate aggregate limits per Project and shall provide at a minimum the following limits:
 - (i) Premises and Operations \$ 1,000,000.00 per Occurrence;
 - (ii) Products and Completed Operations \$ 1,000,000.00 per Occurrence;
 - (iii) Personal Injury \$ 1,000,000.00 per Occurrence;
 - (iv) Contractual \$ 1,000,000.00 per Occurrence (unless included under General Liability); and
 - (v) General Aggregate \$ 2,000,000.00.
- (c) The Contractor shall provide Commercial Business Automobile Liability Insurance that shall include coverage for bodily injury and property damage arising from the operation of any owned, non-owned, or hired automobile. The Commercial Business Automobile Liability Insurance Policy shall provide not less than \$1,000,000 Combined Single Limit Bodily Injury, Property Damage for each occurrence.



**CITY OF KENNESAW
2529 J.O. STEPHENSON AVE.
KENNESAW, GA 30144**

REQUEST FOR PROPOSAL (RFP)

LANDSCAPE SERVICES

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**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

INVITATION TO PROPOSAL

Sealed proposals will be received by the City of Kennesaw, City Clerk, 2529 J.O. Stephenson Avenue, Kennesaw, Georgia 30144, until 3:00 pm on Friday, November 22, 2024, from qualified contractors for landscape services. Proposals received after the deadline will not be considered.

The Contractor shall provide, in a good workmanlike manner, the services called for and described herein which consists of all supervision, equipment, labor, and all other items necessary to provide the City with complete landscape maintenance and to complete said work in accordance with the provision. Placement of mulch and installation of annual flowers may also be considered as part of the work.

The City of Kennesaw will consider contracting landscape maintenance for City Hall / Watts Drive, Southern Museum, Depot Park (to include the park, amphitheater, outdoor classroom and plaza areas), Gateway Park and Commemorative Park (to include parking lot area).

A mandatory pre-proposal meeting will be held Friday, November 15, at 3:00 pm in the Public Works Training Room, 3080 Moon Station Rd., Kennesaw, GA. Any questions should be emailed to Ricky Stewart at rstewart@kennesaw-ga.gov no later than twenty-four (24) hours prior to the mandatory pre-bid meeting. All proposals will be rejected from companies whose representative(s) did not attend the pre-proposal meeting.

Copies of the proposal document may be attained by contacting the City Clerk's Office at cburgner@kennesaw-ga.gov. Technical questions should be addressed to Ricky Stewart at rstewart@kennesaw-ga.gov.

No proposal will be considered unless accompanied by a certified check or acceptable proposal bond in an amount not less than five percent (5%) of the bid made payable to the City of Kennesaw.

The successful contractor will be required to furnish a performance bond as security for the faithful performance of this Contract. Said performance bond must be in an amount equal to the annual contract price or \$1,500,000, whichever is greater.

No proposer may withdraw his/her proposal within ninety (90) days after the actual date of the opening thereof.

The successful proposer will be notified by the City of acceptance of the proposal. The successful proposer must submit an executed Contract and Certificate of Insurance before a Notice to Commencement can be issued. Upon receipt of the Notice to Commence, the successful proposer shall begin work with the adequate force and equipment on the date specified.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

1.0 PROPOSAL SUBMITTAL

1.1 The proposal submittal package shall consist of those documents identified below. All documents must be completed and included as part of the proposal submittal package. No interlineations, additions, or deletions shall be made to the documents submitted. All information on the documents must be completed in ink or typewritten and executed by an officer or employee of the company or firm having authority to bind the company or firm, when submitted. Erasures or other changes to responses of the proposers must be noted and signed by the proposer on the page where they occur. Failure to follow instructions in completing any part of the proposal submittal package may cause the proposal to be deemed non-responsive and be rejected.

- a. Completed **Proposal Form** (page 9)
- b. A comprehensive and detailed technical and business prospectus not longer than ten (10) pages, descriptively outlining:
 - Vendor's ability to adequately and satisfactorily perform services outlined in this RFP.
 - Evidence, in form and substance satisfactory to the City, that the proposer has not less than five (5) years actual operating experience in landscape maintenance.
 - Provide at least three (3) references of cities similar in size and scope, which are or have been under contract with the Contractor; include contact name, position, phone number, and email address.
- c. Proposal Bond or certified check in the amount of five percent (5%) of the proposal price made payable to the City of Kennesaw
- d. E-Verify Form(s)

1.2 Three (3) copies of the proposal submittal package shall be submitted in a sealed envelope, plainly marked with proposer's name, address, and "**Landscape Services**" on the outside of the envelope to the City Clerk's Office, 2529 J.O. Stephenson Avenue, Kennesaw, Georgia, before **3:00 pm on Friday, November 22, 2024**, at which time all proposals will be publicly opened in the City Hall Training Room; same address as City Clerk Office. Proposals received after the deadline will not be considered.

2.0 NOTICE OF OTHER REGULATIONS AND REQUIREMENTS

- 2.1 Proposers are required to examine the Specifications carefully and to make such examinations of the site of the project as necessary to familiarize themselves with the nature and extent of the tasks to be completed and with all local conditions and/or laws and regulations, which may affect the work. The City of Kennesaw will not be responsible for the proposer's errors or misjudgment, nor for any information or lack of information, on location conditions, or general laws and regulations.
- 2.2 Failure of a proposer to be aware of any regulations shall not excuse compliance, regardless of whether specifically cited in the Contract Documents and Specifications or any related document.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

3. AUTHORITY TO SIGN

- 3.1 If a proposal is made by an individual, the name and mailing address must be shown. If made by a firm or partnership, the name and mailing address of each member of the firm or partnership must be shown. If made by a corporation, the Corporate Certificate must be executed.
- 3.2 The proposer should ensure that the legal and proper name of his/her proprietorship, firm, partnership, or corporation is printed or typed in the space provided.

4. PROPOSAL SECURITY AND PERFORMANCE BONDS

- 4.1 Proposals must be accompanied by a certified check jointly to "The City of Kennesaw" or acceptable proposal bond in an amount not less than five percent (5%) of the amount of proposal. The proposal bond shall be secured by a guaranty or surety company listed in the latest issue of the United States Treasury Circular 570. The amount of the proposal bond must be within the maximum amount specified for such guaranty or surety company by Circular 570. **No proposal will be considered unless it is accompanied by the required security.**
- 4.2 Attorneys-in-Fact who sign proposal bonds must file with the bond a certified and effectively dated copy of their Power of Attorney.
- 4.3 Checks and bonds will be returned promptly after the City and the selected contractor have executed the Contract, or, if no contractor's proposal has been selected within ninety (90) days after the date of the opening of the proposals, so long as the Proposer has not been notified of the acceptance of its proposal.
- 4.4 The successful contractor will be required to furnish a performance bond as security for the faithful performance of the contract. Said performance bond must be in an amount equal to the annual contract price or \$1,500,000, whichever is greater.

5. RIGHTS RESERVED

- 5.1 The City of Kennesaw reserves the right to reject any or all proposals, to waive informalities and to re-advertise. The City of Kennesaw also reserves the right to reject proposals which are non-confirming, or to reopen the proposal if all proposals are in excess of funds available for the project.
- 5.2 The City of Kennesaw reserves the right to reject any or all proposals from proposers who are declared non-responsive. A proposer who cannot demonstrate sufficient financial resources to perform the contract within the time specified or who has failed to successfully perform previous contracts, or whose lack of character, integrity, reputation, judgment, and experience raises questions about the successful completion of the work may be declared non-responsive. Any proposer whose lack of

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

compliance with laws, ordinances and regulations relating to similar projects of similar character may also be declared non-responsive.

- 5.3 Proposers failing to include all documents in the submittal package as required by the proposal requirements may cause the proposal to be declared as non-responsive and be rejected. The failure to follow instructions in completing any part of the proposal package may also cause the proposal to be declared non-responsive and be rejected.
- 5.4 The City of Kennesaw reserves the right to reject any proposal, which contains unauthorized additions, conditions, limitations, or provisions to the terms of the proposal, including such changes, which result from interlineations, additions, or deletions made to the documents in the proposal package.

6. AWARD OF CONTRACT

- 6.1 The term of service shall be three (3) years with five (5), one (1) year renewal options pending agreement of both parties. Should either the City or contractor elect not to renew and extend the contract, notice must be given, by certified mail (return receipt requested) to the other party in writing not less than ninety (90) days prior to the expiration of each renewal period.
- 6.2 The contract for the work, if awarded, will be awarded to the lowest reliable proposer whose proposal shall have met all the prescribed requirements.
- 6.3 The contract shall be executed on the form provided by the City of Kennesaw to the successful proposer (hereinafter, the "Contractor"). The contract shall form a binding contract between the contracting parties.
- 6.4 The contract performance bond shall be in an amount equal to the annual contract price or \$1,500,000, whichever is greater. All bonds must be provided by a company qualified to do business in Georgia and shall meet all requirements under federal, state, and local laws, including but not limited to, Sections 13-10-1 *et seq.*, 32-2-70, and 36-10-1 *et seq.* of the Official Code of Georgia.

7. FAILURE TO EXECUTE CONTRACT

- 7.1 Failure to execute contract, contract performance bond and payment bond, or furnish satisfactory proof of insurance coverage as required within ten (10) days after the date of Notice of Award of the contract shall be just cause for the annulment of the award and for the forfeiture of the proposal bond, not as a penalty, but as liquidation of damages sustained. At the discretion of the City of Kennesaw, the award may then be made to the next lowest responsible and responsive proposer, or the project may be re-advertised.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

8. INSURANCE, PROOF OF COVERAGE

8.1 The Contractor shall be required to furnish the City of Kennesaw with satisfactory proof of insurance coverage consistent with the policies and requirements of O.C.G.A. §50-21-37 and as specified in the contract agreement. A copy of the insurance requirements is shown in Attachment 3 of this document.

9. TIME

9.1 The Contractor shall commence work with adequate force and equipment on a date specified in a written "Notice to Proceed" order from the City of Kennesaw.

10. CONDITIONS

10.1 Each proposer shall fully acquaint himself with conditions relating to the scope and restrictions attending the execution of the work under the contract. It is also expected that the Contractor will obtain information concerning the conditions at locations that may affect its work.

10.2 Except with respect to events or conditions, which are not discoverable, the Contractor shall make his own determination as to conditions, shall assume all risk and responsibility, and shall complete the work in and under conditions, he may encounter or create, without extra cost to the City.

10.3 The contract and proposal documents contain the provisions required for completion of the work to be performed. Information obtained from an office, agent, or employee of the City of Kennesaw or any other person shall not affect the risks or obligations assumed by the Contractor or relieve him/her from fulfilling any of the conditions of the contract. Each proposer is responsible for inspecting the site and for reading and being thoroughly familiar with the contract documents. The failure or omission of any proposer to familiarize himself/herself shall in no way relieve the proposer from any obligation in respect to his/her proposal.

11. ADDENDA AND INTERPRETATION

11.1 No interpretation of the meaning of the contract documents will be made orally to any Proposer. Any request for such interpretation should be in writing, via email, to the City Clerk. Each such interpretation shall be given in writing, separately numbered and dated and furnished to each interested proposer at least three (3) days, excluding Saturdays, Sundays and legal holidays, prior to the proposal opening date. Any request not received three (3) days prior to proposal opening date will not be accepted because of the difficulty in completing the interpretation and making distribution to each proposer.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

12. PUBLIC RECORDS DISCLOSURE:

- 12.1 All RFP's submitted to the City are subject to public disclosure pursuant to the Georgia's Open Records Act.

CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL

PROPOSAL FORM

Landscape Services

TO: CITY OF KENNESAW

FROM: Creative Cuts Landscapes DBA Creative Landscape Group

THE UNDERSIGNED PROPOSER, having familiarized themselves with the work required by the proposal documents, the site where the work is to be performed, all laws, regulations, and other factors affecting performance of the work, and having satisfied itself/himself/herself of the expense and difficulties attending to the performance of the work;

HEREBY agrees if selected to enter into a contract and perform all work necessary to the successful completion of the contract as indicated and specified in the RFP documents for the total contract price(s) shown on the attached Proposal Price Sheet.

Name of Firm: Creative Cuts Landscapes DBA Creative Landscape Group

Firm Address: 1265 Acworth Due West Rd NW Kennesaw, GA 30152

Federal Identification No: 46-2284024

Email: creativecutslandscapes@gmail.com

Telephone No: (770) 757-9891

Fax No: n/a

By: Chase Caccavale 11-19-24

 (Signature)

(Title)
President

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

SPECIFICATIONS

1. GENERAL

It is the intention of these specifications to establish and define the work to be performed and, in addition, to determine the capability and experience of the company desiring to provide such services.

2. SCOPE OF WORK

2.1 TURF MAINTENANCE

The Contractor shall provide mowing of each site on a weekly basis between the dates of April 1 and October 31. Mowing will be bi-monthly between November 1 and March 31. Cutting height is to meet the required needs of the turf and may vary throughout the season.

2.2 TRIMMING / EDGING

The Contractor shall provide string trimming around all buildings, trees, etc. weekly, regardless of mowing schedule. Edging of bed lines, curbs and sidewalks shall be provided weekly, regardless of mowing schedule.

2.3 BED MAINTENANCE

The Contractor shall prune all shrubs as needed to maintain shape throughout the year with a minimum three prunings. Trees shall be pruned as needed to maintain shape and walking clearances. Beds will remain weed free by pulling and/or spraying on a weekly basis.

2.4 FALL MAINTENANCE

Leaf removal shall be the responsibility of the Contractor. Leaves shall be disposed of offsite unless an approved area is provided on site.

2.5 WINTER MAINTENANCE

The Contractor shall be responsible for heavy pruning and tree limbing from January through March. This shall include decorative grasses, roses, crepe myrtles, etc. The Contractor will be responsible for the removal and disposal of the pruning debris.

2.6 INSECT CONTROL

It will be the Contractor's responsibility to maintain an insect free site. Applications for ants or other insects will be required as needed.

2.7 GENERAL MAINTENANCE

The Contractor shall blow all curbs, sidewalks and parking lots upon each visit. Litter will be removed and disposed of from each site.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

SPECIFICATIONS

3. ADD ALTERNATES

3.1 MULCH / PINESTRAW

Brown wood mulch shall be installed once per year, in January. Old wood mulch shall be removed and disposed of before the installation of new wood mulch. Wood mulch is to be used in all beds and tree wells. Pine straw shall be installed twice per year, in January and July. Pine straw is to be used on the steep slopes of Depot Park, the perimeter of the wetlands of Depot Park and the slope above the railroad underpass of the plaza area.

