



City Council Meeting and Public Hearing NOVEMBER 16, 2015

ALPHARETTA CITY HALL
COUNCIL CHAMBERS
2 PARK PLAZA
7:30 PM

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE TO THE FLAG
- IV. PROCLAMATIONS AND PRESENTATIONS
 - A. Proclamation - Andy Yang
 - B. Crime Free Housing Presentation: Ascent at Windward and The Pointe at Preston Ridge
- V. CONSENT AGENDA
 - A. Council Meeting Minutes (Meeting of 11/9/2015)
- VI. PROJECT UPDATES
 - A. Convention Center
 - B. City Center - Public
 - C. City Center - Private
- VII. PUBLIC HEARING
 - A. Z-15-11 Nathan Circle/Rob Forrest
 - B. CLUP-15-13/Z-15-14 Beecham Group/Old Milton Pkwy Townhomes
 - C. CLUP-15-12/Z-15-13/CU-15-12/V-15-22 Peach State Hospitality/Hotel.
NOTE: This item has been withdrawn by the Applicant and will not be heard.
 - D. CLUP-15-11/Z-15-10/CU-15-11/V-15-25 Thompson Street Flats
 - E. PH-15-21 UDC Changes- Definitions and Text Amendments
NOTE: This item has been deferred and removed from this agenda. The case has been rescheduled to appear on the December 07, 2015 City Council Agenda.
- VIII. OLD BUSINESS
 - A. Procurement Card Policy (2nd Reading)
 - B. Parks Without Borders Program with Johns Creek Recreation and Parks
- IX. NEW BUSINESS
 - A. Intergovernmental Agreement With City Of Milton: Facility Use And Court Services

B. Encore Parkway Bridge Replacement and Greenway Connection

X. WORKSHOP

A. Art In Public Places Program Guidelines

XI. PUBLIC COMMENT

XII. REPORTS

XIII. ADJOURNMENT



**A PROCLAMATION BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF ALPHARETTA**

"ANDY YANG"

WHEREAS: *Andy Yang, an Alpharetta resident and Wesleyan school eighth-grade student, was recently honored by the Johns Hopkins University Center for Talented Youth (CTY) at an international awards ceremony after he received a perfect SAT math score (800) as a middle school student; and*

WHEREAS: *Andy Yang continues to excel. His SAT achievement at a young age earned him an invitation to CTY's Study of Exceptional Talent (SET) a select group of profoundly gifted students world-wide; and*

WHEREAS: *Andy, as a student of Wesleyan, has maintained a perfect GPA and earned the Highest Academic Award every year; while also being actively involved in:*

- *Sports - Runs Cross-Country in the fall and plays soccer in the spring*
- *Music - Plays piano at many school events and concerts*
- *Has served as student council representative since fifth grade, being elected as Middle School Student Body Vice-President as an eighth grader*
- *On three Middle School Academic teams: Mathcounts, Academic Bowl and Science Bowl*

WHEREAS: *Andy has great respect and enthusiasm for the Technology City of the South, Alpharetta, where he has grown up; and aspires to be a technology entrepreneur one day.*

NOW THEREFORE: *We, the Mayor and Council, of the City of Alpharetta, gratefully thank and recognize Andy Yang for his hard work, dedication, exemplary leadership, and love for the City of Alpharetta. And, on behalf of the citizens of Alpharetta, wish him much happiness and great success in all his future endeavors.*

Proclaimed this 16th day of November, 2015.




David C. Belle Isle, Mayor

ATTEST: 
Coty Thigpen, City Clerk



Official Minutes

COUNCIL MEETING

NOVEMBER 9, 2015

CITY HALL

2 PARK PLAZA

7:30PM

This summary is provided as a convenience and service to the public, media and staff. It is not the intent to record proceedings verbatim. Any reproduction of this summary must include this notice. Public comments are noted as heard by Council, but not quoted or paraphrased. This document includes limited presentation by Council and invited speakers in summary form. This is not an official record of the Alpharetta City Council Meeting proceedings. Official Minutes are recorded and available for review.

I. CALL TO ORDER

❖ *Mayor Belle Isle called the meeting to order at 7:32 p.m.*

II. ROLL CALL

Members Present:

Mayor Belle Isle, Mayor Pro Tem Aiken, Council Members Mitchell, Cross, Gilvin, Owens and Kennedy

Members Absent:

None

Staff Present:

City Administrator Bob Regus, Assistant City Administrator James Drinkard, City Attorney Sam Thomas, City Clerk Coty Thigpen, Director of Community Development Kathi Cook, Director of Public Works Pete Sewczwicz, Director of Finance Tom Harris, Director of Economic Development Peter Tokar, Director of Public Safety Gary George, Director of Recreation and Parks Mike Perry, Deputy Director of Recreation and Parks Lisa Cherry

III. PLEDGE TO THE FLAG

IV. CONSENT AGENDA

A. Council Meeting Minutes (Meeting of 11/2/2015)

B. Alcoholic Beverage License Application

(PH-15-AB-12) The Morning After, LLC d/b/a The

Nest Café
58 Canton Street, Suite
A Consumption on
Premises Beer, Wine &
Sunday Sales Owner:
The Morning After, LLC
Registered Agent: Jordan Segal

❖ *Council Member Owens offered a motion to approve the Consent Agenda*

- *The motion was seconded by Council Member Mitchell*
- *Motion approved (6-0)*

❖ *Council Member Cross arrived at 7:33 p.m.*

V. PROJECT UPDATES

A. Convention Center

- Mr. Regus reported that a small group met with convention center developers to discuss how any future expansion would be handled

B. City Center - Private Development

- Mr. Regus reported that staff met to discuss contracts with Mid-City and they should be completed within the next week

C. City Center - Public Development

- Mr. Regus announced that City Hall was featured in Traditional Building Magazine and Council was provided with a copy

Public Comment

None

VI. OLD BUSINESS

None

VII. NEW BUSINESS

A. Procurement Card Policy

- Director of Finance, Tom Harris came forward to present this item on behalf of staff
- The Mayor and Council of the City of Alpharetta recognize it is essential that the public have confidence in the integrity and impartiality of the City's administration of its financial affairs. As such, the City approved an updated Procurement Policy in November 2014 to reflect current business practices including revised procurement thresholds, change order thresholds, and local vendor preferences.
- The Procurement Policy guides certain aspects of procurement card usage (e.g. purchasing thresholds). However, procurement card program activities have historically been administered through procedures established, managed, and audited by the Finance Department. Recent changes in State Law (House Bill 192) necessitate the adoption of a formal procurement card policy that governs the operations, management, and auditing of the procurement card program.
- City Attorney, Sam Thomas, read the Ordinance aloud constituting a 1st reading

Public Comment

None

- ❖ *Council Member Mitchell offered a motion to adopt the Ordinance of the Mayor and Council of the City of Alpharetta adopting a comprehensive Procurement Card Policy*
 - *The motion was seconded by Council Member Kennedy*
 - *Motion approved (7-0)*

B. Windward Parkway at GA 400 and Westside Parkway Improvements

- Director of Public Works, Pete Sewczwicz, came forward to present this item on behalf of staff
- Staff requests that Council authorize the Mayor to execute the agreement between the City, Fulton County, and North Fulton Community Improvement District (NFCID) for improvements along Windward Parkway.
- The intersection of GA 400 and Windward Parkway has congestion in both the morning and evening peak hours. The solution to resolve the morning issue was to construct an additional lane along Windward Parkway between the exit ramp and North Point Parkway. NFCID contracted with an engineering firm to design the work and then worked with the City and Georgia Department of Transportation (GDOT) to implement the improvements. Ultimately, GDOT funded the project through its operations program and the project has been completed.
- Solving the congestion in the evening hours consists of installing triple lefts from the ramp onto Windward Parkway. The third lane turns into a dedicated right-turn lane onto Deerfield. Associated with Phase Two is an improvement at Westside and Windward to permit dual left turn lanes onto southbound Westside Parkway. The cost

of Phase Two is approximately \$5.760M. This cost includes design, right-of-way acquisition, utility relocations, and construction.

- To assist in covering this cost the City has been awarded \$1.370M from GDOT. On January 26, 2015 the City approved the Project Framework Agreement (PFA) between GDOT and the City. The previous month, the City approved a Memorandum of Understanding (MOU) between the City and NFCID, stating any cost overruns associated with this project is the responsibility of the NFCID. The NFCID obtained funding from several sources other sources, \$2.783M from Georgia Transportation Infrastructure Bank (GTIB) and \$300k from GDOT Operations. Additionally, the NFCID has allocated over \$807k of their own funds to cover design and project management costs.
- Over the last year the NFCID has been working with Fulton County to obtain additional funds to cover construction costs. Per Georgia law, Fulton County cannot provide street and road construction and maintenance, including curbs, sidewalks, street lights, and devices to control the flow of traffic, inside the boundaries of any municipality *except by contract with the municipality affected*. The attached Inter-Governmental Agreement (IGA) between the City, Fulton County, and NFCID outlines the responsibility of each party and the transferring of \$500k to the NFCID with 45 days of all parties signing the IGA.

Public Comment

None

- ❖ *Council Member Owens offered a motion to authorize the Mayor to execute an agreement between the City of Alpharetta, Fulton County and the North Fulton Community Improvement District for improvements described by staff on Woodward Parkway and GA 400*
 - *The motion was seconded by Council Member Kennedy*
 - *Motion approved (7-0)*

VIII. WORKSHOP

A. Parks Without Borders Program with Johns Creek Recreation and Parks

- Deputy Director of Recreation and Parks, Lisa Cherry, came forward to discuss the components of this program
- A recommendation listed in the City of Alpharetta Recreation and Parks Department's ("ARPD") Master Plan 2025 is to continue and/or develop partnerships with neighboring municipalities for the provision of mutually beneficial recreation and parks programs and services. In 2015, City officials approved a one-year memorandum of understanding with the City of Johns Creek Recreation and Parks Department ("Johns Creek") for mutual waiving of non-resident fees for youth recreational softball for the spring and fall seasons. This MOU was unofficially

dubbed the "Parks without Borders" program.

- ARPD and Johns Creek employees have independently and collectively evaluated the effectiveness of the arrangement. Based on participation trends and the positive feedback from participants, the relationship has met the goal of being beneficial to residents of both cities. Financially, the loss of non-resident revenue collected for youth recreational softball (estimated to be @ \$4,500 out of \$200,000 collected annually by ARPD) is negligible compared to the value to the communities. Our partner for girls' softball, Alpharetta Youth Softball Association, has embraced the Parks without Borders program and supports the continuation of the agreement for 2016 and beyond.

The success of the initial Parks without Borders program led staff to consider opportunities to expand to other programs, bearing in mind the priority of ensuring residents of each city are not adversely affected by the relationship. Representatives of both cities discussed the possibility of including recreational lacrosse and baseball and believe including these two activities (in addition to youth recreational softball) will unquestionably enhance the recreational experiences of everyone involved in these programs without negatively affecting either city's bottom line.

- Both ARPD and Johns Creek offer quality youth recreational baseball programs (ARPD at Wills Park and Webb Bridge Park and Johns Creek at Ocee Park and Newtown Park).. For Alpharetta residents who live near Ocee and Newtown Parks, it would be much more convenient for them to have an option to play closer to home. Our partner, Alpharetta Youth Baseball Association, is supportive of the Parks without Borders program with Johns Creek and believes it will make their program stronger and allow them to serve more youth.
- Although ARPD has made an effort to increase the quality of and participation in our youth lacrosse leagues, Johns Creek has a larger and arguably stronger program. The addition of youth lacrosse to the Parks without Borders program would be extremely popular with Alpharetta residents whose children play lacrosse. The larger pool of teams to compete against would improve the skill level and development of Alpharetta players.
- If Council is amenable to continuing and expanding the Parks without Borders program, ARPD staff will work with the City Attorney and Johns Creek officials to develop an updated MOU and a new resolution to present at a future Council meeting.

B. Discussion on Milling And Resurfacing

- Director of Public Works, Pete Sewczwicz came forward to discuss this item and present to Mayor and Council, alternative options for the program in the coming years
- Council Member Owens requested specific recommendations to be brought forward at a later Council Meeting

C. Future Use of Old Library

- Director of Recreation and Parks, Mike Perry, came forward to discuss possible uses for the Old Alpharetta Library
- In September 2015, Fulton County officials deeded the old library property at 238 Canton Street to the City. This 3 acre property is located at the intersection of Canton Street and Mayfield Road. It includes the main building (approximately 9,000 sq. ft.), 38 parking spaces, and the surrounding outdoor area. The City took possession of the property in October.
- The next step was gathering citizen input on future use of the property. The idea of converting the old library into an arts center was already on the radar as a result of citizen input obtained during the development of Recreation and Parks Master Plan 2025. One of the plan recommendations listed in the document is "acquire the Fulton County Library site for use as a relocated Adult Activity Center or Visual/Performing Arts Center." Further, the plan recommended the City continue to facilitate Arts programs through use of City facilities and continued relationships and partnerships with art advocacy and non-profit groups.
- As the certainty of the property becoming the City's grew, staff scheduled two public input meetings to gather additional citizen input on the future use of the property.. These meetings were held on September 21 and October 5 and were well-attended by the public. In addition to an arts center, citizens brought forth other ideas including space for special needs programs, Police Athletic League, teen center, and a tech museum.
- A community arts center has the potential to serve a broad population of residents. An arts center would offer an extensive and diverse program of classes, art exhibitions, speaker series, gallery space, black box theatre, and outreach programs for the entire community including children, teens, adults, seniors, those with special needs, and underserved populations.
- Through greater visibility and more centralized access for residents, the center promises to be a gathering space for Alpharetta's artistic community. The current class offerings could expand exponentially and the center could become one of the finest art centers in our region.
- Visual art classes could include drawing, painting, pottery, glass, photography, digital media and more. The spirit of the old library could also be maintained by the addition of an art library of donated books.
- A black box theatre within the new arts center can foster the expansion of the performing arts. The theatre could be used as a community theatre, music venue, lecture hall, and teaching space. Classes in dance, theatre, drama, set design, and music could easily be accommodated. The center could be designed with a separate entrance for evening performances that would include access to gallery space, restrooms, and a concessions area. A black box theatre could serve as a practice and performance venue for the Alpharetta City Band, Atlanta Symphony, and the Alpharetta Chorus.
- Classes could also be offered on the lanai of the building as well as on the grounds. Over time, the surrounding property could be home to an outdoor sculpture garden and small event space. A small scenic pathway for public art displays, reflection and meditation could be developed on the 2/3 acre property across from

the library. The visual connection of the two properties would enhance the entrance to the downtown garden district.

- A new arts facility could provide citizens unprecedented access to the arts and artistic expression not currently afforded by the limited 3-room space of the current facility at Crabapple Government Center. The current facility is not visible and easily accessible to many of the citizens of Alpharetta.
- It is important to keep the development and upgrade of this facility as flexible and relevant as possible. A focus of classic visual and cultural arts is implied with an arts center but a multi-faceted and modern-thinking use of the building must be considered as well. Attention needs to be given to creating a facility that is innovative and fresh yet flexible for future growth. The arts by their very nature are on the forefront of change and evolution, but facilities that are too static run the risk of being outdated and irrelevant within the first few years of operation. A flexible and open approach to usage should be considered with planning for future use of the building. This will allow the building to "find its own identity" based on the needs and wants of the arts community.

D. Discussion of Public Art Ordinance

- Assistant City Administrator, James Drinkard, came forward to discuss this item and solicit feedback from Mayor and Council
- Mr. Drinkard presented a draft Ordinance to establish the Alpharetta Cultural Arts Commission, standards and requirements for public art, and create the framework for the Art In Public Places Program for purposes of discussion

IX. PUBLIC COMMENT

None

X. REPORTS

- Mayor Belle Isle reported that we are working with other North Fulton Mayors and the Chairman of the MARTA Board to work issues through the legislation clarifying that transit decisions are to be approved by MARTA Board

XI. ADJOURNMENT

❖ *Mayor Belle Isle adjourned the meeting at 9:26 p.m.*

Respectfully Submitted,



Coty Thigpen, City Clerk



COUNCIL AGENDA REPORT

FROM: Kathi Cook, Community Development Director
Prepared by: Richard McLeod, Senior Planner

SUBJECT: Z-15-11 Nathan Circle/Rob Forrest

CITY COUNCIL: November 16, 2015

PLANNING COMMISSION:

This item was heard at the November 5th Planning Commission meeting. Two people were in favor but spoke on the size of the homes as being too big. One person spoke against the request based on the size of the homes. After discussion, the Commission voted 5-0-1 to recommend approval of the request.

