

Mayor

Derek Easterling

City Manager

Jeff Drobney, ICMA-CM

City Clerk

Lea Alvarez, CMC

**Council**

Mayor Pro-Tem Tracey Viars

Lynette Burnette

Pat Ferris

Antonio Jones

Trey Sinclair

**City Council Work Session
Meeting Agenda
September 25, 2023 6:30 PM
Council Chambers**

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

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

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

- A. **DISCUSSION ONLY:** Quarterly Update from Developers, including: the Duncan Drive/Tugg Property- Drew Cunningham with Highpoint Development

and the Duncan Drive Townhome development across from the Post Office-
Chris Olson & John Wieland with JW Collection Atlanta.

9. Committee and Board Reports

10. Public Hearing(s)

11. Consent Agenda

- A. Approval of the September 11, 2023 City Council work session minutes.
- B. Approval of the September 11, 2023 City Council executive session minutes.
- C. Approval of the September 18, 2023 City Council regular meeting minutes.

12. General and Administrative

13. Public Safety

14. Information Technology

15. Public Works

- A. Approval of RESOLUTION to Award bid and Contract for Community Development Block Grant (CDBG) Woodland Acres Sidewalk Improvements Phase VII.

16. Recreation and Culture

17. Community Development

- A. DISCUSSION ONLY: Jiles Place Lease Agreement.
- B. Consideration for approval of a final plat application submitted by Beazer Gain, LLC for 2438-2460 Hidden Creek Rd, 4020 Oleander Ct. Case #FP2023-06

18. Public Comment/Business from the Floor

19. City Manager's Report

- A. Reports, Discussions, and Updates

20. Mayor's Report

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

21. Council Reports & Discussions

22. Executive Session

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

23. Adjourn



Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: September 25, 2023

TITLE: DISCUSSION ONLY: Quarterly Update from Developers, including: the Duncan Drive/Tugg Property- Drew Cunningham with Highpoint Development and the Duncan Drive Townhome development across from the Post Office- Chris Olson & John Wieland with JW Collection Atlanta.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

None

**MINUTES OF CITY COUNCIL WORK SESSION MEETING
CITY OF KENNESAW
Council Chambers
September 11, 2023
6:30 PM**

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

2. Pledge of Allegiance

3. Call to Order

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

4. Announcements

- A. This public meeting is being conducted via the use of real-time telephonic technology allowing the public simultaneous access to the public meeting. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed. Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: <https://www.facebook.com/CityofKennesaw/>
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5. Presentations

6. Public Comment/Business from the Floor

7. Old Business

8. New Business

A. Approval of RESOLUTION to update various portions of the Master Fee Schedule

Deputy City Clerk Lily Smith presented a resolution to update various portions of the Master Fee Schedule. Amendments include the following: Parks and Recreation changed its field rental fees; the Kennesaw Police Department increased its pouring license, criminal history, and fingerprinting fees; Building Services created an after-hours inspection fee and removed its convenience fee and trenching/excavation fee; the Southern Museum made changes to various special event and venue fees as well as to their printing, replication, and distribution fees; Smith-Gilbert Gardens increased their venue rental fees and clarified some admission and group ticket fees; the Kennesaw Downtown Development Authority added a fee for the Scarecrows on Main event; Events Committee increased their custodial and event staffing fees as well as barricade replacement fees; and the Cemetery Preservation Commission increased the prices on cemetery lots and the scattering garden permit.

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

B. Authorization to remove the crush and run road in Section III of the Kennesaw City Cemetery and to reclaim the lots removed to create the road for burial purposes.

City Clerk Lea Alvarez requested final authorization to remove the crush and run road in Section III of the Kennesaw City Cemetery and to reclaim the lots removed to create the road. Ms. Alvarez explained that in 2003, the newly formed Cemetery Preservation Commission voted to create an access road at the back of Section III. The Commission removed approximately 93 lots from sale and converted it to a crush and run rock road, which was the cheaper of the options presented to them at the time. Earlier this year, while working on a surveying project in this section of the cemetery, staff determined that the access road is encroaching on the lots along its left side by about a foot, as well as cutting the corners of lots along its right side at its bend. Unfortunately, the road is already too narrow to try and reduce its width to accommodate vehicular access. Ms. Alvarez stated it is in the staff's opinion that to protect the integrity of the gravesites along either side of the crush and run access road, the road must be closed to vehicles.

At a special meeting called meeting on Thursday, August 31, 2023, the Cemetery Preservation Commission was presented with two options to close the access road. The first option was to chain off the entrance and exit to the road and only allow funeral access. The second option would be for Public Works to remove the crush and run, lay down sod, and revert the road back to the approximately 93 lots that were originally removed to create the road. The Cemetery Preservation Commission unanimously voted to approve and recommend option two.

The cost to revert the road to the lots will be included in the overall total to survey that section of the cemetery, which is \$13,080, and will be paid for out of the Cemetery

Trust Fund.

Councilmember Pat Ferris commented that by doing what staff is recommending, there will be potentially \$93,000 in revenue coming into the Cemetery Trust Fund over the next few years. One of his greatest worries regarding the Kennesaw City Cemetery is that we were going to be running out of lots in the next few years. Doing this will extend sales for the next 10-15 years. He thanked Public Works and the City Clerk's office for their efforts in trying to find a solution to this issue.

Mayor Pro Tem Viars asked if the funeral homes would still need access despite this road being removed. Ms. Alvarez stated there are five-foot walking paths that have been created throughout the cemetery that will allow funeral homes to get their equipment through.

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

9. Committee and Board Reports

10. Public Hearing(s)

- A. FINAL PUBLIC HEARING: Consideration of RESOLUTION to adopt the Fiscal Year 2023-2024 Operating Budget for the City of Kennesaw and adopt the organizational chart.

[Items 10. A and 10. B were presented concurrently].

Assistant Finance Director Jennifer Gordy stated she would be presenting these items at the regular meeting on Monday, September 18, 2023 at 6:30 p.m.

- B. FINAL PUBLIC HEARING: Consideration of RESOLUTION to adopt the Fiscal Year 2023-2024 Capital Improvement (SPLOST) Budget for the City of Kennesaw.
- C. Consideration for approval of a variance application submitted by Jose Gomez for the property located at 2407 Pine Drive (Parcel Number 20016600640). Case #ZV2023-02.

Zoning Administrator Darryl Simmons presented a variance application submitted by Jose Gomez for the property located at 2407 Pine Drive (parcel number 20016600640). Mr. Simmons stated this property is located in the Woodland Acres area. All the properties in this area are zoned R-15 and over the years, it was determined the areas are substandard lots per R-15. The property in question is vacant, and Mr. Gomez wishes to construct a new residential home that meets the criteria and the architectural standards of the area. The variance is because the size of the lot does not meet the 15,000 square foot R-15 requirement. It is a legally non-conforming use, there are no other variances requested, and it is a buildable lot.

Councilmember Ferris stated this neighborhood was built in the 1950s or 1960s. He

asked what the original zoning was when this neighborhood was originally platted. Mr. Simmons said the staff went as far back as they could and as far as he understood it, the zoning was R-15 or something close to that. Over the years, as zoning ordinances were updated, there were not any zoning changes. The neighborhood remained R-15. Councilmember Ferris said the reason he was asking was because one of the key things he has seen in this development is that by in large they have 12,000 square foot lots. It sounds to him, other than maybe one-square foot, it is in compliance with the original plat and its original zoning. He was wondering why Mr. Simmons is now saying it is zoned R-15. Mr. Simmons responded that the area is currently zoned R-15. Councilmember Ferris asked if the city had a comprehensive zoning sometime that made this area R-15. Mr. Simmons said Councilmember Ferris was correct and at the time this neighborhood was developed, there was not a Zoning Administrator in place, so it is hard to connect the dots; however, because this application is for a new building, instead of spot zoning it for R-15, he is going to reduce the lot size because it matches the other lots in the area.

Councilmember Ferris said he was assuming that the lot was considered compliant when the neighborhood was done. He doesn't understand that if the lot was considered legal and valid, why Mr. Simmons is bringing it before the Council tonight. Mr. Simmons said that in building new construction, you have to determine if it meets the current zoning, which would be not. The variance will protect the property owner and the city by acknowledging that this is a legally nonconforming lot and the variance gives them the authority to do new construction on the property.

Councilmember Ferris questioned the condition of a minimum 20-foot driveway when the required front setback is 35 feet. Mr. Simmons stated 20-feet is the minimum, but the driveway will be continuous to the structure. Councilmember Ferris requested the condition be removed.

11. Consent Agenda

- A. Approval of the August 28, 2023 City Council work session minutes.
- B. Approval of the September 5, 2023 City Council regular meeting minutes.

12. General and Administrative

13. Public Safety

- A. Receipt of the August 2023 Crime Statistics.

Kennesaw Police Captain Kevin Mitchell presented the August 2023 crime statistics.

14. Information Technology

15. Public Works

16. Recreation and Culture

17. Community Development

A. Presentation/Update on Martha Moore site development.

Economic Development Director Luke Howe introduced Steve Sirang, Chair of Concord Wilshire Companies, who gave a presentation on the company's proposed mixed-use development of the Martha Moore site, which would be in the vein of Town Brookhaven and Avalon (See **Exhibit A**).

Mayor Pro Tem Viars asked where the majority of residents would be parking to which Mr. Sirang responded that most of the resident parking would be in the proposed parking deck. The parking deck will hold 1,400 spaces. Councilmember Ferris mentioned the site is beside the Kennesaw City Cemetery. One of his goals was to get 10 to 20 more feet of right of way for the cemetery. He was wondering what Mr. Sirang thinks about working with the city to accomplish that. Mr. Sirang stated this was a partnership, and he would be happy to work with the city on any issues. Councilmember Ferris asked what the views from the cemetery would be regarding the proposed development. Mr. Sirang stated the view would be at the back of the parking garage, but the company could work with the city to place some art on the garage, so the views from the cemetery are not just concrete. Councilmember Ferris asked about the residential component to the plan and whether it would be rent-only or some for-sale options as well. Mr. Sirang said he is open to both. Councilmember Sinclair asked if the development would be executed in phases. Mr. Sirang said this project would not be done in phases because of the nature of the development. Everything would need to be activated at one time.

The Council is supportive of the efforts of staff to keep pursuing the concept with Concord Wilshire Companies.

B. Consideration for approval of a final plat application submitted by Kennesaw Townhome Owner, LLC for 1885 & 1945 Duncan Dr. Case #FP2023-04.

Zoning Administrator Darryl Simmons presented a final plat application submitted by Kennesaw Townhome Owner, LLC for 1885 and 1945 Duncan Drive. Mr. Simmons stated this is the townhome component to the TUG mixed-use development on South Main Street. The final plat must be approved and executed so they can begin developing the 44 units which were part of the master plan approved by the Council. Traton Homes will build the townhomes. The Plan Review Committee reviewed the plat and it met all standards.

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

18. Public Comment/Business from the Floor

19. City Manager's Report

- A. Reports, Discussions, and Updates
- B. Recommendation of the City Manager to ratify the appointment of Dave Simpson as the Smith-Gilbert Gardens Executive Director.

This item will be presented at the regular meeting on Monday, September 18, 2023 at 6:30 p.m.

20. Mayor's Report

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

21. Council Reports & Discussions

22. Executive Session

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

Motion by Councilmember Burnette to enter into Executive Session as allowed by O.C.G.A. Sec. 50-14-3 for the purpose of discussing land and legal by the City, motion seconded by Mayor Pro Tem Viars.

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

7:24 p.m. Recess to Executive Session

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

7:36 p.m. Reconvene to Open Session

Councilmember Burnette read the Board back into Open Session and directed the Mayor and City Council to execute an affidavit in compliance with O.C.G.A Sec. 50-14-4, motion seconded by Mayor Pro Tem Viars.

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

23. Adjourn

Mayor Easterling adjourned the meeting at 7:36 p.m. The regular meeting will be held on Monday, September 18, 2023 at 6:30 p.m. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.

DRAFT

MARCH 31, 2022

METRO CENTER REDEVELOPMENT

HINES • CONCORD WILSHIRE • TLG INVESTMENT PARTNERS

RSP ARCHITECTS

MASTERPLAN

BIRDS EYE









THANK YOU

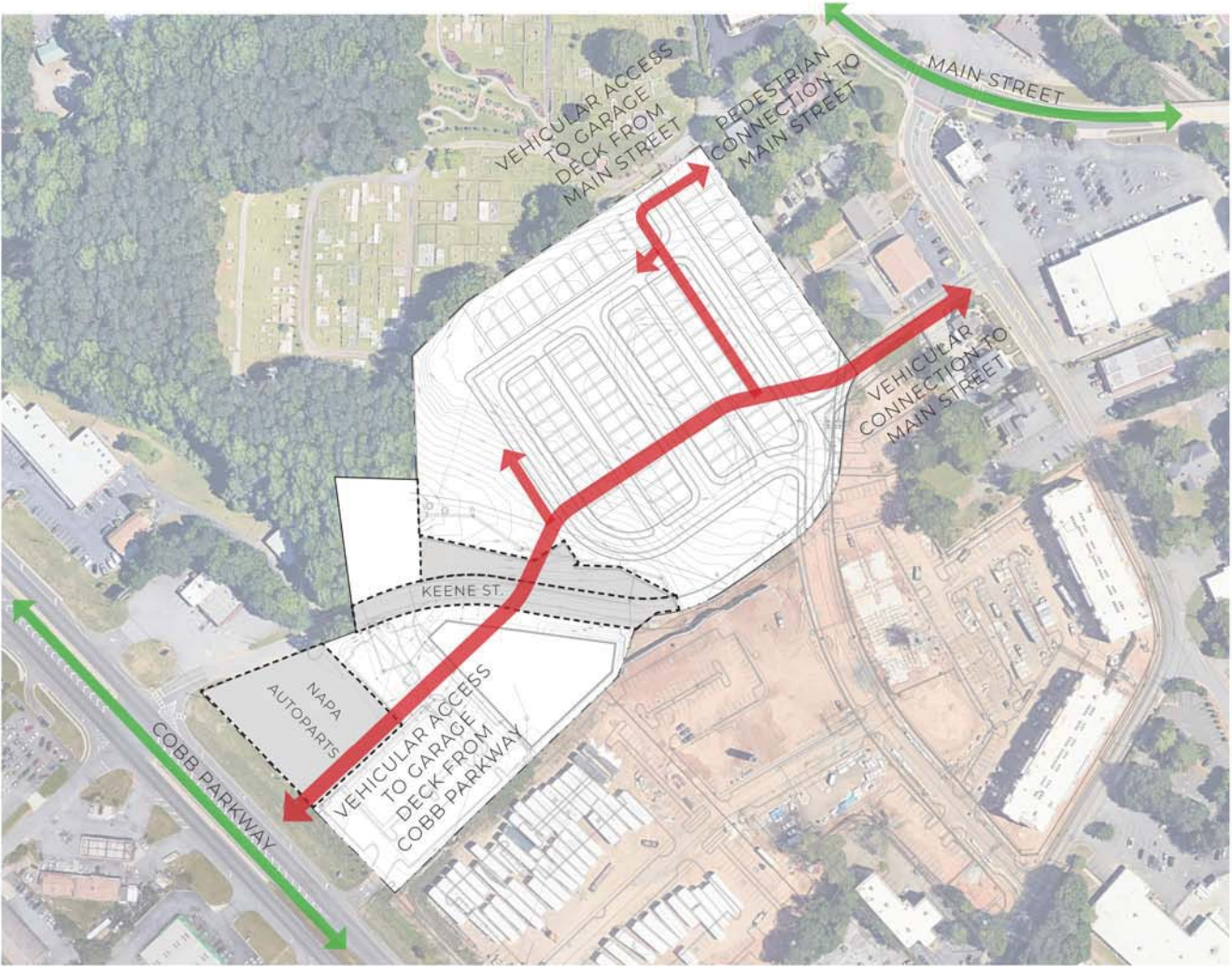
RSP

SEPTEMBER 11, 2023

KENNESAW SQUARE

MASTERPLAN

RSP ARCHITECTS



DESIGN CHARACTER



CONCORD WILSHIRE



RSP ARCHITECTS

DESIGN CHARACTER



CONCORD WILSHIRE



RSP ARCHITECTS

MASTER PLAN

BUILDING	USE	RETAIL GSF	RESI GSF	UNITS
1	retail	7,300 GSF		
2	retail	7,400 GSF		
3	retail	6,800 GSF		
4	retail	7,400 GSF		
5	mixed	10,000 GSF	30,000 GSF	34
6	mixed	19,400 GSF	77,600 GSF	87
7	mixed	12,000 GSF	48,000 GSF	54
8	mixed	21,800 GSF	82,800 GSF	93
9	mixed	23,500 GSF	129,650 GSF	142
10	retail	15,000 GSF		
Garage			1110 spaces	

129,700 GSF - TOTAL RETAIL

365,400 GSF - TOTAL RESIDENTIAL

495,100 GSF - TOTAL BUILDING AREA

409 UNITS - TOTAL UNIT COUNT

1,110 SPACES - TOTAL STRUCTURE PARKING

275 SPACES - TOTAL SURFACE PARKING

1,385 SPACES - TOTAL PARKING SPACES

CONCORD WILSHIRE



RSP ARCHITECTS

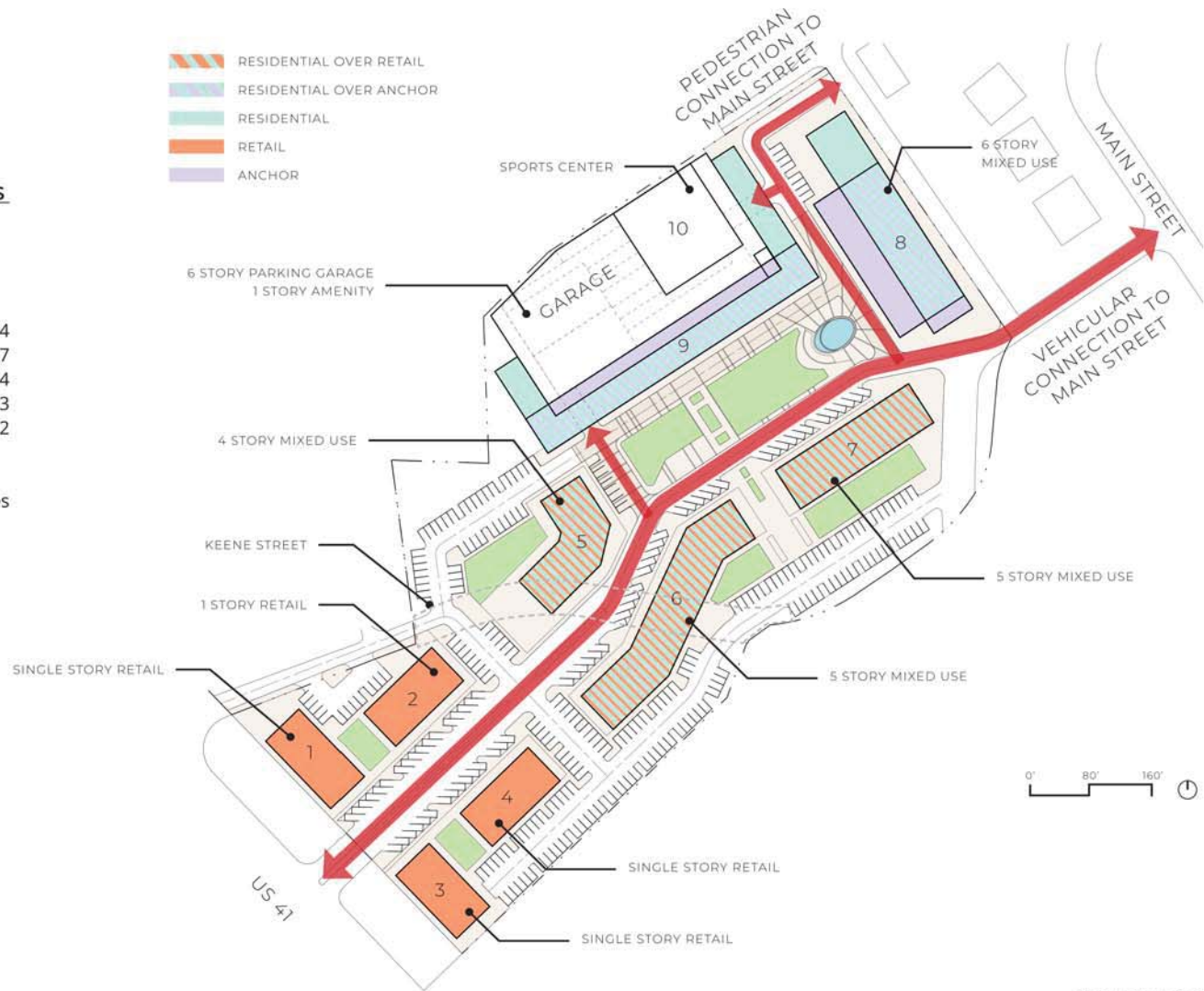
MASTER PLAN

BUILDING	USE	RETAIL GSF	RESI GSF	UNITS
1	retail	7,300 GSF		
2	retail	7,400 GSF		
3	retail	6,800 GSF		
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8	mixed	21,800 GSF	82,800 GSF	93
9	mixed	23,500 GSF	129,650 GSF	142
10	retail	15,000 GSF		