3.2 ANNUAL FLOWERS

Annual flowers shall be installed twice per year, in spring and in fall. Plant selection shall be approved by the City. Removal of the old material, installation of mulch and fertilizer application shall be included.

4. BILLING

The City will pay the Contractor on a monthly basis for twelve equal payments equivalent to 1/12 of the annual contract amount.

5. ADJUSTMENTS

5.1 The Contractor and the City shall reach a mutual agreement prior to any cost increases being approved. Proposed annual adjustments must be submitted to the City by October 1 for consideration for the next contract year. Contract terms will be from January 1 through December 31.

5.2 Adjustments of quantities by reason of change in site size or scope shall be a negotiated increase or deduction to the annual contract cost. Any adjustment shall be reflected in the next monthly invoice.

6. BOOKS AND RECORDS

The City and Contractor shall maintain at their respective places of business adequate books and records relating to the performance of their respective duties under the provisions of this Contract and such books and records shall be made available at any time during business hours for inspection by the other party, at the inspecting party's expense, upon reasonable advance notice.

7. DAMAGES FOR FAILURE TO PERFORM

7.1 The City expects a high level of service. Performance failures will be discouraged, to the extent possible, through penalties for certain infractions and through default and termination under more serious performance failures.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

SPECIFICATIONS

- 7.2 The Contractor will be penalized the amount of Five Hundred Dollars (\$500.00) per day for each day it fails to provide services as required in this agreement.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

PROPOSAL PRICE SHEET

City Hall / Watts Drive	\$14,880.00
Southern Museum	\$7,620.00
Depot Park	\$22,140.00
Gateway Park	\$6,600.00
Commemorative Park	\$8,100.00
Bond Amount	\$17,500.00
TOTAL PROPOSAL YEARLY	\$76,840.00
TOTAL PROPOSAL 3 YEAR	\$230,520.00

ADD ALTERNATE PROPOSAL

City Hall / Watts Drive	
Pine straw / Mulch	\$3,900.00
Annual Flowers	\$4,550.00
Southern Museum	
Pine straw / Mulch	\$2,560.35
Annual Flowers	\$0
Depot Park	
Pine straw / Mulch	\$11,564.50
Annual Flowers	\$1,050.40
Gateway Park	
Pine straw / Mulch	\$1,170.00
Annual Flowers	\$1,170.00
Commemorative Park	
Pine straw / Mulch	\$2,600.00
Annual Flowers	\$2,000.00

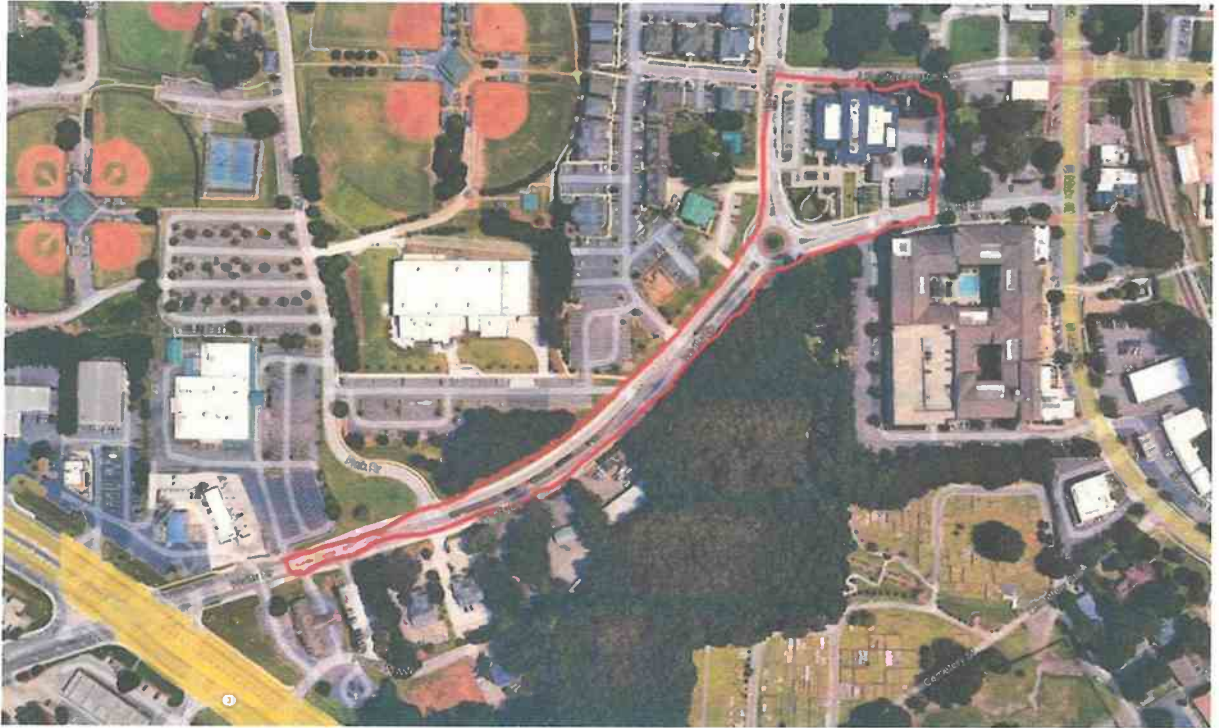
TOTAL ADD ALTERNATE YEARLY
TOTAL ADD ALTERNATE 3 YEAR

~~\$30,415.00~~ **\$30,565.25**
~~\$91,245.00~~ **\$91,695.75**

**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 1

CITY HALL / WATTS DRIVE



SOUTHERN MUSEUM



**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 1

DEPOT PARK



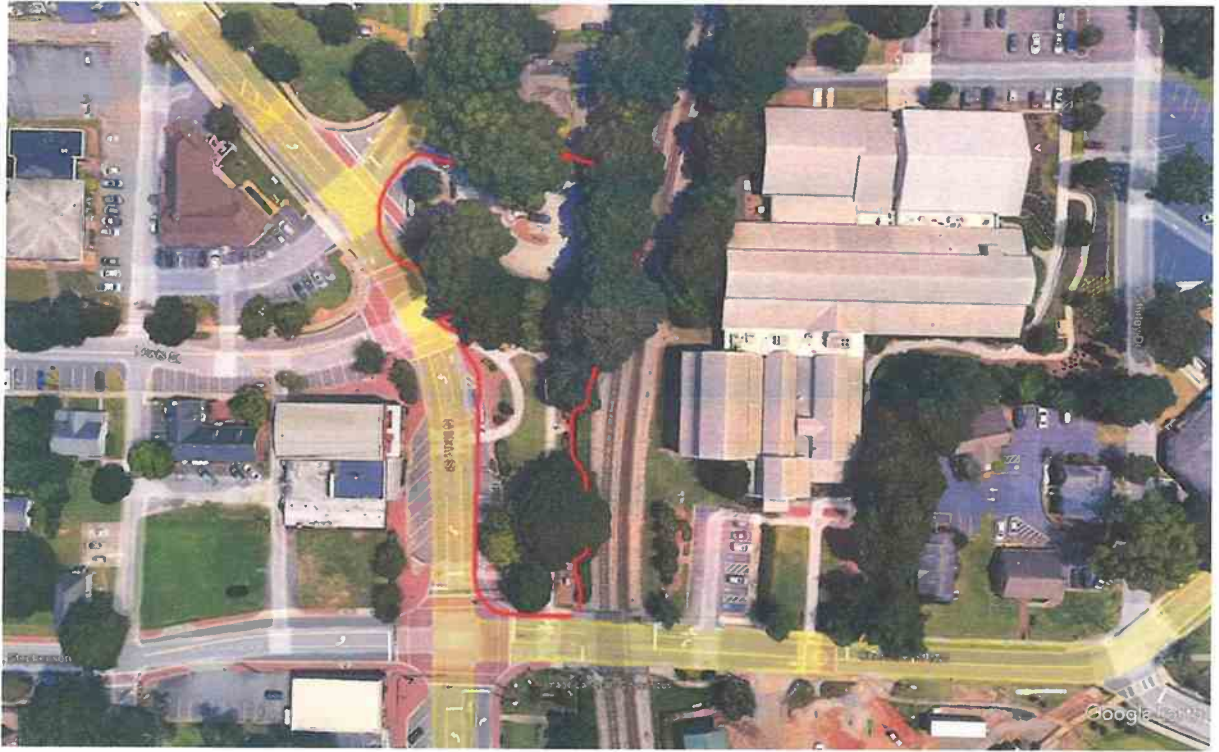
GATEWAY PARK



**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 1

COMMEMORATIVE PARK



CITY OF KENNESAW
REQUEST FOR BIDS

ATTACHMENT 2

FEDERAL WORK AUTHORIZATION PROGRAM

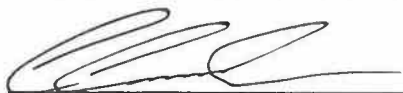
CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual firm, or corporation which is contracting with the City of Kennesaw, has registered with and is participating in a federal work authorization program [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), in P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the City of Kennesaw, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Kennesaw at the time the subcontractor(s) is retained to perform such service.

1653474

EEV/Basic Pilot Program* User Identification Number



BY: Authorized Officer or Agent

11-19-24

Date

President

Title of Authorized Officer or Agent of Contractor

Chase Caccavale

Printed Name of Authorized Officer Agent

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA)

CITY OF KENNESAW
REQUEST FOR BIDS

ATTACHMENT 2

PRIME CONTRACTOR'S WORK AUTHORIZATION CERTIFICATION

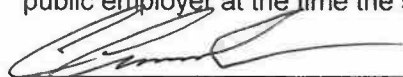
Pursuant to O.C.G.A. § 13-10-91, all qualifying contractors and sub-contractors performing work within the State of Georgia on a contract with a public employer must register and participate in a federal work authorization program. Prime contractors may participate in any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent Federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 ("IRCA").

Certify compliance with O.C.G.A. § 13-10-91 by checking the appropriate line below:



The undersigned has registered for and is participating in a qualifying federal work authorization program.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services within this state pursuant to this contract with a public employer, the undersigned will secure from such subcontractor(s) a verification of compliance with O.C.G.A. § 13-10-91 using the form "Subcontractor's Work Authorization Certification" or a substantially similar form. The undersigned will maintain records of compliance and provide a copy of each subcontractor's verification to the public employer at the time the sub-contractor is retained to perform such service.



By: Authorized Officer or Agent

President

Title of Authorized Officer or Agent of Contractor

11-19-24

Date

1453474

Basic Pilot User Identification Number
(if applicable)

Chase Caccavale

Printed Name of Authorized Officer or Agent

With express authority on behalf of:

Chase Caccavale

Printed Name of Prime Contractor

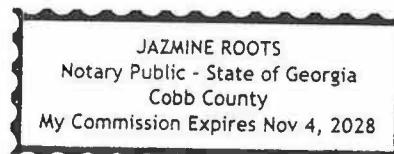
SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

19th DAY OF November, 2024

Jazmine Roots

Notary Public

My Commission Expires: 11-4-2028



N/A

**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 2

**300-10-1-.08 Subcontractor Affidavit (Georgia Administrative Code)
O.C.G.A. § 13-10-91 (2007), TITLE 13. CONTRACTS**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services under a contract with the City of Kennesaw has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the City of Kennesaw, contractor will secure from each subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Kennesaw at the time the subcontractor(s) is retained to perform such service.

EEV/Basic Pilot Program* User Identification Number

By: Authorized Officer or Agent
(Subcontractor Name)

Date

Title of Authorized Officer or Agent of Subcontractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

_____ DAY OF _____, 20____

Notary Public

My Commission Expires: _____

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

Authority O.C.G.A. Sec., 13-10-91. History. Original Rule entitled "Contractor Affidavit and Agreement" adopted. F. May 25, 2007; eff. June 18, 2007, as specified by the Agency.

**CITY OF KENNESAW
REQUEST FOR PROPOSAL**

ATTACHMENT 3

INSURANCE REQUIREMENTS

The Contractor shall be responsible to the City from the time of the signing of the agreement or the beginning of the first work, whichever shall be earlier, for all injury or damage of any kind resulting from any negligent act or omission or breach, failure, or other default regarding the Work by the Contractor, or any of its subcontractors, its agents, employees, or others working at the direction of the Contractor or on its behalf. The Contractor shall procure the insurance coverage identified below at the Contractor's expense and shall furnish the City an insurance certificate listing the City of Kennesaw as the certificate holder and as an additional insured and should read "The City of Kennesaw, Georgia, 2529 J.O. Stephenson Ave., Kennesaw, GA 30144". Occurrence coverage is required. Claims-made coverage is not acceptable. The insurance certificate must provide the following:

- (a) Name and address of authorized agent
- (b) Name and address of insured
- (c) Name of insurance company(ies)
- (d) Description of policies
- (e) Policy Number(s)
- (f) Policy Period(s)
- (g) Limits of liability
- (h) Name and address of City as certificate holder
- (i) Project Name and Number
- (j) Signature of authorized agent
- (k) Telephone number of authorized agent
- (l) Mandatory thirty-day notice of cancellation or non-renewal

The insurance coverage required below shall be issued by a company licensed by the Georgia Insurance Commissioner to transact the business of insurance in the State of Georgia for the applicable line of insurance and shall be an insurer with a Best Policyholders Rating of "A-" or better and with a financial size rating of Class V or larger. Each such policy shall contain the following provisions:

- (a) The insurance company agrees that the policy shall not be canceled, changed, allowed to lapse or allowed to expire until sixty days after the City has received written notice thereof, as evidenced by return receipt of certified mail or statutory mail, or until such time as other insurance coverage providing protection equal to protection called for in the contract shall have been received, accepted and acknowledged by the City.
- (b) The policy shall not be subject to invalidation as to any insured by reason of any act or omission of another insured or any of its officers, employees, agents, or other representatives.
- (c) All deductibles shall be paid for by the Contractor.
- (d) These policies shall be primary, noncontributing with any applicable insurance carried by the City of Kennesaw and shall contain a severability of interests clause in respect to cross liability, protecting each additional insured as though a separate policy had been issued to each.
- (e) Certification of each policy shall be furnished, in duplicate, to the City, at least fifteen (15) days prior to commencement of services under the signed contract.