RECOMMENDATION

Approve Z-15-11 Nathan Circle/Rob Forrest request to rezone from R-15 to R-12 with the following conditions:

- 1. Zoning district for property shall be R-12 with no change to existing "low density" Land Use designation.**
- 2. Site shall be developed substantially as depicted on site plan dated 9/21/2015.**
- 3. Applicant shall follow all of the design elements of the Alpharetta Downtown Code.**
- 4. Maximum size of the homes shall be 2600 square feet with 2 stories above grade along Milton Ave and 2nd story shall be under roof in order to complement existing homes.**
- 5. Front setback shall be 50'.**
- 6. Both lots shall have access from a shared driveway off Nathan Circle.**
- 7. Both homes shall be side or rear loaded.**
- 8. All elevations shall be a minimum 30% brick or stone, with final approval by Staff.**
- 9. Same level of architectural details on all 4 sides, with final approval by Staff.**
- 10. Homes shall have front porches a minimum of 50% of the front façade length and a minimum 6' in depth.**
- 11. No unfinished wood on decks or porches, with final approval by Staff.**

- 12. Street trees shall be planted along Milton Avenue and Nathan Circle abutting the right of way at one (1) tree per 25' of property line length, as approved by Staff.**
- 13. Provide 5 feet R/W along Milton Ave for future bike/ped improvements**
- 14. Provide a 10' no access easement along Milton Avenue. Driveway apron along Milton Avenue to be removed.**
- 15. Provide a 10 foot landscape and screen between property to the south.**
- 16. The applicant shall connect to the sewerage system.**

REPORT-IN-BRIEF

The applicant is requesting to rezone a .6534-acre parcel from R-15 to R-12 for the purpose of splitting the lot into two parcels and constructing two 2,600 square foot "for-sale" homes. The lots would be 13,800 square feet and 14,665 square feet.

DISCUSSION

The parcel is located on the south side of Milton Avenue at the western corner of Nathan Circle. The site is currently zoned R-15 as well as surrounding property.

The property is currently zoned R-15 and could currently be developed with 15,000 square foot lots without architectural review. The lot is over 28,000 square feet however as currently zoned only 1 house would be permitted. Obtaining a land disturbance permit would be the only requirement. The request to reduce the lot size from the 15,000 square feet minimum to allow smaller lots permits conditions of zoning that would permit review of the architecture as well as site layout. Lots along Milton Avenue should have homes fronting Milton Avenue and the elevations should include porches with historic design which are important to preserving the character of Milton Avenue.

There are few trees on the site with just a couple of pines in the southwestern corner. Any ornamental tree that is in good quality should be spaded and replanted on site, like the Japanese maple. Applicant should also plant shade trees 25 feet on Milton Avenue and Nathan Circle to meet the new downtown code in a landscape strip abutting the public right-of-way.

The average size of lots in Meadowbrook Park Estates is approximately 21,200 square feet and the average lot size in Wills subdivision is approximately 24,600 square feet. The lot to the south of the subject property on Nathan Circle is 22,000 square feet. The lots across the street have homes fronting Milton Avenue on lots averaging 20,700 square feet.

The driveway is in the back behind the home on Nathan Circle. To minimize the effect of driveways onto Milton Avenue, both homes should be accessed from the same joint access driveway.

The homes proposed will have a 20' separation because the lot is wider than most along Milton Avenue. Homes to the west are on lots averaging 19,800 square feet however, the separation between homes will be similar. A case can be made to permit lots fronting Milton Avenue to be permitted a reduction in order to create homes continually fronting Milton Avenue and control the architecture in order to ensure that homes that are rebuilt maintain the character of the area and are cottage style instead of a two story traditional home. Restructuring the size is also an important aspect.

STANDARDS FOR ZONING CHANGES

The Planning Commission and the City Council shall consider the following standards in considering a rezoning application, giving due weight or priority to those factors particularly appropriate to the circumstances of each application:

- a. Whether the zoning proposal will permit a use that is suitable in view of the zoning use and development of adjacent and nearby property.

The lot sizes are smaller than the average 22,000 square foot lots; however because this lot fronts onto Milton Avenue and conditions could be added requiring architectural review and site plan review, Staff can support the request.

- b. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

The proposal will not impact adjacent property; as long as a landscape buffer is required as well as restrictions on size and architecture.

- c. Whether the zoning proposal will adversely affect the natural environment.

The site has very few trees and the applicant will be required to meet the tree ordinance requirements on the property as well as providing a tree canopy along Milton Avenue and Nathan Circle.

- d. Whether there are substantial reasons why the property cannot or should not be used as currently zoned.

The property is currently zoned R-15 and could be developed with lots 15,000 square feet in size without a public hearing. One home could be developed on the property.

- e. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of public facilities or services, including but not limited to existing streets and transportation facilities, schools, water or sewer utilities, and police or fire protection.

The 2 lots proposed are not expected to add significant additional traffic or students.

- f. Whether the zoning proposal is supported by new or changing conditions not anticipated or reflected in the existing zoning on the property.

Not applicable.

- g. Whether the zoning proposal reflects a reasonable balance between the promotion of the public health, safety, morality or general welfare against the right to unrestricted use of property.

The request to subdivide into lots smaller than the 15,000 permitted is a reasonable balance because the land use is the same.

- h. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

The Future Land Use Plan identified a density of up to 3 units per acre in keeping with the applicant's request. A change to the Comprehensive Land Use Plan is not required to allow R-12 zoning.

- i. The extent to which the zoning proposal is consistent with the Comprehensive Plan.

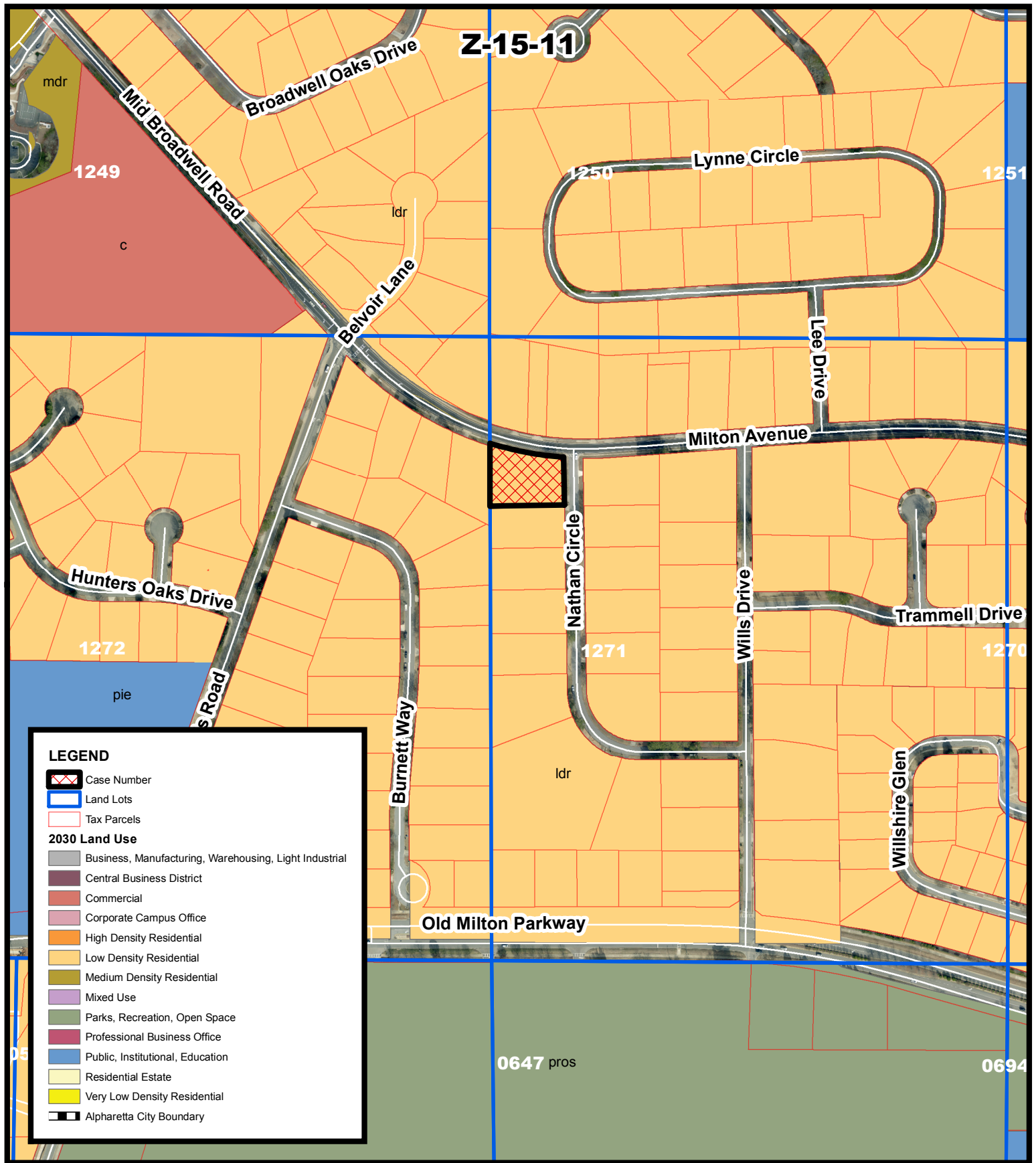
The Future Land Use Plan identified a density of 2 to 3 units per acre on lots of 15,000 to 12,000 in keeping with the applicant's request

CONCURRENCES

City Staff has reviewed the applicant's proposal and finds that it can support the applicant's request. The lot size depicted of 13,800 and 14,665 square feet are smaller than the adjacent 22,000 square foot lots however architectural review can be added as a condition and additional landscaping can be installed to provide screening.

CITIZEN PARTICIPATION PLAN

The report submitted by the applicant states that the applicant mailed each property owner within 500' of the subject property a letter stating his intent. A neighbor had inquired about the size of the units wanting them not to be too big. The report states that no negative comments were received.



2030 Land Use **Rob Forrest** **14 Nathan Circle**

Z-15-11
D/LL: 2/2/1271
PC Date: 11/05/2015
CC Date: 11/16/2015

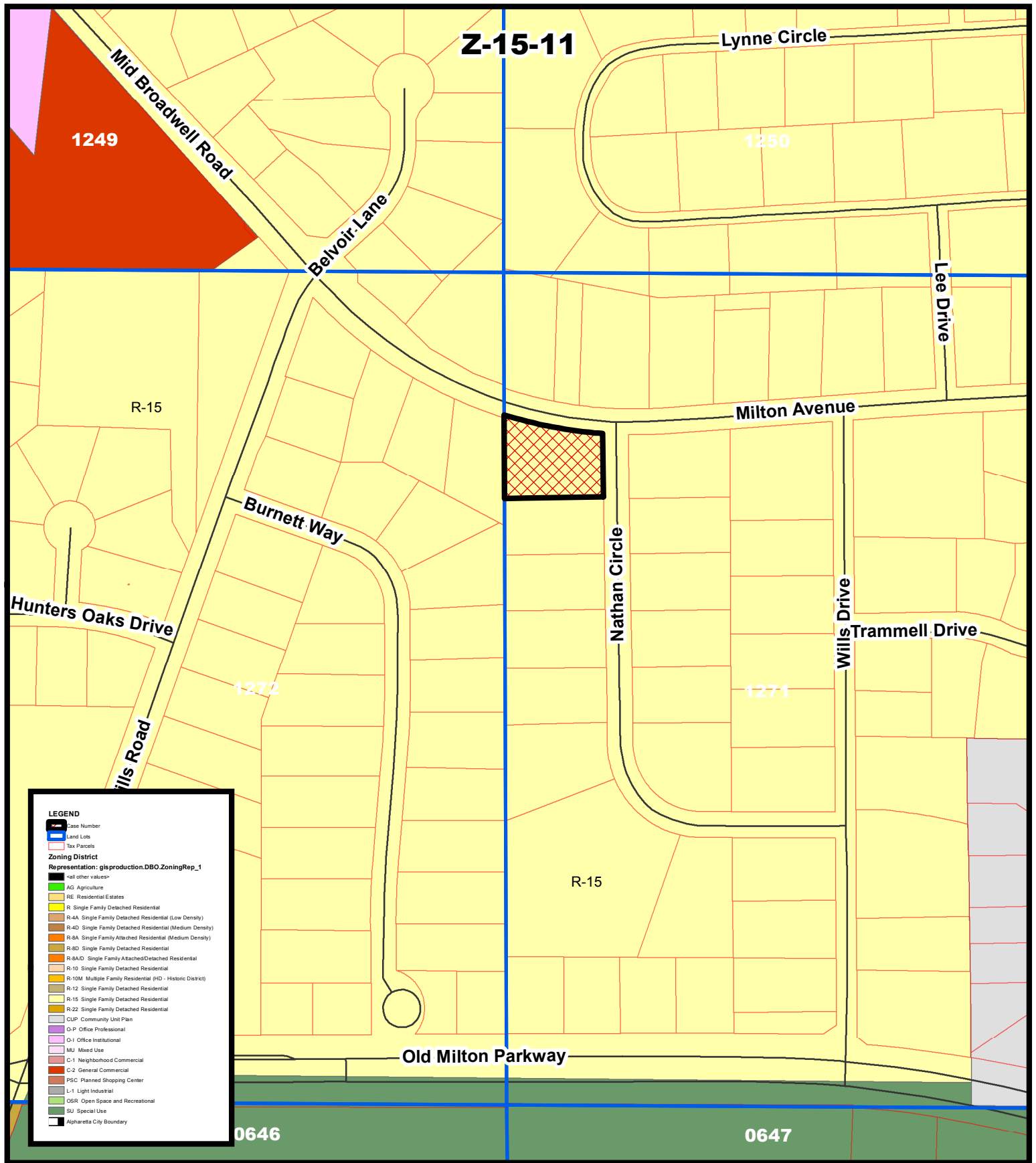
Location Map Provided by:
Community Development - GIS



Aerial Map
Rob Forrest
14 Nathan Circle

Z-15-11
D/LL: 2/2/1271
PC Date: 11/05/2015
CC Date: 11/16/2015

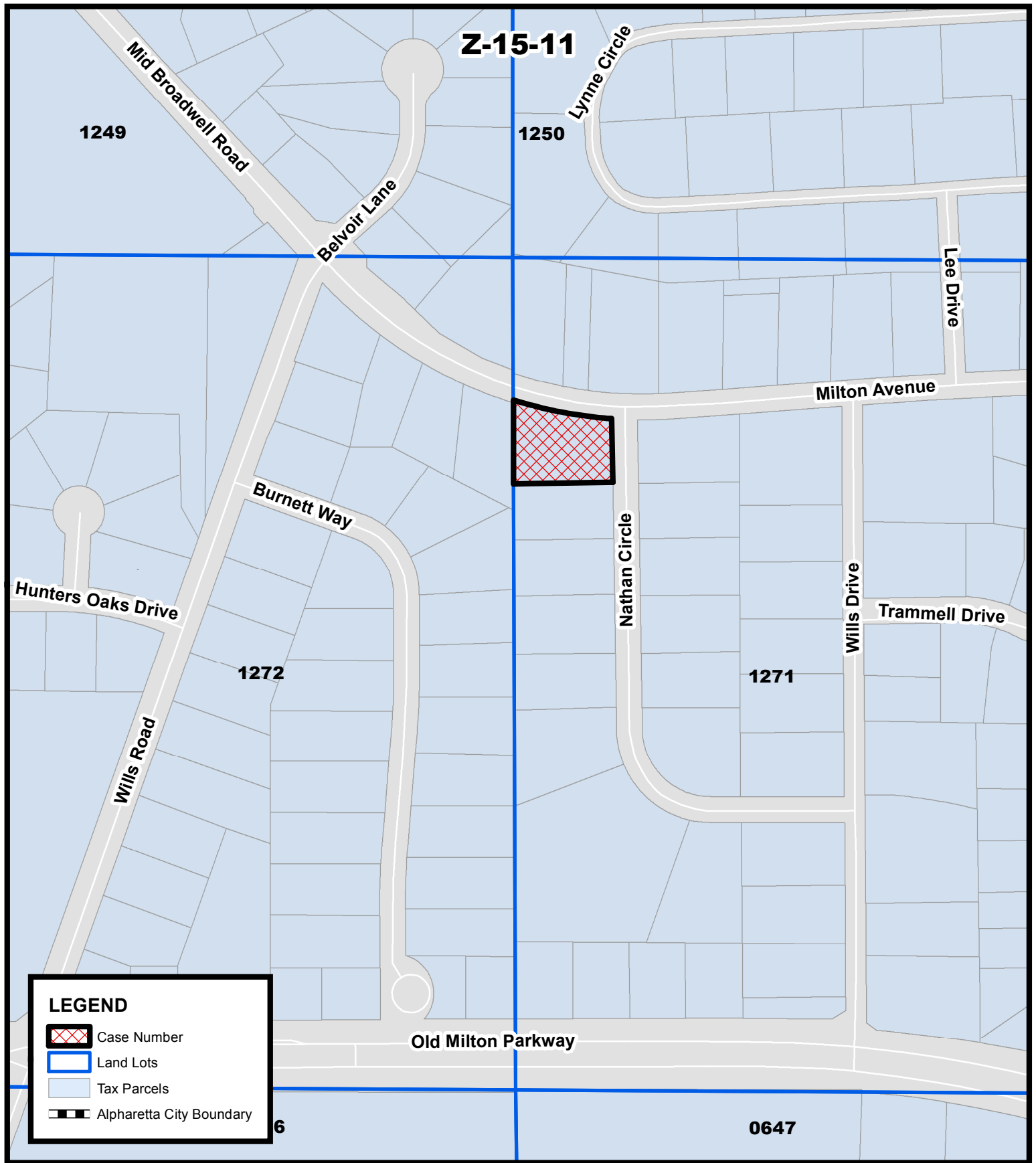
Location Map Provided by:
Community Development - GIS



Zoning Map **Rob Forrest** **14 Nathan Circle**

Z-15-11
D/LL: 2/2/1271
PC Date: 11/05/2015
CC Date: 11/16/2015

Location Map Provided by:
Community Development - GIS



Location Map
Rob Forrest
14 Nathan Circle

Z-15-11
D/LL: 2/2/1271
PC Date: 11/05/2015
CC Date: 11/16/2015

Location Map Provided by:
Community Development - GIS

CITY OF ALPHA

Z-15-11
NATHAN CIRCLE DEV/ROB FORREST

PUBLIC HEARING APPLICATION

☐ Fee Paid Initial: _____

COMMUNITY DEVELOPMENT DEPARTMENT • 2 PARK PLAZA • ALPHARETTA, GA 30009

1. **This page should be the first page in each of your completed application packets.**
2. It is preferred that all responses be typed. **Illegible applications will not be accepted.**
3. Prior to signing and submitting your application, please check all information supplied on the following pages to ensure that all responses are complete and accurate. **Incomplete applications will not be accepted.**
4. **Payment of all applicable fees must be made at the time of application.** Payment may be made via cash, credit card (American Express, Master Card or Visa), or check made payable to "City of Alpharetta."
5. Applications will be accepted only on the designated submittal dates between the hours of 8:30 AM and 3:30 PM.
6. If you have any questions regarding this form, please contact the Community Development Department by calling 678-297-6070.