Garage 1110 spaces

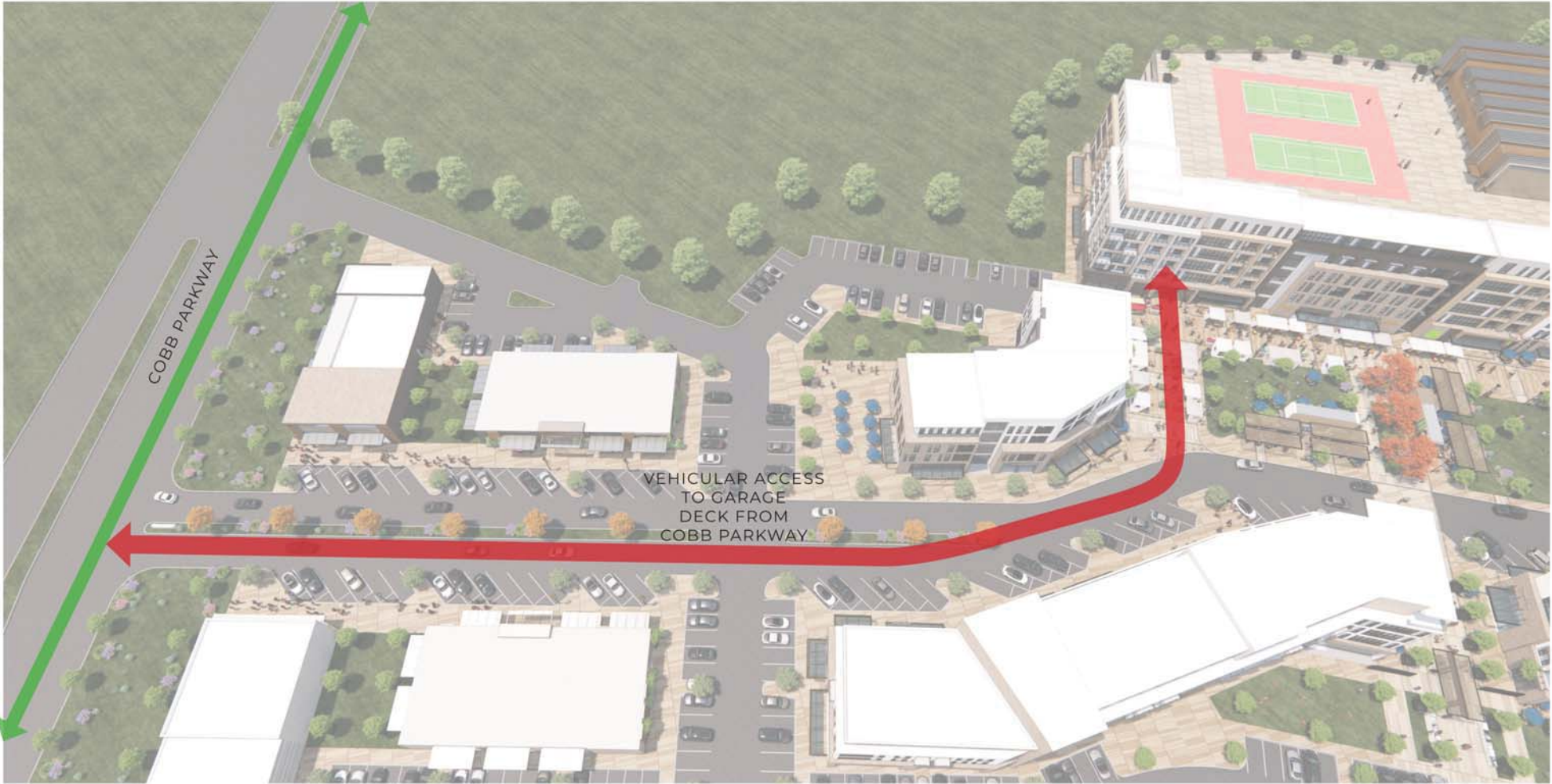
129,700 GSF - TOTAL RETAIL
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CONCORD WILSHIRE



RSP ARCHITECTS

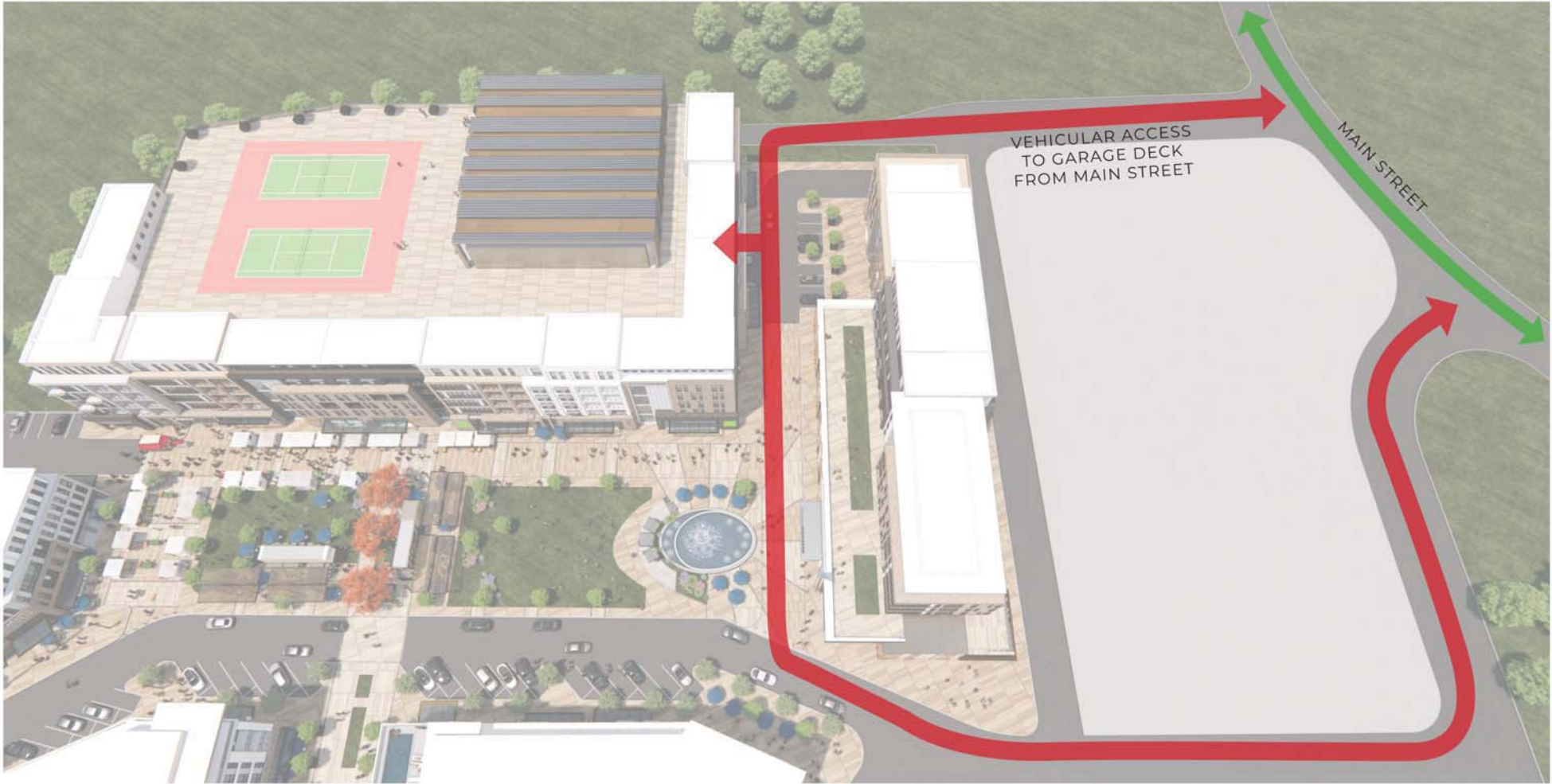
VIEW - GARAGE DECK ACCESS FROM COBB PARKWAY



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - GARAGE DECK ACCESS FROM MAIN STREET



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - BIRDS EYE



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - PARK VIEW



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - PARK VIEW



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - SOUTHERN ENTRY



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - SOUTHERN ENTRY



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - MAIN PARK



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - PARK STAGE



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - FOUNTAIN VIEW



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - FARMERS MARKET



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - PARK CENTER



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - ROOFTOP POOL



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - SPORTS CENTER



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - SPORTS CENTER



CONCORD WILSHIRE

RSP ARCHITECTS

DEVELOPMENT COLLAGE - VIEW FROM MAIN STREET



CONCORD WILSHIRE

RSP ARCHITECTS

DEVELOPMENT COLLAGE - VIEW FROM CEMETERY STREET



CONCORD WILSHIRE

RSP ARCHITECTS

DEVELOPMENT COLLAGE - VIEW FROM SUMMER STREET



CONCORD WILSHIRE

RSP ARCHITECTS

DEVELOPMENT COLLAGE - VIEW FROM COBB PKWY



CONCORD WILSHIRE

RSP ARCHITECTS

THANK YOU

MASTER PLAN - SKETCH

RESIDENTIAL:

424 UNITS X 750 SF = 318,000 SF

66 CONDOS X 1,000 SF = 66,000 SF SF

RETAIL : 111,000

SPORTS COMPLEX: 25,000

TOTAL SF: 522,000 SF

41.8 DU / AC

1,350 PARKING SHOWN

THREE STORY MULTIFAMILY OVER RETAIL

FOUR STORY MULTIFAMILY OVER RETAIL

SINGLE STORY RETAIL



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - COBB PARKWAY RETAIL



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - COBB PARKWAY RETAIL



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - COBB PARKWAY RETAIL



CONCORD WILSHIRE

RSP ARCHITECTS

VIEW - COBB PARKWAY RETAIL



CONCORD WILSHIRE

RSP ARCHITECTS



Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: September 25, 2023

TITLE: Approval of the September 11, 2023 City Council executive session minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

None

**MINUTES OF CITY COUNCIL MEETING
CITY OF KENNESAW
Council Chambers
September 18, 2023
6:30 PM**

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

1. Invocation

City Attorney Randall Bentley, Sr. led the invocation.

2. Pledge of Allegiance

City resident Andrew Bramlett led the Pledge of Allegiance.

3. Call to Order

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

4. Announcements

- A. This public meeting is being conducted via the use of real-time telephonic technology allowing the public simultaneous access to the public meeting. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed. Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: <https://www.facebook.com/CityofKennesaw/>
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5. Presentations

6. Public Comment/Business from the Floor

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

ANTHONY GUTIERREZ [City Council candidate, Post 2]: Mr. Gutierrez encouraged everyone to check out his website, anthony4kennesaw.com, to learn more about his campaign. He can also be reached by email at anthony4kennesaw@gmail.com. Today, Mr. Gutierrez wanted to highlight a key position within his platform, which is run-off elections. He explained run-off elections were created to ensure whichever candidate wins does so by receiving 50% of the vote plus one. A study done by the Congressional Research Service (CRS) found that 80% of Americans have a favorable view on run-offs and believe they have a positive impact on our elections. Mr. Gutierrez stated that here in Georgia, we already practice run-off elections at the state level, so he wonders why our local elections should be any different. A common critique of run-off elections is that they are expensive. To this, Mr. Gutierrez asks if we can ethically put a price tag on democracy and true representation. Another critique is the reduced participation from the general election to the run-off, which he states is a valid argument. He shared that there is a popular solution growing throughout our country: instant run-off voting. Instant run-off voting is an instantaneous run-off election where voters rank their preferred candidates rather than only selecting one. If no candidate receives the majority, the candidate with the least number of votes is eliminated and the voters' second choice number is selected, and so on. Mr. Gutierrez stated run-offs are popular, effective, and when done the right way, a free way to ensure candidates win the backing of the majority.

MADELYN OROCHENA [City Council candidate, Post 1]: Ms. Orochena shared she is running in support of the arts and culture, walkable and bikeable streets, affordable housing options, downtown development that reflects the needs of the community, as well as an inclusive community. She is a firm believer in her role as a candidate to stay accessible to voters and to be engaged with the residents of Kennesaw. Ms. Orochena is at the Lazy Labrador every Friday morning from 8:00 a.m. to 10:00 a.m. She is available to answer any questions about her platform or herself, and to address any concerns or needs. Ms. Orochena reminded everyone that early voting starts in 27 days on October 16, 2023.

6:36 p.m. Floor Closed for Public Comments

7. Old Business

8. New Business

A. Settlement of Litigation - City of Kennesaw v. 2933 Moon Station Road CAFN 2022 1 8617 65 Cobb County Superior Court

1. to approve the terms of the agreement as presented;
2. to authorize the Mayor to execute the agreement before the City Clerk and with City seal;

3. to authorize a disbursement via wire transfer to the Bentley law firm IOLTA trust account in the amount of \$435,000 to satisfy the “Additional Funds” payment to Luxaryan under paragraphs 1.3 and 1.4 of the agreement; and
4. to authorize the City Attorney to file final disposition forms to close out the litigation

City Attorney Randall Bentley, Sr. stated the Mayor and the City Council would be voting tonight to approve a settlement agreement which both parties have agreed to resolve the condemnation of the property located at 2933 Moon Station Road. The total settlement is in the amount of \$550,000, of which \$115,00 has already been paid to the court. The terms of settlement are the amount difference. The City of Kennesaw is to pay \$435,000 through the Bentley escrow account to be paid directly to the property owner's attorney in exchange for the dismissal of the appeal of the value of condemnation by the property owner.

Motion by Mayor Pro Tem Viars to approve the settlement of litigation between the City of Kennesaw and 2933 Moon Station Road, as presented and listed. Seconded by Councilmember Ferris.

Vote taken, motion approved 4-0 (Councilmember Sinclair absent). Motion passed.

9. Committee and Board Reports

10. Public Hearing(s)

- A. FINAL PUBLIC HEARING: Consideration of RESOLUTION to adopt the Fiscal Year 2023-2024 Operating Budget for the City of Kennesaw and adopt the organizational chart.

[Items 10. A and 10.B were presented concurrently, but voted upon separately].

Assistant Finance Director Jennifer Gordy presented a resolution to adopt the Fiscal Year 2023-2024 Operating Budget for the City of Kennesaw and to adopt the organizational chart. Ms. Gordy went over a brief presentation highlighting both the operating budget and the capital improvement budget (See **Exhibit A**).

Motion by Councilmember Jones to approve [RESOLUTION NO. 2023-42, 2023](#) to adopt the Fiscal Year 2023-2024 Operating Budget for the City of Kennesaw and to adopt the organizational chart, as presented. Seconded by Mayor Pro Tem Viars.

6:42 p.m. Floor Open for Public Comments

No comments.

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

Vote taken, motion approved 4-0 (Councilmember Sinclair absent). Motion passed.

- B. FINAL PUBLIC HEARING: Consideration of RESOLUTION to adopt the Fiscal Year 2023-2024 Capital Improvement (SPLOST) Budget for the City of Kennesaw.

Motion by Councilmember Jones to approve [RESOLUTION NO. 2023-43, 2023](#) to adopt the Fiscal Year 2023-2024 Capital Improvement (SPLOST) Budget for the City of Kennesaw, as presented. Seconded by Councilmember Burnette.

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

No comments.

6:45 p.m. Floor Closed for Public Comments

Vote taken, motion approved 4-0 (Councilmember Sinclair absent). Motion passed.

- C. Consideration for approval of a variance application submitted by Jose Gomez for the property located at 2407 Pine Drive (Parcel Number 20016600640). Case #ZV2023-02.

Planning and Zoning Administrator Darryl Simmons presented a variance application submitted by Jose Gomez for the property located at 2407 Pine Drive (parcel number 20016600640). Mr. Simmons stated the property is within the Woodland Acres Subdivision and is zoned R-15. The current development standards for R-15 require a minimum of 15,000 square foot lot. The lot in question is 11,999 square feet. At their regularly scheduled meeting on September 6, 2023, the Planning Commission recommended approval of the variance to reduce the lot size requirement for this property location. Mr. Simmons stated a legal ad was run in the Marietta Daily Journal on August 18, 2023. All public notifications and postings were completed per code.

Motion by Councilmember Ferris to approve the variance application submitted by Jose Gomez for the property located at 2407 Pine Drive (parcel number 20016600640), as presented. Seconded by Mayor Pro Tem Viars.

Councilmember Ferris thanked Dr. Drobney, Mr. Simmons, and Ms. Alvarez for their due diligence in researching the concerns he expressed during the work session. He was concerned about grandfathering, but a 1996 action removed any grandfathering. The staff satisfied his requests.

6:48 p.m. Floor Open for Public Comments

No comments.

6:49 p.m. Floor Closed for Public Comments

Vote taken, motion approved 4-0 (Councilmember Sinclair absent). Motion passed.

11. Consent Agenda

Motion by Councilmember Ferris to approve the Consent Agenda, engross. Seconded by Councilmember Burnette.

Vote taken, motion approved 4-0 (Councilmember Sinclair absent). Motion passed.

- A. Approval of the August 28, 2023 City Council work session minutes.
- B. Approval of the September 5, 2023 City Council regular meeting minutes.
- C. Approval of RESOLUTION to update various portions fo the Master Fee Schedule

RESOLUTION NO. 2023-44, 2023

- D. Authorization to remove the crush and run road in Section III of the Kennesaw City Cemetery and to reclaim the lots removed to create the road for burial purposes.
- E. Consideration for approval of a final plat application submitted by Kennesaw Townhome Owner, LLC for 1885 & 1945 Duncan Dr. Case #FP2023-04.

12. General and Administrative

13. Public Safety

- A. Receipt of the August 2023 Crime Statistics.

Kennesaw Police Captain Ricky Shumpert presented the August 2023 crime statistics.

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

Vote taken, motion approved 4-0 (Councilmember Sinclair absent). Motion passed.

14. Information Technology

15. Public Works

16. Recreation and Culture

17. Community Development

18. Public Comment/Business from the Floor

6:50 p.m. Floor Open for Public Comments

JAMES STEWART [City Resident]: Mr. Stewart wanted to make the City Council aware of a situation that affected him and his family last Monday night. His family went to the farmers' market and parked by Revival. They went to the crosswalk, pressed the button to activate the flashing lights, and despite traffic stopping on both sides, a car entered

the middle lane and almost hit them at a high speed. He asked for an increase in police presence on Main Street. He asked the Council to please help the public have a safer time getting to the establishments downtown.

ANDREW BRAMLETT [City Resident]: Mr. Bramlett shared some local history of the Battle-Rama **(See Exhibit B)**.

MILLIE SIMPSON [City Resident]: Ms. Simpson said her comments were in response to comments on the Nextdoor Neighbor application. Last Thursday, traffic on Cherokee Street was incredibly backed up. Many people were complaining about the traffic on the app, with one person stating that it would only get worse when all the apartments are filled on Cherokee Street. Ms. Simpson read various comments that were made on the post. She doesn't know who has the ultimate authority to approve all the building going on in the city, but she thought she would start with the City Council about how to reduce some of this development. Ms. Simpson was afraid of how dangerous it would be with so many people living on Cherokee Street.

6:56 p.m. Floor Closed for Public Comments

19. City Manager's Report

- A. Reports, Discussions, and Updates
- B. Recommendation of the City Manager to ratify the appointment of Dave Simpson as the Smith-Gilbert Gardens Executive Director.

City Manager Jeff Drobney mentioned the city conducted a national search for the new Executive Director for the Smith-Gilbert Gardens. Mr. Simpson brings a wealth of experience from public gardens, including in-depth knowledge of horticulture and plant biology. Dr. Drobney is excited to have Mr. Simpson here tonight and to recommend the City Council ratify his appointment.

Motion by Mayor Pro Tem Viars to ratify the appointment of Dave Simpson as the Smith-Gilbert Gardens Executive Director. Seconded by Councilmember Jones.

Vote taken, motion approved 4-0 (Councilmember Sinclair absent). Motion passed.

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 Burnette shared she loves this touch of fall weather. She is running for re-election and is looking forward to continuing working for this city.

Councilmember Jones had the privilege of doing jury duty today.

Councilmember Ferris mentioned the Life in the Cemetery event hosted by the Cemetery Preservation Foundation is coming up in October. Tickets are available for purchase at kennesawcemetery.org.

Mayor Pro Tem Viars stated she is running for re-election for City Council Post 2. In thinking about how she has got here, her journey has been very organic and transparent. In 2011, Mayor Pro Tem Viars shared that she first served on the Kennesaw Citizens Advisory Committee and then, in 2012, she served on the Kennesaw Downtown Development Authority. She served as chair for three years. In 2018, Mayor Pro Tem Viars ran in a special election to serve as a councilmember for Post 2. Since then, she has served as a liaison for the downtown merchants, worked on Smith-Gilber Gardens' Garden Gala, has been a 5k run director, spearheaded the first Kennesaw Beer and Wine Festival, and reorganized and ran the Farmers Market and Dinner at the Depot for years. She said all of that to say that she got in and rolled up her sleeves, worked to get to know the people and the businesses, and has served to foster relationships so we can be the best Kennesaw we can be. Mayor Pro Tem Viars stated she has worked to earn this position and hopes she has worked to earn the people's trust. She exclaimed #VoteViars!