**CITY OF KENNESAW
REQUEST FOR PROPOSAL**

ATTACHMENT 3

The Contractor also agrees to purchase insurance and have the authorized agent stated on the insurance certificate that the Contractor has purchased the following types of insurance coverage, consistent with the policies and requirements of O.C.G.A. §50-21-37. The minimum required coverage and liability limits are as follows:

- (a) The Contractor agrees to provide Workers' Compensation coverage in accordance with the statutory limits as established by the General Assembly of the State of Georgia. A group insurer must submit a certificate of authority from the Insurance Commissioner approving the group insurance plan. The Contractor shall require all subcontractors performing work under the contract to obtain an insurance certificate showing proof of Workers' Compensation Coverage and shall submit a certificate on the letterhead of the Contractor in the following language: *This is to certify that all Subcontractors performing work on this Project are covered by their own workers' compensation insurance or are covered by the Contractor's workers' compensation insurance.*

State of Georgia statutory limits required:

- (i) \$1,000,000;
 - (ii) \$1,000,000 each accident;
 - (iii) \$1,000,000 disease policy limit; and
 - (iv) \$1,000,000 disease each employee.
- (b) The Contractor shall provide Commercial General Liability Insurance that shall include, but need not be limited to, coverage for bodily injury and property damage arising from premises and operations liability, products and completed operations liability, blasting and explosion, collapse of structures, underground damage, personal injury liability and contractual liability. The CGL policy must include separate aggregate limits per Project and shall provide at a minimum the following limits:
- (i) Premises and Operations \$ 1,000,000.00 per Occurrence;
 - (ii) Products and Completed Operations \$ 1,000,000.00 per Occurrence;
 - (iii) Personal Injury \$ 1,000,000.00 per Occurrence;
 - (iv) Contractual \$ 1,000,000.00 per Occurrence; and
 - (v) General Aggregate \$ 2,000,000.00.
- (c) The Contractor shall provide Commercial Business Automobile Liability Insurance that shall include coverage for bodily injury and property damage arising from the operation of any owned, non-owned, or hired automobile. The Commercial Business Automobile Liability Insurance Policy shall provide not less than \$1,000,000 Combined Single Limit Bodily Injury, Property Damage for each occurrence.



Creative Landscape Group Business Prospectus

Creative Landscape Group is a premier landscape maintenance company with over 14 years of experience. We specialize in providing top-tier landscaping services to residential and commercial clients, ensuring that outdoor spaces are not only well-maintained but also visually stunning and sustainable. Our commitment to quality and customer satisfaction has positioned us as a leader in the industry.

Creative Landscape Group's mission is to transform ordinary landscapes into extraordinary outdoor environments. Our vision is to be the go-to landscaping partner for clients seeking exceptional design, maintenance, and customer service.

The landscaping industry continues to grow as more property owners recognize the value of well-maintained outdoor spaces. Our target market includes homeowners, commercial property managers, and public institutions within a 50-mile radius of Kennesaw, Georgia. We distinguish ourselves with our comprehensive service offerings and dedication to sustainable practices.

Our team is composed of highly skilled professionals, including certified horticulturists, landscape designers, and maintenance crews. The management team has decades of combined experience in the landscaping industry, ensuring that our operations are efficient, and client focused.

We offer a full range of landscaping services, including:

- Landscape design and installation
- Lawn and garden maintenance
- Seasonal planting and garden refreshes
- Irrigation system installation and repair
- Hardscape construction (patios, walkways, retaining walls)
- Tree and shrub care
- Turf chemical care.

Thank you for considering our prospectus.



GEORGIA
CORPORATIONS DIVISION

GEORGIA SECRETARY OF STATE
BRAD RAFFENSPERGER

[HOME \(/\)](#)

BUSINESS SEARCH

BUSINESS INFORMATION

Business Name:	Creative Landscape Group, LLC	Control Number:	13389276
Business Type:	Domestic Limited Liability Company	Business Status:	Active/Compliance
Business Purpose:	NONE		
Principal Office Address:	272 Old Trace Rd SW, Marietta, GA, 30064, USA	Date of Formation / Registration Date:	2/12/2013
State of Formation:	Georgia	Last Annual Registration Year:	2024

REGISTERED AGENT INFORMATION

Registered Agent Name: **Chase Caccavale**
Physical Address: **1265 Acworth Due West Rd, Kennesaw, GA, 30152, USA**
County: **Cobb**

[Back](#)

[Filing History](#)

[Name History](#)

[Return to Business Search](#)

References for Creative Landscape Group

City of Kennesaw

Ricky Stewart- Public Works Director

770-421-8582

rstewart@kennesaw-ga.gov

City of Austell

Zach Evans- Parks, Recreation and Building Maintenance Manager

678-923-1696

zevans@austellga.gov

City of Dallas

Brandon Rakestraw- Director

770-443-8110 Ext-1401

brakestraw@dallas-ga.gov

My Company Account

My Company Profile

Company Information

Company Name

Creative Landscape Group

Company ID

1653474

Employer Identification Number (EIN)

462284024

DUNS Number

NAICS Code

811

Subsector

Repair and Maintenance

Doing Business As (DBA) Name

Creative Cuts Landscape Design & Maintenance

Enrollment Date

Mar 10, 2021

Unique Entity Identifier (UEI)

Total Number of Employees

10 to 19

Sector

Other Services (Except Public Administration)

		Creative Landscape Group	Russell Landscape	Total Landscape Solutions Inc	Yellowstone Landscape
Base Bid					
	City Hall / Watts Drive	\$14,880.00	\$28,860.00	22,700.00	14,256.00
	Southern Museum	\$7,620.00	\$10,080.00	20,300.00	10,992.00
	Depot Park	\$22,140.00	\$36,900.00	62,000.00	28,500.00
	Gateway Park	\$6,600.00	\$7,740.00	10,220.00	11,004.00
	Commemorative Park	\$8,100.00	\$11,820.00	15,020.00	10,752.00
	Performance Bond	\$17,500.00	Included in Base Bid	Included in Base Bid	Included in Base Bid
BASE BID TOTAL		\$76,840.00	\$95,400.00	\$130,240.00	\$75,504.00
Add Alternate					
	City Hall / Watts Drive				
	Pine straw / Mulch	\$3,900.00	\$6,152.70	4,200.00	3,635.71
	Annual Flowers	\$4,550.00	\$18,024.00	900.00	8,631.43
	Southern Museum				
	Pine straw / Mulch	\$2,560.35	\$5,537.40	2,850.00	5,100.00
	Annual Flowers	\$0.00	\$0.00	0.00	0.00
	Depot Park				
	Pine straw / Mulch	\$11,564.50	\$20,628.80	17,625.00	10,214.29
	Annual Flowers	\$1,050.40	\$7,422.00	800.00	846.86
	Gateway Park				
	Pine straw / Mulch	\$1,170.00	\$8,165.00	1,875.00	964.29
	Annual Flowers	\$1,170.00	\$5,064.00	800.00	2,052.00
	Commemorative Park				
	Pine straw / Mulch	\$2,600.00	\$2,875.00	2,250.00	6,440.00
	Annual Flowers	\$2,000.00	\$9,816.00	1,100.00	10,325.14
TOTAL BID		\$107,405.25	\$179,084.90	162,640.00	123,713.72



**CITY OF KENNESAW
2529 J.O. STEPHENSON AVE.
KENNESAW, GA 30144**

REQUEST FOR PROPOSAL (RFP)

LANDSCAPE SERVICES

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**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

INVITATION TO PROPOSAL

Sealed proposals will be received by the City of Kennesaw, City Clerk, 2529 J.O. Stephenson Avenue, Kennesaw, Georgia 30144, until **3:00 pm** on **Friday, November 22, 2024**, from qualified contractors for landscape services. Proposals received after the deadline will not be considered.

The Contractor shall provide, in a good workmanlike manner, the services called for and described herein which consists of all supervision, equipment, labor, and all other items necessary to provide the City with complete landscape maintenance and to complete said work in accordance with the provision. Placement of mulch and installation of annual flowers may also be considered as part of the work.

The City of Kennesaw will consider contracting landscape maintenance for City Hall / Watts Drive, Southern Museum, Depot Park (to include the park, amphitheater, outdoor classroom and plaza areas), Gateway Park and Commemorative Park (to include parking lot area).

A mandatory pre-proposal meeting will be held **Friday, November 15**, at **3:00 pm** in the Public Works Training Room, 3080 Moon Station Rd., Kennesaw, GA. Any questions should be emailed to Ricky Stewart at rstewart@kennesaw-ga.gov no later than twenty-four (24) hours prior to the mandatory pre-bid meeting. All proposals will be rejected from companies whose representative(s) did not attend the pre-proposal meeting.

Copies of the proposal document may be attained by contacting the City Clerk at lalvarez@kennesaw-ga.gov. Technical questions should be addressed to Ricky Stewart at rstewart@kennesaw-ga.gov.

No proposal will be considered unless accompanied by a certified check or acceptable proposal bond in an amount not less than five percent (5%) of the bid made payable to the City of Kennesaw.

The successful contractor will be required to furnish a performance bond as security for the faithful performance of this Contract. Said performance bond must be in an amount equal to the annual contract price or \$1,500,000, whichever is greater.

No proposer may withdraw his/her proposal within ninety (90) days after the actual date of the opening thereof.

The successful proposer will be notified by the City of acceptance of the proposal. The successful proposer must submit an executed Contract and Certificate of Insurance before a Notice to Commencement can be issued. Upon receipt of the Notice to Commence, the successful proposer shall begin work with the adequate force and equipment on the date specified.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

1.0 PROPOSAL SUBMITTAL

- 1.1 The proposal submittal package shall consist of those documents identified below. All documents must be completed and included as part of the proposal submittal package. No interlineations, additions, or deletions shall be made to the documents submitted. All information on the documents must be completed in ink or typewritten and executed by an officer or employee of the company or firm having authority to bind the company or firm, when submitted. Erasures or other changes to responses of the proposers must be noted and signed by the proposer on the page where they occur. Failure to follow instructions in completing any part of the proposal submittal package may cause the proposal to be deemed non-responsive and be rejected.
- a. Completed **Proposal Form** (page 9)
 - b. A comprehensive and detailed technical and business prospectus not longer than ten (10) pages, descriptively outlining:
 - Vendor's ability to adequately and satisfactorily perform services outlined in this RFP.
 - Evidence, in form and substance satisfactory to the City, that the proposer has not less than five (5) years actual operating experience in landscape maintenance.
 - Provide at least three (3) references of cities similar in size and scope, which are or have been under contract with the Contractor; include contact name, position, phone number, and email address.
 - .
 - c. Proposal Bond or certified check in the amount of five percent (5%) of the proposal price made payable to the City of Kennesaw
 - d. E-Verify Form(s)
- 1.2 Three (3) copies of the proposal submittal package shall be submitted in a sealed envelope, plainly marked with proposer's name, address, and "**Landscape Services**" on the outside of the envelope to the City Clerk's Office, 2529 J.O. Stephenson Avenue, Kennesaw, Georgia, before 3:00 pm on Friday, November 22, 2024, at which time all proposals will be publicly opened in the City Hall Training Room; same address as City Clerk Office. Proposals received after the deadline will not be considered.

2.0 NOTICE OF OTHER REGULATIONS AND REQUIREMENTS

- 2.1 Proposers are required to examine the Specifications carefully and to make such examinations of the site of the project as necessary to familiarize themselves with the nature and extent of the tasks to be completed and with all local conditions and/or laws and regulations, which may affect the work. The City of Kennesaw will not be responsible for the proposer's errors or misjudgment, nor for any information or lack of information, on location conditions, or general laws and regulations.
- 2.2 Failure of a proposer to be aware of any regulations shall not excuse compliance, regardless of whether specifically cited in the Contract Documents and Specifications or any related document.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

3. AUTHORITY TO SIGN

- 3.1 If a proposal is made by an individual, the name and mailing address must be shown. If made by a firm or partnership, the name and mailing address of each member of the firm or partnership must be shown. If made by a corporation, the Corporate Certificate must be executed.
- 3.2 The proposer should ensure that the legal and proper name of his/her proprietorship, firm, partnership, or corporation is printed or typed in the space provided.

4. PROPOSAL SECURITY AND PERFORMANCE BONDS

- 4.1 Proposals must be accompanied by a certified check jointly to "The City of Kennesaw" or acceptable proposal bond in an amount not less than five percent (5%) of the amount of proposal. The proposal bond shall be secured by a guaranty or surety company listed in the latest issue of the United States Treasury Circular 570. The amount of the proposal bond must be within the maximum amount specified for such guaranty or surety company by Circular 570. **No proposal will be considered unless it is accompanied by the required security.**
- 4.2 Attorneys-in-Fact who sign proposal bonds must file with the bond a certified and effectively dated copy of their Power of Attorney.
- 4.3 Checks and bonds will be returned promptly after the City and the selected contractor have executed the Contract, or, if no contractor's proposal has been selected within ninety (90) days after the date of the opening of the proposals, so long as the Proposer has not been notified of the acceptance of its proposal.
- 4.4 The successful contractor will be required to furnish a performance bond as security for the faithful performance of the contract. Said performance bond must be in an amount equal to the annual contract price or \$1,500,000, whichever is greater.

5. RIGHTS RESERVED

- 5.1 The City of Kennesaw reserves the right to reject any or all proposals, to waive informalities and to re-advertise. The City of Kennesaw also reserves the right to reject proposals which are non-confirming, or to reopen the proposal if all proposals are in excess of funds available for the project.
- 5.2 The City of Kennesaw reserves the right to reject any or all proposals from proposers who are declared non-responsive. A proposer who cannot demonstrate sufficient financial resources to perform the contract within the time specified or who has failed to successfully perform previous contracts, or whose lack of character, integrity, reputation, judgment, and experience raises questions about the successful completion of the work may be declared non-responsive. Any proposer whose lack of

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

compliance with laws, ordinances and regulations relating to similar projects of similar character may also be declared non-responsive.