Contact Information:

Contact Name: Robert Forrest

Telephone: 404-514-8575

Address: 12611 Itaska Walk

Suite: _____

City Milton

State: GA

Zip: 30004

Fax: _____

Mobile Tel: 404-514-8575

Email: rob@stonewalkco.com

Subject Property Information:

Address: 14 Nathan Circle

Current Zoning: R-15

District: 2

Section: 2

Land Lot: 1271

Parcel ID: 22-466212710120

Proposed Zoning: R-12

Current Use: Single house

This Application For (Check All That Apply):

☐ Conditional Use

☐ Master Plan Amendment

☒ Rezoning

☐ Master Plan Review

☐ Variance

☐ Public Hearing

☐ Comprehensive Plan Amendment

☐ Other (Specify): _____

APPLICANT REQUEST AND INTENT

What is the proposed use(s) of the property?

Single family detached homes similar in size, price, look and feel of those found in Crabapple Station

Applicant's Request *(Please itemize the proposal):*

I would like to split the current lot into lots facing Milton Avenue with homes similar in size, style, site location on lot (ie closer to street with rear drives) much like ones found in Crabapple Station. The homes in Crabapple Station have sold and resold in record time as they are highly desirable by residents in the area. Downtown Alpharetta has an abundance of townhome and flats now and in the pipeline and needs a good detached product within walking distance to downtown. Smaller lots are more desirable than larger ones nowadays by many and can not be found in the downtown or near downtown areas.

Applicant's Intent *(Please describe what the proposal would facilitate):*

Right now there is one small house on the property. I would like to subdivide it into lots and build new larger homes on there all facing Milton Ave and all with rear drive alley access using the current curb cut off of Nathan Circle.

PROPERTY OWNER AUTHORIZATION

Property Owner Information:

Contact Name: Robert Forrest

Telephone: 404-514-8575

Address: 12611 Itaska Walk

Suite:

City Milton

State: GA

Zip: 30004

Authorization:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified below, which is the subject of the attached Application for Public Hearing before the City of Alpharetta, Georgia.

As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Public Hearing in request of the items indicated below.

- | | |
|---|--|
| ☐ Annexation | ☐ Special Use |
| ☒ Rezoning | ☐ Conditional Use |
| ☐ Variance | ☐ Master Plan |
| ☐ Land Use Application | ☐ Other _____ |

Identify Authorized Applicant:

Name of Authorized Applicant: Robert Forrest

Telephone: 404-514-8575

Address: 12611 Itaska Walk

Suite:

City Milton

State: GA

Zip: 30004

So Sworn and Attested:

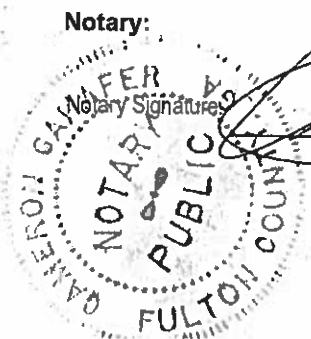
Owner Signature: _____

Date: August 1, 2015 8/3/15

Notary: _____

Date: 8/3/15

Notary Public, Fulton County, Georgia
My Commission Expires Dec. 2, 2017



DISCLOSURE FORM

The Official Code of Georgia Annotated requires disclosure of campaign contributions to government officials by an applicant or opponent of a rezoning or public hearing petition (O.C.G.A. 36-67 A-1).

Applicants must file this form with the City of Alpharetta Community Development Department within ten (10) days after filing for rezoning or public hearing. Opponents to a rezoning or public hearing petition must file this form five (5) days prior to the Planning Commission meeting at which the subject rezoning or public hearing petition is scheduled to be heard.

Name of Applicant or Opponent: Robert Forrest

Subject Public Hearing Case: 14 Nathan Circle

Campaign Contribution Information:

Please provide the requested information for each contribution with a dollar amount or value of \$250 or more made within the past two (2) years to an Alpharetta Official by the individual identified above. Please use a separate form for each Alpharetta Official to whom such a contribution as been made.

If the individual identified above has made no such contributions to an Alpharetta Official within the past two (2) years, please indicate this by entering "N/A" on the appropriate lines below.

Name of Official: NA

Position:

Description of Contribution:

Value:

Description of Contribution:

Value:

Description of Contribution:

Value:

Description of Contribution:

Value:

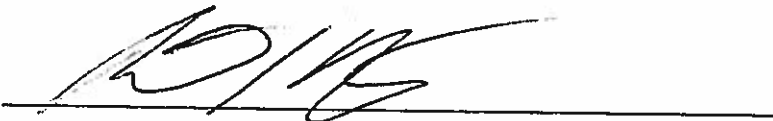
Description of Contribution:

Value:

Campaign Contribution Information:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Disclosure Form is true and accurate and that I have disclosed herein any and all campaign contributions made to an Official of the City of Alpharetta, Georgia in accordance with O.C.G.A. 36-67 A-1.

Signature:



Date: August 1, 2015

ALPHARETTA PLANNING COMMISSION REVIEW CRITERIA

How will this proposal be compatible with surrounding properties?

Single family residential surrounds the property and this area was developed over 40+ years ago. This is also single family detached product

How will this proposal affect the use and value of the surrounding properties?

It will increase the likelihood of redevelopment of surrounding properties and as such increase their value

Can the property be developed for a reasonable economic use as currently zoned? Please explain why or why not.

It is an oversized lot for the area at over 2/3rds of an acre. Even the city recognized this when they put the sidewalks in along Milton Ave they added an additional driveway curb cut to this property along Milton Ave side that goes into the empty yard.

What would be the increase to population and traffic if the proposal were approved?

Minimal

What would be the impact to schools and utilities if the proposal were approved?

The property is currently on septic and these lots would connect to sewer

How is the proposal consistent with the Alpharetta Comprehensive Plan; particularly the Future Land Use Map?

Downtown Alpharetta is redeveloping and becoming more dense and walkable. Homes/lots like these were developed from 2008-2014 in Crabapple and have been highly desirable often selling without listing.

Are there existing or changing conditions which affect the development of the property and support the proposed request?

Alpharetta's downtown redevelopment!

On a separate sheet or sheets, please provide any information or evidence that supports your request and the statements that you have provided in this application.

CITIZEN PARTICIPATION FORM - PART A

This form must be completed and submitted with the applicant's completed Public Hearing Application. Applications submitted to the City of Alpharetta without a completed Citizen Participation Form - Part A will not be accepted.

Public Hearing or Project Name: 14 Nathan Circle

Contact Name: Robert Forrest

Telephone: 404-514-8575

The following people will be notified of this application and provided information describing the subject proposal. Please note that ALL adjoining property owners MUST be notified. Use additional pages as needed.

See list attached

Method by which these individuals will be contacted. Please mark all that apply. If you select "Other," please provide a description of the method of contact that will be used.

- | | |
|--|---|
| ☒ Letter | ☒ Personal Visits |
| ☐ Telephone | ☐ Group Meeting |
| ☐ Email | ☐ Other (Please Specify) _____ |

Please describe the method(s) by which these individuals will have the opportunity to respond or contact the applicant with questions or concerns about the proposal.

Via email, phone, or in person if they would like

Neighboring Parcel Owners to 14 Nathan Circle:

Parcel Address: 49 NATHAN CIR
Owner: POWELL GLENN E & MECHELLE K

Parcel Address: 55 NATHAN CIR
Owner: SILVERS RICKY & BAREFOOT DHEVIN P

Parcel Address: 25 NATHAN CIR
Owner: KOLB RYAN GARRETT & WOLFENBARGER STACY JOY

Parcel Address: 11 NATHAN CIR
Owner: PURPURA MICHAEL A & PURPURA CYNTHIA T

Parcel Address: 18 WILLS DR
Owner: ISAKOV ALLA

Parcel Address: 28 WILLS DR
Owner: MILLARD MARCY A & DOUGLAS J

Parcel Address: 50 WILLS DR
Owner: ISAKOV NATALI

Parcel Address: 58 NATHAN CIR
Owner: STEIDLE SCOTT

Parcel Address: 46 NATHAN CIR
Owner: MC GARITY CHARLES H & JEAN G

Parcel Address: 36 NATHAN CIR
Owner: GREEN DOUGLAS R & PATRICIA R

Parcel Address: 24 NATHAN CIR
Owner: RISHAK DIANE M & HINTON JOHN L

Parcel Address: 390 MILTON AVE
Owner: CARTMILL JAMES RUSSELL & CARTMILL KENNETH MICHAEL

Parcel Address: 400 MILTON AVE
Owner: HALL ELIZABETH & COCHRAN MARK E

Parcel Address: 410 MILTON AVE
Owner: GUTTMAN JAMES M

Parcel Address: 90 BURNETT WAY
Owner: DUZENSKI LAWRENCE E JR & JOY

Parcel Address: 102 BURNETT WAY
Owner: WISE DAWN WISE JASON

Parcel Address: 110 BURNETT WAY
Owner: EASTIS DAVID A & DEBORAH D

Parcel Address: 120 BURNETT WAY
Owner: WHITE ERLENE G

Parcel Address: 397 MILTON AVE
Owner: ETHRIDGE LISA R & RONALD F

Parcel Address: 379 MILTON AVE
Owner: TAYLOR NELLIE & PURPURA MICHAEL

Parcel Address: 371 MILTON AVE
Owner: PURPURA MIKE A

Parcel Address: 361 MILTON AVE
Owner: EWING JOSEPH C & EWING LINDSAY G

Parcel Address: 351 MILTON AVE
Owner: MARTIN ROBERT H

Parcel Address: 333 MILTON AVE
Owner: LAW MARK A & CHRISTINE K

Parcel Address: 417 LYNNE CIR
Owner: CAMPBELL, JR. LESLIE E. CAMPBELL SYLVIA D

Parcel Address: 413 LYNNE CIR
Owner: JAMES LARRY R & SHEILA M

Parcel Address: 409 LYNNE CIR
Owner: ANDERSON DAVID & ERIN

Parcel Address: 423 LYNNE CIR
Owner: GREENBERG WALTER T & CHERIE

Parcel Address: BELVOIR MANOR
Owner: ARCHWAY CUSTOM HOMES

SITE PLAN NOTES

EXISTING ZONING: R-15
 PROPOSED ZONING: R-40
 TOTAL ACRES: 0.6534 AC. (28,463 SF)
 MAX LOT COVERAGE: 60%

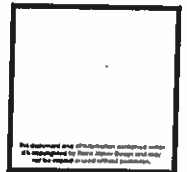
LOCATION MAP



**PLACE
 MAKER
 DESIGN**

REV	DATE	DESCRIPTION

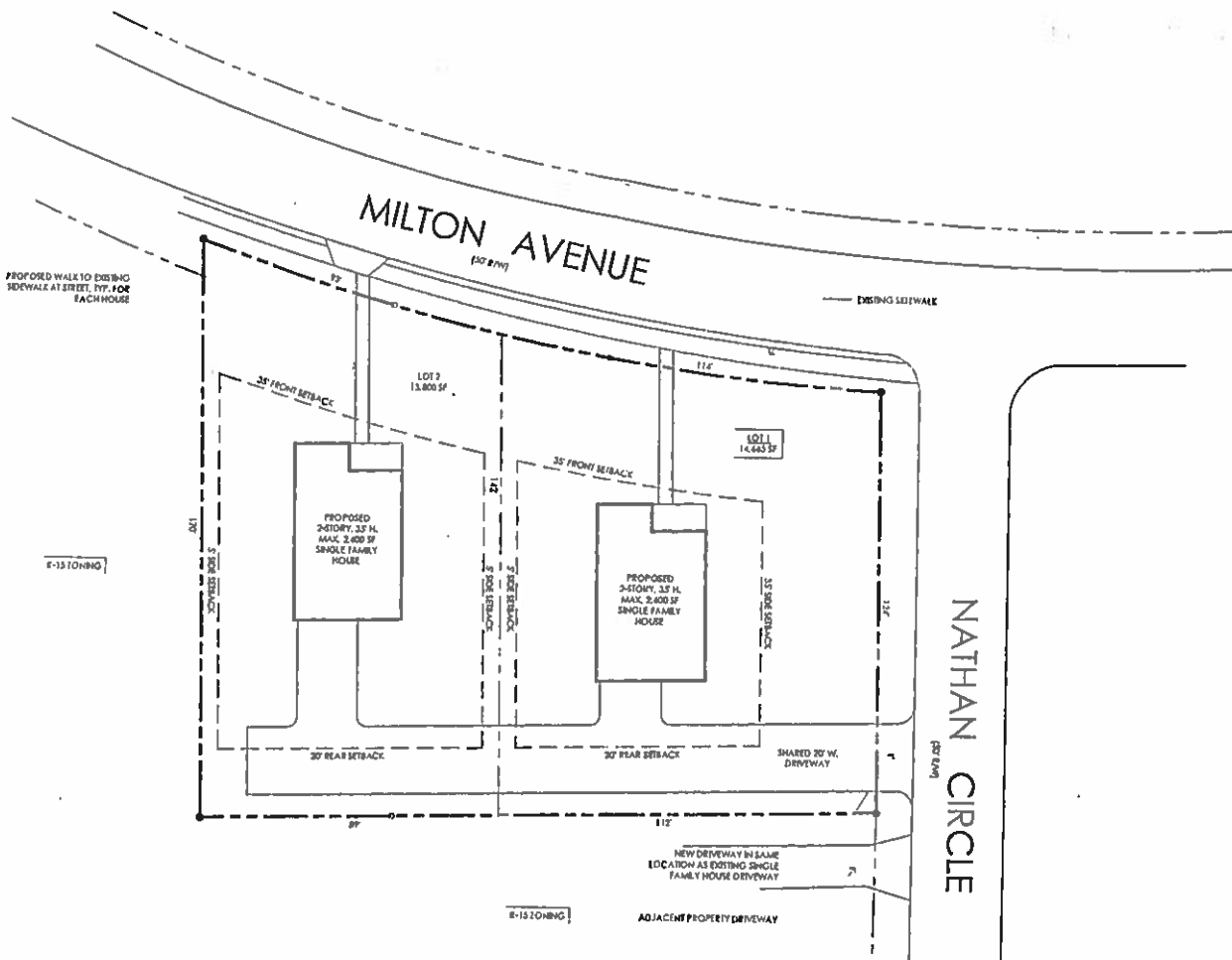
**PROPOSED NATHAN CIRCLE
 DEVELOPMENT**
 ALPHARETTA, GEORGIA



PLACE MAKER DESIGN
 4300 PACES FERRY ROAD SE
 SUITE 337
 ATLANTA, GEORGIA 30329
 404.547.4499 FAX 404.547.4498 (F)

**PROPOSED
 SITE PLAN**

A0.1



PROPOSED SITE PLAN
 1"=20'-0"



Prepared by and Recorded
 Recorrelation Requested By: Stanley McMillan
 14 Nathan Circle
 Alpharetta, Georgia 30009
 After Recording Mail To:
 Title Source, Inc.
 1450 West Long Lake
 Suite 400
 Troy, Michigan 48068

EXHIBIT "A"

QUITCLAIM DEED

TITLE OF DOCUMENT

State of Georgia

Fulton County

①
 0255187091-770640

THIS INDENTURE, made this 22 day of May in the year of our Lord
 Two Thousand 92 (2092), between

Stanley McMillan and Debra H. McMillan, husband and wife, as joint tenants with the
 right of survivorship, as party or parties of the first part, hereinafter called Grantor,

WHOSE address is 14 Nathan Circle, Alpharetta, Georgia 30009,

AND

Stanley McMillan, a married man, as party or parties of the second part, hereinafter called
 Grantee,

WHOSE mailing address is 14 Nathan Circle, Alpharetta, Georgia 30009.