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 regular meeting will be held Monday, October 2, 2023 at 6:30 p.m. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.

Lea Alvarez, City Clerk



DRAFT

City of Kennesaw, GA

September 5, 2023

FY 2024 PROPOSED BUDGET



FY 2024 BUDGET SCHEDULE

Public Hearing

- September 5, 2023 (6:30 p.m.)

Public Hearing

- September 18, 2023 (6:30 p.m.)

Adoption

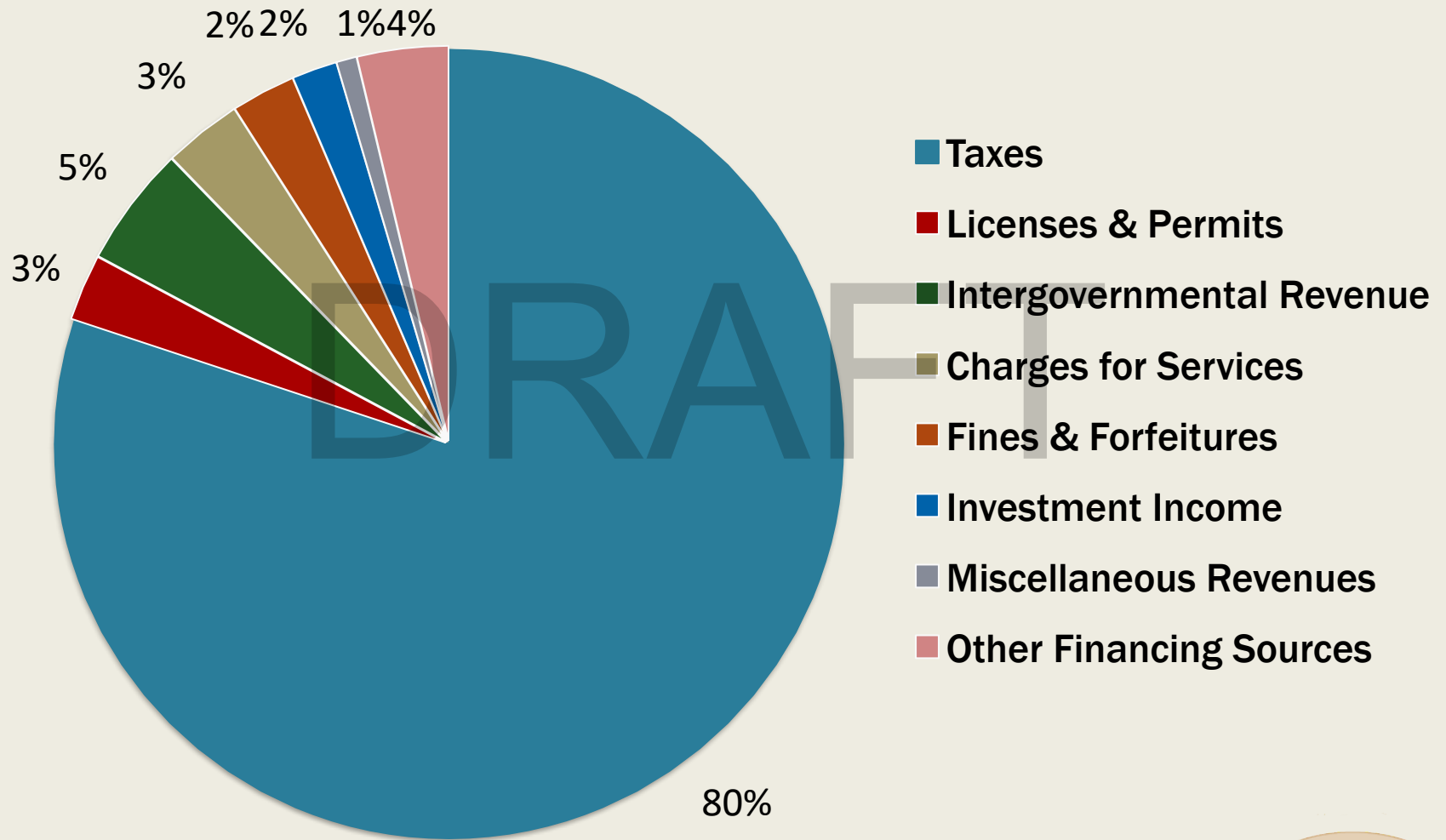
- September 18, 2023 (6:30 p.m.)



FY 2024 PROPOSED GENERAL FUND OPERATING REVENUES & OTHER SOURCES

CATEGORY	AMOUNT	PERCENTAGE
Taxes	\$23,540,715	80%
Licenses and Permits	\$799,750	3%
Intergovernmental	\$1,452,500	5%
Charges for Services	\$940,696	3%
Fines & Forfeitures	\$775,000	2%
Investment Income	\$545,000	2%
Miscellaneous Revenue	\$243,952	1%
Other Financing Sources	\$1,098,130	4%
TOTAL REVENUES	\$29,395,743	100%

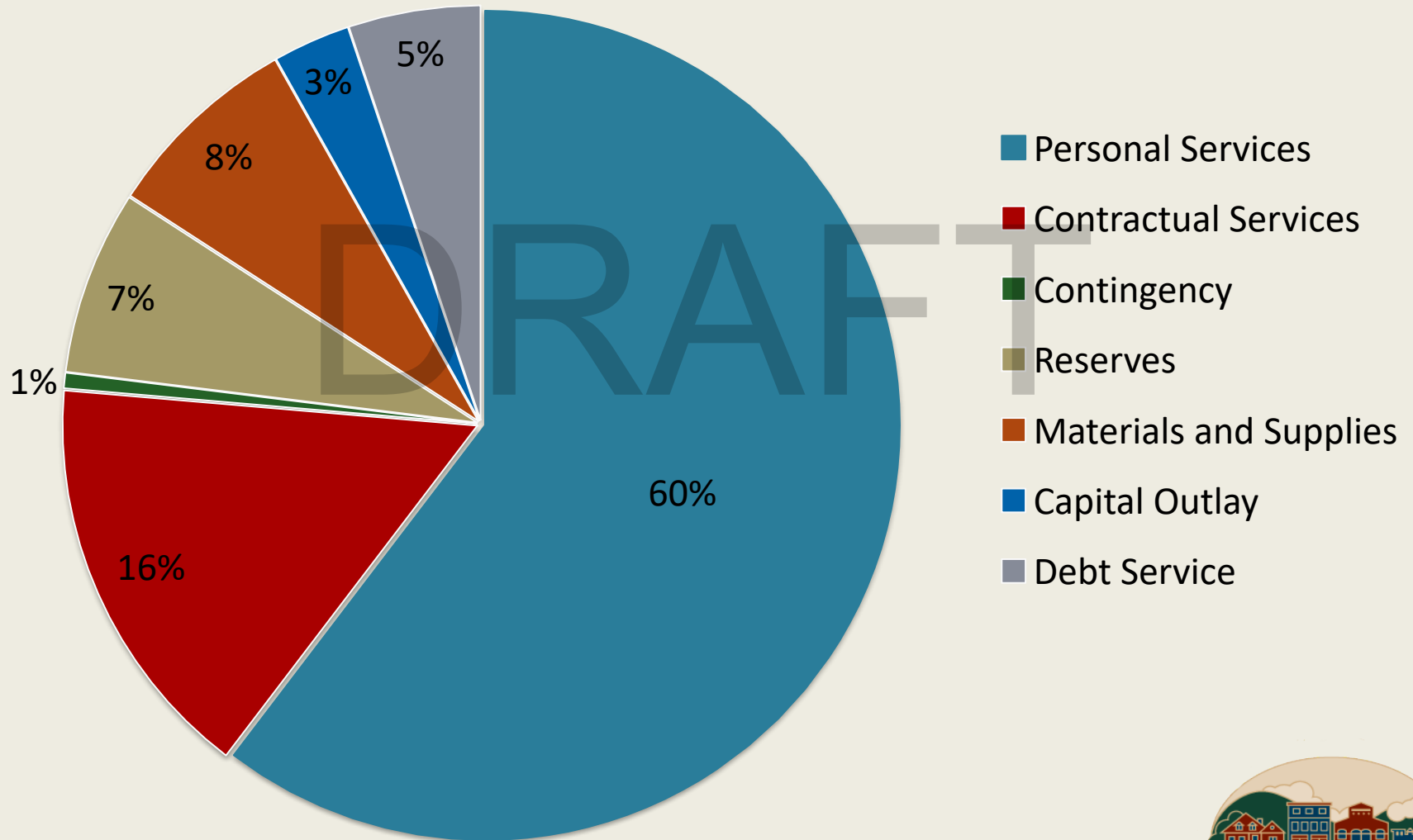
FY 2024 PROPOSED GENERAL FUND OPERATING REVENUES & OTHER SOURCES



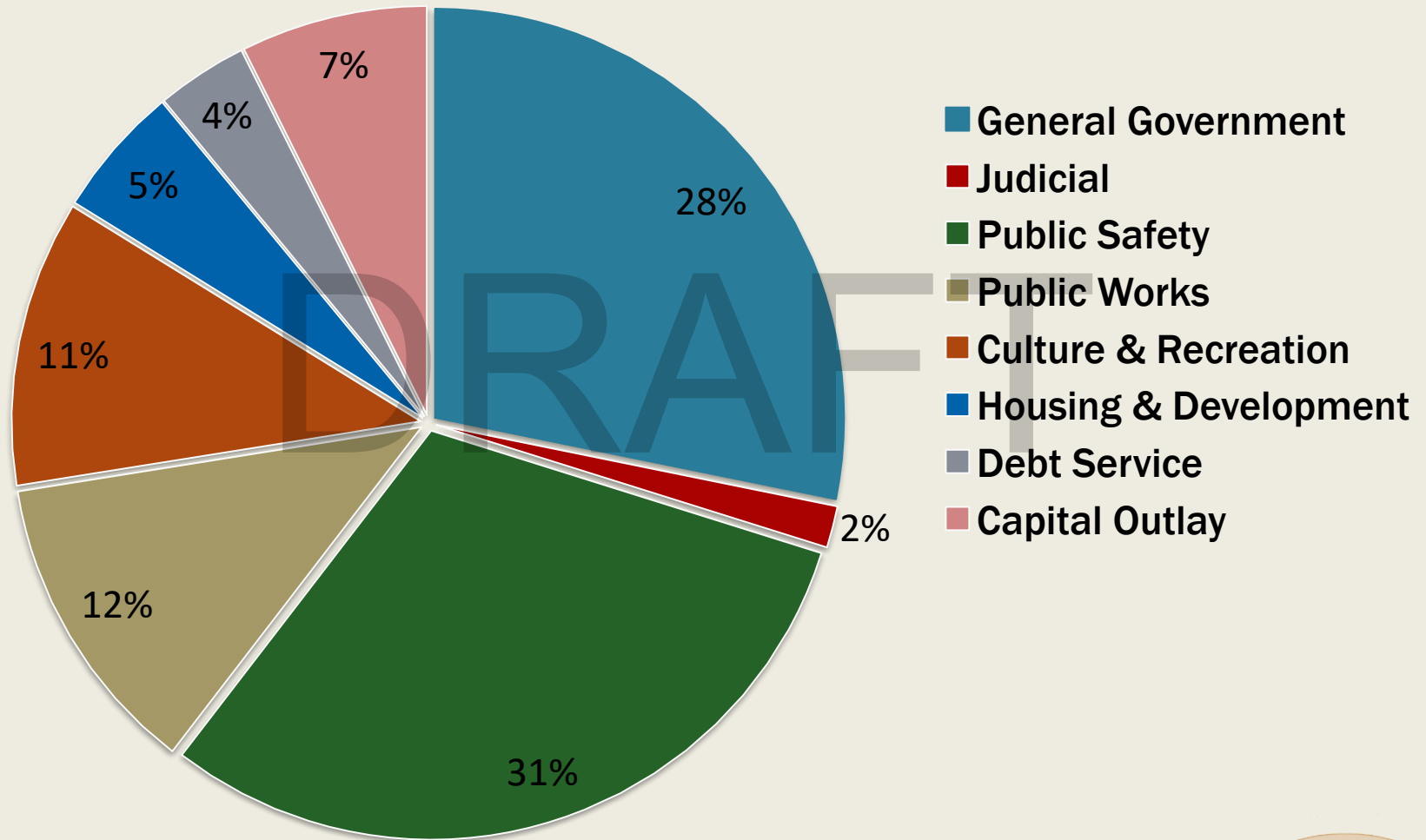
FY 2024 PROPOSED GENERAL FUND EXPENDITURES

CATEGORY	AMOUNT	PERCENTAGE
Personal Services	\$17,077,965	60%
Contractual Services	\$4,526,501	16%
Contingency	\$170,000	1%
Materials and Supplies	\$2,178,812	8%
Reserves	\$2,033,591	7%
Debt Service	\$1,454,334	5%
Capital Outlay	\$852,300	3%
TOTAL DEPT EXPENDITURES	\$28,293,503	
Transfers to Other Funds	\$1,102,240	
TOTAL EXPENDITURES	\$29,395,743	

FY 2024 PROPOSED GENERAL FUND EXPENDITURES (CATEGORIES)



FY 2024 PROPOSED GENERAL FUND EXPENDITURES (BY FUNCTION)



FY 2024 PROPOSED OPERATING BUDGET

Operating Budgets:	FY 23 Adopted	FY 24 Proposed	% Change
Governmental Fund Types			
General Fund	\$27,634,105	\$29,395,743	6%
Asset Forfeiture	\$21,085	\$21,200	1%
Treasury Equitable	\$120,006	\$20,500	-83%
Emergency 911	\$1,533,200	\$1,534,400	1%
American Rescue Plan Act	\$3,188,610	\$1,997,154	-37%
Hotel Motel	\$67,170	\$110,920	65%
Impact Fee	\$100,000	\$232,412	132%
Cemetery	\$27,616	\$57,865	110%
Debt Service	\$1,493,251	\$1,454,334	-3%
Subtotal	\$34,185,043	\$34,824,528	2%

FY 2024 PROPOSED OPERATING BUDGET

Operating Budgets:	FY 23 Adopted	FY 24 Proposed	% Change
Business - Type Funds			
Sanitation	\$3,497,194	\$3,665,500	5%
Museum	\$974,969	\$1,030,716	6%
Smith Gilbert Gardens	\$662,332	\$770,049	16%
Storm Water	\$1,234,185	\$1,450,395	18%
Streetlights	\$363,585	\$393,900	8%
Subtotal	\$6,732,265	\$7,310,560	9%
Total Operating Funds	\$40,917,308	\$42,135,088	3%

FY 2024 PROPOSED BUDGET

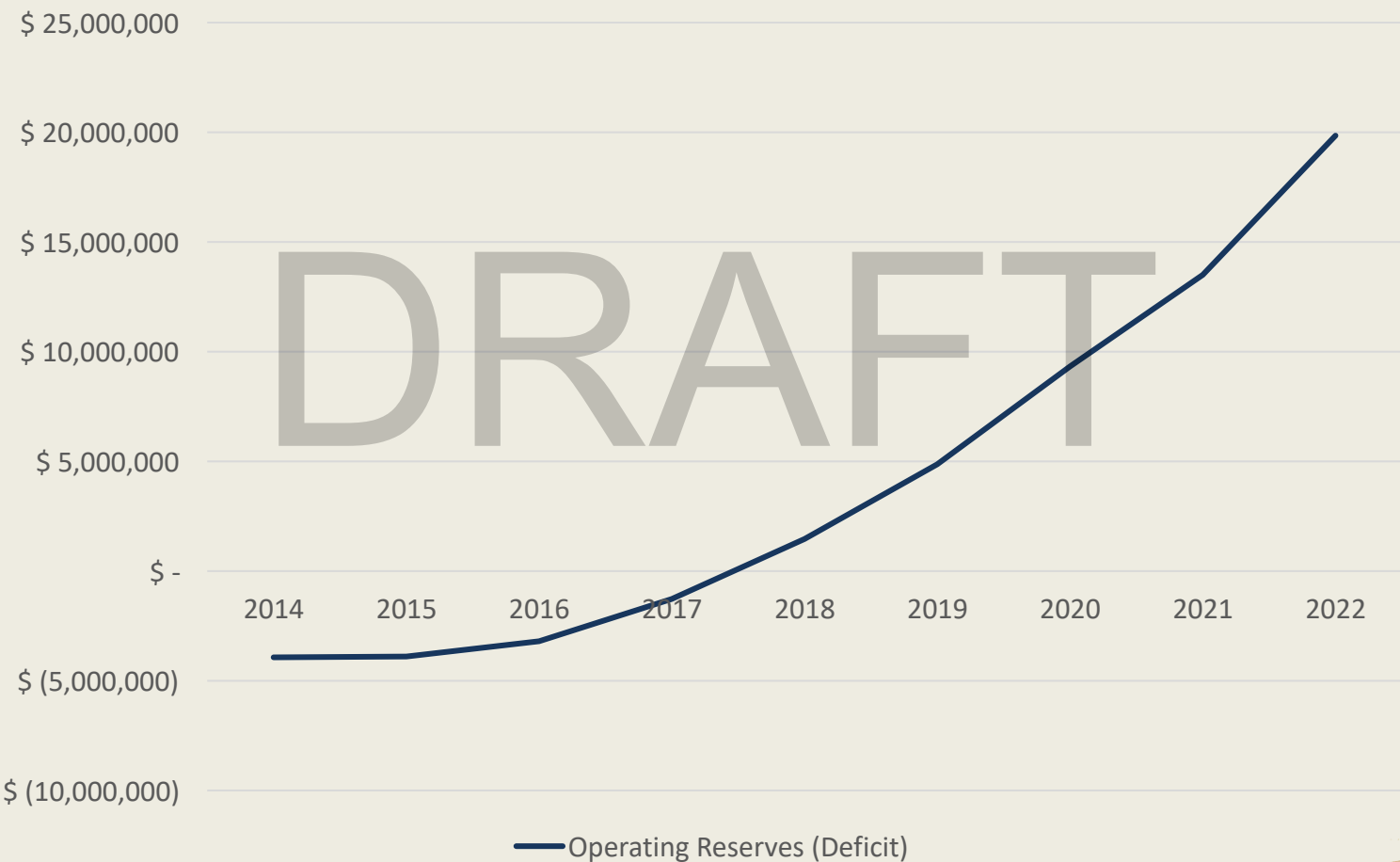
SPLOST FUND

SPLOST BY YEAR	
Remaining Dollars to be Spent	
2011 SPLOST	\$3,700,000
2016 SPLOST	\$4,600,000
2022 SPLOST	\$32,000,000
TOTAL	\$40,300,000

FY 2024 PROPOSED INTERNAL SERVICE FUND BUDGET

PARTIALLY SELF-INSURED HEALTH INSURANCE FUND	FY 23 Adopted	FY 24 Proposed	% Change
Fixed Cost	\$500,132	\$702,487	40%
Claims	\$2,618,652	\$2,730,200	4%
Total	\$3,118,784	\$3,432,687	10%

Operating Reserves



FY 2024 PERSONNEL RECOMMENDATIONS

New Full-time Positions (4)

Parks and Recreation

- Assistant Special Events Coordinator

Police

- Crime Analyst

Building Services

- Code Enforcement Inspector

Smith-Gilbert Gardens

- Horticulture Technician



FY 2024 PERSONNEL RECOMMENDATIONS

Unfreeze Positions (1)

Information Technology

- IT Director

DRAFT

FY 2024 PERSONNEL RECOMMENDATIONS

Reclassifications

- Accounting Manager to Senior Accountant
- Payroll Specialist to Payroll Specialist/Utility Billing Supervisor
- Garden and Education Manager to Garden Manager
- Facilities Manager to Facilities Director
- IT Systems Administrative Specialist to IT Network Manager
- Shift Supervisor to Assistant 911 Director
- Shift Supervisor to 911 Emergency Communications Officer
- Building Services Coordinator to Building Services Supervisor
- Community Development Administrative Assistant transferred to Building Services from Planning and Zoning
- Guest Services Manager to Education and Exhibits Manager



FY 2024 PROPOSED CAPITAL EXPENDITURES

- Police –Seven (7) vehicles, Flock Camera, Finger Printing Machine, Curaplex Active Assailant Kit, Gun Safe, O-light Weapon Lights, Ballistic Shields, Camera and Equipment for Evidence Tech, Crime Analyst equipment, Vehicle Radars
- Parks & Recreation – Three (3) vehicles, Baseball and Softball Scoreboards, Zero Turn Mower, Terry Lane Neighborhood Park upgrades, Additional fitness station as Swift-Cantrell Park
- IT – Cell Hawk CID, Remote UP's, Data Center Hard Drive Replacement, Replacement Computers, Office 365 upgrade City Wide



FY 2024 PROPOSED CAPITAL EXPENDITURES CONTINUED

- City Clerk- Just FOIA Pro
- Building Services – One (1) Vehicle
- Smith-Gilbert Gardens – Irrigation System
- Public Works – Vinyl Plotter
- Streets- Two (2) Zero Turn mowers
- Stormwater- One (1) vehicle, Inventory of stormwater system, MS4 report
- Cemetery – Tree Removal



QUESTIONS?