- 5.3 Proposers failing to include all documents in the submittal package as required by the proposal requirements may cause the proposal to be declared as non-responsive and be rejected. The failure to follow instructions in completing any part of the proposal package may also cause the proposal to be declared non-responsive and be rejected.
- 5.4 The City of Kennesaw reserves the right to reject any proposal, which contains unauthorized additions, conditions, limitations, or provisions to the terms of the proposal, including such changes, which result from interlineations, additions, or deletions made to the documents in the proposal package.

6. AWARD OF CONTRACT

- 6.1 The term of service shall be three (3) years with five (5), one (1) year renewal options pending agreement of both parties. Should either the City or contractor elect not to renew and extend the contract, notice must be given, by certified mail (return receipt requested) to the other party in writing not less than ninety (90) days prior to the expiration of each renewal period.
- 6.2 The contract for the work, if awarded, will be awarded to the lowest reliable proposer whose proposal shall have met all the prescribed requirements.
- 6.3 The contract shall be executed on the form provided by the City of Kennesaw to the successful proposer (hereinafter, the "Contractor"). The contract shall form a binding contract between the contracting parties.
- 6.4 The contract performance bond shall be in an amount equal to the annual contract price or \$500,000, whichever is greater. All bonds must be provided by a company qualified to do business in Georgia and shall meet all requirements under federal, state, and local laws, including but not limited to, Sections 13-10-1 *et seq.*, 32-2-70, and 36-10-1 *et seq.* of the Official Code of Georgia.

7. FAILURE TO EXECUTE CONTRACT

- 7.1 Failure to execute contract, contract performance bond and payment bond, or furnish satisfactory proof of insurance coverage as required within ten (10) days after the date of Notice of Award of the contract shall be just cause for the annulment of the award and for the forfeiture of the proposal bond, not as a penalty, but as liquidation of damages sustained. At the discretion of the City of Kennesaw, the award may then be made to the next lowest responsible and responsive proposer, or the project may be re-advertised.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

8. INSURANCE, PROOF OF COVERAGE

8.1 The Contractor shall be required to furnish the City of Kennesaw with satisfactory proof of insurance coverage consistent with the policies and requirements of O.C.G.A. §50-21-37 and as specified in the contract agreement. A copy of the insurance requirements is shown in Attachment 3 of this document.

9. TIME

9.1 The Contractor shall commence work with adequate force and equipment on a date specified in a written "Notice to Proceed" order from the City of Kennesaw.

10. CONDITIONS

10.1 Each proposer shall fully acquaint himself with conditions relating to the scope and restrictions attending the execution of the work under the contract. It is also expected that the Contractor will obtain information concerning the conditions at locations that may affect its work.

10.2 Except with respect to events or conditions, which are not discoverable, the Contractor shall make his own determination as to conditions, shall assume all risk and responsibility, and shall complete the work in and under conditions, he may encounter or create, without extra cost to the City.

10.3 The contract and proposal documents contain the provisions required for completion of the work to be performed. Information obtained from an office, agent, or employee of the City of Kennesaw or any other person shall not affect the risks or obligations assumed by the Contractor or relieve him/her from fulfilling any of the conditions of the contract. Each proposer is responsible for inspecting the site and for reading and being thoroughly familiar with the contract documents. The failure or omission of any proposer to familiarize himself/herself shall in no way relieve the proposer from any obligation in respect to his/her proposal.

11. ADDENDA AND INTERPRETATION

11.1 No interpretation of the meaning of the contract documents will be made orally to any Proposer. Any request for such interpretation should be in writing, via email, to the City Clerk. Each such interpretation shall be given in writing, separately numbered and dated and furnished to each interested proposer at least three (3) days, excluding Saturdays, Sundays and legal holidays, prior to the proposal opening date. Any request not received three (3) days prior to proposal opening date will not be accepted because of the difficulty in completing the interpretation and making distribution to each proposer.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

INSTRUCTIONS TO PROPOSERS

12. PUBLIC RECORDS DISCLOSURE:

12.1 All RFP's submitted to the City are subject to public disclosure pursuant to the Georgia's Open Records Act.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

PROPOSAL FORM

Landscape Services

TO: CITY OF KENNESAW

FROM: _____
(Proposer)

THE UNDERSIGNED PROPOSER, having familiarized themselves with the work required by the proposal documents, the site where the work is to be performed, all laws, regulations, and other factors affecting performance of the work, and having satisfied itself/himself/herself of the expense and difficulties attending to the performance of the work;

HEREBY agrees if selected to enter into a contract and perform all work necessary to the successful completion of the contract as indicated and specified in the RFP documents for the total contract price(s) shown on the attached Proposal Price Sheet.

Name of Firm: _____

Firm Address: _____

Federal Identification No: _____ Email: _____

Telephone No: _____ Fax No: _____

By: _____
(Typed or Printed) (Date)

(Signature) (Title)

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

SPECIFICATIONS

1. GENERAL

It is the intention of these specifications to establish and define the work to be performed and, in addition, to determine the capability and experience of the company desiring to provide such services.

2. SCOPE OF WORK

2.1 TURF MAINTENANCE

The Contractor shall provide mowing of each site on a weekly basis between the dates of April 1 and October 31. Mowing will be bi-monthly between November 1 and March 31. Cutting height is to meet the required needs of the turf and may vary throughout the season.

2.2 TRIMMING / EDGING

The Contractor shall provide string trimming around all buildings, trees, etc. weekly, regardless of mowing schedule. Edging of bed lines, curbs and sidewalks shall be provided weekly, regardless of mowing schedule.

2.3 BED MAINTENANCE

The Contractor shall prune all shrubs as needed to maintain shape throughout the year with a minimum three prunings. Trees shall be pruned as needed to maintain shape and walking clearances. Beds will remain weed free by pulling and/or spraying on a weekly basis.

2.4 FALL MAINTENANCE

Leaf removal shall be the responsibility of the Contractor. Leaves shall be disposed of offsite unless an approved area is provided on site.

2.5 WINTER MAINTENANCE

The Contractor shall be responsible for heavy pruning and tree limbing from January through March. This shall include decorative grasses, roses, crepe myrtles, etc. The Contractor will be responsible for the removal and disposal of the pruning debris.

2.6 INSECT CONTROL

It will be the Contractor's responsibility to maintain an insect free site. Applications for ants or other insects will be required as needed.

2.7 GENERAL MAINTENANCE

The Contractor shall blow all curbs, sidewalks and parking lots upon each visit. Litter will be removed and disposed of from each site.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

SPECIFICATIONS

3. ADD ALTERNATES

3.1 MULCH / PINESTRAW

Brown wood mulch shall be installed once per year, in January. Old wood mulch shall be removed and disposed of before the installation of new wood mulch. Wood mulch is to be used in all beds and tree wells. Pine straw shall be installed twice per year, in January and July. Pine straw is to be used on the steep slopes of Depot Park, the perimeter of the wetlands of Depot Park and the slope above the railroad underpass of the plaza area.

3.2 ANNUAL FLOWERS

Annual flowers shall be installed twice per year, in spring and in fall. Plant selection shall be approved by the City. Removal of the old material, installation of mulch and fertilizer application shall be included.

4. BILLING

The City will pay the Contractor on a monthly basis for twelve equal payments equivalent to 1/12 of the annual contract amount.

5. ADJUSTMENTS

5.1 The Contractor and the City shall reach a mutual agreement prior to any cost increases being approved. Proposed annual adjustments must be submitted to the City by October 1 for consideration for the next contract year. Contract terms will be from January 1 through December 31.

5.2 Adjustments of quantities by reason of change in site size or scope shall be a negotiated increase or deduction to the annual contract cost. Any adjustment shall be reflected in the next monthly invoice.

6. BOOKS AND RECORDS

The City and Contractor shall maintain at their respective places of business adequate books and records relating to the performance of their respective duties under the provisions of this Contract and such books and records shall be made available at any time during business hours for inspection by the other party, at the inspecting party's expense, upon reasonable advance notice.

7. DAMAGES FOR FAILURE TO PERFORM

7.1 The City expects a high level of service. Performance failures will be discouraged, to the extent possible, through penalties for certain infractions and through default and termination under more serious performance failures.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

SPECIFICATIONS

- 7.2 The Contractor will be penalized the amount of Five Hundred Dollars (\$500.00) per day for each day it fails to provide services as required in this agreement.

**CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL**

PROPOSAL PRICE SHEET

City Hall / Watts Drive	\$ _____
Southern Museum	\$ _____
Depot Park	\$ _____
Gateway Park	\$ _____
Commemorative Park	\$ _____
TOTAL PROPOSAL	\$ _____

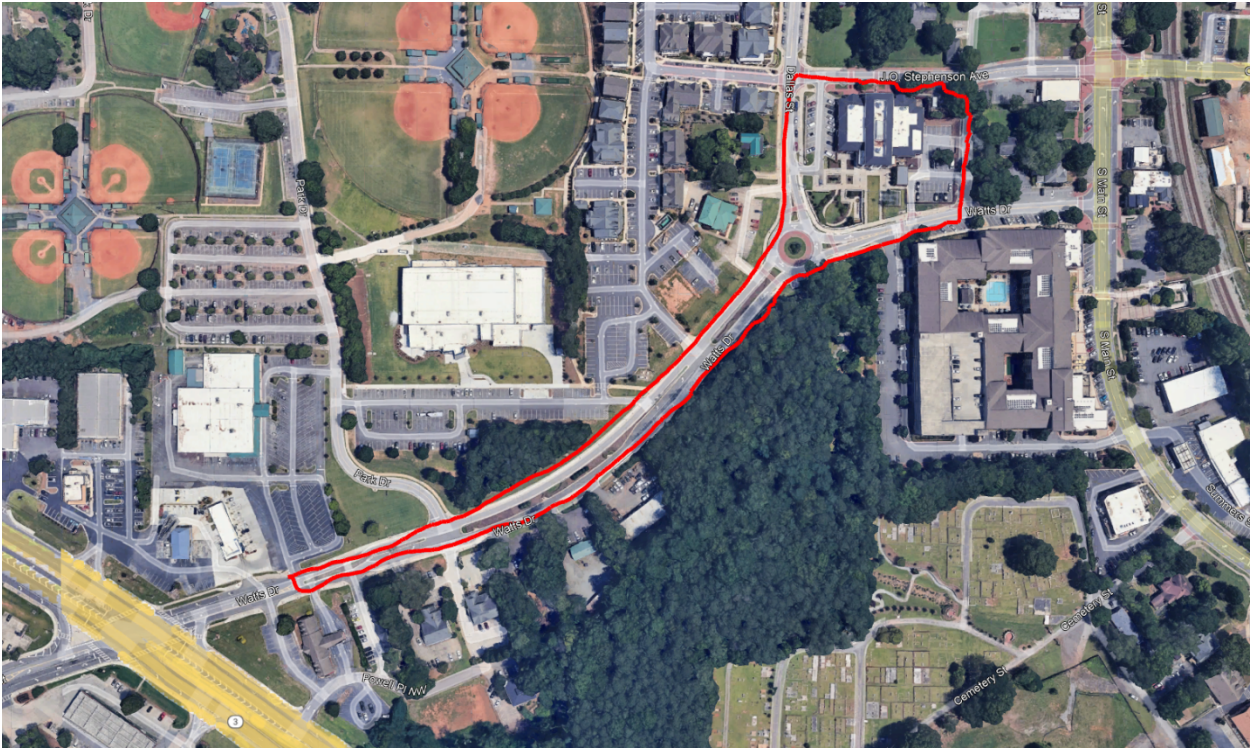
ADD ALTERNATE PROPOSAL

City Hall / Watts Drive	
Pine straw / Mulch	\$ _____
Annual Flowers	\$ _____
Southern Museum	
Pine straw / Mulch	\$ _____
Annual Flowers	\$ _____
Depot Park	
Pine straw / Mulch	\$ _____
Annual Flowers	\$ _____
Gateway Park	
Pine straw / Mulch	\$ _____
Annual Flowers	\$ _____
Commemorative Park	
Pine straw / Mulch	\$ _____
Annual Flowers	\$ _____

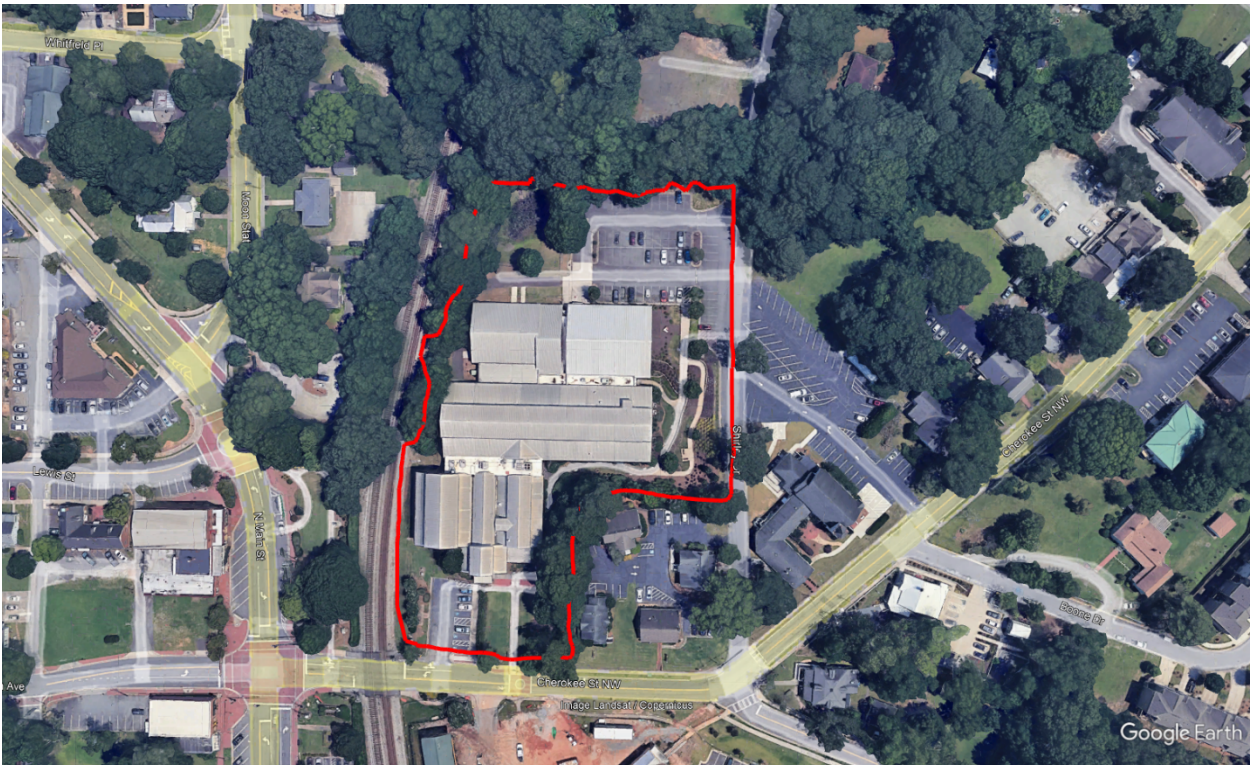
**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 1