The words "Grantor" and "Grantee" are to include their respective heirs, successors and assigns
 where the context requires or permits

WITNESSETH that: Grantor for and in consideration of the sum of TEN AND NO/100
 DOLLAR (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid at and
 before the sealing and delivery of these presents, the receipt of which is hereby acknowledged,
 has granted, bargained, sold and conveyed and by these presents does hereby bargain, sell,
 remise, release, and forever quit-claim unto Grantee all right, title interest, claim or demand
 which the Grantor has or may have had in and to the following described property situated in
 Fulton County, Georgia, to wit:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING 2ND DISTRICT AND 2ND
 SECTION OF FULTON COUNTY, GEORGIA, BEING A PART OF ORIGINAL LOT OF LAND
 NUMBER 1271, AND BEING MORE PARTICULARLY DESCRIBED AS LOT NO. 17, OF BLOCK
 B, OF Q.A. WILLS SUBDIVISION, AS SHOWN BY PLAT RECORDED IN PLAT BOOK 84, PAGE
 29, OF FULTON COUNTY PLAT RECORDS WHICH PLAT IS HEREBY REFERRED TO AND
 MADE A PART OF THIS DESCRIPTION.

MORE commonly known as: 14 Nathan Circle, Alpharetta, Georgia 30009
 Assessor's Parcel Number: 22-4662-1271-012-0

Prior Recorded Doc. Ref.: Type of Document - Deed: Recorded January 22, 1996; DD 20556,
 PG 123

DM



Nathan Circle at Milton Ave

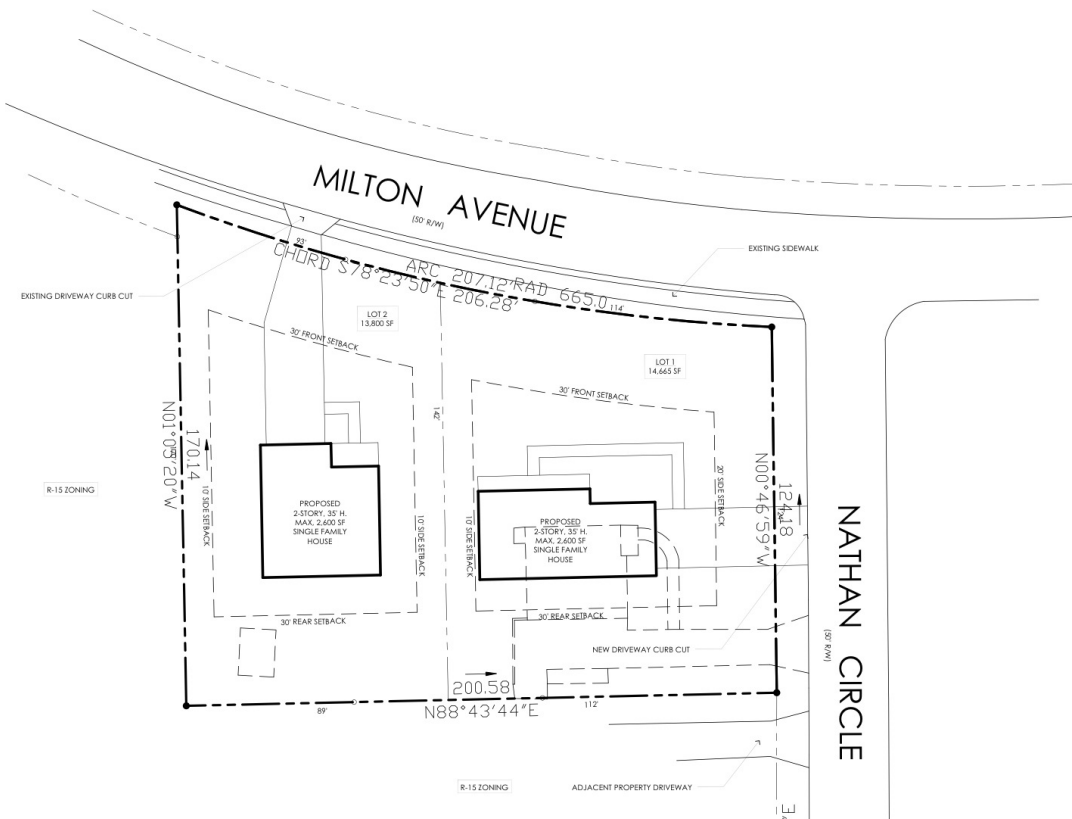
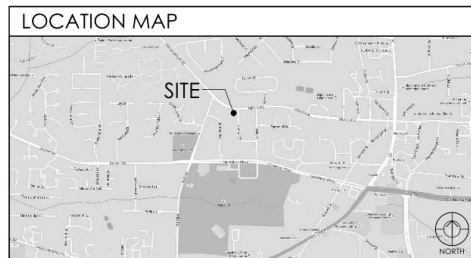
October 26, 2015

Dear Neighbor:

I am writing to you today as your neighbor that owns the .65 acres with home located at 14 Nathan Circle on the Southwest corner of Milton and Nathan Cir. Currently it is a small house built in approx. 1960 I am going before the planning commission and city council of Alpharetta next month with our plans for grazing the current house and building two beautiful and fitting residential homes that will be priced in the \$500's-\$600's that we feel will be very beautiful and upscale while giving the neighborhood a turn of the century look and feel.

SITE PLAN NOTES

EXISTING ZONING: R-15
PROPOSED ZONING: R-12
TOTAL ACREAGE: 0.6534 AC (28,465 SF)
MAX LOT COVERAGE: 25%



01 PROPOSED SITE PLAN
AS.1 1"=20'-0"



We have taken great care to plan to build homes that are turn of the century look and feel and will match very well with the area.

I invite you to reach out to us and ask any questions you may have, provide suggestions, etc. I have grown up here and love our city and am looking to build with a higher quality and design level than what has been done and is in process by many national tract builders.

Feel free to email, text, or call... I am happy to meet as well just let us know as soon as possible.

The planning commission hearing is Thursday November 5th at 6:30pm at City Hall.

Sincerely,

ROBERT FORREST
Owner – 14 Nathan Circle
404-514-8575 cell – text or call anytime

rob@stonewalkco.com - email

CITIZEN PARTICIPATION FORM - PART B

This form must be completed and submitted to the City of Alpharetta Community Development Department a minimum of twenty (20) working days prior to the scheduled Public Hearing. Failure to do so will result in cancellation of the scheduled hearing.

Public Hearing or Project Name: 14 Nathan Circle

Contact Name: Robert Forrest Telephone: 404-514-8575

Please describe comments and concerns provided by any and all individuals contacted as part of the the Citizen Participation Program. If any individuals provided written correspondence, please attach copies of same to this report.

Went door to door and in doing so met a lot of the neighbors. Some provided no feedback, some were not home (but I did receive one email - attached)

and one phone call so far (said they are fine with it and would I sell them the shed). Several people said they "were fine with it", "think its a good idea", etc

One was concerned that we would build mansions on the two lots like what "the russian has built at Wills Drive and Old Milton" I told them that by dividing

the lot into two smaller ones, we would in fact be reducing the likelihood of that happening since the smaller lots wouldn't support the size home that a

single lot would.

Method by which these individuals were contacted. Please mark all that apply. Please provide samples of any and all written communications used to provide notification.



Letter



Personal Visits



Telephone



Group Meeting



Email



Other (Please Specify) _____

Attach a list of people who have been notified of this application and provided information describing the subject proposal. Please note that ALL adjoining property owners MUST be notified.

I, the undersigned, as an authorized representative of the applicant and Public Hearing item identified above, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Citizen Participation Form - Part B and in any and all documents provided in support of this report are true and accurate. I further understand that any false statements provided by representatives of the applicant as part of this report may result in penalties up to and including denial of the subject application.

Signature of Authorized Agent: _____



Date: October 19, 2015

Print Form



REV #	DATE	DESCRIPTION
1	09/23/15	ISSUE DATE
2	09/23/15	DRAWN BY
3	09/23/15	CHECKED BY
4	09/23/15	PROD PROJ #
5	09/23/15	SHEET #

PROPOSED NEW HOME
MILTON AVENUE
ALPHARETTA, GEORGIA 30009

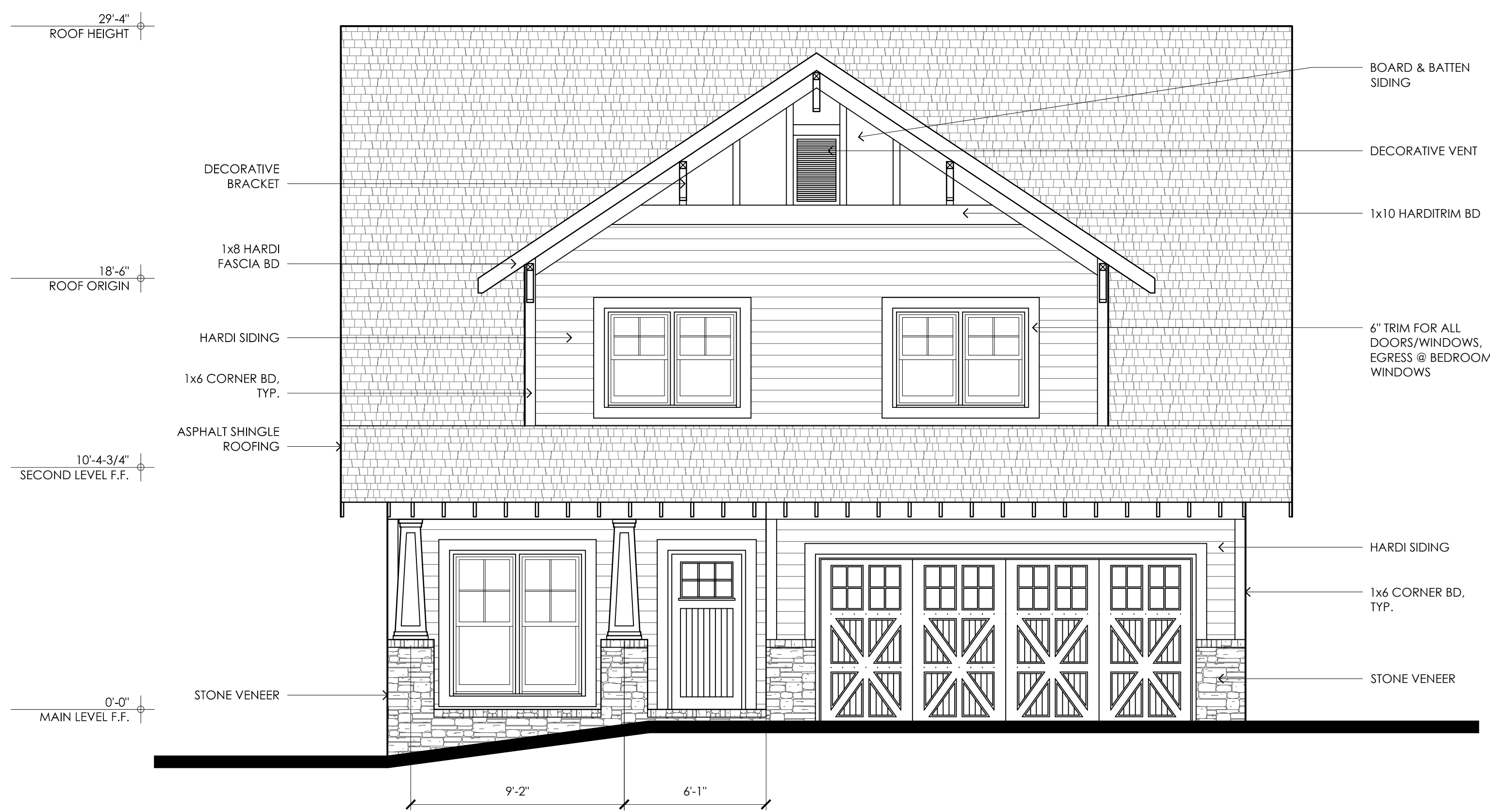
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PLACE MAKER DESIGN
4300 PACES FERRY ROAD SE
SUITE 357
ATLANTA, GEORGIA 30339
404.549.4499 (p) 404.549.4498 (f)

ISSUE DATE
09/23/15
DRAWN BY
RV
CHECKED BY
KJM
PROD PROJ #
15040

SHEET TITLE
PROPOSED
ELEVATION

SHEET #
A2.1



01 PROPOSED FRONT ELEVATION
A2.1 1/4"=1'-0"



02 PROPOSED LEFT ELEVATION
A2.1 1/4"=1'-0"

NOT RELEASED FOR CONSTRUCTION



02
A2.2 PROPOSED RIGHT ELEVATION
1/4"=1'-0"



01
A2.2 PROPOSED REAR ELEVATION
1/4"=1'-0"



REV #	DATE	DESCRIPTION
1	09/23/15	RV
2	09/23/15	KJM
3	09/23/15	15040

PROPOSED NEW HOME
MILTON AVENUE
ALPHARETTA, GEORGIA 30009

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404.549.4499 (p) 404.549.4498 (f)

ISSUE DATE	09/23/15
DRAWN BY	RV
CHECKED BY	KJM
PHD PROJ. #	15040

PROPOSED
ELEVATION

A2.2



REV #	DATE	DESCRIPTION

PROPOSED NEW HOME

MILTON AVENUE
ALPHARETTA, GEORGIA 30009

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SUITE 357
ATLANTA, GEORGIA 30339
404.549.4499 (p) 404.549.4498 (f)

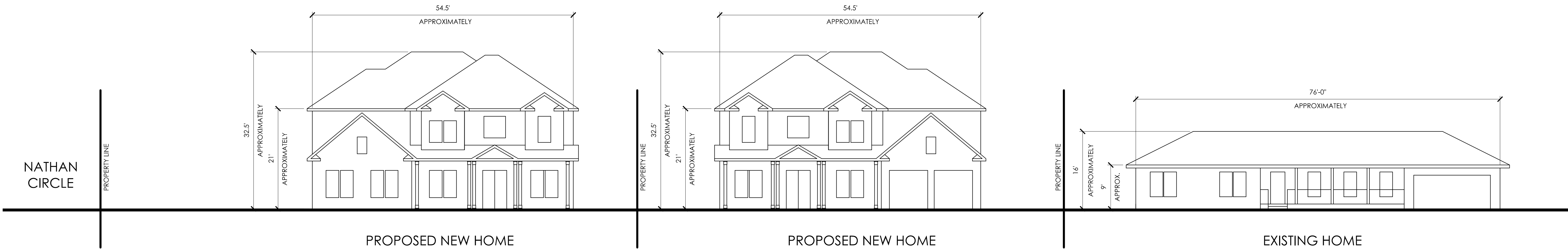
ISSUE DATE	10/27/15
DRAWN BY	RV
CHECKED BY	KJM
PHD PROJ #	15040

SHEET TITLE

PROPOSED
STREET
ELEVATION

SHEET #

A2.3



01 PROPOSED STREET ELEVATION - MILTON AVENUE
A2.3 NO SCALE

NOT RELEASED FOR CONSTRUCTION





















COUNCIL AGENDA REPORT

FROM: Kathi Cook, Community Development Director
Prepared by: Richard McLeod, Senior Planner

SUBJECT: CLUP-15-13/Z-15--14/Beecham Group/Old Milton Parkway
Townhomes

CITY COUNCIL: November 16, 2015

PLANNING COMMISSION:

This item was heard at the November 5th Planning Commission meeting. One person spoke against the request because of proposed tree removal. After discussion, the Commission voted 5-0-1 to recommend approval of the request.

RECOMMENDATION:

Approve CLUP-15-13/Z-15--14/Beecham Group/Old Milton Parkway Townhomes subject to the following conditions:

- 1. The property to be rezoned shall have an “R-8A” zoning classification and associated “High Density Residential” designation. However, lot yield depicted is not guaranteed and subject to meeting all City code requirements.**
- 2. Sidewalks along Old Milton Parkway shall be required with a minimum width of 6’ and a 4’ planting area.**
- 3. Internal streets shall require 5’ sidewalks and 4’ planting strips between curb and sidewalk planted with street trees and pedestrian scale lighting. Pedestrian amenities shall be provided throughout development (lighting, benches, etc.)**
- 4. Minimum setbacks shall be as follows:**
 - 20’ Front setback**
 - 5’ Side setback**
 - 20’ Rear setback**
- 5. Driveways shall be a minimum of 18 feet from sidewalk to structure or a maximum of 5 feet from sidewalk to structure if parking is not allowed in driveway. A minimum of 15 spaces shall be provided for guests.**
- 6. Homes shall be a minimum of 2,400 square feet and contain a minimum of 60% brick or stone on each façade or as approved by Staff. All units shall have front stoeps, porches, and/or balconies with a minimum 6’ deep and a**

minimum 50% of the façade length. Elevations shall have significant architectural features similar to elevations submitted on all 4 sides with final review by Staff. Side elevations adjacent to Old Milton Parkway shall require same level of architectural treatment as front elevations.