DRAFT

City of Kennesaw, GA

FY 2024 PROPOSED BUDGET



KENNESAW HISTORY

The Battle-Rama

Perhaps the most unique attraction to ever be found on Cobb Parkway was the Battle-Rama, a diorama replica of the Battle of Kennesaw Mountain. The attraction was opened around the time of the Civil War centennial in 1961. It was described in brochure's as the "World's Finest Civil War Diorama and Museum."

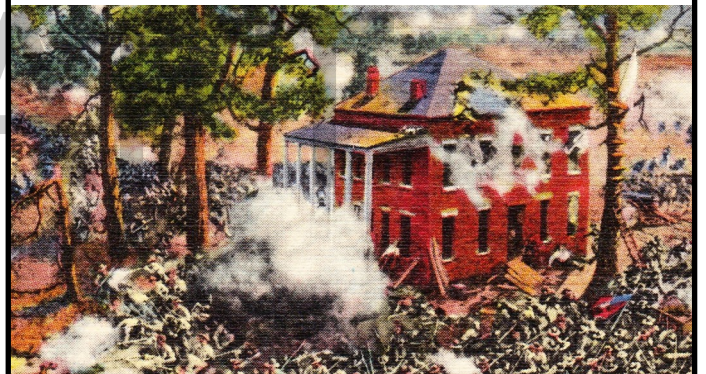
The building itself was also designed to connect to the Civil War. The design was based on the Troop-Hurt House, a home that survived the Battle of Atlanta and is depicted in the Atlanta Cyclorama.

The entire diorama display was the brainchild of brothers Don and Vince Pfab. Vince made the miniature soldiers, while Don served as the business manager.

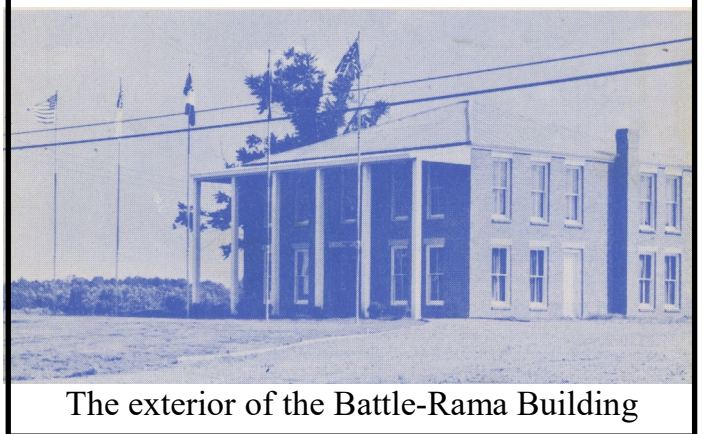
By 1966, the Pfabs had closed the diorama and the building became the home of a miniature circus display. It later became an antique store, and is today the Uniform Source store just south of Ellison Lakes Drive. The Pfabs moved to Virginia where Vince adapted the display to depict the Battle of Petersburg. As of 2016, the diorama was no longer on display but still owned by the family.



A postcard of the Battle-Rama



The Troop-Hurt House in the Cyclorama



The exterior of the Battle-Rama Building

Presented by Andrew J. Bramlett
at the September 18, 2023,
City of Kennesaw Mayor &
Council Meeting

KENNESAW
HISTORICAL
SOCIETY

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

PLEASE MAKE SURE YOUR NAME IS LEGIBLE AND CLEAR

Mayor & Council Regular Meeting

9/18/2023

Public Comment Sign-in

	Name	Address	Topic
1	Archene J. Brantlett	2940 Armand St.	Local history
2	Millie Simpson	2078 Randolph Cir	Traffic & Developments
3	James Stewart	2975 North Main St NW	Downtown Traffic
4	Anthony Cutler/K2		
5	Madelyn Orochena	2981 N Main Street	
6			
7			
8			
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16			
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19			



Item Report

TO: The Honorable Mayor and City Council

FROM: Ricky Stewart, Public Works Director

DATE: September 25, 2023

TITLE: Approval of RESOLUTION to Award bid and Contract for Community Development Block Grant (CDBG) Woodland Acres Sidewalk Improvements Phase VII.

Summary:

Staff solicited bids from qualified contractors to install sidewalk in association with the Community Development Block Grant (CDBG) program. The project will consist of installing a sidewalk on Sycamore Drive from Woodland Drive to Kennesaw Due West Road and along Woodland Drive from White Oak Court to Sycamore Drive. The bid announcement was advertised in the Marietta Daily Journal pursuant to City procurement policy. Two bids were received: S. H. Creel Contracting - \$153,121.45; Curb Atlanta, Inc. - \$168,020.00.

Recommendation:

The Public Works Director recommends approval of the bid and award of the contract to S. H. Creel Contracting for the amount of \$153,121.45 and requests the Mayor to sign the attached resolution and contract.

Fiscal Impact:

Fund Line: 100.1050.54.142000.00000 CDBG Projects

Attachments:

1. RESOLUTION CDBG 2023 S.H. Creel Contract Award
2. S. H. Creel Bid
3. CONTRACTOR AGREEMENT v20220105

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2023-____, 2023

**RESOLUTION TO APPROVE A CONTRACT WITH S. H. CREEL CONTRACTING
FOR SIDEWALK CONSTRUCTION PROJECT ON SYCAMORE DRIVE AND
WOODLAND DRIVE AS A PART OF THE COMMUNITY DEVELOPMENT BLOCK
GRANT PROGRAM**

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

WHEREAS, the City of Kennesaw received funding from a Community Development Block Grant (CDBG) for sidewalk construction along Sycamore Dr and Woodland Dr; and

WHEREAS, S. H. Creel Contracting has offered to perform the work associated with this project which includes construction of a 5' wide sidewalk along Sycamore Dr from Woodland Dr to Kennesaw Due West Rd and along Woodland Dr from White Oak Ct to Sycamore Dr; and

BE IT RESOLVED the Kennesaw City Council authorizes the Mayor to execute a contract with S. H. Creel Contracting for an amount not to exceed \$153,121.45 to perform this project.

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 October, 2023.

ATTEST:

CITY OF KENNESAW

Lea Alvarez, City Clerk

Derek Easterling, Mayor

CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR BIDS

BID FORM

COPY

Community Development Block Grant (CDBG) Sidewalk Improvement Project

TO: CITY OF KENNESAW

FROM: S.H. Creel Contracting

(Contractor)

THE UNDERSIGNED BIDDER, having familiarized themselves with the work required by the bid documents, the site where the work is to be performed, all laws, regulations, and other factors affecting performance of the work, and having satisfied itself/himself/herself of the expense and difficulties attending performance of the work;

HEREBY agrees if selected to enter into a contract and perform all work necessary to the successful completion of the contract as indicated and specified in the RFB for the total contract price of:

\$ 153,121.45

Bidder must also complete the unit price information in the Specification section.

Name of Firm: S.H. Creel Contracting

Firm Address:

756 White Blossom Court Powder Springs, GA 30127

Federal Identification No: 85-2978300

Email: screel@shcreel.com

Telephone No: 404-630-1349

Fax No: _____

By: Scott Creel

09-20-2023

(Typed or Printed)

(Date)

Signature: 

(Signature)

President

(Title)

**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 1

	Quantity	Unit	Unit Price	Total
Grading Complete	1	LS	<u>\$42,661.90</u>	<u>\$42,661.90</u>
5' Sidewalk	1280	SY	<u>\$56.04</u>	<u>\$71,731.20</u>
Sign Reset	6	EA	<u>\$184.74</u>	<u>\$1,108.44</u>
Fence Remove/Reset	200	LF	<u>\$30.79</u>	<u>\$6,158.00</u>
Grassing	1	LS	<u>\$6,157.90</u>	<u>\$6,157.90</u>
Tree Removal	6	EA	<u>\$1,847.37</u>	<u>\$11,084.22</u>
ADA Ramps	6	EA	<u>\$1,477.90</u>	<u>\$8,867.40</u>
Traffic Control	1	LS	<u>\$5,352.39</u>	<u>\$5,352.39</u>
			TOTAL	<u>\$153,121.45</u>

**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 1

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.

196892

EEV/Basic Pilot Program* User Identification Number

S.H. Creel Contracting

BY: Authorized Officer or Agent

09/20/2023

Date

President

Title of Authorized Officer or Agent of Contractor

Scott Creel

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 1

PRIME CONTRACTOR'S WORK AUTHORIZATION CERTIFICATION

Pursuant to O.C.G.A. § 13-10-91, all qualifying contractors and sub-contractors performing work within the State of Georgia on a contract with a public employer must register and participate in a federal work authorization program. Prime contractors may participate in any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent Federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 ("IRCA").

Certify compliance with O.C.G.A. § 13-10-91 by checking the appropriate line below:

 X The undersigned has registered for and is participating in a qualifying federal work authorization program.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services within this state pursuant to this contract with a public employer, the undersigned will secure from such subcontractor(s) a verification of compliance with O.C.G.A. § 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.

[Signature]
By: Authorized Officer or Agent

09/20/2023
Date

President
Title of Authorized Officer or Agent of Contractor

196892
Basic Pilot User Identification Number
(if applicable)

Scott Creel
Printed Name of Authorized Officer or Agent

With express authority on behalf of:

S.H. Creel Contracting
Printed Name of Prime Contractor

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

20 DAY OF September, 2023

[Signature] Sharon Mccrum
Notary Public

My Commission Expires: 10/11/2025





AIA Document A310™ – 2010

Bid Bond

CONTRACTOR:

(Name, legal status and address)

SH Creel Contracting

1331 Allgood Road

Marietta, GA 30062

OWNER:

(Name, legal status and address)

City of Kennesaw, GA

2529 J.O. Stephenson Ave.

Kennesaw, GA 30144

BOND AMOUNT:

---Five Percent (5%) of Amount Bid---

PROJECT:

(Name, location or address, and Project number, if any)

Woodland Acres Sidewalk Improvements Phase VII

SURETY:

(Name, legal status and principal place

of business)

Great Midwest Insurance Company

800 Gessner, Suite 600

Houston, TX 77024

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Init.

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User Notes:

(1177639241)

1

Signed and sealed this 20th day of September 2023.

Theresa Rivera
(Witness)

Cynthia Troxel
(Witness) Cynthia Troxel

SH Creel Contracting

SH Creel
(Contractor as Principal)

President
(Title)

Great Midwest Insurance Company

(Surety) (Seal)

Marvala Erinkitola
(Title) Marvala Erinkitola, Attorney-In-Fact



Init.

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User Notes:

(1177639241)

2

POWER OF ATTORNEY
Great Midwest Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that **GREAT MIDWEST INSURANCE COMPANY**, a Texas Corporation, with its principal office in Houston, TX, does hereby constitute and appoint:

John David Potts, Melissa R. Potts, Marvala Erinkitola, Cynthia Troxel

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **GREAT MIDWEST INSURANCE COMPANY**, on the 1st day of October, 2018 as follows:

Resolved, that the President, or any officer, be and hereby is, authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed Ten Million dollars (\$10,000,000.00), which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed in the Company's sole discretion and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **GREAT MIDWEST INSURANCE COMPANY**, has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 11th day of February, 2021.

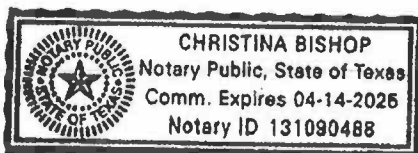


GREAT MIDWEST INSURANCE COMPANY

BY 
Mark W. Haushill
President

ACKNOWLEDGEMENT

On this 11th day of February, 2021, before me, personally came Mark W. Haushill to me known, who being duly sworn, did depose and say that he is the President of **GREAT MIDWEST INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



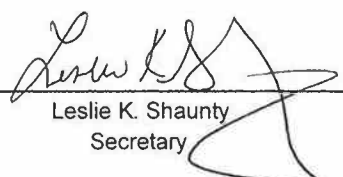
BY 
Christina Bishop
Notary Public

CERTIFICATE

I, the undersigned, Secretary of **GREAT MIDWEST INSURANCE COMPANY**, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Houston, TX this 20th Day of September, 2023.



BY 
Leslie K. Shaunty
Secretary

"WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

CONTRACTOR AGREEMENT
CITY OF KENNESAW
WOODLAND ACRES SIDEWALK IMPROVEMENTS, PHASE VII

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

1. Adequate Personnel; Conditions.

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

2. Duration.

This Agreement shall be deemed in effect on the date of execution. Contractor shall commence performing the services herein described upon receipt of the letter to proceed delivered by the City. Contractor shall complete the services herein described within 90 days, unless sooner terminated pursuant to the provisions contained herein.

3. Price.

The parties have stated the contract price in the special provisions attached hereto as Exhibit “A” and by this reference made a part hereof. The contract price for the Project is one hundred fifty three thousand, one hundred twenty one dollars and forty five cents (\$153,121.45).

4. Time of Essence.

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

5. Governing Law.

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

6. Assignments.

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

7. Modification.

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

8. Due Diligence.

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

9. Risk of Loss.

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

10. Invoices.

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

11. Taxes.

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

12. Permits and Licenses; Inspection; Tests.

The Contractor shall procure all permits and licenses or other authorization necessary, pay all charges and fees, and give all notices necessary and incidental to the performance of the terms of this Agreement. Contractor has visited and inspected the work site and local conditions under which the work is to be performed and Contractor has performed such tests, if any, as are necessary to determine the conditions under which the work will be performed, and Contractor accepts the conditions of the work site and taken those conditions into account in entering into this Agreement.

13. Termination for Cause.

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

14. Inspection and Testing.

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

15. Liquidated Damages.

In the event that the materials or services which form the subject of this Agreement are not delivered as set forth in this Agreement, the City may terminate this Agreement and recover liquidated damages in an amount set forth in the special provisions to this Agreement. The liquidated damages enumerated herein are not intended to penalize the Contractor, but the parties agree that due to each party's difficulty in specifically quantifying the damages which would be occasioned due to the breach of this Agreement, the parties deem it advisable to stipulate a specific sum per day as damages as a result of the Contractor's failure to deliver the supplies or services which form the subject of this Agreement in a timely manner. The Contractor shall not be liable for liquidated damages due to a delay occasioned by unforeseeable causes beyond the control of the Contractor if such causes do not result from the default or negligence of the Contractor. The Contractor shall not be liable for damages due to delay in the performance of this Agreement if such delay is caused by acts of God or of the public enemy, acts of the government, fires, epidemics, quarantine restrictions, strikes or freight embargoes. Such liquidated damages enumerated herein shall be in addition to and not in preclusion of the recovery of actual damages resulting from other defects on Contractors performance hereunder for other matters other than delays in completion. When the City believes that completion may be delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due Contractor and amount then believed by City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving completion, or any part thereof, for which City has withheld payment, the City shall promptly release to Contractor those funds withheld, but no longer applicable as liquidated damages.

16. Contract Documents.

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

17. Additional Security.

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

18. Accounting and Records Retention.

Contractor shall maintain accounts and records, including books, records, documents, personal property, financial records and other evidence adequate to identify and account for all costs and expenses pertaining to this Agreement and such other records as may be requested by the City to

assure proper accounting for all funds, both public and private. Said records shall be made available for audit purposes to the City or its representative(s) upon request and without additional charge to the City and shall be retained for at least six (6) years after expiration of this Agreement, termination or completion of this project unless permission to destroy them is granted by the City. Contractor's records and accounts shall at all times meet or exceed the applicable requirements of Federal, State and City law, rules and regulations.

19. Indemnification.

To the fullest extent permitted by law, the Contractor shall, at its sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless the City, its agents, officers, elected officials, attorneys, and employees from and against all claims, damages, actions, judgments, costs, penalties, liabilities, losses and expenses including, but not limited to, attorney's fees arising out of or resulting from the performance of this Agreement, provided that any such claim, damage, action, judgment, cost, penalty, liability, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting there from, and is caused in whole or in part by any act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless whether such injury is caused in whole or in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any of the rights or obligations of indemnity which would otherwise exist as to any party or person described herein.

20. Severability.

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

21. New Materials.

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

22. Set-off.

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

23. Defective Materials.

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

24. Defective Materials-Liability.

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

25. Manufacturer's Warranties.

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

26. Notices.

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

27. Bid Bond.

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

28. Performance and Payment Bonds.

The Contractor shall furnish the City a performance bond in the form enclosed in the City's request for bids in an amount of one hundred percent (100%) of the lump sum amount bid for the full and complete performance of this Agreement. The Contractor shall also furnish a payment bond on the form enclosed in the City's request for bids insuring the payment of all persons performing labor and furnishing materials or equipment in connection with this Agreement in an amount of one hundred and ten percent (110%) of the lump sum amount bid for the full and complete performance of this Agreement. Accordingly, the Contractor warrants and agrees that, for any Change Order increasing the Contract Sum by five percent or more or when the total cost of the work has increased by five percent (5%) or more, it shall obtain a written amendment to the performance bond increasing the penal amounts of the bond to one hundred percent (100%) of the new Contract Sum and it shall obtain a written amendment to the payment bond increasing the penal amounts of the bond to one hundred and ten percent (110%) of the new Contract Sum effective as of the date of the Change Order. The premium increase, if any, may be properly included in the cost of the Change Order. The City shall approve no payment for the work provided by the Change Order until the Contractor has provided the written amendment to the City. The Contractor shall furnish in writing both a performance bond and a payment bond executed by a duly authorized representative within (30) days of the execution of this Agreement. The Contractor's failure to provide said bonds shall authorize the City to terminate this Agreement and pursue all remedies available to the City at law or in equity. All bonds at the time of issuance must be issued by a company authorized by the Georgia Insurance Commissioner to transact the business of suretyship in the State of Georgia, and shall have a Best Policyholders Rating of "A-" or better and with a financial size rating of Class V or larger.

29. Change Orders.

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

accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; provided, however, that the City, if it decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment pursuant to this Agreement. Where the cost of property made obsolete or rendered unnecessary as a result of a change is included in the Contractor's claim for adjustment, the City shall have the right to prescribe the manner of disposition of such property. However, nothing in this clause shall excuse the Contractor from proceeding with the Project as changed.

30. Variation in Quantity.

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

31. Rejection of Nonconforming Materials.

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

32. Inspection Facilities.

If any inspection or test is made by the City on the premises of the Contractor or a subcontractor, the Contractor without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the City inspectors in the performance of their duties. If City inspections or tests are made at a point other than the premises of the Contractor or a subcontractor, said inspections or tests shall be at the expense of the City except as otherwise provided in this Agreement; provided that in case of rejection, the City shall not be liable for any reduction in value of samples used in connection with such inspections or tests. All inspections and tests by the City shall be performed in such a manner as not to unduly delay the work. The City reserves the right to charge to the Contractor any additional costs of City inspections and tests when supplies are not ready at the time such inspections and tests are requested by the Contractor or when reinspection or retest is necessitated by prior rejection. Acceptance or rejection of supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this Agreement; but failure to inspect and accept or reject the supplies shall neither relieve the Contractor from responsibility for such supplies which are not in accordance with the Project requirements nor impose liability on the City therefore.

33. Testing-Liability.

The inspection and testing by the City of any supplies or lots thereof does not relieve the Contractor from any responsibility regarding defects or other failures to meet the Project requirements which

may be discovered prior to acceptance. Except as otherwise provided, in this Agreement, acceptance shall be conclusive except as regards to latent defects, fraud, or such gross mistake as amounts to fraud.

34. Inspections-Records.

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

35. Payments.

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

- (a) The Contractor shall submit to the City an itemized Invoice for Payment in an AIA format. The invoice shall include backup material including, but not limited to, receipts or other vouchers, showing the payments for materials and labor, including payments previously made to Subcontractors.
- (b) The City may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any certificate to such extent as may be necessary to protect the City from loss because of the following conditions:
 - (i) Defective work not remedied;
 - (ii) Claims or liens filed;
 - (iii) Failure of the Contractor to make payments properly to Subcontractor or Supplier for materials or labor;
 - (iv) A reasonable doubt that the Contract can be completed for the balance then unpaid;
 - (v) Damage to a Separate Contractor or to the City or a third party;
 - (vi) Failure to maintain a rate of progress consistent with the schedule; or
 - (vii) Failure to supply enough skilled workers or proper materials.