CITY HALL / WATTS DRIVE



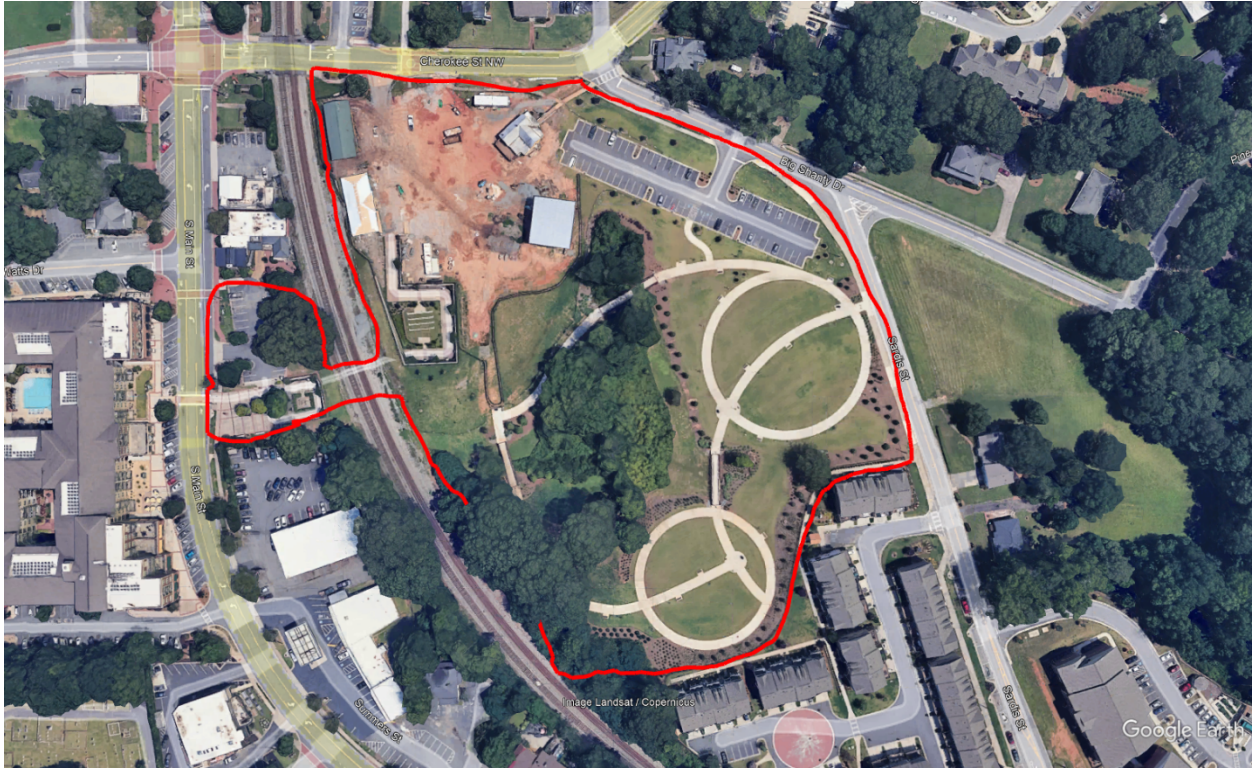
SOUTHERN MUSEUM



**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 1

DEPOT PARK



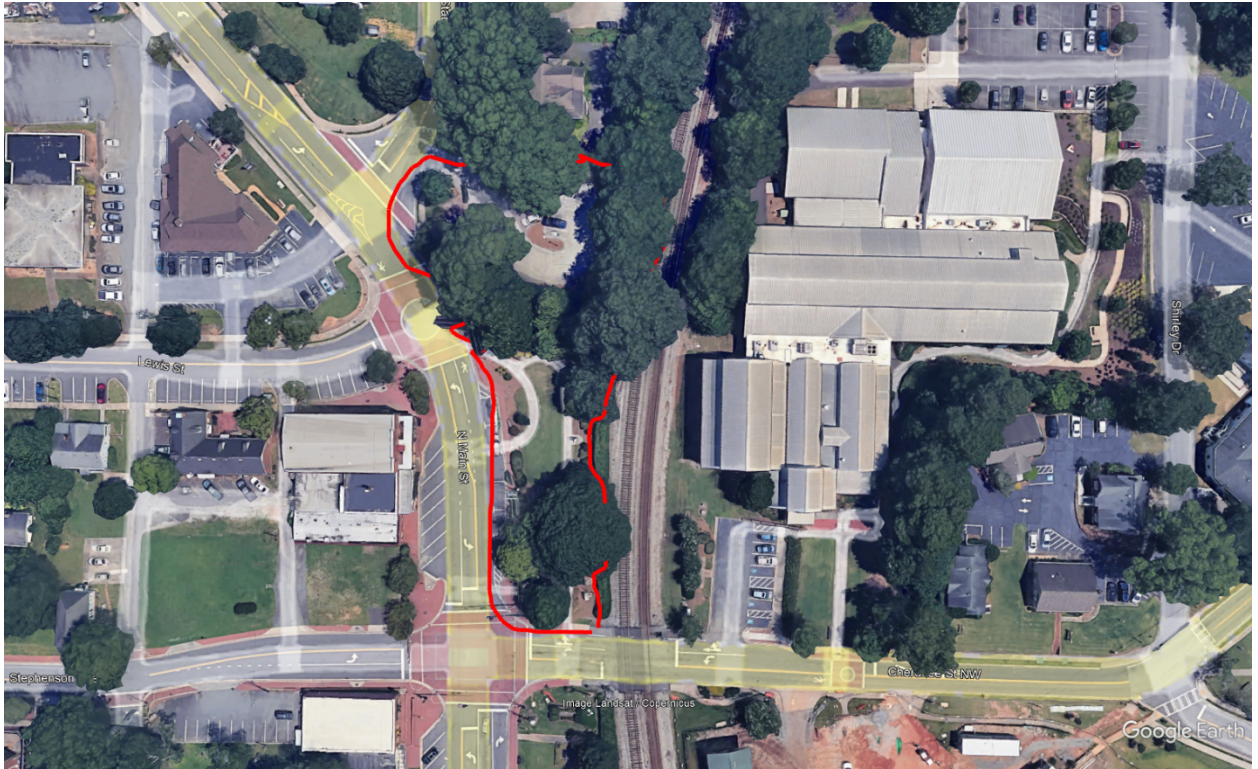
GATEWAY PARK



**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 1

COMMEMORATIVE PARK



**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 2

FEDERAL WORK AUTHORIZATION PROGRAM

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual firm, or corporation which is contracting with the City of Kennesaw, has registered with and is participating in a federal work authorization program [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), in P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the City of Kennesaw, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Kennesaw at the time the subcontractor(s) is retained to perform such service.

EEV/Basic Pilot Program* User Identification Number

BY: Authorized Officer or Agent

Date

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer Agent

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA)

**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 2

PRIME CONTRACTOR'S WORK AUTHORIZATION CERTIFICATION

Pursuant to O.C.G.A. § 13-10-91, all qualifying contractors and sub-contractors performing work within the State of Georgia on a contract with a public employer must register and participate in a federal work authorization program. Prime contractors may participate in any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent Federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 ("IRCA").

Certify compliance with O.C.G.A. § 13-10-91 by checking the appropriate line below:

_____ The undersigned has registered for and is participating in a qualifying federal work authorization program.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services within this state pursuant to this contract with a public employer, the undersigned will secure from such subcontractor(s) a verification of compliance with O.C.G.A. § 131-10-91 using the form "Subcontractor's Work Authorization Certification" or a substantially similar form. The undersigned will maintain records of compliance and provide a copy of each subcontractor's verification to the public employer at the time the sub-contractor is retained to perform such service.

By: Authorized Officer or Agent

Date

Title of Authorized Officer or Agent of Contractor

Basic Pilot User Identification Number
(if applicable)

Printed Name of Authorized Officer or Agent

With express authority on behalf of:

Printed Name of Prime Contractor

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

_____ DAY OF _____, 20__

Notary Public

My Commission Expires: _____

**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 2

**300-10-1-.08 Subcontractor Affidavit (Georgia Administrative Code)
O.C.G.A. § 13-10-91 (2007), TITLE 13. CONTRACTS**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services under a contract with the City of Kennesaw has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the City of Kennesaw, contractor will secure from each subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Kennesaw at the time the subcontractor(s) is retained to perform such service.

EEV/Basic Pilot Program* User Identification Number

By: Authorized Officer or Agent
(Subcontractor Name)

Date

Title of Authorized Officer or Agent of Subcontractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

_____ DAY OF _____, 20_____

Notary Public

My Commission Expires: _____

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

Authority O.C.G.A. Sec., 13-10-91. History. Original Rule entitle "Contractor Affidavit and Agreement" adopted. F. May 25, 2007; eff. June 18, 2007, as specified by the Agency.

**CITY OF KENNESAW
REQUEST FOR PROPOSAL**

ATTACHMENT 3

INSURANCE REQUIREMENTS

The Contractor shall be responsible to the City from the time of the signing of the agreement or the beginning of the first work, whichever shall be earlier, for all injury or damage of any kind resulting from any negligent act or omission or breach, failure, or other default regarding the Work by the Contractor, or any of its subcontractors, its agents, employees, or others working at the direction of the Contractor or on its behalf. The Contractor shall procure the insurance coverage identified below at the Contractor's expense and shall furnish the City an insurance certificate listing the City of Kennesaw as the certificate holder and as an additional insured and should read "The City of Kennesaw, Georgia, 2529 J.O. Stephenson Ave., Kennesaw, GA 30144". Occurrence coverage is required. Claims-made coverage is not acceptable. The insurance certificate must provide the following:

- (a) Name and address of authorized agent
- (b) Name and address of insured
- (c) Name of insurance company(ies)
- (d) Description of policies
- (e) Policy Number(s)
- (f) Policy Period(s)
- (g) Limits of liability
- (h) Name and address of City as certificate holder
- (i) Project Name and Number
- (j) Signature of authorized agent
- (k) Telephone number of authorized agent
- (l) Mandatory thirty-day notice of cancellation or non-renewal

The insurance coverage required below shall be issued by a company licensed by the Georgia Insurance Commissioner to transact the business of insurance in the State of Georgia for the applicable line of insurance and shall be an insurer with a Best Policyholders Rating of "A-" or better and with a financial size rating of Class V or larger. Each such policy shall contain the following provisions:

- (a) The insurance company agrees that the policy shall not be canceled, changed, allowed to lapse or allowed to expire until sixty days after the City has received written notice thereof, as evidenced by return receipt of certified mail or statutory mail, or until such time as other insurance coverage providing protection equal to protection called for in the contract shall have been received, accepted and acknowledged by the City.
- (b) The policy shall not be subject to invalidation as to any insured by reason of any act or omission of another insured or any of its officers, employees, agents, or other representatives.
- (c) All deductibles shall be paid for by the Contractor.
- (d) These policies shall be primary, noncontributing with any applicable insurance carried by the City of Kennesaw and shall contain a severability of interests clause in respect to cross liability, protecting each additional insured as though a separate policy had been issued to each.
- (e) Certification of each policy shall be furnished, in duplicate, to the City, at least fifteen (15) days prior to commencement of services under the signed contract.

**CITY OF KENNESAW
REQUEST FOR PROPOSAL**

ATTACHMENT 3

The Contractor also agrees to purchase insurance and have the authorized agent stated on the insurance certificate that the Contractor has purchased the following types of insurance coverage, consistent with the policies and requirements of O.C.G.A. §50-21-37. The minimum required coverage and liability limits are as follows:

- (a) The Contractor agrees to provide Workers' Compensation coverage in accordance with the statutory limits as established by the General Assembly of the State of Georgia. A group insurer must submit a certificate of authority from the Insurance Commissioner approving the group insurance plan. The Contractor shall require all subcontractors performing work under the contract to obtain an insurance certificate showing proof of Workers' Compensation Coverage and shall submit a certificate on the letterhead of the Contractor in the following language: *This is to certify that all Subcontractors performing work on this Project are covered by their own workers' compensation insurance or are covered by the Contractor's workers' compensation insurance.*

State of Georgia statutory limits required:

- (i) \$1,000.000;
 - (ii) \$1,000.000 each accident;
 - (iii) \$1,000.000 disease policy limit; and
 - (iv) \$1,000.000 disease each employee.
- (b) The Contractor shall provide Commercial General Liability Insurance that shall include, but need not be limited to, coverage for bodily injury and property damage arising from premises and operations liability, products and completed operations liability, blasting and explosion, collapse of structures, underground damage, personal injury liability and contractual liability. The CGL policy must include separate aggregate limits per Project and shall provide at a minimum the following limits:
- (i) Premises and Operations \$ 1,000,000.00 per Occurrence;
 - (ii) Products and Completed Operations \$ 1,000,000.00 per Occurrence;
 - (iii) Personal Injury \$ 1,000,000.00 per Occurrence;
 - (iv) Contractual \$ 1,000,000.00 per Occurrence; and
 - (v) General Aggregate \$ 2,000,000.00.
- (c) The Contractor shall provide Commercial Business Automobile Liability Insurance that shall include coverage for bodily injury and property damage arising from the operation of any owned, non-owned, or hired automobile. The Commercial Business Automobile Liability Insurance Policy shall provide not less than \$1,000,000 Combined Single Limit Bodily Injury, Property Damage for each occurrence.