7. A 20 foot landscape buffer shall be planted fronting Old Milton Parkway. The entire width of the 20' landscape strip along Old Milton Parkway shall be layered with a combination of trees, ornamental understory trees, decorative shrubs, grasses, and ground cover, as approved by Staff.
8. The private street shall be gated with approval of the gate design by Staff.
9. Applicant shall obtain GDOT Driveway Permit.
10. Site plan shall include saving the following trees #2 (25" red oak), 29" Magnolia (#7) and the 14" pecan shall be incorporated into the site plan with final approval by Staff. Parking may be provided along front of development in order to reduce impacts to trees. Maximum encroachment shall be 20% or as approved by the Staff.
11. Provide heavy landscape screening along the north, west, and east property lines to screen the neighboring subdivision (Bridge Pointe) and condominiums (Camden Pond) from the road and road noise. This screen shall be made up of a double staggered row of a trees minimum of 10 foot tall at time of planting. Additional screening may be required adjacent to the Bridge Point Subdivision detention pond(s).
12. Additional encroachment into the CRZs may be allowed if retaining walls, tree wells, structural soils, or other innovative measures are used with final approval by staff.
13. Detention shall be above ground.

REPORT-IN-BRIEF

The subject property is located with frontage on Old Milton Parkway. The property encompasses 1.875 acres. The applicant is requesting to rezone the property from AG to R-8A in order to construct 15 townhomes. A change to the Comprehensive Land Use Plan from "Low Density Residential" to "High Density Residential" is also requested, with the density at 8 units to the acre.

DISCUSSION

The applicant proposes to develop 15 townhomes on 1.875 acres with a density of 8 units per acre. The property is on the north side of the road and adjacent to the Camden Pond Condominiums and Bridge Pointe subdivision.

The adjacent properties to the east, north and west are zoned CUP. The properties to the south across Old Milton Parkway are zoned O-I and C-2. Density to the west is 9 units per acre developed with condominiums within Camden Pond and to the east is 5.6 units per acre detached within Bridge Pointe. The requested density is 8 units per acre.

The application states that the townhomes will be a minimum of 2,400 square feet in size and will be constructed of brick. The homes are configured around a center green area and guest parking has been provided.

The architecture is designed to front onto the proposed court yard with a street circling around behind the homes. All sides of the architecture should be equally significant due to the rear of the homes facing out. They should have front stoops, porches and/or balconies on both ends. On the side facing Old Milton Parkway, the side architecture should also be distinct. Elevations will be reviewed by the Staff.

The property currently has a mixture of hardwoods and pines. No grading will be permitted within the Critical Root Zone (CRZ) of specimen trees along north, east, and west property lines to provide screening of the adjacent developments. Tree # 5, a 46" inch popular, tree #2, a 25" red oak and tree #7, and a 29" magnolia should be incorporated into the plans. The 14" pecan tree in the middle of the green should also be saved. A change to the Comprehensive Land Use Plan could be supported by Staff in order to incorporate significant trees. If approved tree save should be required with a maximum of 20% encroachment.

The proposed townhome development will be accessed from one curb cut off Old Milton Parkway. A decel lane will be required. Heavy landscaping will be required in order to screen views from Old Milton Parkway.

The City of Alpharetta's Comprehensive Plan recommends the future land use for the property as "Low Density Residential". However, the property to the east is zoned CUP with condominium lots at 9 units per acre and the property to the west is CUP with 3900 to 12,000 square foot lots. "Low Density Residential" recommends 2 -3 units per acre. An attached product could be supported if the site incorporated substantial tree save areas.

In accordance with the City of Alpharetta's Public Hearing Application, Shields Engineering Group has completed the following Trip Generation Report for your proposed 15 unit town home development (Trip Generation, 9th Edition, ITE):

Land Use (ITE Code)	Intensity		Daily			A.M. Peak			P.M. Peak		
			Total	In	Out	Total	In	Out	Total	In	Out
Townhome (230)	15	Units	100	1	6	7	5	3	8		
TOTAL			100	1	6	7	5	3	8		

The traffic will be right in/right out only on Old Milton Parkway.

Residential development is known to increase school enrollment. Fulton County calculated the potential maximum number of children who may live on the property by using the Fulton County schools standard calculation to distinguish the number of children that a residential development will generate. The following chart outlines these figures:

**FULTON COUNTY SCHOOLS
AVERAGE SCHOOL AGE CHILDREN PER HOUSEHOLD
BASED ON HOUSING TYPE**

Townhomes Average # 15

Creek View Elementary School	1 - 4
Webb Bridge Middle School	0 - 2
Alpharetta High School	1 - 2

Based on the total figure for all three-school levels, it can be assumed that the proposed development could house approximately 2 - 8 school age children. Creek View Elementary and Webb Bridge Middle School can meet demand; however, Alpharetta High School is currently shown to be over capacity.

STANDARDS FOR ZONING CHANGES

The Planning Commission and the City Council shall consider the following standards in considering a rezoning application, giving due weight or priority to those factors particularly appropriate to the circumstances of each application:

- a. Whether the zoning proposal will permit a use that is suitable in view of the zoning use and development of adjacent and nearby property.

The lot sizes are similar to the lot sizes within Bridge Pointe neighborhood and less dense than Camden Pond. The density is 9 units per acre to the west and 5.6 units per acre to the east and north. The proposed density is 8 units to the acre. However, support of an attached product can be supported if a hardship such as tree save areas are incorporated which has not been accomplished on this plan.

- b. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

The proposal should not impact adjacent property if trees remain and significant landscape is added. The nearby homes should benefit from a condition that protects some of the trees. However, heavy landscaping should be provided in the buffer to screen the property and the townhouses.

- c. Whether the zoning proposal will adversely affect the natural environment.

Almost all of the trees in the current plan are to be removed. A condition should be used to protect some of the trees to the north of the property and thereby justify an attached product.

d. Whether there are substantial reasons why the property cannot or should not be used as currently zoned.

The property is currently zoned AG permitting the construction of only 1 home on the tract.

e. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of public facilities or services, including but not limited to existing streets and transportation facilities, schools, water or sewer utilities, and police or fire protection.

The property could be developed at a lower density at 3 units per acre permitting 5 units but which would be less density than permitted on surrounding properties. The lots proposed will not significantly impact the roadways or schools however the attached product should be the result of requesting to save trees.

f. Whether the zoning proposal is supported by new or changing conditions not anticipated or reflected in the existing zoning on the property.

The proposal is supported by existing development to the east which is developed with 4,000- 12,000 square foot lots and a condominium use to the west developed at 9 units per acre. The average lot size within Bridge Pointe is 5808 square feet.

g. Whether the zoning proposal reflects a reasonable balance between the promotion of the public health, safety, morality or general welfare against the right to unrestricted use of property.

The request to subdivide and allow townhomes reflects a reasonable balance if tree save is incorporated.

h. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

The current zoning would only permit the construction of one home.

i. The extent to which the zoning proposal is consistent with the Comprehensive Plan.

The Future Land Use Plan identified "for-sale" residential with a density of up to 3 units per acre on lots 12,000 sq. ft. – 15,000 sq. ft. The density of 8 units per acre requires a change in the land use plan.

COMPREHENSIVE LAND USE PLAN

The Unified Development Code Section 4.1.3 STANDARDS FOR CLUP AMENDMENT APPROVAL provides criteria for consideration when evaluating a request for a CLUP amendment as listed below:

A. The extent to which a change in the economy, land use or development opportunities of the area has occurred.

The property is developed with medium density residential to the east and high density to the west according to the Comprehensive Land Use Plan categories. The areas are categorized as "Low Density Residential" to the east and "Medium Density Residential" to the west although they were built at higher densities. The current "Low Density Residential" would permit 5 units on the property. An attached product can only be supported if significant tree save areas are incorporated into the site.

B. The extent to which the proposed designation is in compliance with the goals and policies of the Plan.

The Comprehensive Land Use Plan discusses the goal to promote and encourage residential densities and designs that ensure varied living areas and housing types. The properties to the east and west have been developed with Medium and High density residential according to the Comprehensive Land Use Plan.

C. The extent to which the proposed designation would require changes in the provision of public facilities and services.

The designation would not require changes to public facilities and services. Only 2 – 8 students will be served by the proposed development.

D. The extent to which the proposed designation would impact the public health, safety, and welfare.

The proposal would not impact the public health, safety and welfare.

E. The extent to which additional land area is needed to be developed for a specific type of use.

N/A

F. The extent to which area demographics or projections are not occurring as projected.

Demographics and projections have changed for the area. Both surroundings properties were developed with higher densities. However, without tree saves areas the density doesn't work and low density residential should remain.

CONCLUSION

City Staff has reviewed the applicant's proposal and is of the opinion that the proposal can be supported with conditions that address the architecture and site plan as well as landscaping. However, the density is encroaching on the trees in the north. Density should be limited to 6.4 units per acre which would permit 12 units instead of 15 units which would incorporate the significant trees.

Conditions should also be required which protect the street views by requiring landscape and natural buffers and prohibiting visible privacy fencing. The trees should be maintained especially tree #5, #2 and #7 and the pecan tree should be saved.

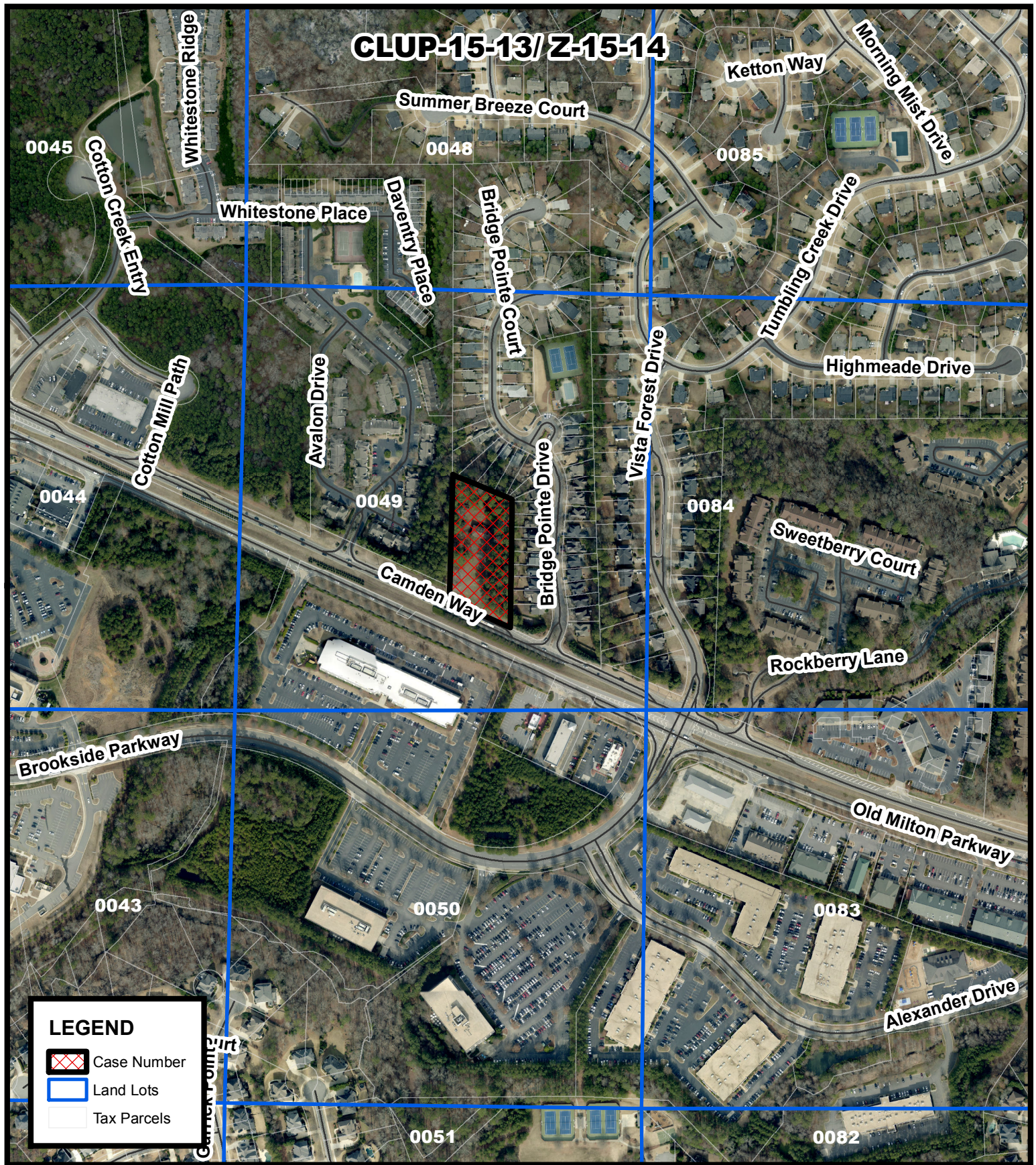
Since the Downtown Master Plan has been adopted, the City has recently approved 186 townhomes and outside of downtown we have 47 townhomes in Sonoma on Main Street and 130 townhomes approved in Northwinds. With all the current development approved, these townhomes should be significantly different with high level of architecture, significant heavy landscaping with tree save areas to justify approval.

CITIZEN PARTICIPATION PLAN

The applicant notified everyone within 500 feet of the intent for the property. The report submitted stated that one of the neighbors emailed them. She asked for the pine trees behind her to stay but she was informed that they were to be taken down. She also asked the applicant if they would protect her fence and they said they would. She asked about vandalism and damage to her property and was satisfied with their answers of excellent project managers and good insurance.