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

36. Termination for Cause.

The City may, in addition to the provisions of Paragraph 13 herein, and subject to the provisions of Paragraph 46, by written notice of default to the Contractor, terminate the whole or any part of this Agreement in any one of the following circumstances:

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

37. Costs to Cure.

In the event the City terminates this Agreement in whole or in part as provided in Paragraph 13, Paragraph 36, or Paragraph 46, the City may procure, upon such terms and in such manner as the City may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the City for any excess costs for such similar supplies or services; provided, that the Contractor shall continue the performance of this Agreement to the extent not terminated pursuant to the provisions of Paragraph 13, Paragraph 36, and/or Paragraph 40.

38. Force Majeure.

Except with respect to defaults of subcontractor, the Contractor shall not be liable for any excess costs if the failure to perform the Agreement arises out of causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or to the public enemy, acts of the City, acts of the City, fires, flood, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather exceeding the average climatic conditions in the area of the Work. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule. The Contractor shall, within seven (7) days from the beginning of such delay, notify the City, in writing, of the causes of the delay, who shall ascertain the facts and the extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

39. Title to Materials Upon Termination.

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

40. Review of Termination.

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

41. Additional Remedies.

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

42. Subcontractors.

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

43. Solicitation of Contract.

The Contractor, in accordance with Title 13 of the Code of Georgia, warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

44. Termination for Convenience.

The performance of work under this Agreement may be terminated by the City in accordance with this clause in whole, or in part, whenever the City shall determine that such termination is in the best interest of the City. Any such termination shall become effective by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the Agreement is terminated, and the date upon which such termination becomes effective. Upon termination for convenience by the City, the provisions of Paragraphs 13, 36, 37, 39, and 41 herein shall apply to the extent applicable.

45. Contractor’s Duties upon Termination.

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

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

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

46. Termination-Claims.

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

47. Settlement of Claims.

Subject to the provisions of Paragraph 48, the Contractor and the City may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work, which amount or amounts may include a reasonable allowance for profit on work done; provided, however, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The Agreement shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in Paragraph 50 prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the City to agree upon the whole amount to be paid to the Contractor by reason of the termination of work shall be deemed to limit, restrict, or otherwise determine or affect the amount which may be agreed upon to be paid to the Contractor.

48. Payment of Claims.

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

- (a) For completed work, services, or materials accepted by the City (or sold or acquired as provided above) and not previously paid for, a sum equivalent to the aggregate price for

such supplies computed in accordance with the price specified in the Agreement, appropriately adjusted for any saving of freight or other charges;

(b) The total of:

- (i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies/materials paid or to be paid for under Subparagraph (a) hereof;
- (ii) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders, which are properly chargeable to the terminated portion of the Agreement (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors prior to the effective date of the Notice of Termination, which amounts shall be included in the costs payable above).

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

49. Set-Offs from Payment.

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

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

50. Partial Termination.

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

51. Partial Price.

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

52. Records Inspection.

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

53. Compliance

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

- (a) Contractor agrees that any payments made by it to any subcontractor, agent, or representative in performance of the obligations hereunder shall fully comply with the terms and requirements of the Federal enacted Davis-Bacon Act as applicable.
- (b) Contractor agrees to comply with Federal Buy America regulations as applicable.
- (c) Contractor agrees to comply with Department of Transportation Seismic Safety Regulations as applicable.
- (d) Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act as applicable.
- (e) Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act.
- (f) Contractor agrees to comply with all applicable standards, orders or regulations related to lobbying, including the Byrd Anti-Lobbying Amendment. The undersigned Contractor certifies, to the best of his or her knowledge and belief that:
 - (i) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions [as amended by “Government wide Guidance for New Restrictions on Lobbying,” 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].
 - (iii) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

- (iv) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (g) Contractor agrees to comply with all applicable standards, orders or regulations related to access to records and reports under state and federal law.
- (h) Contractor agrees to comply with all applicable standards, orders or regulations related to Federal Changes.
- (i) Contractor agrees to comply with all applicable standards, orders or regulations related to bonding requirements.
- (j) Contractor agrees to comply with all applicable standards, orders or regulations related to the Clean Air Act.
- (k) The City and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligation or liabilities to the City, Contractor, or any other party pertaining to any matter resulting from the underlying contract.
- (l) Contractor agrees to comply with all applicable standards, orders or regulations related to Program Fraud and False or Fraudulent Statements and Related Acts.
- (m) Contractor agrees to comply with all applicable standards, orders or regulations related to Civil Rights, including Nondiscrimination, Equal Employment Opportunity, Race, Color, Creed, National Origin, Sex, Age or Disabilities.
- (n) Contractor agrees to comply with all applicable standards, orders or regulations related to Disadvantaged Business Enterprise.

54. Insurance.

The Contractor shall be responsible to the City from the time of the signing of the Agreement or the beginning of the first work, whichever shall be earlier, for all injury or damage of any kind resulting from any negligent act or omission or breach, failure or other default regarding the Work by the Contractor, or any of its Subcontractors, its agents, employees or others working at the direction of the Contractor or on its behalf. The Contractor shall procure the insurance coverage identified below at the Contractor's expense and shall furnish the City an insurance certificate listing the City of Kennesaw as the certificate holder and as an additional insured and should read "The City of Kennesaw, Georgia, 2529 J.O. Stephenson Ave., Kennesaw, GA 30144". Occurrence coverage is required. Claims-made coverage is not acceptable. The insurance certificate must provide the following:

- (a) Name and address of authorized agent;
- (b) Name and address of insured;
- (c) Name of insurance company(ies);
- (d) Description of policies;
- (e) Policy Number(s);
- (f) Policy Period(s);
- (g) Limits of liability;
- (h) Name and address of City as certificate holder;
- (i) Project Name and Number;
- (j) Signature of authorized agent;
- (k) Telephone number of authorized agent; and

- (l) Mandatory 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 this 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 Agreement.

The Contractor also agrees to purchase insurance and have the authorized agent state on the insurance certificate that the Contractor has purchased the following types of insurance coverage, consistent with the policies and requirements of O.C.G.A. § 50-21-37. The minimum required coverage and liability limits are as follows:

- (a) The Contractor agrees to provide Workers' Compensation coverage in accordance with the statutory limits as established by the General Assembly of the State of Georgia. A group insurer must submit a certificate of authority from the Insurance Commissioner approving the group insurance plan. The Contractor shall require all Subcontractors performing work under this Contract to obtain an insurance certificate showing proof of Workers' Compensation Coverage and shall submit a certificate on the letterhead of the Contractor in the following language: *This is to certify that all Subcontractors performing work on this Project are covered by their own workers' compensation insurance or are covered by the Contractor's workers' compensation insurance.*

State of Georgia statutory limits required:

- (i) \$1,000,000.00;
 - (ii) \$1,000,000.00 each accident;
 - (iii) \$1,000,000.00 disease policy limit; and
 - (iv) \$1,000,000.00 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.

55. Georgia Security and Immigration Compliance Act Requirements.

The Contractor hereby certifies its compliance with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act OCGA 13-10-90 *et seq.*, by registering and verifying information of all new employees; and by executing any affidavits required by the rules and regulations issued by the Georgia Department of Labor set forth at Rule 300-10-1-.01 *et seq.* Contractor warrants that Contractor has included or will include a similar provision in all written agreements with any subcontractors engaged to perform services under this Contract.

56. Dispute Resolution.

- (a) If a dispute arises out of or relates to this Contract or its breach, the parties shall endeavor to settle the dispute first through direct discussions between the parties' representatives who have the authority to settle the dispute. If the parties' representatives are not able to promptly settle the dispute, they shall refer the dispute to the City Manager who shall have the authority to settle the dispute. If the dispute is not settled by the City Manager, the parties may submit the dispute to mediation.
- (b) If the dispute cannot be settled pursuant to Section (a) above, the parties may elect to submit the dispute to mediation. The parties agree to conclude such mediation within sixty days of electing mediation. The parties shall select a mutually agreeable mediator and shall share the cost of the mediator equally. Either party may terminate the mediation at any time after the first session, but the decision to terminate shall be communicated in writing directly by the party's representative to the other party's representative and the mediator.
- (c) No litigation may be commenced without first following the process in paragraphs (a) and (b) above. Litigation may be filed in the Superior Court of Cobb County, Georgia, after the filing party provides thirty days written notice to the opposing party. The parties hereby agree that the Superior Court of Cobb County, Georgia shall have exclusive jurisdiction and venue in all matters concerning this Agreement.
- (d) Unless otherwise directed by the City, Contractor shall continue performance under this Agreement while matters in dispute are being resolved.

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date first above written.

ATTEST:

CITY OF KENNESAW, GEORGIA

Lea Addington, City Clerk

Derek Easterling, Mayor
City of Kennesaw

CONTRACTOR: _____

By: _____

Title: _____

ATTEST:

Corporate Secretary (Seal)

Sworn and subscribed before me this
____ day of _____, 202__.

WITNESS

Notary Public
Commission Expires:

EXHIBIT "A"
SPECIAL STIPULATIONS

1. 1. GENERAL

- 1.1 It is the intention of this specification to establish and define the work to be performed and, in addition, to determine the capability and experience of the contractor desiring to provide such services.
- 1.2 The project includes furnishing all labor, material, equipment for construction and related improvements as stated in the Scope of Work for subject project.

2. SCOPE OF WORK

- 2.1 2300 l.f. of 5' sidewalk, 4" thick, and ADA ramps along the northern side of Sycamore Dr from Woodland Dr to Kennesaw Due West Rd and along Woodland Dr from White Oak Ct to Sycamore Dr
- 2.2 The removal of trees in the path of the sidewalks will be necessary and will be the responsibility of the contractor.
- 2.3 The contractor shall be responsible for all excavation, sub-grade compaction, forming, pouring and finishing the concrete, and cleaning up the site including installing necessary topsoil and grassing to restore the disturbed area to its original condition.
- 2.4 All major utilities: electric, water, communications, gas and sewer are present within the project corridor. Contractor will be responsible for coordinating and obtaining the necessary approvals and permits associated with this project.
- 2.5 The quantities shown on the Unit Price Sheet are approximate only. The Bidder is solely responsible for verifying all quantities, means and methods for the work. The contract sum will only increase or decrease by a change in the project scope and change order approved by the City prior to the work being done.

CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR BIDS

BID FORM

COPY

Community Development Block Grant (CDBG) Sidewalk Improvement Project

TO: CITY OF KENNESAW

FROM: S.H. Creel Contracting

(Contractor)

THE UNDERSIGNED BIDDER, having familiarized themselves with the work required by the bid documents, the site where the work is to be performed, all laws, regulations, and other factors affecting performance of the work, and having satisfied itself/himself/herself of the expense and difficulties attending performance of the work;

HEREBY agrees if selected to enter into a contract and perform all work necessary to the successful completion of the contract as indicated and specified in the RFB for the total contract price of:

\$ 153,121.45

Bidder must also complete the unit price information in the Specification section.

Name of Firm: S.H. Creel Contracting

Firm Address:

756 White Blossom Court Powder Springs, GA 30127

Federal Identification No: 85-2978300

Email: screel@shcreel.com

Telephone No: 404-630-1349

Fax No: _____

By: Scott Creel

09-20-2023

(Typed or Printed)

(Date)

Signature: 

(Signature)

President

(Title)

**CITY OF KENNESAW
REQUEST FOR BIDS**

ATTACHMENT 1

	Quantity	Unit	Unit Price	Total
Grading Complete	1	LS	<u>\$42,661.90</u>	<u>\$42,661.90</u>
5' Sidewalk	1280	SY	<u>\$56.04</u>	<u>\$71,731.20</u>
Sign Reset	6	EA	<u>\$184.74</u>	<u>\$1,108.44</u>
Fence Remove/Reset	200	LF	<u>\$30.79</u>	<u>\$6,158.00</u>
Grassing	1	LS	<u>\$6,157.90</u>	<u>\$6,157.90</u>
Tree Removal	6	EA	<u>\$1,847.37</u>	<u>\$11,084.22</u>
ADA Ramps	6	EA	<u>\$1,477.90</u>	<u>\$8,867.40</u>
Traffic Control	1	LS	<u>\$5,352.39</u>	<u>\$5,352.39</u>
			TOTAL	<u>\$153,121.45</u>



3. The contract price for such materials and construction services shall not exceed the amount of \$ 153,121.45.
4. Pursuant to Paragraph 16 of this Agreement, the Contractor shall provide copies of its proposal and all drawings and specifications submitted during the bidding process. Each such document and the location of the original is listed as follows:
 - 1) Description of Specifications
 - 2) Proposal and Contract
 - 3) Bid quotation
 - 4) E-Verify Forms for All Contracts
 - 5) _____
 - 6) _____
 - 7) _____
 - 8) _____
 - 9) _____
 - 10) _____
5. Pursuant to Paragraphs 23, 24 and 25 of this Agreement, the Contractor agrees to remedy promptly, and without cost to the City, any defective materials or workmanship which appear within two (2) years of the date of completion of the services outlined in this Agreement.
6. Pursuant to Paragraph 15 of this Agreement, the Contractor agrees to pay liquidated damages in the amount of \$250.00 per day for each day the Contractor fails to complete its duties and obligations under this Agreement beyond the time period set forth within.

PRIME CONTRACTOR'S WORK AUTHORIZATION CERTIFICATION

Pursuant to O.C.G.A. § 13-10-91, all qualifying contractors and sub-contractors performing work within the State of Georgia on a contract with a public employer must register and participate in a federal work authorization program. Prime contractors may participate in any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent Federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 ("IRCA").

Certify compliance with O.C.G.A. § 13-10-91 by checking the appropriate line below:

_____ The undersigned has registered for and is participating in a qualifying federal work authorization program.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services within this state pursuant to this contract with a public employer, the undersigned will secure from such subcontractor(s) a verification of compliance with O.C.G.A. § 13-10-91 using the form "Subcontractor's Work Authorization Certification" or a substantially similar form. The undersigned will maintain records of compliance and provide a copy of each subcontractor's verification to the public employer at the time the sub-contractor is retained to perform such service.

By: Authorized Officer or Agent

Date

Title of Authorized Officer or Agent of Contractor

Basic Pilot User Identification Number
(if applicable)

Printed Name of Authorized Officer or Agent

With express authority on behalf of:

Printed Name of Prime Contractor

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

_____ DAY OF _____, 20__

Notary Public

My Commission Expires: _____

300-10-1-.08 Subcontractor Affidavit (Georgia Administrative Code)
O.C.G.A. § 13-10-91 (2007), TITLE 13. CONTRACTS
CHAPTER 10. CONTRACTS FOR PUBLIC WORKS
ARTICLE 3. SECURITY AND IMMIGRATION COMPLIANCE

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 _____, 202__

Notary Public

My Commission Expires: _____

SUBMITTAL REQUIREMENTS

Specific Requirements

Georgia Security and Immigration Compliance Act

Complete Section I. Contractor Affidavit

Contractor agrees to comply with all of the contractor requirements of the:

“Georgia Security and Immigration Compliance Act of 2006,” as codified on O.C.G.A. sections 13-10-90 and 13-10-91 and regulated and regulated in chapter 300-10-1 of the Rules and Regulations of the State of Georgia, “Public Employers, Their Contractor and Sub-Contractors Required to Verify New Employee Work Eligibility Through a Federal Work Authorization Program,” Accessed at <http://www.dol.state.ga.us> as further set forth below.

- A. Contractor Agreement to Verify the Work Eligibility of its New Hires through the U. S. Department of Homeland Security’s “Employment Eligibility Verification(EEV)/Basic Pilot Program.”
 - **Contractor** agrees to verify the work eligibility of all of **Contractor’s** newly hired employees through the U. S. Department of Homeland Security’s **Employment Eligibility Verification(EEV)/Basic Pilot Program**, accessed through the Internet at <https://www.vis-dhs.com/EmployerRegistration>, in accordance with the provisions and timeline found in O.C.G.A. 13-10-91 and Rule 300-10-1-02 of the Rules and Regulations of the State of Georgia.
- B. Contracts Affected by the “Georgia Security and Immigration Compliance Act.”
 - **Contractor** agrees that the contractor and subcontractor requirements of the “Georgia Security and Immigration Compliance Act of 2006” apply to contracts for, or in connection with, the physical performance of services within the State of Georgia.
- C. Contractor’s Agreement to Require “Georgia Security Immigration Compliance Act” Compliance of its Subcontractors connected with this Contract.
 1. **Contractor** agrees to require O.C.G.A. Sections 13-10-90 and 13-10-91 compliance in all written agreements with any subcontractor employed by **Contractor** to provide services connected with this Agreement, as required pursuant to O.C.G.A. 13-10-91.
 2. **Contractor** agrees to obtain from any subcontractor that is employed by **Contractor** to provide services connected with this Agreement, the subcontractor’s indication of the employee-number category applicable to the subcontractor.
 3. **Contractor** agrees to secure from any subcontractor engaged to perform services under this Agreement an executed “Subcontractor Affidavit,” as required pursuant to O.C.G.A. 13-10-91 and Rule 300-10-1-.08 of the Rules and Regulations of the State of Georgia, which rule can be accessed at <http://www.dol.state.ga.us>.

4. **Contractor** agrees to maintain all records of the subcontractor's compliance with O.C.G.A. 13-10-91 and Rule 300-10-1 of the Rules and Regulations of the State of Georgia.
5. **Contractor** must have and maintain telephone, fax and email contacts for all subcontractors.



Item Report

TO: The Honorable Mayor and City Council
FROM:
DATE: September 25, 2023
TITLE: DISCUSSION ONLY: Jiles Place Lease Agreement.

Summary:

The proposed lease agreement between Kennesaw Development Authority (KDA) and Stratton-Phillips, LLC will provide access to overflow parking to Escalade Rock Climbing for their new building under development on Jiles Road. KDA will review the proposed lease at their regularly scheduled October meeting.

Recommendation:

Fiscal Impact:

Attachments:

1. ESCALADE-LEASE AGREEMENT - FINAL

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease Agreement") is made and entered into on this, day of _____, _____ 2023, by and between the KENNESAW DEVELOPMENT AUTHORITY ("Landlord") and STRATTON-PHILLIPS, LLC ("Tenant").

RECITALS

WHEREAS, the Landlord 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, Landlord owns the property located at 4014 Jiles Place, Kennesaw, Cobb County, Georgia 30144;

WHEREAS, Landlord desires to lease a portion of the property located at 4014 Jiles Place, Kennesaw, Cobb County, Georgia 30144 (the "Property"), as depicted in Exhibit A, to Tenant upon the terms and conditions contained herein;

WHEREAS, Landlord retains for its sole use the remainder of the property located at 4014 Jiles Place, Kennesaw, Cobb County, Georgia 30144, as depicted in Exhibit A;

WHEREAS, Tenant desires to lease the Property from Landlord on the terms and conditions contained herein;

NOW THEREFORE, in exchange for the mutual promises herein contained, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree to the terms and conditions set forth below:

TERMS

SECTION 1: THE PREMISES:

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord a portion of the property located at 4014 Jiles Place, Kennesaw, Cobb County, Georgia 30144, as set forth in Exhibit A. Landlord retains for its sole use the remainder of the property located at 4014 Jiles Place, Kennesaw, Cobb County, Georgia 30144, as depicted in Exhibit A.

SECTION 2: TERM:

2.1 TERM: This Lease Agreement shall commence on the 1st day of November, 2023 ("Commencement Date") for a period of five (5) years (the "Term"). The Term will be automatically renewed for three (3) additional terms of five (5) years each (each a "Renewal Term") unless Tenant provides Landlord with notice of its intention not to renew sixty (60) days prior to the expiration of the initial Term or any Renewal Term.

2.2 TERMINATION: Neither Party may terminate this Lease Agreement without cause. Termination of this Lease Agreement will be by mutual consent and approval by both Parties. Intent to terminate will be issued by Terminating Party by giving sixty (60) days written notice to the other Party. Both Parties agree to negotiate termination of this Lease Agreement in good faith. Upon the expiration or earlier termination of this Lease Agreement, Tenant shall return the Property to Landlord in good repair, condition, and working order, ordinary wear and tear resulting from proper use thereof alone excepted.

2.3 OPTION TO PURCHASE: In consideration of the Tenant meeting all obligations as stated herein under this Lease Agreement, the Landlord hereby grants the Tenant an option to purchase that portion of the Property designated for use by the Tenant in Exhibit A, under the following terms and conditions:

- a. The option price is Thirty Five Thousand and no/100 (\$35,000.00). The terms of purchase will be: Tenant may exercise the right to purchase the Property at any time during the Lease Term or any Renewal term.
- b. Tenant understands that time is of the essence in this Lease Agreement. The option will expire without notice and be of no further effect if not exercised on or before September 30, 2043.
- c. Tenant has paid the sum of \$500.00 as a non-refundable option consideration, which will be applied toward the purchase price of the Property if, and only if, Tenant exercises this option to purchase. In the event Tenant fails to exercise the option or defaults under any terms of the Lease Agreement, the option will be void and all monies will be retained by Landlord as liquidated damages and not as a penalty.
- d. 100 % of the rent paid pursuant to this Lease Agreement will be applied as additional option consideration to reduce the option price if and only if the Tenant exercises this option to purchase, provided, however, that no payments made after November 7th of each year for which rent is due, or for which payment tendered is returned NSF, shall be credited towards a reduction in the option price.
- e. The option shall be exercised by mailing or delivering written notice to the Landlord prior to the expiration of any Term of this Lease Agreement.