Item Report

TO: The Honorable Mayor and City Council

FROM: Robbie Balenger, Building & Facilities Director

DATE: December 9, 2024

TITLE: **Resolution: Adams Park Restroom Facility Reconstruction**
Consideration of approval for a Resolution to award construction of the Adams Park Restroom Facility to S.H. Creel Contracting.

Summary:

The current restroom facility at Adams Park has reached the end of its life cycle and is in need of replacement. The new building will consist of 4 family restrooms and a utility closet. Three proposals were received through the RFP process with S.H. Creel being the lowest responsible and responsive bidder in the amount of \$374,152.80.

Recommendation:

The Building and Facilities Director and Croy Engineering recommend awarding the bid to S.H. Creel Contracting and authorizing the Mayor to sign the contract post legal review.

Fiscal Impact:

ARPA - \$374,152.80

Attachments:

1. RES 2024 - Adams Park Restroom Facility SH Creel Bid Award
2. Adams Park Restroom_Recommendation of Award
3. Adams Park Restroom Project Manual

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2024-_____, 2024

**RESOLUTION TO APPROVE BIDS AND AWARD THE ADAMS PARK RESTROOM
FACILITY RECONSTRUCTION TO S.H. CREEL CONTRACTING.**

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

WHEREAS, the existing restroom facility at Adams Park has reached the end of its life cycle and is in need of replacement; and

WHEREAS, the City issued a Request for Proposal (RFP) for construction of new restroom facilities at Adams Park to include four family restrooms and a utility closet; and

WHEREAS, three proposals were received with S.H. Creel being the lowest responsible and responsive bidder whose bid met the RFP requirements and criteria, in the amount of \$374,152.80.

THEREFORE, BE IT RESOLVED the Kennesaw City Council authorizes the Mayor to execute an agreement with S.H. Creel Contracting for construction of the new Adams Park Restroom Facility.

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

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

ATTEST:

CITY OF KENNESAW

Lea Alvarez, City Clerk

Derek Easterling, Mayor



Mr. Robbie Balenger
Building and Facilities Director
City of Kennesaw
2753 Watts Drive
Kennesaw, GA 30144

November 22, 2024

Re: Recommendation of Award: Adams Park Restroom Project

Mr. Balenger:

Bids were opened for the above referenced project on November 22, 2024. The lowest bid received was submitted by RGC Construction in the amount of \$365,841. Upon our review and verification for completeness of their Bid Submittal Packet, a number of required components were either missing or incomplete. Most notably, the requirement for Primary Point of Contact, the identification of and qualifications of key staff members for the project, and references from clients and subcontractors are missing. RGC Construction's bid submittal does not meet the requirements and criteria set forth within the bid documentation required in Section 1, subsection 3 "Submission of Statement of Qualifications", therefore our opinion is that RGC Construction does not meet the requirements of a responsible and responsive bidder. I've attached (below) the Required Components verification sheet for reference and details.

The lowest responsible and responsive bidder whose bid met the requirements and criteria set forth within the bid submittal was S.H. Creel, in the amount of \$374,152.80. A reference check has been completed, and qualifications of this bidder have been verified. Therefore, it is our recommendation that the contract be awarded to S.H. Creel Contracting.

Upon receipt of the City's concurrence, we will prepare the contracts and forward them to the Contractor for execution.

Enclosed for your review is a copy of the bid log for the project.

Respectfully,

A handwritten signature in blue ink, appearing to read "Roy Acree".

Roy Acree

Program Manager
Croy Engineering, LLC

	SH Creel	Diversified Construction	RGC Construction
Required Components			
Cover Page	Y	Y	Y
Table of Content	Y	Y	N
Ga General Cont Lic	Y	Y	Y
Firm History	Y	Y	Y
Primary POC	Y	Y	N
Key Team Members	Y	Y	N
Qualifications of staff	Y	Y	N
Years in construction	Y	Y	Y
Office location	Y	Y	N
4 References from Clients	Y	Y	**
4 From Contractors	Y	Y	**
Previous experience	Y	Y	Y
Similar projects	Y	Y	Y
Within City or Cobb	Y	Y	Y
Litigation record	Y	Y	N
Project cost	Y	Y	Y
Sealed envelope	Y	N	N
Bid Bond	Y	Y	Y
Bid Price	\$374,152.80	\$413,700.00	\$365,841.00

**** (RGC Construction)** provided a single page for references with 5 Individuals names. References from 4 Clients and 4 Contractors are required. Not clear if the 5 provided are Clients or Contractors.



City of Kennesaw, Georgia

Adams Park Restroom Project



CITY:

City of Kennesaw, Georgia

2529 J. O. Stephenson Avenue

Kennesaw, Georgia 30144

First Advertisement: October 25, 2024

Second Advertisement: November 8, 2024

Proposal Opening: November 22, 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

None

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, November 22, 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:

ADAMS PARK RESTROOM PROJECT

A total of three (3) 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 demolition and rebuilding of a restroom building at Adams Park in Kennesaw Ga.

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 lavarez@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:
October 25, 2024
November 8, 2024

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 ADAMS PARK RESTROOM PROJECT. Proposals will be received by the City at City Hall, 2529 J. O. Stephenson Avenue, Kennesaw, GA 30144 until Friday, November 22, 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

ADAMS PARK RESTROOM 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 (ADAMS PARK RESTROOM 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, November 18, 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 mandatory pre-bid meeting will not be required for this project.

END OF SECTION

SECTION TWO
CONTRACT DOCUMENTS

BID BOND
(Five Percent of Bid)

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

_____ as Principal and

_____ as Surety,

are hereby held and firmly bound unto the City of Kennesaw, Georgia as City in the penal sum of _____ Dollars (\$_____) 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 _____ day of _____, 20 _____.

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

ADAMS PARK RESTROOM 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

Principal

SEAL

Surety

BID PROPOSAL

Place _____

Date _____

Proposal of _____

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

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

ADAMS PARK RESTROOM 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 – ADAMS PARK RESTROOM PROJECT:

The property identified for the ADAMS PARK RESTROOM Project is located at 2600 Park Drive, Kennesaw, Ga. 30144.

The project will include the demolition of an existing restroom, and the reconstruction of a new restroom.

All necessary specifications, details, and engineered requirements can be found in the *ADAMS PARK RESTROOM* Construction Documents.

BID PROPOSAL (Continued)

Lump Sum	\$ _____ (Numerals)	_____ (Words)
Contingency (5%)	\$ _____ (Numerals)	_____ (Words)
Grand Total	\$ _____ (Numerals)	_____ (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 _____ as Principal hereinafter called Contractor, and _____ a corporation organized and existing under the laws of the State of _____, 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 _____ Dollars (\$ _____) 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
ADAMS PARK RESTROOM 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

Principal

By _____ SEAL

Witness as to Surety

Surety

By _____

Attorney-in-Fact

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 _____ as Principal, hereinafter called Principal,
and _____, a corporation organized and existing
under the laws of the State of _____, 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 _____ Dollars
(\$ _____) 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

ADAMS PARK RESTROOM 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

Principal

By _____ SEAL

Witness as to Surety

Surety

By _____

Attorney-in-Fact

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.

CONTRACT

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

ADAMS PARK RESTROOM PROJECT

hereinafter called the "Project", for the sum of _____ Dollars (\$_____) 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

Contractor

By _____

ATTEST: (Seal)

Secretary

Witness

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
ADAMS PARK RESTROOM PROJECT

COBB COUNTY, GEORGIA

1. The City of Kennesaw is entering into a contract for ADAMS PARK RESTROOM PROJECT (the "Contract") with:

_____.

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

(Name of Individual Executing Contract)

CONCERNING THE CONTRACT FOR
ADAMS PARK RESTROOM 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 _____ (title) of _____ (the "Company"), which is entering into a contract for ADAMS PARK RESTROOM 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: _____

Title: _____

Sworn to and subscribed before me,
this ____ day of _____, 20__.

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.

EEV/Basic Pilot Program e-Verify Number

BY: Authorized Officer or Agent Date
(Contractor Name)

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME
ON THIS ____ 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).

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 ADAMS PARK RESTROOM 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.) | Statutory |
| | Longshoreman's: | |
| (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
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Property Damage:

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

\$1,000,000	Annual Aggregate
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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

In the event work is delayed due to inclement weather, the Contractor must request an extension in writing. 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.

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



Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: December 9, 2024

TITLE: **Final Plat Application: 2640 S. Main Street**
 Consideration for approval of a final plat submitted by Station at South Main, LLC to subdivide existing parcel 20016701150 into five (5) commercial tracts. Case #PS2024-01

Summary:

The application was submitted to subdivide existing parcel 20016701150 into five (5) commercial tracts. The Plan Review Committee has reviewed the final plat and deemed the plat in compliance and recommends approval.

Recommendation:

Zoning Administrator recommends approval of the final plat.

Fiscal Impact:

Attachments:

1. PS2024-01 - 2640 S. Main St_Final Plat Application Packet
2. PS2024-01-2640 S. Main St_Conceptual Site Plan
3. PS2024-01_2640 S. Main St_PRC Letter
4. PS2024-01_2460 S. Main St_Final Plat



Date Received 07/30/24
Staff's Initials CMC

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

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

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

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

Date of Consultation _____ Staff Initials _____

DEVELOPMENT NAME STATION AT SOUTH MAIN Number of Units 5 (AND ONE COMMON PARKING AREA)

PURPOSE OF DEVELOPMENT COMMERCIAL / RETAIL BUILDINGS

WHAT IS THE REVISION BEING MADE _____

ADDRESS OF PROPERTY 2640 SOUTH MAIN ST.

Parcel ID 20016701150 Lot Size 7,295 SF - 14,850 SF Present Zoning CBD

Current Use UNDEVELOPED Proposed Use COMMERCIAL / RETAIL

APPLICANT Station at South Main, LLC

Applicant address 2001 Duncan Dr NW PO 1288, Kennesaw, GA, 30144, USA

(Phone #) _____ Email Address _____

Applicant Signature _____

Signed, sealed and delivered in presence of _____ Notary _____ Date 07/19/2024



REPRESENTATIVE JOEL M. WAMPLER (Phone #) _____ Email Address joel@wamplerllc.com

Representative Signature _____

Signed, sealed and delivered in presence of: Wampler Notary _____ Date 7/25/24

TITLEHOLDER Station at South Main, LLC (Phone #) _____ Address 2001 Duncan Dr NW PO 1288, Kennesaw, GA, 30144, USA

Titleholder Signature _____

Signed, sealed and delivered in presence of Notary _____ Date 07/19/2024





CAMPAIGN DISCLOSURE REPORT ¹ BY APPLICANT²

A separate form must be completed by each applicant

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

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

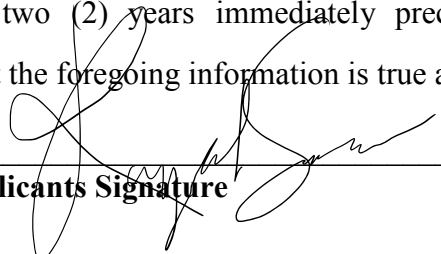
Please supply the following information that will be considered as the required disclosure:

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

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

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

I certify that the foregoing information is true and correct, this 4th day of December, 20 24



Applicants Signature

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

² Applicant means any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action.



CONSISTENT WITH THE UNITED STATES CONSTITUTION AND THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000, THE CITY OF KENNESAW DOES NOT DISCRIMINATE ON THE BASIS OF RELIGION IN THE APPLICATION OF ITS LAWS, POLICIES, OR PROCEDURES, INCLUDING THE APPLICATION OF ITS LAND USE REGULATIONS AND ZONING LAWS.

Under the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”), no government, including the City of Kennesaw, may apply its zoning or land use laws in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution. RLUIPA also provides that no government, including the City of Kennesaw, may apply a land use regulation in a manner that treats a religious assembly or institution (a church, for example) on less than equal terms than a nonreligious institution or assembly (a day care center or movie theater, for example). Finally, RLUIPA provides that no government, including the City of Kennesaw, may impose or implement a land use regulation in a manner that discriminates against a religious assembly or institution.

If you believe that the City of Kennesaw, or any other local government or municipality, has discriminated against you in the implementation of its zoning or land use laws, please contact the United States Department of Justice at:

**United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Ave. N.W. –G St.
Washington, DC 20530**

All that tract or parcel of land lying and being in land lots 167 and 168 of the 20th District, 2nd Section, City of Kennesaw, Cobb County, Georgia and being more particularly described as follows:

Commencing at a the intersection of the eastern right-of-way margin of Old Highway 41 (having a 60' R/W) and the northern right of way margin of the North Carolina and St. Louis Railroad Spur Line (having a 50' R/W); Thence following along the northern right-of-way margin of said railroad spur line North 57 degrees 34 minutes 46 seconds West for a distance of 131.36 feet to a point and the True Point of Beginning;

Thence departing said right-of-way margin North 00 degrees 33 minutes 35 seconds West for a distance of 296.53 feet to a point;

Thence North 89 degrees 26 minutes 25 seconds East for a distance of 27.79 feet to a point;

Thence North 75 degrees 10 minutes 01 seconds East for a distance of 61.36 feet to a point;

Thence North 89 degrees 26 minutes 25 seconds East for a distance of 236.34 feet to a point;

Thence south 00 degrees 33 minutes 35 seconds East for a distance of 201.22 feet to a point located on the northern margin of the North Carolina & St. Louis Railroad Spur Line right-of-way (50' R/W);

Thence continuing along said right-of-way margin North 88 degrees 58 minutes 01 seconds West for a distance of 12.07 feet to a point;

Thence along an arc curving to the left for a distance of 91.46 feet said arc having a radius of 368.78 feet and being subtended by a chord having a bearing of south 83 degrees 26 minutes 30 seconds west and chord distance of 91.23 feet to a point;

Thence along an arc curving to the left for a distance of 187.31 feet said arc having a radius of 570.35 feet and being subtended by a chord having a bearing of south 66 degrees 55 minutes 41 seconds west and chord distance of 186.47 feet to a point;

Thence south 57 degrees 31 minutes 10 seconds west for a distance of 57.05 feet to a point and the point of beginning.

Said tract containing an area of 1.74 Acres (75,835 square feet).