Attachments

Site Plan
Architectural Drawings



Aerial Map **Beecham Group** **Old Milton Pkwy Townhomes**

CLUP-15-13/ Z-15-14

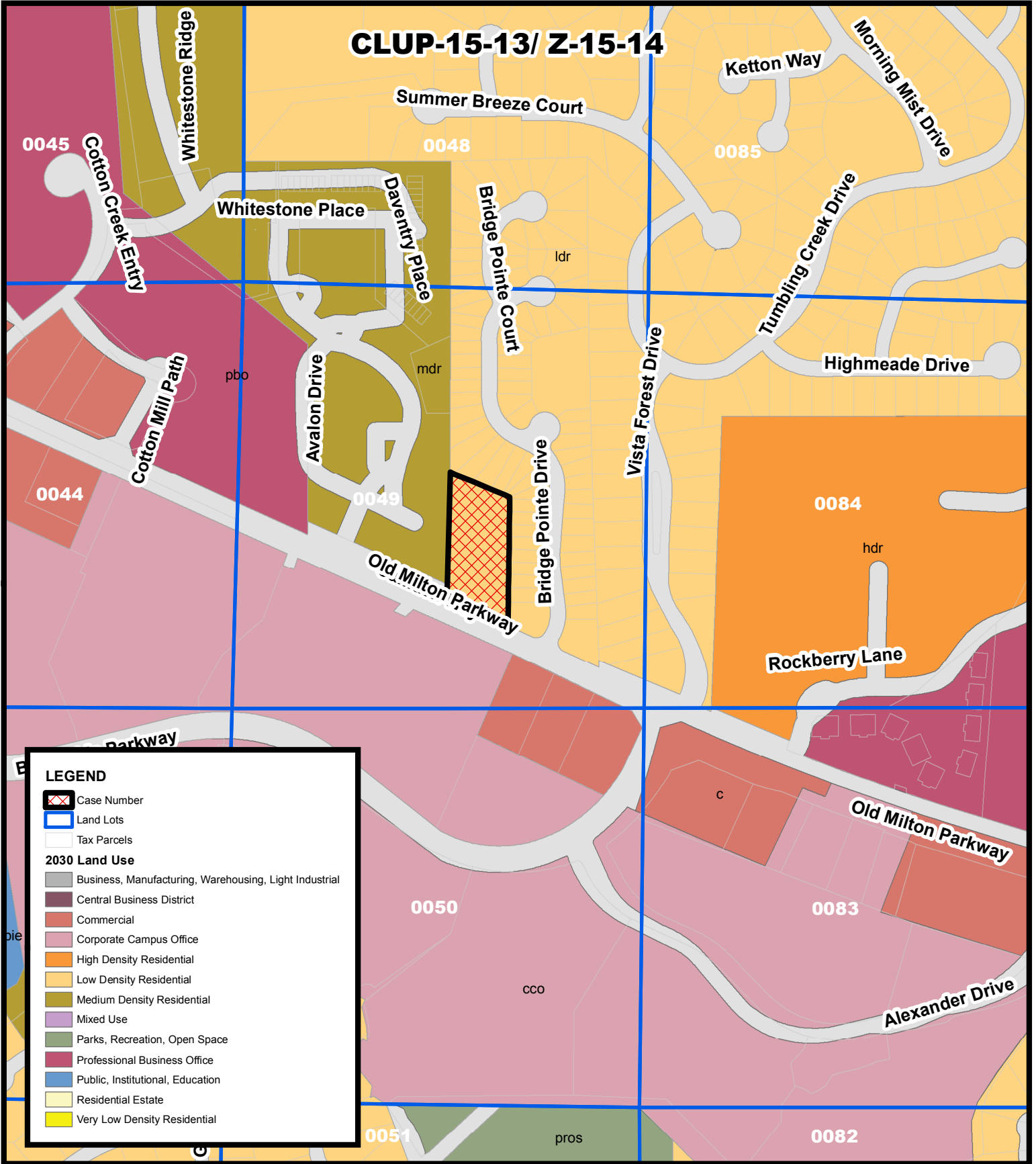
D/LL: 1/1/0049

PC Date: 11/05/2015

CC Date: 11/16/2015

**Location Map Provided by:
 Community Development - GIS**

CLUP-15-13/ Z-15-14



2030 Land Use

Beecham Group

Old Milton Pkwy Townhomes

CLUP-15-13/ Z-15-14

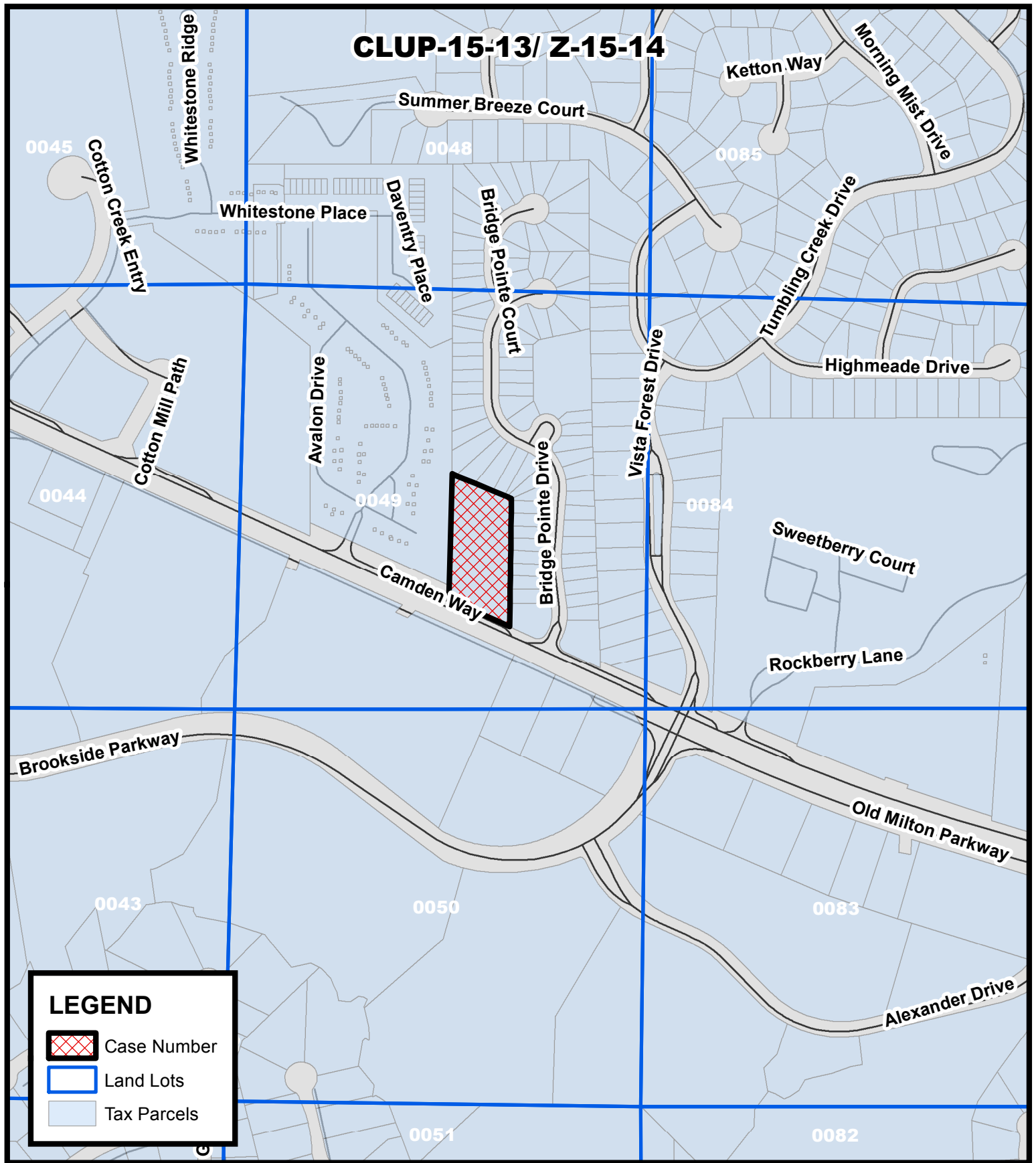
D/LL: 1/1/0049

PC Date: 11/05/2015

CC Date: 11/16/2015



Location Map Provided by:
Community Development - GIS



LEGEND

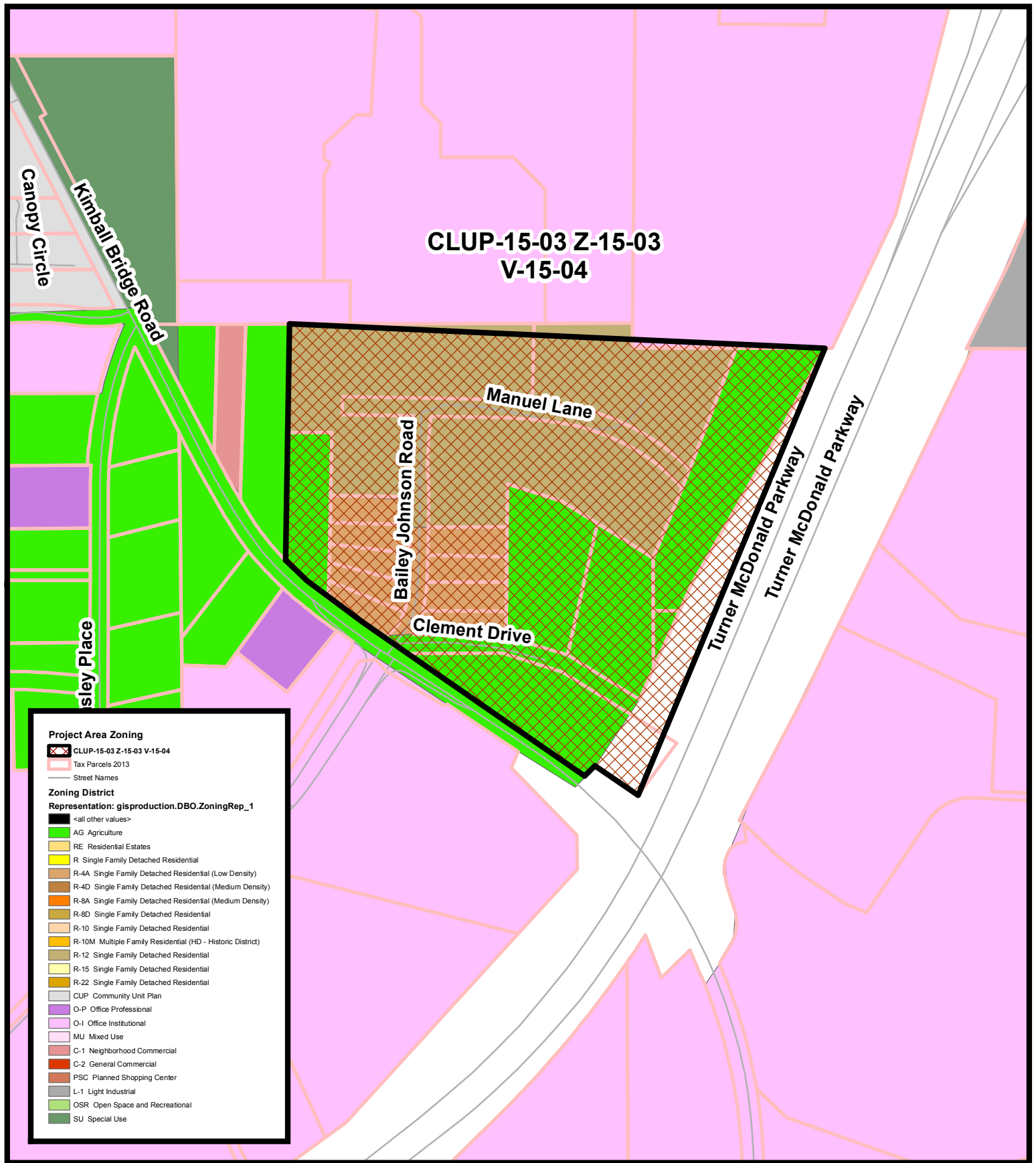
-  Case Number
-  Land Lots
-  Tax Parcels



Location Map **Beecham Group** **Old Milton Pkwy Townhomes**

CLUP-15-13/ Z-15-14
D/LL: 1/1/0049
PC Date: 11/05/2015
CC Date: 11/16/2015

Location Map Provided by:
Community Development - GIS



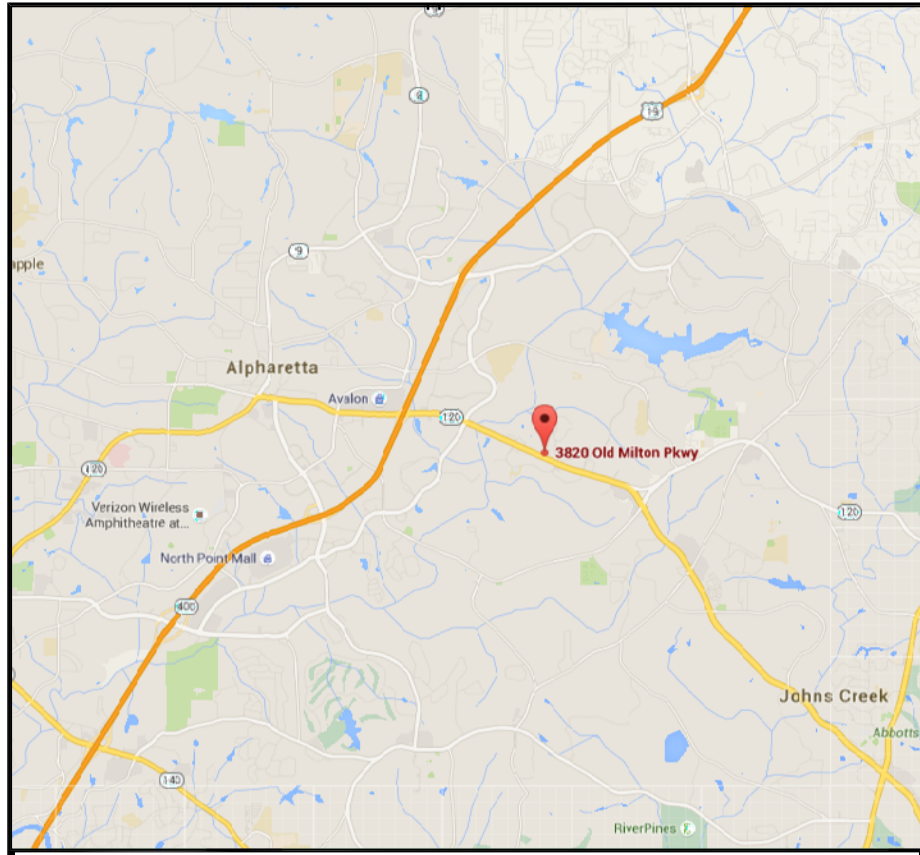
Zoning Map **Kimball Bridge** **Northwinds**

**Case: CLUP-15-03 Z-15-03
V-15-04**

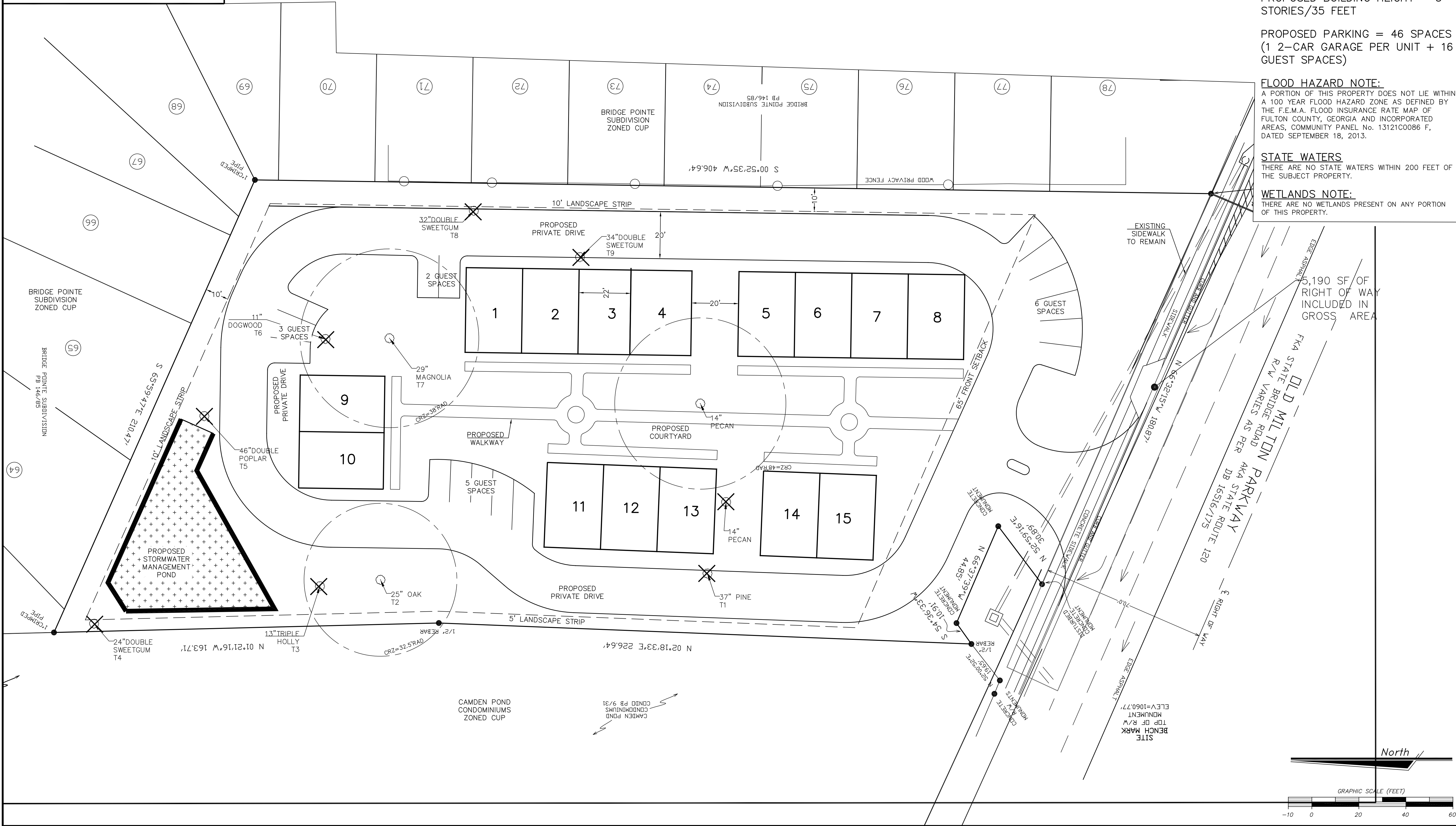
**D/S/LL: 1/2/805 & 852
PC Date: 04/02/2015
CC Date: 04/27/2015**



**Location Map Provided by:
Community Development - GIS**



VICINITY MAP
SCALE: N.T.S.



SITE PLAN SPECIFICATIONS

CURRENT ZONING: AG

PROPOSED REZONING: R8

NET AREA = 76,519 SF

AREA OF DECEL LANE = 5,190 SF

GROSS AREA = 81,709 SF

PROPOSED UNITS: 15

BUILDING SIZE = 24' BY 36'

PROPOSED SQUARE FOOTAGE =
36,000 SF TOTAL (2,400 SF PER UNIT)

PROPOSED BUILDING HEIGHT = 3
STORIES/35 FEET

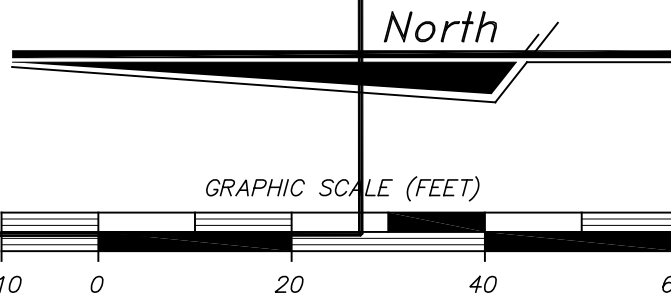
PROPOSED PARKING = 46 SPACES
(1 2-CAR GARAGE PER UNIT + 16
GUEST SPACES)

FLOOD HAZARD NOTE:
A PORTION OF THIS PROPERTY DOES NOT LIE WITHIN
A 100 YEAR FLOOD HAZARD ZONE AS DEFINED BY
THE F.E.M.A. FLOOD INSURANCE RATE MAP OF
FULTON COUNTY, GEORGIA AND INCORPORATED
AREAS, COMMUNITY PANEL No. 13121C0086 F,
DATED SEPTEMBER 18, 2013.