2.4 RIGHT OF FIRST REFUSAL: Landlord hereby grants Tenant a right of first refusal on the Property or any portion of the Property in accordance with the terms below ("Right of First Refusal").

- a. If during the Term of this Agreement and prior to Tenant exercising its Option to Purchase, Landlord receives either a bona fide written offer by a willing third party to purchase all or part of the Property which Landlord intends to accept, or a purchase agreement which Landlord intends to enter into (collectively, "Offer"), Landlord shall give written notice to Tenant at the address provided below accompanied by a copy of such Offer at least fifteen (15) days before the date of contemplated sale.

b. Within fifteen (15) business days after receipt of the written notice, Tenant shall have the right to notify the Landlord in writing that it is exercising its Right of First Refusal and will purchase the Property pursuant to a purchase agreement which incorporates the terms and conditions of the Offer.

c. If Tenant fails to exercise its Right of First Refusal within the time stated above, this Right of First Refusal shall have no more force and effect.

d. Within three (3) days after notifying the Landlord that it is exercising its Right of First Refusal, Tenant shall deposit with Landlord the sum of One Thousand and no/100 dollars (\$1,000.00) as "Earnest Money". If the sale is closed, the Earnest Money shall be applied toward the Purchase Price. If Tenant decides not to purchase said Property or this Right of First Refusal expires unexercised after thirty (30) days, Landlord shall retain One Thousand and no/100 (\$1,000.00) of the Earnest Money.

SECTION 3: PAYMENT AND EXPENSES

3.1 AMOUNTS OWED: All amounts due and owing under this Lease Agreement shall be paid in certified funds, payable to the KENNESAW DEVELOPMENT AUTHORITY and shall be mailed to ATTN: Luke Howe, 2529 J.O. Stephenson Ave., Kennesaw, Cobb County, Georgia 30144.

3.2 LEASE PAYMENTS: Upon execution of this Lease Agreement, Tenant shall pay closing costs in the amount of \$500.00. Beginning on the 1st day of November, 2023, Tenant agrees to pay to Landlord an annual rent (the "Rent") of ONE THOUSAND TWO HUNDRED AND 00/100 DOLLARS (\$1,200.00) per year, due and payable on the first day of October of each successive year. Tenant is responsible for payment of the applicable Rent for each year in which it occupies or uses any portion of the Property. If not remitted by the first day of October of each year, the Rent shall be considered overdue and delinquent on the seventh day of October.

3.3 LATE CHARGE. In the event that any payment required to be paid by Tenant hereunder is not made within seven (7) days of when due, Tenant shall pay to Landlord, in addition to such payment or other charges due hereunder, a "late fee" in the amount of Ten and no/100 Dollars (\$10.00).

3.4 TAXES AND ASSESSMENTS: Landlord will be responsible for payment of all taxes and governmental assessments, if any, that relate to the Property during the Term of this Lease Agreement.

3.5 UTILITIES. Tenant shall be responsible for arranging and paying for all utility services that relate to the Property during the Term of this Lease Agreement even if the bills are issued in the name of the Landlord.

SECTION 4: TENANT'S RIGHTS

4.1 QUIET ENJOYMENT: Landlord hereby covenants and agrees to permit Tenant quiet enjoyment of possession of the Property during the term of this Lease Agreement, so long as Tenant is not in default with the terms and conditions of this Lease Agreement.

4.2 USE: Tenant shall use the Property as a parking lot. Tenant shall not use the Property or permit it to be used for any disorderly or unlawful purposes.

4.3 NO ESTATE IN LAND: This Lease Agreement shall create the relationship of Landlord and Tenant; no estate shall pass out of Landlord.

4.4 PROPERTY UPGRADES: Tenant agrees to provide the Property upgrades, if any, at its own expense and said upgrades shall remain and become the property of the Landlord upon termination of this Lease Agreement. Said upgrades may include but not limited to: remove all trees within property line, backfill the same area to make level parking area, gravel/stone top, fence around perimeter, power/light poles installed. Tenant agrees that said upgrades to the Property shall be in full compliance with the Kennesaw Code of Ordinances or other state law and shall only be initiated after first obtaining the proper approvals and permits. Tenant shall obtain the permits at its own expense. This agreement shall not be considered as an approval or permit for any upgrade.

4.5 MAINTENANCE AND SERVICES: During the term of this Lease Agreement, Tenant shall, at Tenant's sole expense, maintain the Property in good, safe, condition in all respects, in full compliance with all applicable laws and regulations. Tenant shall be responsible for all repairs and maintenance on the Property. Landlord will not be required to furnish any services or facilities, including but not limited to heat, electricity, air conditioning, or water, or to make any repairs to the Property, and Tenant hereby assumes the sole responsibility for furnishing all services or facilities as well as the cutting of the grass on the Property. Landlord shall have no liability to Tenant for disruption of any utility service, and in no event shall such disruption constitute constructive eviction or entitle Tenant to abatement of rents or other charges.

4.6 DISPOSITION OF PROPERTY UPON EXPIRATION OR TERMINATION: Upon the expiration of the term of this Lease Agreement as such term may be terminated in accordance with this Lease Agreement, Tenant will surrender the Property to Landlord. Tenant warrants that the Property shall be surrendered free and clear of all encumbrances. Any and all improvements, fixtures, and appliances provided by the Landlord shall remain with the Property upon the expiration or termination of this Lease Agreement.

4.7 TENANT'S LIABILITY: Tenant assumes sole responsibility and liability to all persons and authorities related to the possession, occupancy, and use of the Property and will indemnify, defend, and hold harmless from all costs, including reasonable attorneys' fees, damages, claims of liability, and losses, Landlord, the City of Kennesaw, and its elected officials, officers, employees, attorneys, successors, and assigns against all liability for injury or damage to person or property from any cause on or about the Property. Tenant waives all claims against Landlord, the City of Kennesaw, and its elected officials, officers, employees, attorneys, successors, and assigns for injury or damage arising from the Property or use thereof. Tenant hereby releases Landlord from any claims for damage to any person or to the Property, and to the fixtures, personal property, Tenant's improvements and alterations of either Landlord or Tenant on the Property, which arise from, or are alleged to arise from Tenant's use of the Property.

4.8 PROHIBITION OF LIENS: Tenant will procure the record discharge of any mechanic's or materialman's claim of lien which might be filed against the Property within sixty (60) days of its filing. If Tenant fails to procure the record discharge of a claim of lien within the time allowed, Landlord may, but is not obligated to, discharge the same by paying the amount in question. Tenant may contest the validity of any lien asserted so long as Tenant furnishes a bond in an amount sufficient to release the Property from the lien. Any amounts paid by Landlord hereunder in respect of the liens will be deemed a Lease Fee payable by Tenant upon demand.

SECTION 5: DEFAULT

5.1 MONETARY DEFAULT BY TENANT: It will be an event of default if Tenant fails to pay the Rent or other charges required by the terms of this Lease Agreement and the failure is not cured by Tenant within ten (10) days after notice of the failure is given by Landlord to Tenant.

5.2 NONMONETARY DEFAULT BY TENANT: It will be an event of default if Tenant fails to abide by any other material term or condition in this Lease Agreement, and the failure is not cured by Tenant within thirty (30) days after notice of the failure is given by Landlord to Tenant.

5.3 TERMINATION: If Landlord determines that Tenant is in default of this Lease Agreement, including but not limited to the failure to pay rent when due, as authorized under O.C.G.A. § 44-7-50, Landlord may immediately demand possession of the Property. In such event, Landlord shall provide Tenant with at least five (5) days written Notice to Vacate by a method as set forth herein. In addition, all unpaid rents payable during the remainder of this Lease Agreement or any renewal period shall be accelerated without notice or demand. Tenant shall remain fully liable to the Landlord for (a) any lost rent and any other financial obligation under this Lease Agreement; (b) Landlord's cost of reletting the Property including but not limited to leasing fees, utility charges, and any other fees necessary to relet the Property; (c) upgrades made prior to the Lease Agreement (d) repairs to the Property for Tenant's use that are beyond normal wear and tear; (e) all of Landlord's costs associated with evicting Tenant, including but not limited to court costs, costs of service, prejudgment interest, and reasonable attorney's fees; (g) all of Landlord's costs associated with collecting amounts due under this Lease Agreement, including but not limited to debt collection fees, late charges, and returned check charges; (g) and any other recovery to which Landlord is entitled by law or in equity. Landlord is obligated to make all reasonable efforts to mitigate any damage or loss resulting from Tenant's breach by attempting to relet the Premises to acceptable tenants and thereby reducing Tenant's liability.

SECTION 6: GENERAL PROVISIONS

6.1 INSPECTION: Tenant shall allow Landlord to enter and inspect the Property at any reasonable time upon written request. By execution of this Lease Agreement, Tenant acknowledges Landlord may enter and inspect the Property immediately following the execution of this Lease Agreement.

6.2 ACCEPTANCE: Tenant acknowledges that it has inspected the Property, finds it in good repair, and accepts said Property in its present condition and agrees that it is suited for the use intended by Tenant.

6.3 SUB-LET: Tenant shall NOT assign or sub-lease the Property or any part thereof without the express written consent of Landlord, which consent may be withheld for any reason.

6.4 REAL ESTATE TAXES: Landlord shall pay all real estate taxes and assessments and any and all other ad valorem taxes, charges and assessments (including, without limitation, general and special assessments no matter how designated) if any, of every kind and nature, with respect to the Property.

6.5 INSURANCE COSTS: Tenant shall be responsible for purchasing and maintaining renter's insurance for a minimum amount of \$250,000.00 in personal liability coverage.

6.6 DESTRUCTION OF OR DAMAGE TO PREMISES: If the Property is totally destroyed by storm, fire, lightning, earthquake or other casualty, this Lease shall terminate as of the date of such destruction, and Rent shall be accounted for as between Landlord and Tenant as of that date.

In the event of partial destruction of the Property by no fault of the Tenant, Landlord may either: (i) elect to restore the property to the same condition as before the damage, if, in its sole and exclusive discretion, it determines that such restoration is acceptable to the Landlord, or (ii) Landlord may terminate this Lease subject to applicable notice provisions and laws. Nothing in this section shall prohibit the Tenant from making necessary repairs to the Property.

In the event of damage to the Property for which the Tenant is at fault, the Tenant shall restore the Property within thirty (30) days to the same condition as before the damage occurred.

6.7 ALTERATIONS AND/OR ADDITIONS: Tenant shall not in any manner alter or make substantive additions to the Property without first securing Landlord's written consent. All improvements or additions to the Property shall, when made, at once be deemed to be attached to the Property and to have become a permanent part thereof and to be considered the property of Landlord in as good order and condition as they were when installed, reasonable wear and tear expected. Tenant does acknowledge that Landlord may during the course of this Lease Agreement undertake certain improvements to the Property including, but not limited to, development of parking and public facilities on the Property, provided that Landlord shall cooperate with Tenant to insure that the development of such improvements shall not substantially interfere with Tenant's peaceful enjoyment of the Premises.

6.8 PAYMENT BY LANDLORD: If Landlord is required to pay any sum that is the Tenant's responsibility or liability, then Tenant will reimburse the Landlord for the payment and for reasonable expenses caused thereby.

6.9 WAIVER: The waiver by Landlord at any given time of any term or condition of this Lease Agreement, or the failure of Landlord to take action with respect to any breach of any term or condition, will not be deemed to be a waiver of the term or condition with regard to any subsequent breach of the term or condition, or of any other term or condition of the Lease Agreement. Landlord may grant waivers in the terms of this Lease Agreement, but the waivers must be in writing and signed by Landlord before being effective.

The subsequent acceptance of Rent by Landlord will not be deemed to be a waiver of any preceding breach by Tenant of any term or condition of this Lease Agreement, other than the failure of the Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of the preceding breach at the time of acceptance of the Lease Fee payment.

6.10 NOTICES: Whenever this Lease Agreement requires either party to give notice to the other, the notice will be given in writing and delivered in person or mailed, by certified or registered mail, return receipt requested, to the party at the address set forth below, or the other address designated by like written notice:

Landlord: KENNESAW DEVELOPMENT AUTHORITY
2529 J.O. Stephenson Avenue
Kennesaw, Georgia 30144
Attention: Miranda Taylor

Tenant: Stratton-Phillips, LLC
125 Depot Court
Peachtree City, Georgia 30269

All notices, demands and requests will be effective upon being deposited in the United States Mail or, in the case of personal delivery, upon delivery.

6.11 SEVERABILITY AND DURATION: If any part of this Lease Agreement is declared unenforceable or invalid, the material will be read out of this Lease Agreement and will not affect the validity of any other part of this Lease Agreement or give rise to any cause of action of Tenant or Landlord against the other, and the remainder of this Lease Agreement will be valid and enforced to the fullest extent permitted by law.

6.12 CONSTRUCTION: Whenever in this Lease Agreement a pronoun is used it will be construed to represent either the singular or the plural, masculine or feminine, as the case will demand.

6.13 HEADINGS: The headings appearing in this Lease Agreement are for convenience only and are not a part of this Lease Agreement and do not in any way limit or amplify the terms or conditions of this Lease Agreement.

6.14 ENTIRE AGREEMENT: This Lease Agreement sets forth the entire agreement between the Parties with respect to the leasing of the Property and supersedes any prior understanding or representation of any kind preceding the date of this Lease Agreement. There are no other promises, conditions, understandings, or other agreements, whether oral or written, relating to the subject matter of this Lease Agreement. It is binding upon and inures to the benefit of these Parties and, in accordance with the provisions of this Lease Agreement, their respective successors in interest. This Lease Agreement may be altered or amended only by written notice executed by the Parties or their legal representatives or, in accordance with the provisions of this Lease Agreement, their successors in interest.

6.15 GOVERNING LAW: This Lease Agreement will be interpreted in accordance with and governed by the laws of the State of Georgia. The language in all parts of this Lease Agreement will be, in all cases, construed according to its fair meaning and not strictly for or against Landlord or Tenant. Venue and jurisdiction over any claim or cause of action arising under this Lease Agreement shall lie exclusively in the Superior Court of Cobb County, Georgia.

6.16 EMPLOYMENT ELIGIBILITY VERIFICATION: By executing this Lease Agreement, the undersigned Tenant verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in business with the CITY OF KENNESAW, or subdivision thereof, has registered with, is authorized to use, and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties herein have hereunto set their hands and seals the day and year first above written.

Approved as to form by:

R. Randall Bentley, Sr., City Attorney

**LANDLORD: KENNESAW DEVELOPMENT
AUTHORITY**

_____, CHAIR

TENANT: STRATTON-PHILLIPS, LLC

Andrew N. Stratton, General Manager

EXHIBIT A

Portion of 4041 Jiles Pl. to be leased (red)





Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: September 25, 2023

TITLE: Consideration for approval of a final plat application submitted by Beazer Gain, LLC for 2438-2460 Hidden Creek Rd, 4020 Oleander Ct. Case #FP2023-06

Summary:

This final plat is for Unit 2, Phase 1B of the proposed residential subdivision located along Pine Mountain Road NW. This plat phase depicts 26 detached single family lots. The overall area of the site for this phase is 15.756 acres. The property is zoned as Planned Urban Development - Residential District and lies on land lot 165. The Plan Review Committee including Cobb Fire and Cobb Water have all reviewed said plat for compliance and recommend approval.

Recommendation:

The Zoning Administrator recommends approval of final plat as presented.

Fiscal Impact:

Attachments:

1. final plat pine mountain phas 1B application
2. 19-0207 Pine Mt Phase2B_Final Plat



Date Received _____
Staff's Initials _____

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 PLANNING REVIEW STAFF PRIOR TO THE SUBMISSION OF THE APPLICATION IS MANDATORY.

Date of Consultation _____ Staff Initials _____

DEVELOPMENT NAME _____ Number of Units _____

PURPOSE OF DEVELOPMENT PINE MOUNTAIN PARK (UNIT 2, PHASE 1B)
Residential Subdivision

WHAT IS THE REVISION BEING MADE _____

ADDRESS OF PROPERTY 2438 - 2460 Hidden Creek Rd, 4010 4020 OCEANVIEW CT.

Parcel ID 20016500050 Lot Size 12,700 SF (TYP) Present Zoning PUD-R
20016500060 2016500040

Current Use Residential Subdivision Proposed Use Residential Subdivision

APPLICANT BEAZER GAIN, LLC

Applicant address 2002 Summit Blvd NE, 15th Floor, Atlanta GA 30319

(Phone #) _____ Email Address _____

Applicant Signature [Signature] AUTHORIZED SIGNATORY

Signed, sealed and delivered in presence of: [Signature] Notary 7-18-2023 Date

REPRESENTATIVE _____ (Phone #) _____ Email Address _____

Representative Signature _____

Signed, sealed and delivered in presence of: _____ Notary _____ Date _____

TITLEHOLDER _____ (Phone #) _____

Titleholder Signature _____ Address _____

Signed, sealed and delivered in presence of Notary _____ Date _____

OWNER/DEVELOPER/PRIMARY PERMITEE:

BEAZER GAIN, LLC
6455 SHILOH ROAD, SUITE A
ALPHARETTA, GA 30005
770-781-0610
CONTACT: MELANIE GRAF
EMAIL: melanie.graf@beazer.com

ENGINEER/SURVEYOR:

Bowman Consulting Group, LTD.
4174 SILVER PEAK PARKWAY
SUWANEE, GEORGIA 30024
PH: 770-932-6550 FX: 770-932-6551
ENGINEER CONTACT: JOHN NAGY, P.E. EMAIL: jNagy@bowman.com
SURVEY CONTACT: PATRICK P. NUNN EMAIL: P.Nunn@bowman.com

SUPERIOR COURT RECORD INFORMATION

SURVEYOR'S CERTIFICATION BOX

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



Patrick P. Nunn 9-18-2023

ENGINEER AND SURVEYOR ACKNOWLEDGMENT

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.

Patrick P. Nunn
SIGNATURE
R.L.S. NO 2860

PATRICK NUNN
PRINTED NAME
9-18-2023
DATE

John Nagy
SIGNATURE
REGISTERED C.E. NO 29270

JOHN NAGY
PRINTED NAME
9-18-2023
DATE

OWNERS' ACKNOWLEDGMENT

The owner of the land shown on this plat and whose name is subscribed hereto, and in person or through duly authorized agents, acknowledges that this plat was made from an actual survey, and dedicates fee simple to the use of the public forever all streets, parks, drains, easements and public grounds thereon shown, which comprises a total of 1.357 acres, for the purpose therein expressed.

SUBOWNER
BEAZER GAIN, LLC
(PRINT NAME)
M. Graf
(SIGNATURE)
9-18-23
(DATE)

OWNER
BEAZER GAIN, LLC
(PRINT NAME)
M. Graf
(SIGNATURE)
9-18-23
(DATE)

PROVIDED, HOWEVER, THAT NOTHING HEREIN NOR ACCEPTANCE SHALL CREATE LIABILITY ON THE PART OF THE CITY OF KENNESAW, ITS OFFICERS, AGENTS OR EMPLOYEES FOR FLOODING OR EROSION FROM STORM DRAINS OR FROM FLOODING FROM HIGH WATER OF NATURAL CREEKS OR RIVERS, AND THE CITY OF KENNESAW IS HEREBY SPECIFICALLY RELEASED FROM ANY SUCH LIABILITY FOR THE NEGLIGENT CONSTRUCTION OR MAINTENANCE OF ALL DRAINAGE STRUCTURES, ROADS, SEDIMENT CONTROL FACILITIES AND ALL OTHER WORK PERFORMED BY THE OWNER OR DEVELOPER OF THE PROPERTY, THEIR AGENTS, SERVANTS, EMPLOYEES OR CONTRACTORS.

CITY AND COUNTY CERTIFICATION

THIS PLAT, HAVING BEEN SUBMITTED TO KENNESAW AND HAVING BEEN FOUND TO COMPLY WITH KENNESAW DEVELOPMENT STANDARDS AND KENNESAW UNIFIED DEVELOPMENT CODE IS APPROVED SUBJECT TO THE INSTALLATION AND DEDICATION OF ALL STREETS, UTILITIES, EASEMENTS AND OTHER IMPROVEMENTS IN ACCORDANCE WITH THE STANDARD DESIGN SPECIFICATIONS AND THE POSTING OF A ONE YEAR MAINTENANCE BOND.

KENNESAW PUBLIC WORKS	DATE
CITY ENGINEER	DATE
BUILDING SERVICES DEPARTMENT	DATE
PLANNING AND ZONING DEPARTMENT	DATE
COBB COUNTY WATER SYSTEM	DATE

Nothing herein 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.

STATE WATERS & WETLANDS

THERE ARE STATE WATERS (BUTLER CREEK) ON THIS SITE REQUIRING A 25' STATE UNDISTURBED BUFFER, 50' COUNTY UNDISTURBED BUFFER, AND 75' IMPERVIOUS SETBACK MEASURED FROM THE TOP OF BANK.