Deed Book 16207 Page 6150
Filed and Recorded 5/24/2024 2:02:00 PM
2024-0041090
Real Estate Transfer Tax \$900.00
Connie Taylor
Clerk of Superior Court
Cobb County, GA
Participant IDs: 3270213572
7067927936

Return Recorded Document to:
Hartmanlaw, LLC
145 Towne Lake Parkway
Suite 200
Woodstock, GA 30188
FILE #: W-23-757

Parcel Number: **20016701150**

**LIMITED
WARRANTY DEED**

STATE OF GEORGIA
COUNTY OF CHEROKEE

THIS INDENTURE made this **17th day of May, 2024**, between **Kennesaw Commercial Owner, LLC, a Limited Liability Company**, of the County of **Cobb**, and State of Georgia, as party or parties of the first part, hereinunder called Grantor, and **Station at South Main LLC.**, as party or parties of the second part, hereinafter called 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 DOLLARS (\$10.00) and other good and valuable considerations in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee.

All that tract or parcel of land lying and being in Land Lots 167 and 168 of the 20th Land District, 2nd Section, City of Kennesaw, Cobb County, Georgia, being known as Retail Tract on the Subdivision Plat of 2652 South Main Street, dated May 2, 2022, and recorded on July 20, 2022, in Plat Book 281, Page 227, Cobb County, Georgia records.

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

TO HAVE AND TO HOLD the said tract or parcel of land, 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 behoof of the said Grantee, forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons by, through and under the above named grantor.

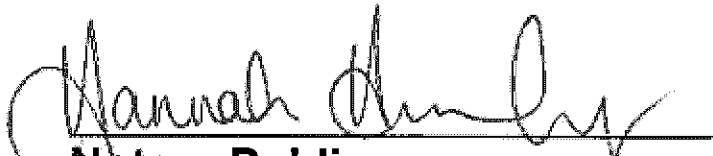
IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this day and year first above written.

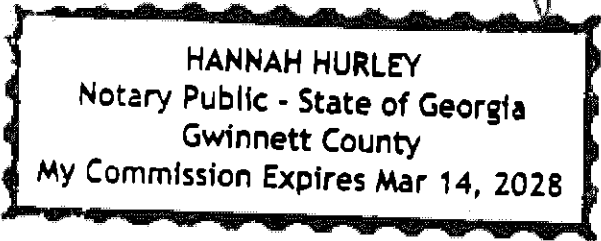
Signed, sealed and delivered in presence of: **GRANTOR:**

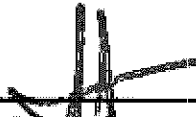

Witness
Elliot Van Dyke

**Kennesaw Commercial Owner, LLC, a Georgia
Limited Liability Company**

**By: TR Kennesaw, LLC a Georgia limited liability
company, its manager**


Notary Public



By:  (SEAL)
J. Bradford Smith, Manager



Printed: 7/30/2024

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
KENNESAW DEVELOPMENT OWNER LLC

KENNESAW COMMERCIAL OWNER LLC

Payment Date: 10/16/2023

Tax Year	Parcel ID	Due Date	Appeal Amount		Taxes Due
2023	20016701150	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	\$4,950.15	\$0.00



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



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 #	
20016701150	3/3-BOND - KENNESAW CITY		254086	
Property Owner/Location/Description			Fair Market Value	Taxable Value
STATION AT SOUTH MAIN LLC 2640 S MAIN ST			410,460	164,184
Levies	Taxable Value	- Exemptions	= Net Assessment	X Tax Rate = Net Tax
CITY OF KENNESAW	164,184	0	164,184	7.7500000000 \$1,272.43
BOND	164,184	0	164,184	1.5000000000 \$246.28



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.

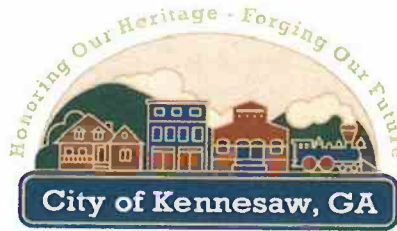
Parcel ID: 20016701150
Amount Due: \$0.00
Bill#: 254086
Due Date: 12/01/2023

AMOUNT PAID

STATION AT SOUTH MAIN LLC
820 TOPAZ VLY
CANTON, GA 30114

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





Community Development Department
Plan Review Committee

Plan Review Coordinator
Scott Banks, Building Official

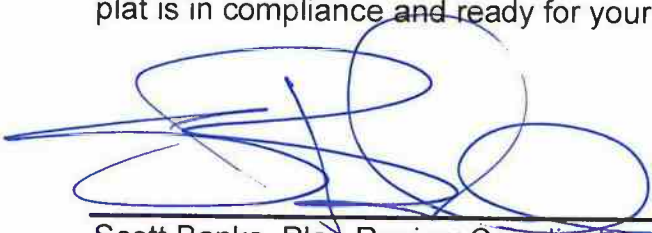
Plan Review Committee Members
Darryl Simmons, Zoning Administrator
Ricky Stewart, Public Works Director
Luke Howe, Economic Development Director

To: Mayor and Council

From: Plan Review Committee

Date: December 9, 2024

The plat application (PS2024-01) was submitted by Station at South Main, LLC for 2640 S. Main Street and it was received and reviewed by the Plan Review Committee. The plat application was submitted to subdivide the existing parcel (20016701150) into five (5) commercial tracts. All members of the Plan Review Committee have verified said plat, and all comments were addressed. The final plat is in compliance and ready for your consideration and approval.

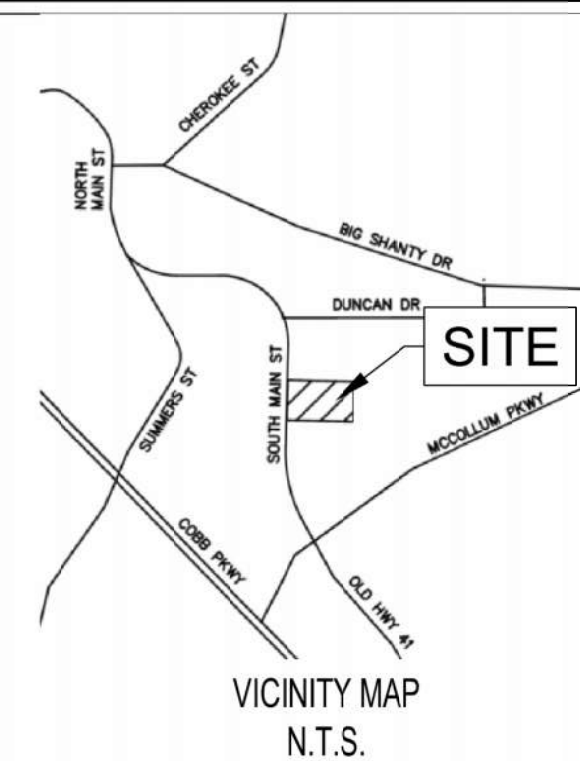


Scott Banks, Plan Review Coordinator

FINAL PLAT OF: STATION AT SOUTH MAIN

LAND LOT 167, 20TH DISTRICT, 2ND SECTION IN THE CITY OF KENNESAW, COBB COUNTY, GEORGIA

PARCEL ID: 20016701150



VICINITY MAP
N.T.S.

ELEVATIONS
DESIGN GROUP LLC
SURVEYORS AND ENGINEERS
110 EVANS MILL DRIVE
SUITE 603
DALLAS, GA 30157
770-865-6774
ELEVATIONS.DG.COM

REV.	DATE	DESCRIPTION
0	09/13/2024	ISSUED FOR REVIEW
1	10/15/2024	REVISED PER CITY COMMENTS

OWNER/DEVELOPER

APPROVED VARIANCE

MAYOR
Derek Eastman
City Manager
Jill Conway, ICMA-CM
City Clerk
Lee Alvarez, CMG



COUNCIL
Mayor Pro Tem Tracy Vance
James Eaton
Pat Ferris
Chris Henderson
Nehru Patel

December 31, 2021

Bulldog Acquisitions, LLC
2100 South Main Street, Kennesaw, GA 30144
Atlanta, GA 30327

Subject: Variance Application Case #C0021-04
2001 South Main Street, Kennesaw, GA 30144 - Parcel ID: 20016701150

Dear Bulldog Acquisitions, LLC:

The City of Kennesaw Mayor and Council held their regularly scheduled meeting on December 30, 2021 to consider the above subject application. The matter was referred to the City's Public Works Committee.

- Reduce the square footage of residential area from 1200 square feet to 800 square feet per section (400,000 sq ft) to 400,000 sq ft.
- Reduce the minimum square footage from 800 square feet to 750 square feet per section (400,000 sq ft).

Mayor and Council voted to approve the application as presented. Please submit a copy of this letter with the application construction plan for permitting. If you have questions or concerns, please contact me at 770-865-6774 or kennessaw@elevationsg.com.

Sincerely,

Darryl Simmons

Darryl Simmons
Planning and Zoning Administrator

Enclosure: 04/04

City of Kennesaw 2029 J.O. Stephenson Avenue Kennesaw, Georgia 30144

CITY OF KENNESAW
GEORGIA

ORDINANCE NO. 2021-15, 2021

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF KENNESAW, GEORGIA SO AS TO CHANGE THE ZONING DISTRICT DESIGNATION FROM CITY LIGHT INDUSTRIAL (LI) TO CITY CENTRAL BUSINESS DISTRICT (CBD) FOR PROPERTY LOCATED AT 2652 SOUTH MAIN STREET (LAND LOT 167 & 168 AND TAX PARCEL 2)

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

WHEREAS, Bulldog Acquisitions, LLC has made an application to amend the Official Zoning Map of the City of Kennesaw, Georgia so as to change the zoning designation from CITY LIGHT INDUSTRIAL (LI) to CITY CENTRAL BUSINESS DISTRICT (CBD); for property located at 2652 South Main Street, identified as 20th District, Land Lot 167 & 168 Tax Parcel 2 containing +/- 19.1 acres (as more particularly described below); and

WHEREAS, notice was advertised in the Marietta Daily Journal on September 17, 2021, September 24, 2021, October 15, 2021, October 22, 2021, November 12, 2021 and November 19, 2021 of a public hearing before the Kennesaw Planning Commission held on October 6, 2021, November 3, 2021 and December 1, 2021 and the Mayor and Council on October 18, 2021, November 15, 2021 and December 20, 2021; and

WHEREAS, the Kennesaw Planning Commission held a public hearing on this proposal at a meeting held October 6, 2021, November 3, 2021 and December 1, 2021; and

WHEREAS, the Mayor and Council held a public hearing to consider this proposal at a meeting held October 18, 2021, November 15, 2021 and December 20, 2021; and

WHEREAS, the Mayor and Council have determined that the proposed amendment to the Official Zoning Map is in the public interest and meets the standards established in the Kennesaw Zoning Code.

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

SECTION 1. The Official Zoning Map of the City of Kennesaw, Georgia is hereby amended so as to change the zoning district designation from CITY LIGHT INDUSTRIAL (LI) TO CITY CENTRAL BUSINESS DISTRICT (CBD) for the following described property:

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lots 167 and 168 of the 20th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

Commencing at a 5/8" rebar set at the point of intersection of the northerly right-of-way of the North Carolina & St. Louis Railroad spur line (50' RW) and the easterly right-of-way of Old Highway 41 (50' RW), said point being the TRUE POINT OF BEGINNING;

Thence along said easterly right-of-way the following courses and distances: North 02 degrees 40 minutes 39 seconds East, 319.53 feet to a 5/8" rebar set; along a curve to the left, an arc distance of 183.02 feet, said curve having a radius of 6475.28 feet and being subtended by a chord of 183.61 feet; at North 01 degrees 51 minutes 55 seconds East, to a 5/8" rebar set; Thence leaving said easterly right-of-way South 83 degrees 45 minutes 19 seconds East, 528.11 feet to a 1/2" rebar found; Thence North 00 degrees 23 minutes 14 seconds East, 326.11 feet to a rod set in concrete found on the southerly right-of-way of Duncan Drive (50' RW); Thence along said southerly right-of-way the following courses and distances: North 89 degrees 34 minutes 56 seconds East, 226.05 feet to a PK nail set; along a curve to the left, an arc distance of 537.96 feet, said curve having a radius of 57553.50 feet and being subtended by a chord of 537.96 feet; at North 89 degrees 19 minutes 52 seconds East, to a 5/8" rebar set; North 89 degrees 02 minutes 44 seconds East, 136.81 feet to a 1/2" rebar found; Thence leaving said southerly right-of-way South 00 degrees 21 minutes 52 seconds East, 848.37 feet to a 1/2" rebar found on said northerly right-of-way of the North Carolina & St. Louis Railroad spur line (50' RW); Thence along said northerly right-of-way the following courses and distances: North 74 degrees 45 minutes 53 seconds West, 446.40 feet to a 5/8" rebar set; along a curve to the left, an arc distance of 360.32 feet, said curve having a radius of 2714.88 feet and being subtended by a chord of 360.32 feet; at North 75 degrees 08 minutes 43 seconds West, to a 5/8" rebar set; North 75 degrees 31 minutes 34 seconds West, 62.19 feet to a 5/8" rebar set; along a curve to the left, an arc distance of 195.98 feet, said curve having a radius of 809.69 feet and being subtended by a chord of 195.50 feet; at North 52 degrees 27 minutes 36 seconds West, to a 5/8" rebar set; along a curve to the left, an arc distance of 91.46 feet, said curve having a radius of 368.75 feet and being subtended by a chord of 91.23 feet; at South 83 degrees 30 minutes 05 seconds West, to a 5/8" rebar set; along a curve to the left, an arc distance of 187.31 feet, said curve having a radius of 570.35 feet and being subtended by a chord of 186.47 feet; at South 56 degrees 59 minutes 17 seconds West, to a 5/8" rebar set; South 57 degrees 34 minutes 46 seconds West, 188.42 feet to a 5/8" rebar set; said point being the TRUE POINT OF BEGINNING;

SECTION 2. BE IT FURTHER ORDAINED THAT the amendment to the Official Zoning Map outlined in Section 1 above is adopted to change the zoning district designation from CITY LIGHT INDUSTRIAL (LI) TO CITY CENTRAL BUSINESS DISTRICT (CBD) +/- 19.1 acres with stipulations as follows:

CITY OF KENNESAW
ORDINANCE NO. 2021-15, 2021

STIPULATIONS APPLICABLE TO THE OVERALL MIXED-USE DEVELOPMENT

- The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatever form which are currently in place concerning the Subject Property.
- The Subject Property will be rezoned from LI to CBD in order to allow for the development and construction of a Mixed-Use Development in substantial conformity to the current revised site plan prepared by J. Lancaster Associates, Inc. which is being submitted concurrently herewith.
- The Subject Property consists of an approximate 19.125 acre tract of land which shall be developed as a Mixed-Use Development including the components mentioned above with ancillary and permitted uses allowed under and pursuant to the CBD Zoning District.
- There shall be the Master Developer and will be involved with all aspects of the development including, but not limited to, all of the components located therein.
- Prior to the issuance of Final Certificates of Occupancy regarding the Multi-Family component, the developer will develop the entire infrastructure and have completed the linear park, pad ready the commercial building. Additionally, the townhomes will begin construction prior to the final CO's for the multifamily building.
- Prior to the issuance of the final Multi-Family Certificate of Occupancy, a final plat shall be recorded and the developer shall submit Master Protective Covenants for the Mixed-Use Development which shall include all phases. Currently therewith, Master Association documents shall be submitted which will include all components of the proposed development. The Master Association will ultimately be responsible for the oversight, upkeep and maintenance of all entrance areas, common areas, community buildings and structures, Open Space areas, including the new Gateway Park extension and all of its associated amenities, pedestrian connectivity and similar features contained within the overall Mixed-Use Development.
- The Master Association shall have Architectural Design Regulations and other usual and customary Covenants and Restrictions to protect the quality and integrity of the Mixed-Use Development's architecture.
- The architectural style and composition regarding the Mixed-Use Development shall be in reasonable conformity to the architectural renderings/elevations/photographs (depicting all components) which were submitted concurrently with the Application.
- The developer agrees to construct all of the necessary roadways and infrastructure improvements as more particularly shown and reflected on the current revised site plan. Additionally, the developer agrees to comply in all respects with the City's specifications concerning such infrastructure improvements which are inferior to the Mixed-Use Development. The developer will work with the city on improvements to Duncan Drive including potentially extending sidewalks to Big Shanty Road.
- Entrance signage shall be ground-based, monument-style signage with finish, materials and colors being in substantial conformity to the architectural style embodied in the Mixed-Use Development. Said signage may include building-attached, vertical marquee signage and other signage allowed under and pursuant to the City of Kennesaw Sign Ordinance.
- The entrance areas of the Mixed-Use Development shall be professionally designed, landscaped, maintained, irrigated and themed to the architectural style and composition of the proposed development.
- Lighting with the proposed Mixed-Use Development shall be environmentally sensitive, decorative and themed to the architectural style and composition of the respective components of the development. Every effort shall be made to make all lighting as unobtrusive as possible. All proposed lighting plans will be subject to approval during the City of Kennesaw Plan Review process.
- AI setback and buffer areas may be penetrated for purposes of grading, detention, utilities and stormwater management as long as such encroachments satisfy City of Kennesaw developmental regulations and requirements and if approved by the City of Kennesaw Public Works Director and Planning and Zoning Administrator.
- AI streets within the interior of the proposed Mixed-Use Development shall be private and shall be owned and maintained by the developer.
- Notwithstanding anything herein to the contrary, the maximum number of residential multifamily units shall not exceed 316 units and the minimum number of single-family residential townhome units shall be 44 units.
- Minor modifications to the within and foregoing stipulations/conditions, lighting, landscaping, signage, architecture, site features and the like may be approved by the City's Planning and Zoning Administrator or his designee as needed or necessary.
- The Master Association would have a structure to handle the utilities and payment of utilities for the development.
- Applicant will work with the City of Kennesaw to connect South Main Street and Big Shanty Drive by way of a continuous sidewalk.
- AI 80% of occupancy, applicant will fund a traffic signal warrant study and if warranted, will fund the installation of a traffic signal, as read into the record and discussed.

CITY OF KENNESAW
ORDINANCE NO. 2021-15, 2021

- The exterior material of the townhomes will consist of masonry material (i.e. brick, brick veneer, stone, stacked stone or any combination thereof) on any and all sides visible from Duncan Drive.
- The minimum square footage of each townhome unit shall be 1,800 square-feet. The minimum heated floor area of each townhome unit shall be 1,400 square-feet. All townhomes shall have a minimum two-car garage with a minimum 20-foot driveway. The garage shall be primarily used for the parking of vehicles and shall not be converted to other uses.
- The maximum number of single-family rental units may not exceed 10% of the townhome development.

STIPULATIONS APPLICABLE TO THE SINGLE-FAMILY RESIDENTIAL ATTACHED TOWNHOME COMPONENT OF THE PROPOSED MIXED-USE DEVELOPMENT

- The exterior material of the townhomes will consist of masonry material (i.e. brick, brick veneer, stone, stacked stone or any combination thereof) on any and all sides visible from Duncan Drive.
- The minimum square footage of each townhome unit shall be 1,800 square-feet. The minimum heated floor area of each townhome unit shall be 1,400 square-feet. All townhomes shall have a minimum two-car garage with a minimum 20-foot driveway. The garage shall be primarily used for the parking of vehicles and shall not be converted to other uses.
- The maximum number of single-family rental units may not exceed 10% of the townhome development.

CITY OF KENNESAW
ORDINANCE NO. 2021-15, 2021

STIPULATIONS APPLICABLE TO THE NON-RESIDENTIAL COMPONENTS OF THE PROPOSED MIXED-USE DEVELOPMENT

- The developer proposes a retail, apartment and townhome Mixed-Use Concept by varying facades, roof elevations and other aesthetically pleasing treatments in substantial conformity to the architectural renderings/elevations/photographs & other imagery which was mentioned hereinabove and attached hereto.
- The architectural style and composition shall be substantially similar to the architectural renderings/elevations and imagery or as may be approved during the Plan Review Process. It is understood that said architectural imagery is conceptual in nature and shall be refined, clarified and focused as the Mixed-Use Development proceeds through the Plan Review Process. Additionally, it is also understood that the positioning of certain components of the architecture, for example, windows, patios and other such features, etc. may be revised during the final Plan Review Process as well.
- Landscaping for the proposed development shall be pursuant to a specific landscape plan which shall be submitted during the Plan Review Process, with reference being made to said landscape plan for more particular delineation and location of the plantings and species to be planted.
- Parking area lighting shall be a maximum height of thirty feet (30') and shall be environmentally sensitive, energy efficient, horizontal cut-off luminaires which will eliminate light pollution in order to prevent illumination from penetrating outside of the boundaries of the Subject Property. Lighting fixtures shall be substantially similar in design to those found within Downtown Kennesaw.
- Hooded security lighting shall be utilized on the buildings within the Non-Residential areas as required by Kennesaw Developmental Regulations.
- The applicant agrees to install and construct site lighting to a site lighting/photometric plan which shall be submitted to the City Staff for review and approval during the Plan and Review Process.
- Dumpsters will be positioned so as to prevent visual intrusion from streets, connection points to the community spaces and, wherever possible with screening by landscaping, walls and/or vegetation. Dumpsters shall have rubber lids and dumpsters to minimize noise during their emptying. All grade trash collection shall also be allowed and screened as appropriate.
- Any exhaust from restaurant facilities which may be constructed shall be filtered and/or attenuated to minimize odors.
- There shall be no outdoor paging system, phone bells or loud speakers. However, outdoor music systems and outdoor musical performances shall be allowed.
- The following uses shall be prohibited as well as all use limitations found within Section 4.02.03 (E) of the City of Kennesaw Unified Development Code:
 - Video arcades as a primary use.
 - Adult themed book and novelty stores as a primary use.
 - Automotive sales, repair and/or service facilities.
 - Movie theaters.

CITY OF KENNESAW
ORDINANCE NO. 2021-15, 2021

- Gas stations and convenience stores with gas sales.
 - Pawn shops.
 - Automotive wash service.
 - Boat sales and repairs.
 - Boarding and breeding kennels.
 - Dry cleaning plants.
 - Farm equipment sales and service.
 - Lumber, hardware and other building material establishments.
 - Mobile home and travel trailer sales.
 - Motorcycle sales and service.
 - Check-cashing establishments.
 - Service stations.
 - Station terminals for bus and/or rail passenger service.
 - Taxi stands.
 - Tattoo parlors.
 - Massage parlors.
 - Pool halls.
 - Package shops (except within the context of wine/spirits sold in a market or specialty shop).
11. The Non-Residential components will include pedestrian walkways between the proposed buildings and throughout the parking area subject to review and approval by the City's Staff.

NO STREET PARKING HAS BEEN
APPROVED FOR THIS DEVELOPMENT

PROJECT NARRATIVE

THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE EXISTING
PARCEL 20016701150 INTO 5 COMMERCIAL TRACTS.

CURRENT OWNER OF RECORD

STATION AT SOUTH MAIN LLC
820 TOPAZ VALLEY
CANTON, GA 30114

EXISTING CONDITIONS

PARCEL ID: 20016701150
ADDRESS: 2640 SOUTH MAIN STREET
TOTAL AREA: 1.74 AC. (75,835 SF)
ZONED: CBD - CENTRAL BUSINESS DISTRICT

MIN. LOT SIZE: NONE
MIN. LOT COVERAGE: 87%

SETBACKS:
FRONT: "BUILD-TO-LINE"
SIDE: NONE
REAR: NONE

DENSITY: 6 PARCELS (1 COMMON)/1.74 AC.

ENGINEER AND LAND SURVEYOR ACKNOWLEDGEMENT

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

Joel M. Hart 06/21/24
JOEL M. HART GA R.L.S. #2884 DATE

Joel M. Hart 06/21/24
JOEL M. HART GA P.E. #42100 DATE

SPECIAL CCWS NOTES

- NO PERMANENT STRUCTURES SHALL BE CONSTRUCTED WITHIN TEN (10') FEET OF THE EDGE OF A PERMANENT COBB COUNTY WATER OR SANITARY EASEMENT ON FRONT OR REAR SETBACKS OR WITHIN TWO (2') ON SIDE SETBACKS, PER COUNTY CODE 122-123.

OWNER'S ACKNOWLEDGEMENT

THE OWNER OF THE LAND SHOWN ON THIS PLAT AND WHOSE NAME IS SUBSCRIBED THERETO, AND IN PERSON OR THROUGH DULY AUTHORIZED AGENTS, ACKNOWLEDGES THAT THIS PLAT WAS MADE FROM AN ACTUAL SURVEY AND DEDICATES TO THE USE OF THE PUBLIC FOREVER ALL STREETS, PARKS, DRAINS, EASEMENTS AND PUBLIC GROUNDS THEREON SHOWN, WHICH COMPRISES A TOTAL OF 1.74 ACRES, FOR THE PURPOSES THEREIN EXPRESSED.

Rajpal Sagoo July 19, 2024
SUBDIVIDER/OWNER PRINT NAME DATE

NOTES

- BEARINGS AND COORDINATES SHOWN REFERENCE NAD-83 GEORGIA WEST ZONE STATE PLANE COORDINATES.
- ALL MATTERS OF TITLE ARE EXCEPTED. THIS SURVEY WAS PREPARED WITHOUT A COMPLETE TITLE SEARCH.
- THIS SURVEY COMPLES WITH BOTH THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND THE OFFICIAL CODE OF GEORGIA ANNOTATED (O.C.G.A.) 15-6-67, IN THAT WHERE A CONFLICT EXISTS BETWEEN THOSE TWO SETS OF SPECIFICATIONS, THE REQUIREMENTS OF LAW PREVAIL.

REFERENCES

- SUBDIVISION PLAT OF 2652 SOUTH MAIN STREET FOR BULLDOG ACQUISITIONS, LLC BY GEOSURVEY DATED 06/02/2022 AND RECORDED IN PLAT BOOK 281 PAGE 227 OF COBB COUNTY RECORDS.

CITY OF KENNESAW ACCEPTANCE NOTE

NOTHING HEREIN NOR ACCEPTANCE SHALL BE CONSTRUED TO MEAN THAT THE CITY OF KENNESAW HAS ACCEPTED THE DEDICATION OF ANY RIGHTS-OF-WAY, EASEMENTS OR OTHER AREA AS BEING DEDICATED TO PUBLIC USE.

COBB COUNTY WATER AND SEWER APPROVAL

SIGNATURE PRINTED NAME DATE

PLANNING AND ZONING APPROVAL

SIGNATURE PRINTED NAME DATE

BUILDING AND CONSTRUCTION APPROVAL

SIGNATURE PRINTED NAME DATE

PUBLIC WORKS

SIGNATURE PRINTED NAME DATE

CITY ENGINEER APPROVAL

SIGNATURE PRINTED NAME DATE

CITY OF KENNESAW ACCEPTANCE NOTE

NOTHING HEREIN NOR ACCEPTANCE SHALL BE CONSTRUED TO MEAN THAT THE CITY OF KENNESAW HAS ACCEPTED THE DEDICATION OF ANY RIGHTS-OF-WAY, EASEMENTS OR OTHER AREA AS BEING DEDICATED TO PUBLIC USE.

MAYOR AND COUNCIL APPROVAL

PURSUANT TO THE LAND SUBDIVISION SECTIONS OF THIS UDC OF THE CITY OF KENNESAW, GEORGIA, ALL THE REQUIREMENTS OF APPROVAL HAVING BEEN FULFILLED, THIS FINAL PLAT WAS GIVEN FINAL APPROVAL BY THE MAYOR AND COUNCIL OF KENNESAW, GEORGIA ON _____ (DATE).

MAYOR, KENNESAW, GEORGIA DATE

FINAL PLAT OF:
STATION AT SOUTH MAIN
BEING THE SAME PROPERTY KNOWN AS "RETAIL TRACT"
ON SUBDIVISION PLAT FOR BULLDOG ACQUISITIONS, LLC
LAND LOT 167, 20TH DISTRICT, 2ND SECTION
IN THE CITY OF KENNESAW,
COBB COUNTY, GEORGIA



GSWCC LEVEL II
0000035425

TITLE

COVER
PAGE

SHEET

1 OF 2

PROJECT
INFORMATION
FILE: 23-357
DATE: 06/21/24
SCALE:





Item Report

TO: The Honorable Mayor and City Council
FROM:
DATE: December 9, 2024
TITLE: Reports, Discussions, and Updates

Summary:

Recommendation:

Fiscal Impact:

Attachments:
None



Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: December 9, 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