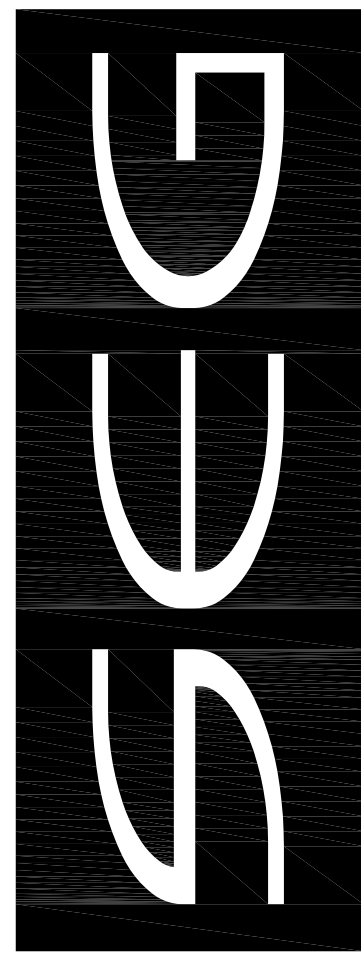
STATE WATERS
THERE ARE NO STATE WATERS WITHIN 200 FEET OF
THE SUBJECT PROPERTY.

WETLANDS NOTE:
THERE ARE NO WETLANDS PRESENT ON ANY PORTION
OF THIS PROPERTY.

5,190 SF OF
RIGHT OF WAY
INCLUDED IN
GROSS AREA



CIVIL • RESIDENTIAL • COMMERCIAL • LEED



409 JOHN WESLEY DOBBS AVENUE
SUITE F • ATLANTA • GA • 30312
P 404 | 521 | 9999
F 404 | 521 | 3666
EMAIL: mshields@shieldseng.com
www.shieldseng.com

REVISIONS		
NO.	DATE	DESCRIPTION
△		
△		
△		
△		
△		
△		

SEAL

OLD MILTON PARKWAY
TOWNHOMES
3820 OLD MILTON PARKWAY
CITY OF ALPHARETTA
LAND LOT 49 1ST DISTRICT
FULTON COUNTY, GEORGIA

TITLE	
DRAFT SITE PLAN	
DATE	11/11/2015
JOB NO.	SE15108
DWG FILE	SE15108CW
DRAWN BY	LPW
CHECKED	MDS
SCALE	
SHEET	



CITY OF ALPHARETTA

PUBLIC HEARING APPLICATION

FOR OFFICE USE ONLY

CUP-15-131
Case #: 2-15-14
Beecham Group
☐ Fee Paid Initial: _____
Orin Townhomes

COMMUNITY DEVELOPMENT DEPARTMENT • 2 PARK PLAZA • ALPHARETTA, GA 30009

1. **This page should be the first page in each of your completed application packets.**
2. **It is preferred that all responses be typed. Illegible applications will not be accepted.**
3. **Prior to signing and submitting your application, please check all information supplied on the following pages to ensure that all responses are complete and accurate. Incomplete applications will not be accepted.**
4. **Payment of all applicable fees must be made at the time of application. Payment may be made via cash, credit card (American Express, Master Card or Visa), or check made payable to "City of Alpharetta."**
5. **Applications will be accepted only on the designated submittal dates between the hours of 8:30 AM and 3:30 PM.**
6. **If you have any questions regarding this form, please contact the Community Development Department by calling 678-297-6070.**



Contact Information:

Contact Name: Rob Beecham

Telephone: 770-688-0046

Address: 243 Sumac Trail

Suite: _____

City Woodstock

State: GA

Zip: 30188

Fax: _____

Mobile Tel: 770-688-0046

Email: rob@beechamgroup.com

Subject Property Information:

Address: 3820 Old Milton Parkway

Current Zoning: AG

District: 1

Section: 1

Land Lot: 49

Parcel ID: 11 0140000490050

Proposed Zoning: R-8A



Current Use: Vacant lot / abandoned home

This Application For (Check All That Apply):

☐ Conditional Use

☐ Master Plan Amendment

☒ Rezoning

☐ Master Plan Review

☐ Variance

☐ Public Hearing

☒ Comprehensive Plan Amendment

☐ Other (Specify): _____

APPLICANT REQUEST AND INTENT

What is the proposed use(s) of the property?

We are proposing the development of 15 upscale town homes ranging in price from the low 300's to the high 300's. All brick townhome project with a central plaza.

Applicant's Request *(Please itemize the proposal):*

We are requesting that the property be rezoned from AG to R8. The properties surrounding the subject property are CUP zoned. There is a single family subdivision to one side and a townhome project on the other. The current Future Land Use map lists the property as "low density residential". In our opinion, there is no feasible way to develop the property as single family.

Applicant's Intent *(Please describe what the proposal would facilitate):*

With the approval of the rezoning from AG to R8, we would immediately begin development and construction of the project.

Requesting variance for a gated community.

DISCLOSURE FORM

The Official Code of Georgia Annotated requires disclosure of campaign contributions to government officials by an applicant or opponent of a rezoning or public hearing petition (O.C.G.A. 36-67 A-1).

Applicants must file this form with the City of Alpharetta Community Development Department within ten (10) days after filing for rezoning or public hearing. Opponents to a rezoning or public hearing petition must file this form five (5) days prior to the Planning Commission meeting at which the subject rezoning or public hearing petition is scheduled to be heard.

Name of Applicant or Opponent: Beecham Group, LLC - Brent, Rob, and Harry Beecham

Subject Public Hearing Case: _____

Campaign Contribution Information:

Please provide the requested information for each contribution with a dollar amount or value of \$250 or more made within the past two (2) years to an Alpharetta Official by the individual identified above. Please use a separate form for each Alpharetta Official to whom such a contribution has been made.

If the individual identified above has made no such contributions to an Alpharetta Official within the past two (2) years, please indicate this by entering "N/A" on the appropriate lines below.

Name of Official: N/A

Position: N/A

Description of Contribution: N/A

Value: N/A

Description of Contribution: N/A

Value: N/A

Description of Contribution: N/A

Value: N/A

Description of Contribution: N/A

Value: N/A

Description of Contribution: N/A

Value: N/A

Campaign Contribution Information:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Disclosure Form is true and accurate and that I have disclosed herein any and all campaign contributions made to an Official of the City of Alpharetta, Georgia in accordance with O.C.G.A. 36-67 A-1.

Signature: _____

Date: 8/31/2015

ALPHARETTA PLANNING COMMISSION REVIEW CRITERIA

How will this proposal be compatible with surrounding properties?

The property is surrounded by residential developments zoned CUP. The property to the right and rear is a single family subdivision. The property adjacent to the left side of the property is a town home development. It is our opinion that our project will enhance both the beauty and the value of homes in both projects.

How will this proposal affect the use and value of the surrounding properties?

It is our opinion that the proposed project will increase the value of both subdivisions as they are much older developments.

Can the property be developed for a reasonable economic use as currently zoned? Please explain why or why not.

The property is zoned AG. The only way for the property to be economically viable is for it to be rezoned. It is our opinion that R8 zoning is the properties highest and best use.

What would be the increase to population and traffic if the proposal were approved?

The fifteen units will likely add 30 additional vehicles and increase the population by 45.

What would be the impact to schools and utilities if the proposal were approved?

No significant impact on schools as our target market is empty nesters. Utilities are available to be tied into near the subject property.

How is the proposal consistent with the Alpharetta Comprehensive Plan; particularly the Future Land Use Map?

The future land use map lists the property as "low density residential". It is our opinion that it is not economically viable to develop this property as any other use than a townhome project.

Are there existing or changing conditions which affect the development of the property and support the proposed request?

None to our knowledge.

On a separate sheet or sheets, please provide any information or evidence that supports your request and the statements that you have provided in this application.

PROPERTY OWNER AUTHORIZATION

Property Owner Information:

Contact Name: Xu Xian Ruan, Sara He (DHA LLC) Telephone: 770-722-9889
Address: 5805 State Bridge Rd Suite: G146
City: Duluth State: GA Zip: 30097

Authorization:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified below, which is the subject of the attached Application for Public Hearing before the City of Alpharetta, Georgia.

As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Public Hearing in request of the items indicated below.

- | | |
|--|--|
| ☐ Annexation | ☐ Special Use |
| ☒ Rezoning | ☐ Conditional Use |
| ☐ Variance | ☐ Master Plan |
| ☒ Land Use Application | ☐ Other _____ |

Identify Authorized Applicant:

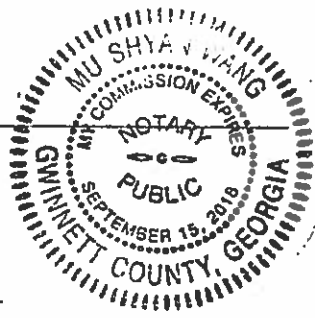
Name of Authorized Applicant: Beechan Group, LLC Telephone: 404-720-5664
Address: 885 Woodstock Road Suite: 430-180
City: Roswell State: GA Zip: 30075

So Sworn and Attested:

Owner Signature: [Signature]

Notary:

Notary Signature: [Signature]



Date: 8/31/2015

Date: 8.31.2015

CITIZEN PARTICIPATION FORM - PART A

This form must be completed and submitted with the applicant's completed Public Hearing Application. Applications submitted to the City of Alpharetta without a completed Citizen Participation Form - Part A will not be accepted.

Public Hearing or Project Name: Beecham Group Proposed Townhome Development

Contact Name: Rob Beecham www.beechamgroup.com rob@beechamgroup.com

Telephone: 770-688-0046

The following people will be notified of this application and provided information describing the subject proposal. Please note that ALL adjoining property owners MUST be notified. Use additional pages as needed.

Property owners at: 5410, 5420, 5430, 5440, 5450, 5460, 5470, 5480,

5490, 5500, 5508, 5528, 5538, 5548, 5558, 5468 and 5578 on

Bridge Pointe Drive in Bridge Point Subdivision.

Camden Pond HOA

Bridge Pointe HOA

Method by which these individuals will be contacted. Please mark all that apply. If you select "Other," please provide a description of the method of contact that will be used.

☒

Letter

☐

Personal Visits

☐

Telephone

☒

Group Meeting

☐

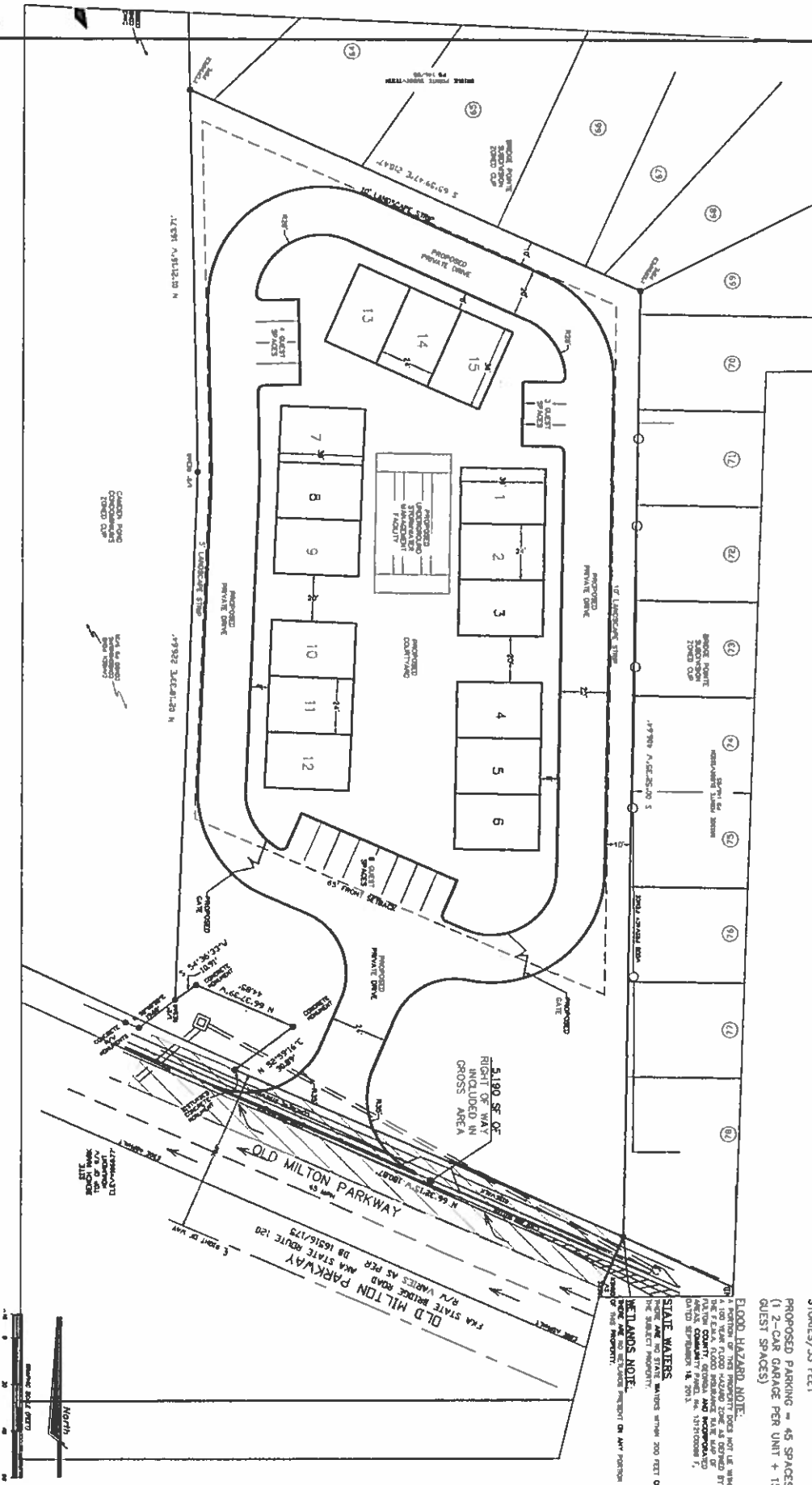
Email

☐

Other (Please Specify) _____

Please describe the method(s) by which these individuals will have the opportunity to respond or contact the applicant with questions or concerns about the proposal.

We will deliver to each adjacent homeowner and the HOA's an information package detailing our plans. We will provide our contact information and welcome any questions or concerns. We are willing to meet with the HOA's of each of the neighborhoods should they desire.



SITE PLAN SPECIFICATIONS

CURRENT ZONING: AG
PROPOSED REZONING: R8
NET AREA = 76,319 SF
AREA OF DECIL LANE = 5,190 SF
GROSS AREA = 81,709 SF
PROPOSED UNITS: 15
BUILDING SIZE = 24' BY 36'
PROPOSED SQUARE FOOTAGE =
36,000 SF TOTAL (2,400 SF PER
UNIT)
PROPOSED BUILDING HEIGHT = 3
STORIES/35 FEET
PROPOSED PARKING = 45 SPACES
(1 2-CAR GARAGE PER UNIT + 15
GUEST SPACES)

FLOOD HAZARD NOTE:
A PORTION OF THIS PROPERTY IS

A 100 YEAR FLOOD HAZARD ZONE AS DEFINED BY THE FEMA FLOOD INSURANCE RATE MAP OF FLUTION COUNTY, GEORGIA AND INCORPORATED AREAS, COMMUNITY PANEL NO. 1312100000 F, DATED SEPTEMBER 18, 2013.

WETLANDS NOTE:
THERE ARE NO WETLANDS

of the property.

**OLD MILTON PARKWAY
TOWNHOMES**
3820 OLD MILTON PARKWAY
CITY OF ALPHARETTA
LAND LOT 49 1ST DISTRICT
MILTON COUNTY, GEORGIA

**SITE
REZONING
PLAN**

DATE	01/2015
POS NO	SELS06
POS PNL	SELS06CW
ORDER BY	UPW
CHECKED	MOS
SCALE	
SHEET	



REVISIONS	
QNTY	DESCRIPTION
1	



SHIELDS ENGINEERING GROUP



PROPOSED ATTACHED HOME PROJECT

3820 OLD MILTON PARKWAY



"Architecture should speak of its time and place, but yearn for timelessness." Frank Gehry

Beecham Group

- **Rob Beecham** – Rob's background in ministry and counseling helped prepare him as the primary contact for Beecham Group customers. Rob's ability to proactively communicate with each customer, manage expectations, and establish a team environment has in part enabled Beecham Group to build America's finest homes. He is also well known for his flair for design, ensuring every project has the details and quality necessary to be called "Beecham Built".
- **Harry Beecham** – A graduate of Southern Polytechnic Institute in Building Sciences, Harry's "happy place" is in the dirt and sawdust of every BG home. Harry relocated his family from Decatur to Roswell in 1972 and the Beecham Family has been in Roswell/Alpharetta since. Harry oversees every foundation and structural element and has built more than 600 homes in his career
- **Brent Beecham** – A graduate of the United States Air Force Academy and an F 15 combat veteran, Brent manages Beecham Group's business processes with "military" precision, ensuring our customers have timely and accurate information.