ACCORDING TO THE NATIONAL WETLANDS INVENTORY, THE SITE DOES CONTAIN WETLANDS.

THIS PROJECT WAS PREVIOUSLY PERMITTED THROUGH CITY OF KENNESAW - PERMIT # 180929, AND COBB COUNTY, GA SPR-2018-00291

This plat and permitted reproductions, in whole or in part, are instruments of service and are the sole property of Bowman Consulting Group, LTD. unless otherwise agreed to, they shall not be reproduced or conveyed in any manner nor are they to be used for any projects other than specifically indicated hereon without written authorization from and due compensation to Bowman Consulting Group, LTD.

This plat was prepared for the exclusive use of the person, persons, or entity named hereon. This plat does not extend to any unnamed person, persons, or entity without the express recertification of the surveyor naming such person, persons, or entity.

FINAL PLAT FOR:
PINE MOUNTAIN PARK
(UNIT 2, PHASE 1B)

CITY OF KENNESAW
COBB COUNTY, GEORGIA

LAND LOT 165

20TH DISTRICT

PARCEL ID: 20016500050, 20016500660 & 20016500040

ZONING: PUD-R

ZONING ORDINANCE NO. 2018-01, 2018-02, 2018-03, 2018, 2021-06, 2021

NOTES:

- STATE LAW PROHIBITS THE PRIVATE CONSTRUCTION, PLANTING, OR OTHERWISE MAKING IMPROVEMENTS ON THE DEDICATED RIGHT-OF-WAY. THE SOLE RESPONSIBILITY FOR REPAIRING ANY DAMAGE OF ANY SUCH IMPROVEMENTS SHALL BE THE PROPERTY OWNERS.
- PERPETUAL CARE AND MAINTENANCE AND THE CONVEYANCE OF REAL PROPERTY REFERENCED IN SECTION 205 OF THE COBB COUNTY DEVELOPMENT STANDARDS AND SPECIFICATIONS WILL BECOME EFFECTIVE AT THE COMPLETION OF THE FINAL ACCEPTANCE PROCESS.
- ALL STORMWATER INFRASTRUCTURES ON THIS SITE, WITHIN OPEN SPACE OR AMENITY AREAS ARE PRIVATELY OWNED, AND ANY MAINTENANCE OR REPLACEMENT IS THE OWNER'S RESPONSIBILITY. DRAINAGE OR ACCESS EASEMENTS SHOWN WITHIN OPEN SPACE OR AMENITY AREAS ARE PRIVATE AND TO THE BENEFIT OF THE OWNER (HOME OWNER'S ASSOCIATION) FOR ACCESS AND MAINTENANCE.
- ALL STORMWATER INFRASTRUCTURES SHOWN ON THIS PLAT ARE THE SAME AS ARE SHOWN ON THE AS-BUILT DRAWINGS SUBMITTED TO COBB COUNTY STORMWATER MANAGEMENT.
- ANY DISTURBANCE OF WETLANDS REQUIRES A FEDERAL PERMIT FROM THE U.S. ARMY CORPS OF ENGINEERS.
- DISTANCES SHOWN ON THE PLAT ARE GROUND DISTANCES.
- NO CEMETERIES, ARCHEOLOGICAL OR ARCHITECTURAL LANDMARKS ARE KNOWN TO EXIST ON THIS SITE.
- ELEVATION DATA IS REFERENCED TO NAVD 88 (MSL) AND SURVEY IS REFERENCED TO STATE PLANE COORDINATE SYSTEM INCLUDING ALL NEW MANHOLES.
- FOR ALL LOTS SURFACE WATER MAY DRAIN ALONG SIDE LOT LINES OF ADJACENT LOTS. NO OWNER OR RESIDENT MAY BLOCK, DIVERT, OR OTHERWISE IMPEDE SURFACE WATER DRAINAGE WITHIN 5' OF A SIDE LOT LINE, WITHIN 10' OR A REAR LOT LINE OR WITHIN 20' OF A REAR LOT LINE THAT IS ALONG THE EXTERIOR BOUNDARY OF THE COMMUNITY.
- PINS (1/2" REBAR) ARE SET AT ALL PROPERTY CORNERS.
- A MAINTENANCE AGREEMENT WITH THE HOA IS REQUIRED. THE HOA SHALL BE RESPONSIBLE FOR MAINTENANCE OF THE CONSTRUCTED WETLANDS, FOREBAYS, AND SPILLWAYS FOR THIS DEVELOPMENT AND SHALL BE INCLUDED IN THE DEEDS AND COVENANTS OF THE MANDATORY AGREEMENT.

SUITABILITY OF LAND

LAND SUBJECT TO FLOODING OR EROSION, AND ANY LAND DEEMED TO BE UNSUITABLE FOR DEVELOPMENT BY THE CITY ENGINEER OR HEALTH DEPARTMENT, SHALL NOT BE PLATTED FOR ANY USES AS MAY CONTINUE SUCH CONDITIONS OR INCREASE DANGER TO HEALTH, SAFETY, LIFE OR PROPERTY UNLESS THE HAZARDS CAN BE AND ARE CORRECTED.

STATEMENT OF SLOPE EASEMENT

THIS PLAT IS APPROVED WITH THE UNDERSTANDING THAT EASEMENT IS GRANTED THE CITY OF KENNESAW ALONG ALL ROAD FRONTAGE FOR THE PURPOSE OF SLOPING CUTS AND FILLS AS FOLLOWS:

- 0' TO 5' - NOT LESS THAN 3 TO 1 SLOPE
- 5' TO 10' - NOT LESS THAN 2 TO 1 SLOPE

FIRE LANE REQUIREMENTS:

- BOTH SIDES OF SIGN SHALL READ "NO PARKING, FIRE LANE"
- LETTERS SHALL NOT BE LESS THAN 2 INCHES IN HEIGHT
- ONE SIGN SHALL BE POSTED AT THE BEGINNING OF THE FIRE LANE AND ONE AT THE END OF FIRE LANE WITH SIGNS NOT MORE THAN 100 FEET APART.
- SIGNS SHALL NOT BE MORE THAN 4 FEET FROM THE EDGE OF CURB AND SHALL BE VISIBLE FROM BOTH DIRECTIONS OF DRIVING SURFACE.
- HEIGHTS OF SIGN FACE AS MEASURED FROM BOTTOM OF SIGN SHALL BE A MINIMUM OF 4 FEET AND A MAXIMUM OF 7 FEET FROM GROUND LEVEL.
- DECORATIVE SIGNAGE MAY BE USED WITH SEPARATE FIRE MARSHAL'S APPROVAL.
- LANES 20 TO 28 FEET, MARKING AND SIGNS WILL BE REQUIRED ON BOTH SIDES.
- LANES 29-37 FEET, SIGNS AND MARKINGS WILL BE REQUIRED ON ONE SIDE.
- LANES MORE THAN 37 FEET, NO SIGNS OR MARKING REQUIRED.
- CURBING OR LINE PAINT DELINEATING FIRE LANE SHALL BE PAINTED RED AND THE TOP AND FACE OF CURB SHALL BE PAINTED (COBB COUNTY CODE SECTION 118-231)
- THE LIFE SAFETY INSPECTORS WILL MAKE FINAL DETERMINATION OF FIRE LANES BEFORE FINAL INSPECTION IS MADE.
- NO UNITS WITH IN THIS DEVELOPMENT NEED SPRINKLERS.
- ALL HYDRANT LINES ARE 8" DIP.
- NO GATE SHALL BE INSTALLED WITHOUT FIRE MARSHAL APPROVAL.

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

PRIVATE COVENANTS STATEMENT

THIS PLAT IS SUBJECT TO THE COVENANTS SET FORTH IN THE SEPARATE DOCUMENT(S) DATED 01-14-2021, WHICH HEREBY BECOMES A PART OF THIS PLAT, RECORDED IN DEED BOOK 15852, PAGE 4468, COBB COUNTY DEED RECORDS.

OWNER'S SIGNATURE

DATE

GENERAL NOTES:

- SITE AREA = 43.689 ACRES (TOTAL ACRES)
16.324 ACRES (UNIT 1, PHASE 1A)
4.783 ACRES (UNIT 1, PHASE 1B)
8.826 ACRES (UNIT 2, PHASE 1A)
15.756 ACRES (UNIT 2, PHASE 1B)
- ZONING = PUD-R
SETBACKS (PER ZONING CONDITIONS):
FRONT = 15'
SIDE = 5 / 15'
REAR = 15'
- BUFFERS: SEE PLANS
- REQUIRED PARKING = 41.5 (0.5 PER UNIT)
- TOTAL PROVIDED PARKING = 42
UNIT 1, PHASE 1A PROVIDED PARKING = 37
UNIT 2, PHASE 1B PROVIDED PARKING = 5
HC PARKING REQUIRED = 4
- HC PARKING PROVIDED = 4 (3 SPACES PROVIDED UNIT 1, PHASE 1A, 1 SPACE PROVIDED UNIT 2, PHASE 1B)
- UNITS AND DENSITY:
NUMBER OF UNITS TOTAL = 83 (DETACHED SINGLE FAMILY UNITS)
UNIT 1, PHASE 1A = 30 (DETACHED SINGLE FAMILY UNITS)
UNIT 1, PHASE 1B = 15 (DETACHED SINGLE FAMILY UNITS)
UNIT 2, PHASE 1A = 12 (DETACHED SINGLE FAMILY UNITS)
UNIT 2, PHASE 1B = 26 (DETACHED SINGLE FAMILY UNITS)
TOTAL DENSITY = 2.40 UNITS/AC
DENSITY (UNIT 1, PHASE 1A) = 1.84 UNITS/AC
DENSITY (UNIT 1, PHASE 1B) = 3.14 UNITS/AC
DENSITY (UNIT 2, PHASE 1A) = 1.75 UNITS/AC
DENSITY (UNIT 2, PHASE 1B) = 1.65 UNITS/AC
AVG LOT SIZE = 12,700 SF
MIN LOT SIZE = 7,000 SF
MIN WIDTH = 70 FT
MAX HEIGHT = 35 FT
- OPEN SPACE SUMMARY:
OPEN / GREEN SPACE 19.73 Ac
% OF TOTAL = 44.9%
PRIMARY (FLOOD PLAIN) = 9.38 Ac
SECONDARY (OTHER) = 10.3 Ac
- ALL CONSTRUCTION SHALL CONFORM TO KENNESAW CODES, STANDARDS AND REGULATIONS. ALL CONSTRUCTION SHALL ALSO COMPLY WITH ALL APPLICABLE STATE AND FEDERAL CODES, STANDARDS AND REGULATIONS.
- ALL DIMENSIONS ARE TO BACK OF CURB UNLESS OTHERWISE NOTED.
- ALL TRAFFIC SIGNS SHALL CONFORM TO MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (M.U.T.C.D.), LATEST EDITION, AND ANY SUPPLEMENTS THERETO.
- WATER & SEWER IS SUPPLIED BY COBB COUNTY.
- TYPICAL BUILDING PADS ARE SHOWN. REFER TO ARCHITECTURAL PLANS FOR EXACT BUILDING DIMENSIONS.
- CURB AND GUTTER SHALL BE ROLL BACK CURB UNLESS OTHERWISE NOTED.
- NO WELLS OR SEPTIC SYSTEMS ARE PROPOSED OR EXIST ON SITE.

UTILITIES NOTES:

- NO PERMANENT STRUCTURES SHALL BE CONSTRUCTED WITHIN TEN (10') FEET OF THE EDGE OF PERMANENT COBB COUNTY WATER OR SANITARY EASEMENTS ON FRONT OR REAR SETBACKS, OR WITHIN TWO (2') FEET ON SIDE SETBACKS, PER COUNTY CODE 122-123.

COBB COUNTY WATER AND SEWER NOTES:

- TO ENSURE COMPLIANCE WITH WATER/SEWER EASEMENT SETBACKS, INDIVIDUAL SITE PLANS MUST BE SUBMITTED TO AND APPROVED BY THE COBB COUNTY WATER SYSTEM FOR THE FOLLOWING LOTS PRIOR TO ISSUANCE OF BUILDING PERMIT: 55, 56, 65 & 66
- WATER AND SEWER UTILITIES WITHIN THE AE/AU WILL BE DEDICATED TO COBB COUNTY AFTER THE ONE YEAR MAINTENANCE WARRANTY INSPECTION AND APPROVAL BY COB.
- WATER METERS SHALL NOT BE INSTALLED BEHIND ENCLOSED FENCES, IN PAVED DRIVEWAYS OR IN PAVED PARKING AREAS PER COUNTY CODE SEC. 122-125.

TREE SYMBOLS:

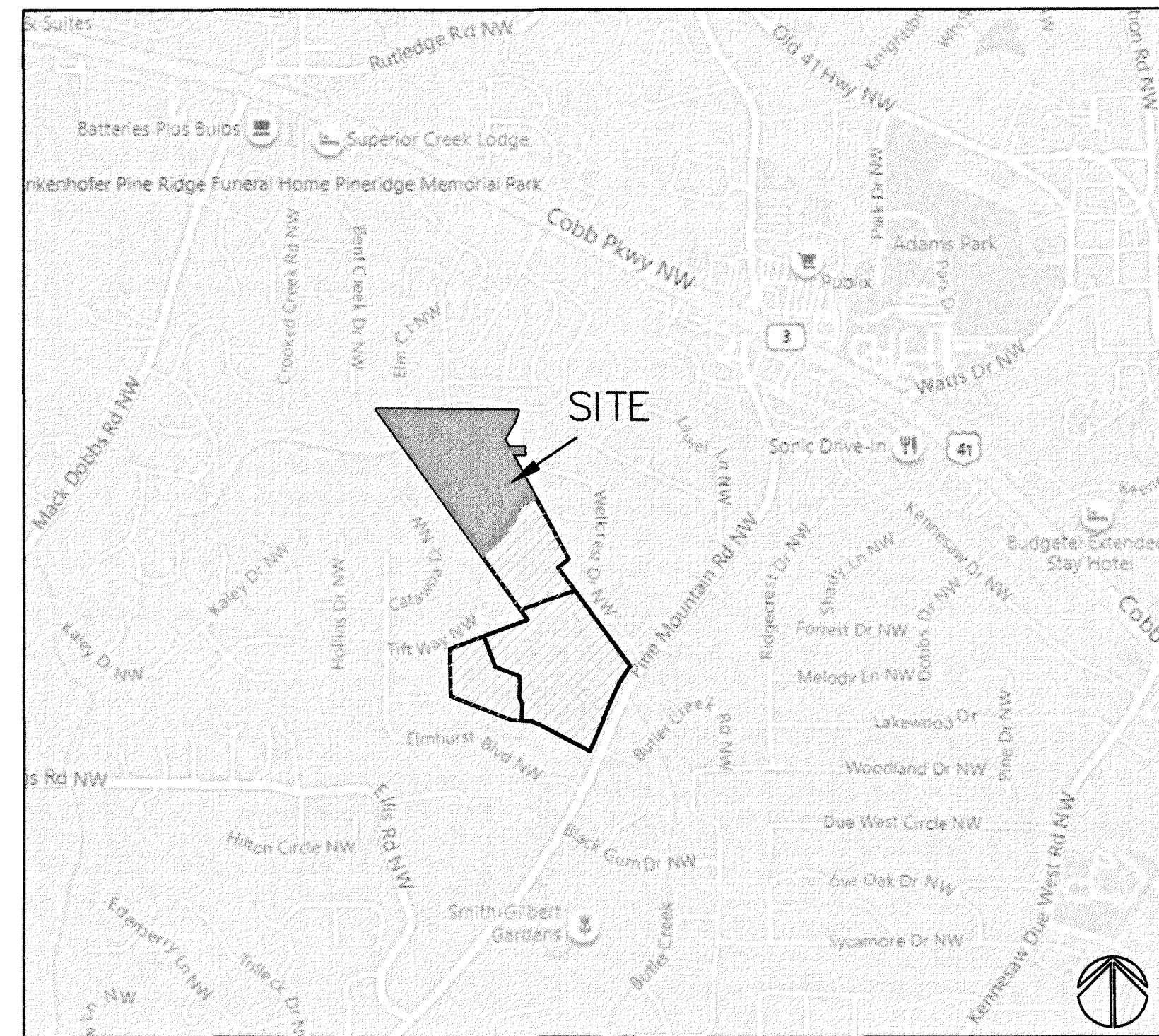


This lot has a designated tree protection area, the dimensions of which are on file with the Cobb County Community Development Agency. The homeowner is responsible for maintaining this area in an undisturbed condition until the release of the certificate of occupancy. Protective fencing must be installed and maintained according to Cobb County standards. This must be verified prior to the issuance of the Certificate of Occupancy. The homeowner must call the Cobb IVR system at 770-528-2073 to request an Arborist inspection (code: 581) at least 3 days prior to the date that the inspection is needed. Any infringements into the tree protection areas must be mitigated prior to release of the Certificate of Occupancy.



This lot requires an individual site plan to be reviewed and approved by the Cobb County Arborist or Landscape Architect prior to the issuance of a building permit. The site plan must include a surveyed location of any specimen trees, the critical root zone of each specimen tree equal to one radius foot per inch of diameter, locations and dimensions of proposed improvements and existing and proposed grades. If county staff determines that impacts to the specimen tree(s) will be too great, mitigation measures for the tree(s) per Cobb County Tree Ordinance requirements must be established before a building permit can be issued. Tree protection fencing must be installed prior to commencement of construction of the house and maintained throughout the construction process. The condition of the tree(s) must be verified prior to release of the Certificate of Occupancy for the house. The homeowner must call the Cobb IVR system at 770-528-2073 to request an Arborist inspection (code: 581) at least 3 days prior to the date that the inspection is needed. If the critical root zone for the tree(s) is found to have been violated, mitigation measures will be required prior to release of the Certificate of Occupancy.

Trees are required to be planted on this site by the developer. These trees must be inspected and approved by Cobb County staff, or a Performance Security document must be provided by the developer before the plat can be recorded. For copies of the Performance Security forms, contact the Site Plan Review Section at 770-528-2147.



VICINITY MAP
SCALE: 1" = 2000'

PROPERTY AREA CHART

LOT #	AREA (SF)	AREA (AC)
44	7000.00	0.16
45	7489.20	0.17
46	7000.00	0.16
47	7000.00	0.16
48	7000.00	0.16
49	7000.00	0.16
50	7000.00	0.16
51	7000.00	0.16
52	7000.00	0.16
53	7059.37	0.16
54	7772.78	0.18
55	7952.44	0.18
56	9917.81	0.23
57	7552.81	0.17
58	7000.00	0.16
59	7000.00	0.16
60	7000.00	0.16
61	7000.00	0.16
62	7000.00	0.16
63	8527.35	0.20
64	8676.48	0.20
65	12176.19	0.28
66	12176.19	0.28
67	9147.85	0.21
68	9005.96	0.21
69	7000.00	0.16

PREVIOUSLY RECORDED PLAT REFERENCES:

- UNIT 1 PHASE 1A: PLAT BOOK 280 PAGE 146
- UNIT 1 PHASE 1A (AMENDMENT): PLAT BOOK 281 PAGE 428
- UNIT 1 PHASE 1B: PLAT BOOK 280 PAGE 270
- UNIT 2 PHASE 1A: PLAT BOOK 281 PAGE 642

REFERENCES:

- EXISTING SEWER EASEMENTS SHOWN HEREON WERE RECORDED IN DEED BOOK 2828, PAGES 189-191 ON 07-26-1983, IN DEED BOOK 2893, PAGE 501-506 ON 09-27-1983, AND IN DEED BOOK 3371, PAGE 276-278 ON 01-10-1985.

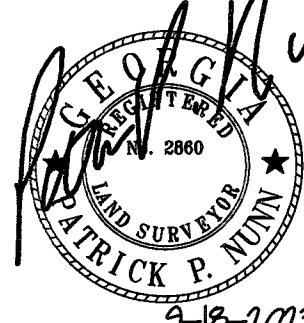
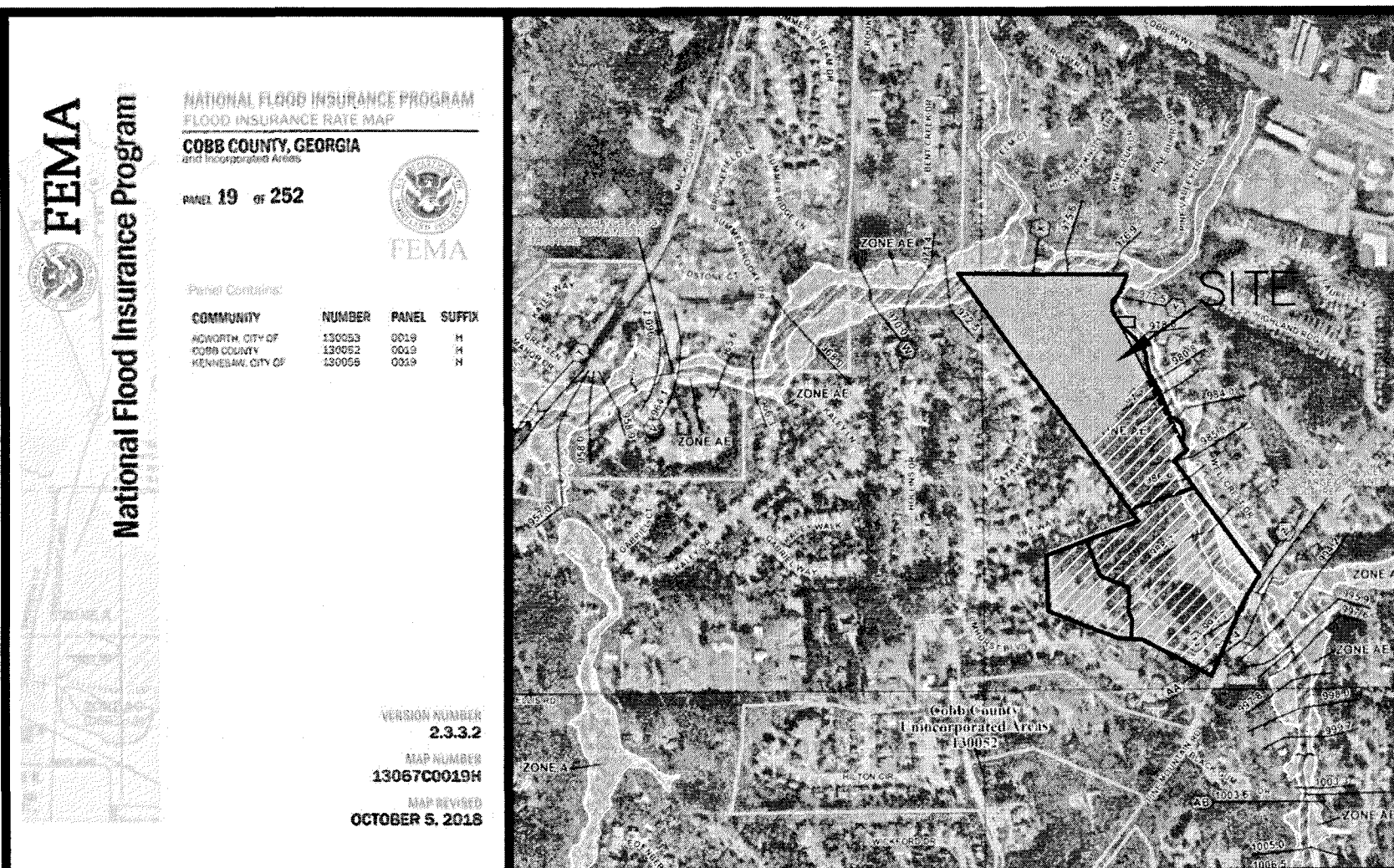
ROAD CENTERLINE CHART

LINE	BEARING	DISTANCE
CL1	N 43°24'51" W	81.21'
CL2	N 35°41'47" W	588.46'
CL3	N 28°06'57" W	103.21'
CL4	N 61°53'53" E	25.00'
CL5	N 54°18'13" E	147.63'

PROPERTY CURVE CHART

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	175.00'	23.53'	23.51'	N 39°32'54" W	7°42'13"
C2	175.00'	2.62'	2.62'	N 35°16'06" W	0°51'23"
C3	175.00'	20.58'	20.57'	N 31°28'18" W	6°44'18"
C4	50.00'	14.70'	14.64'	N 19°40'52" W	16°50'31"
C5	50.00'	45.23'	43.70'	N 14°39'16" E	51°49'45"
C6	50.00'	165.30'	99.66'	S 44°43'14" E	189°25'14"
C7	13.00'	17.72'	16.38'	S 10°56'38" W	78°05'29"
C8	125.00'	16.57'	16.56'	S 31°53'57" E	7°35'41"
C9	13.00'	20.42'	18.38'	S 80°41'47" E	90°00'00"
C10	15.00'	13.62'	13.16'	N 28°17'36" E	52°01'12"
C11	50.00'	21.91'	21.73'	N 14°50'08" E	25°06'17"
C12	50.00'	53.87'	51.30'	N 58°15'04" E	61°43'35"
C13	50.00'	48.16'	46.32'	S 63°17'28" E	55°11'20"
C14	50.00'	48.16'	46.32'	S 08°06'07" E	55°11'20"
C15	50.00'	53.87'	51.30'	S 50°21'21" W	61°43'35"
C16	50.00'	21.91'	21.73'	N 86°13'43" W	25°06'17"
C17	15.00'	13.62'	13.16'	S 80°18'49" W	52°01'12"
C18	13.00'	20.42'	18.38'	S 09°18'13" W	90°00'00"
C19	125.00'	16.81'	16.79'	S 39°32'54" E	7°42'13"
C20	150.00'	20.17'	20.15'	N 39°32'54" W	7°42'13"
C21	150.00'	19.88'	19.87'	N 31°53'57" W	7°35'41"

FLOOD PLAN NOTE:
PART OF THIS PROJECT LIES WITHIN A SPECIAL FLOOD HAZARD AREA (SFHA) PER FEMA FIRM PANEL 13067C0019H DATED OCTOBER 5, 2018.



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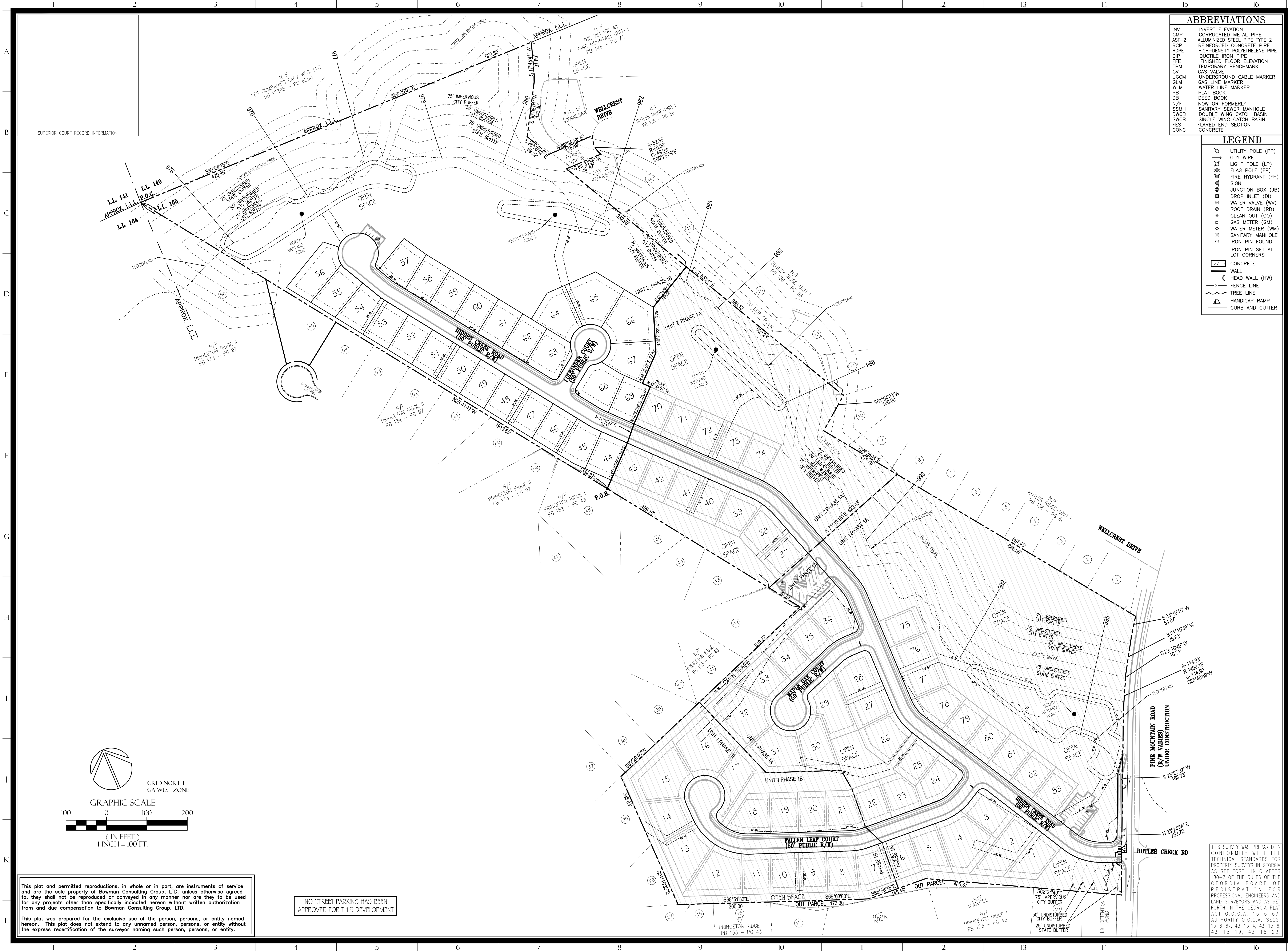
THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS ALL NECESSARY RECORDS AND THE SURVEYOR HAS BEEN ADVISED BY THE PLAT BOOK OF 07 PER ANGLE POINT, AND WAS ADVISED USING LEAST SQUARES RULE.
THIS WAY OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 827.95 FEET.
A TRIMBLE ROBOTIC TOTAL STATION WAS USED TO OBTAIN THE FIELD DATA. ANGULAR MEASUREMENTS USED IN THE PREPARATION OF THIS PLAT.
FIELD DATA WAS OBTAINED ON 08-02-20 TO 2-23-21.

JOB NO: 19-0207
DRAWN BY: JH
CHECKED BY: JCH
SURVEYED BY: TW
DATE: 9-18-2023
DESCRIPTION: FINAL PLAT
FINAL PLAT

FINAL PLAT FOR:
PINE MOUNTAIN PARK
(UNIT 2, PHASE 1B)
LL 165, 20TH DISTRICT
CITY OF KENNESAW
COBB COUNTY, GEORGIA

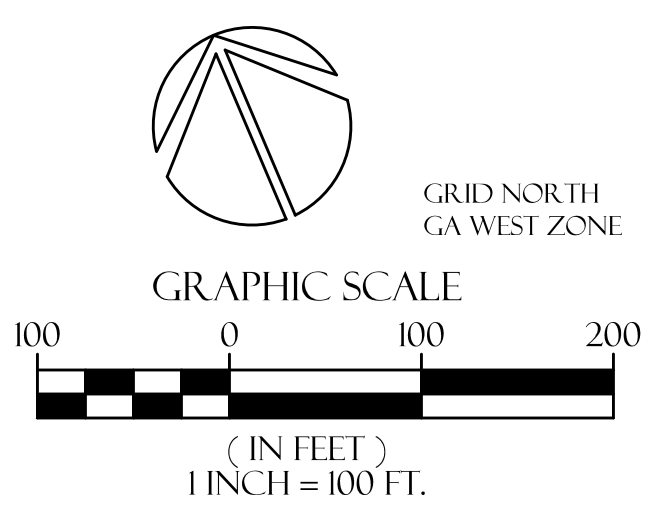
FINAL PLAT
SHEET 1 OF 6

Page 125 of 130



ABBREVIATIONS	
INV	INVERT ELEVATION
CMP	CORRUGATED METAL PIPE
AST-2	ALUMINIZED STEEL PIPE TYPE 2
RCP	REINFORCED CONCRETE PIPE
HDPE	HIGH-DENSITY POLYETHYLENE PIPE
DIP	DUCTILE IRON PIPE
FFE	FINISHED FLOOR ELEVATION
TBM	TEMPORARY BENCHMARK
GV	GAS VALVE
UGCM	UNDERGROUND CABLE MARKER
GLM	GAS LINE MARKER
WLM	WATER LINE MARKER
PB	PLAT BOOK
DB	DEED BOOK
N/F	NOW OR FORMERLY
SSMH	SANITARY SEWER MANHOLE
DWCB	DOUBLE WING CATCH BASIN
SWCB	SINGLE WING CATCH BASIN
FES	FLARED END SECTION
CONC	CONCRETE

LEGEND	
	UTILITY POLE (PP)
	GUY WIRE
	LIGHT POLE (LP)
	FLAG POLE (FP)
	FIRE HYDRANT (FH)
	SIGN
	JUNCTION BOX (JB)
	DROP INLET (DI)
	WATER VALVE (WV)
	ROOF DRAIN (RD)
	CLEAN OUT (CO)
	GAS METER (GM)
	WATER METER (WM)
	SANITARY MANHOLE
	IRON PIN FOUND
	IRON PIN SET AT LOT CORNERS
	CONCRETE
	WALL
	HEAD WALL (HW)
	FENCE LINE
	TREE LINE
	HANDICAP RAMP
	CURB AND GUTTER

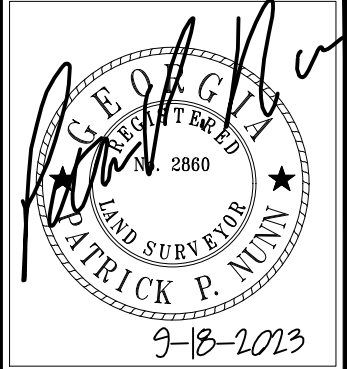


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NO STREET PARKING HAS BEEN APPROVED FOR THIS DEVELOPMENT

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67, 15-6-67, 43-15-4, 43-15-6, 43-15-19, 43-15-22.



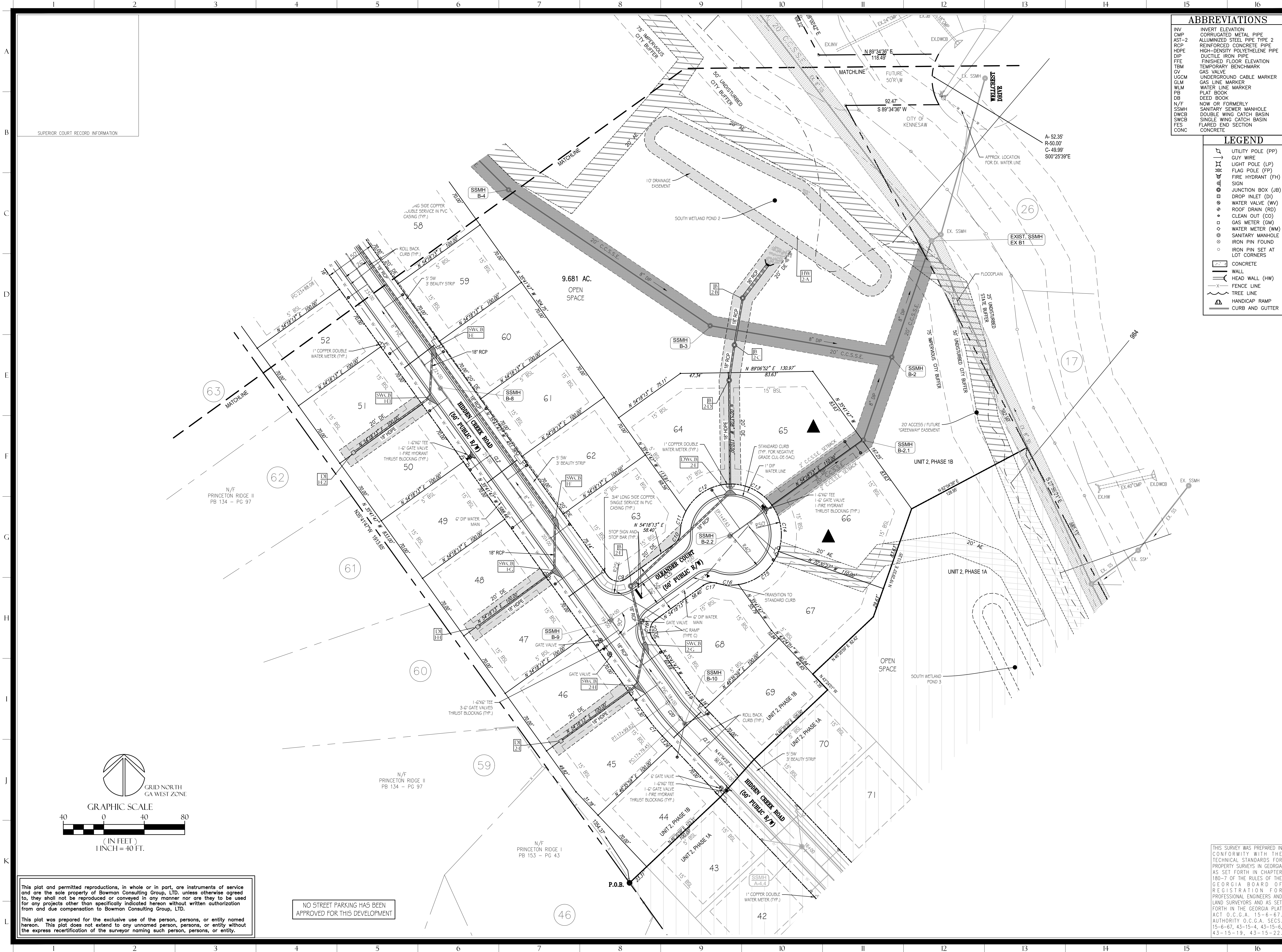
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THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE OF 0.07 PER ANGLE FOOT, AND WAS ADJUSTED USING LEAST SQUARES RULE.
- THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 82795 FEET.
- A TRIANGLE BOUNDARY TOTAL STATION WAS USED TO OBTAIN THE PLAT DATA.
- THIS PLAT AND ALL ANGULAR MEASUREMENTS USED IN THE PLATIFICATION OF THIS PLAT WAS OBTAINED ON 08/03/2023 TO 2:22:24.

DATE	DESCRIPTION
9/18/2023	FINAL PLAT
JOB NO. 190207	
DRAWN BY: JH	
CHECKED BY: JAW	
SURVEYED BY: JH	
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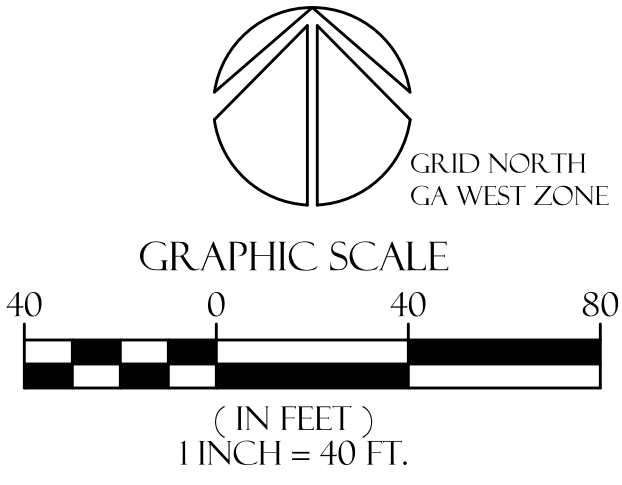
FINAL PLAT FOR:
PINE MOUNTAIN PARK
(UNIT 2, PHASE 1B)
LL 065, 20TH DISTRICT
CITY OF KENNESAW
COBB COUNTY, GEORGIA

FINAL PLAT
SHEET 4 OF 6



ABBREVIATIONS	
INV	INVERT ELEVATION
CMP	CORRUGATED METAL PIPE
AST-2	ALUMINIZED STEEL PIPE TYPE 2
RCP	REINFORCED CONCRETE PIPE
HDPE	HIGH-DENSITY POLYETHYLENE PIPE
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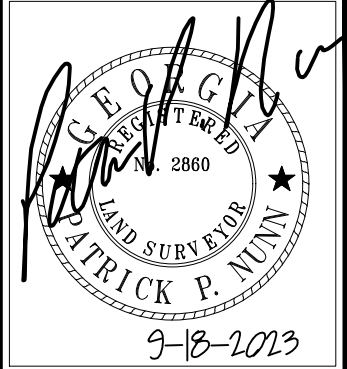


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THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE OF 0.0000 FEET. THE FIELD DATA WAS OBTAINED BY THE SURVEYOR AND WAS ADJUSTED USING LEAST SQUARES METHOD.

THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 82795 FEET.

A TRIANGLE BENCHMARK TOTAL STATION WAS USED TO OBTAIN THE DATA FOR THIS PLAT. ANGULAR MEASUREMENTS WERE USED IN THE TRIANGULATION.

THE FIELD DATA WAS OBTAINED ON 08/03/2023 TO 2/22/24.

DATE	DESCRIPTION
9/18/2023	FINAL PLAT

JOB NO	DATE	BY	CHECKED BY	DATE
19-0207	9/18/2023	JLW	JLW	9/18/2023

FINAL PLAT FOR:
**PINE MOUNTAIN PARK
(UNIT 2, PHASE 1B)**

LL 065, 20TH DISTRICT
CITY OF KENNESAW
COBB COUNTY, GEORGIA

FINAL PLAT
SHEET 5 OF 6



Item Report

TO: The Honorable Mayor and City Council
FROM:
DATE: September 25, 2023
TITLE: Reports, Discussions, and Updates

Summary:

Recommendation:

Fiscal Impact:

Attachments:
None



Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: September 25, 2023

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