The Project

- 15 Luxury Town Homes priced from \$300,000 to \$400,000
- Approximately 1.95 acres
- Gated Entrance
- Planned Start Date: January 2016
- A blend of Classical and Transitional Architecture
- Flex Floor plan with 2 to 4 Bedroom Townhomes. All masonry exteriors.

Zoning

- Currently zoned Agriculture
- Requesting R-8
- Future Land Use Map shows property as "Low Density Residential". It is our opinion that it is not economically feasible for single family development or any other use than R8.
- 10' perimeter screening buffer on right and rear sides with evergreen trees

"Elegance is not a dispensable luxury but a factor that decides between success and failure." Edsger Dijkstra

folia

"Architecture should speak of its time and place, but yearn for timelessness." Frank Gehry

Property – 3820 Old Milton Pkwy

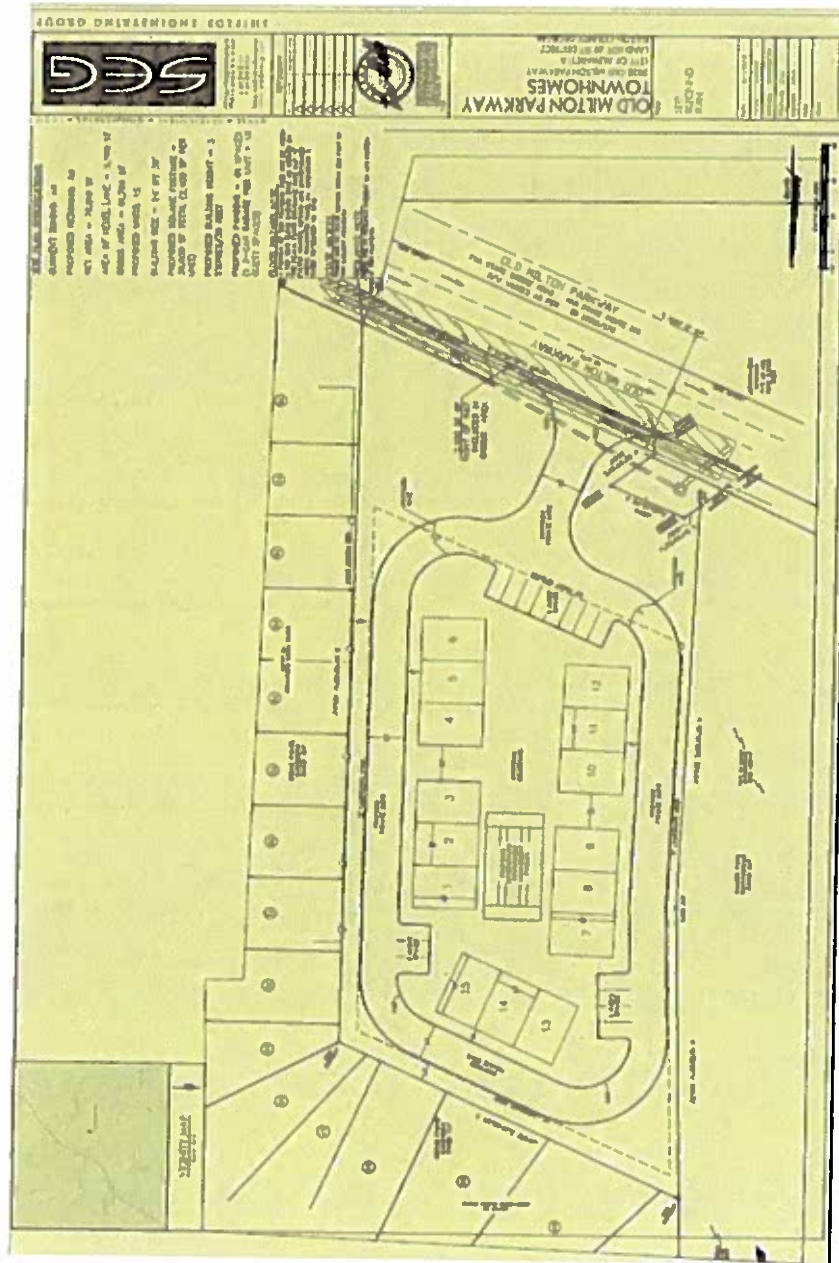
"Elegance is not a dispensable luxury but a factor that decides between success and failure." Edsger Dijkstra

Beecham Group, LLC
885 Woodstock Road, Ste 430-185, Roswell, GA 30075 404.720.5664
www.beechamgroup.com

folia

"Architecture should speak of its time and place, but yearn for timelessness." Frank Gehry

Proposed Site Plan – Gated community of 15 Attached Homes with central plaza.



"Elegance is not a dispensable luxury but a factor that decides between success and failure." Edsger Dijkstra

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folia

"Architecture should speak of its time and place, but yearn for timelessness." Frank Gehry

Proposed Architectural Styles



Proposed Floor Plan



Contact Information:

Rob Beecham

rob@beechamgroup.com

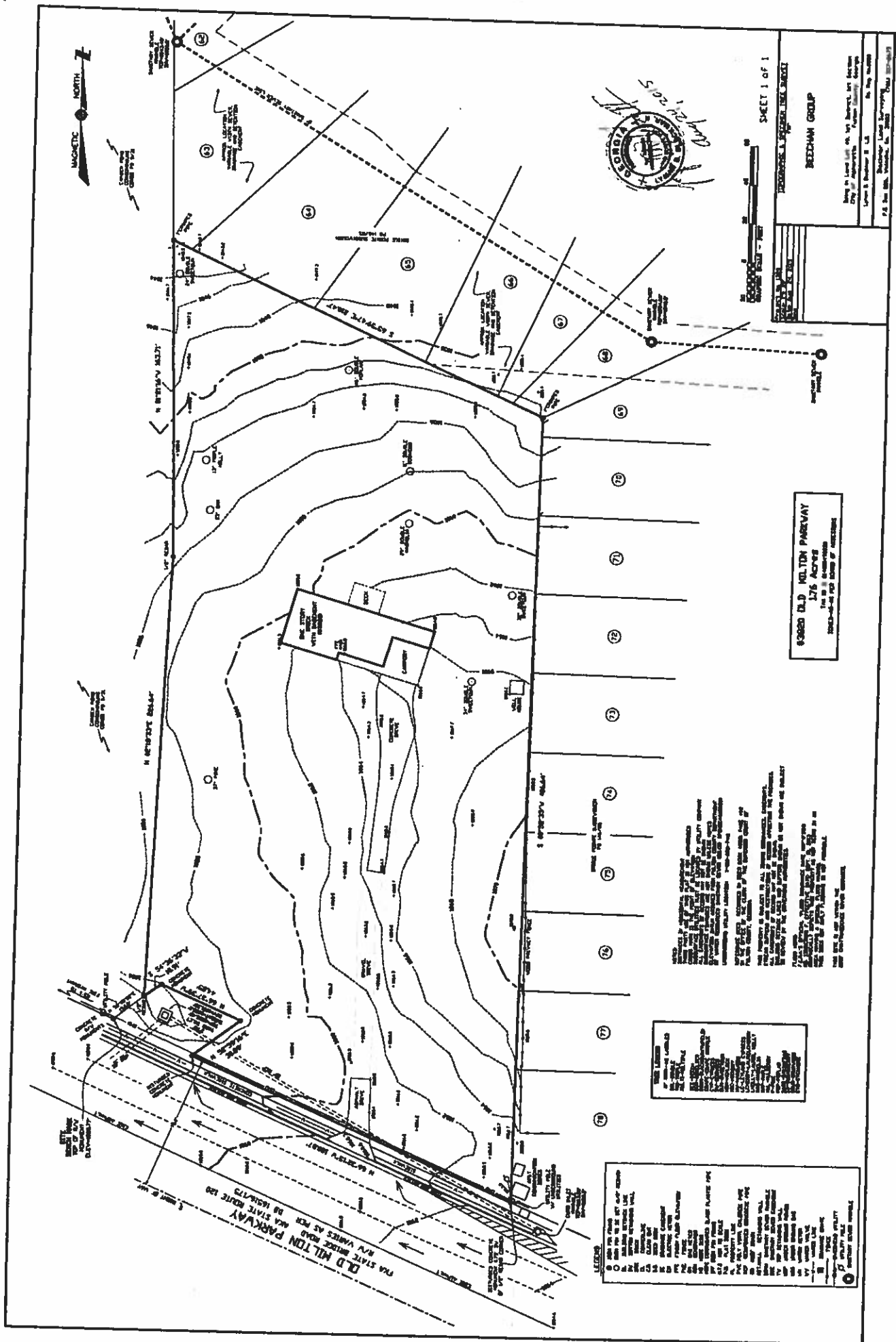
c - 770-688-0046

o - 404.720.5664

www.beechamgroup.com

"Elegance is not a dispensable luxury but a factor that decides between success and failure," Edsger Dijkstra

Beecham Group, LLC
885 Woodstock Road, Ste 430-185, Roswell, GA 30075 404.720.5664
www.beechamgroup.com



3820 Old Milton Parkway Legal Description

All that tract or parcel of land lying and being in Land Lot 49 of the 1st District, 1st Section of Fulton County, Georgia, containing 1.7582 acres as shown on plat of survey for Stuart Elder, dated June 25, 1997, prepared by J.A. Evans & Associates, James A. Evans, Jr., GA R.L.S. No. 2167 and being more particularly described according to said survey as follows:

Beginning at a Point marked by an iron pin placed on the Northeasterly Right of Way of Old Milton Parkway f/k/a State Bridge Road (variable Right of Way), said point being 117.63 feet Northwesterly along said Right of Way of Old Milton Parkway f/k/a State Bridge Road from its point of intersection with the Right of Way of Bridge Pointe Drive (if extended) (variable Right of Way), then continuing along the aforesaid Right of Way of Old Milton Parkway f/k/a State Bridge Road, run thence North 66 degrees 32 minutes 15 seconds West a distance of 180.87 feet to a Point marked by a concrete monument found, then leaving the aforesaid Right of Way, run thence North 52 degrees 31 minutes 02 seconds East a distance of 30.89 feet to a point marked by a concrete monument found, run thence North 66 degrees 32 minutes 16 seconds West 45.00 feet to a point marked by a concrete monument found; run thence South 52 degrees 31 minutes 03 seconds West a distance of 11.00 feet to a Point marked by an iron pin placed; run thence north 02 degrees 15 minutes 48 seconds east a distance of 226.65 feet to a point marked by an iron pin placed; run thence North 01 degrees 20 minutes 34 seconds West a distance of 163.70 feet to a point marked by a crimped top pipe; run thence South 66 degrees 02 minutes 34 seconds East 210.66 feet to a Point marked by a crimped top pipe; run thence South 00 degrees 52 minutes 35 seconds West a distance of 406.67 feet to a Point marked by an iron pin placed on the Northeasterly Right of Way of Old Milton Parkway f/k/a State Bridge Road, said Point being the True Place or Point of Beginning.

Citizen Participation - Part B
Contacted Adjacent Property Owners - 3820 Old Milton Pkwy

Margie Cargille	5508	Bridge Pointe	Alpharetta	GA	30005
Ashley Woodall	5480	Bridge Pointe	Alpharetta	GA	30005
Denise Nahman	5470	Bridge Pointe	Alpharetta	GA	30005
Jacob Haser	5450	Bridge Pointe	Alpharetta	GA	30005
Zoreh Vazimezami	5460	Bridge Pointe	Alpharetta	GA	30005
Guy Salter	5500	Bridge Pointe	Alpharetta	GA	30005
Karen Higginbotham	5490	Bridge Pointe	Alpharetta	GA	30005
Lee Jooyung	5440	Bridge Pointe	Alpharetta	GA	30005
Jeff Miller	5410	Bridge Pointe	Alpharetta	GA	30005
Deborah Baumgartner	5430	Bridge Pointe	Alpharetta	GA	30005
Robin Buckley	5578	Bridge Pointe	Alpharetta	GA	30005
Porter Douglas	5548	Bridge Pointe	Alpharetta	GA	30005
Cathernie Fineis	5528	Bridge Pointe	Alpharetta	GA	30005
Lyda Harandi	5568	Bridge Pointe	Alpharetta	GA	30005
Venkatravi Sarikonda	5558	Bridge Pointe	Alpharetta	GA	30005
Mikalai Belaboiki	5538	Bridge Pointe	Alpharetta	GA	30005
Resident	5000	Avalon Drive	Alpharetta	GA	30005
Resident	5002	Avalon Drive	Alpharetta	GA	30005
Resident	5004	Avalon Drive	Alpharetta	GA	30005
Resident	5006	Avalon Drive	Alpharetta	GA	30005
Resident	5008	Avalon Drive	Alpharetta	GA	30005
Resident	5010	Avalon Drive	Alpharetta	GA	30005
Resident	3001	Camden Way	Alpharetta	GA	30005
Resident	3003	Camden Way	Alpharetta	GA	30005
Resident	3005	Camden Way	Alpharetta	GA	30005
Resident	3007	Camden Way	Alpharetta	GA	30005
Resident	3009	Camden Way	Alpharetta	GA	30005
Resident	3011	Camden Way	Alpharetta	GA	30005
Resident	3013	Camden Way	Alpharetta	GA	30005
Camden Pond Condo Assoc.	4343	Shallowford Rd	Marietta	GA	30062
Bridge Point HOA	2555	Westside Pkwy, Ste 600	Alpharetta	GA	30006



PROPOSED ATTACHED HOME PROJECT

3820 OLD MILTON PARKWAY

The Vision

Beecham Group is pleased to announce our intention to develop a new attached home development at 3820 Old Milton Parkway. folia' is Beecham Group's branded development philosophy for attached and detached homes celebrating Architecture, Design, and Simplicity. folia' is a place where form and function blend seamlessly. A place where quality is paramount to quantity. A place where you'll immediately recognize the careful planning and thoughtfulness put into each and every detail.

By bringing together the industry's best Architects, Interior Designers and suppliers, folia' developments bring a sense of balance, harmony, and simplicity. Every home has been carefully detailed to create a streetscape that blends the best of the past while embracing the present. Each home has been meticulously planned with each and every detail and finish seamlessly working together to create a "nesting" place... *where life can be lived simply.*

Builder/ Developer – Beecham Group, LLC

For four generations, the Beecham family has been building Atlanta's finest luxury homes. This tie to the past has helped shape our philosophy of building homes that last - a commitment that begins with the foundation and extends through to every detail and finish.

We've earned the reputation for attention to detail, fine workmanship, solid construction, and unparalleled customer service. And the homes we build show our devotion to our customers, our craft, and the environment.

Beecham Group

- **Rob Beecham** – Rob's background in ministry and counseling helped prepare him as the primary contact for Beecham Group customers. Rob's ability to proactively communicate with each customer, manage expectations, and establish a team environment has in part enabled Beecham Group to build America's finest homes.
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"Architecture should speak of its time and place, but yearn for timelessness." Frank Gehry

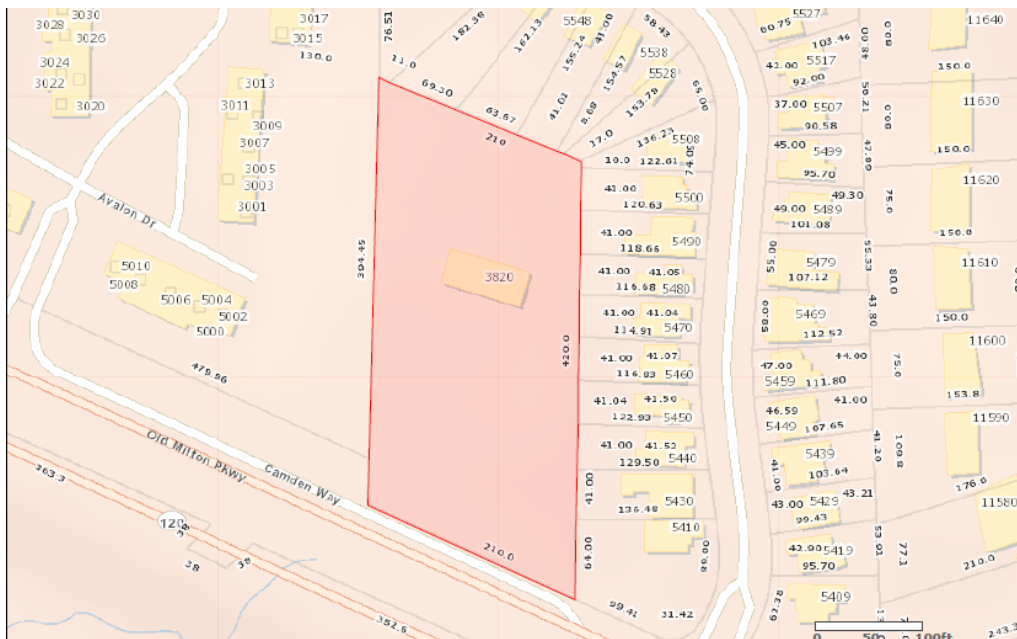
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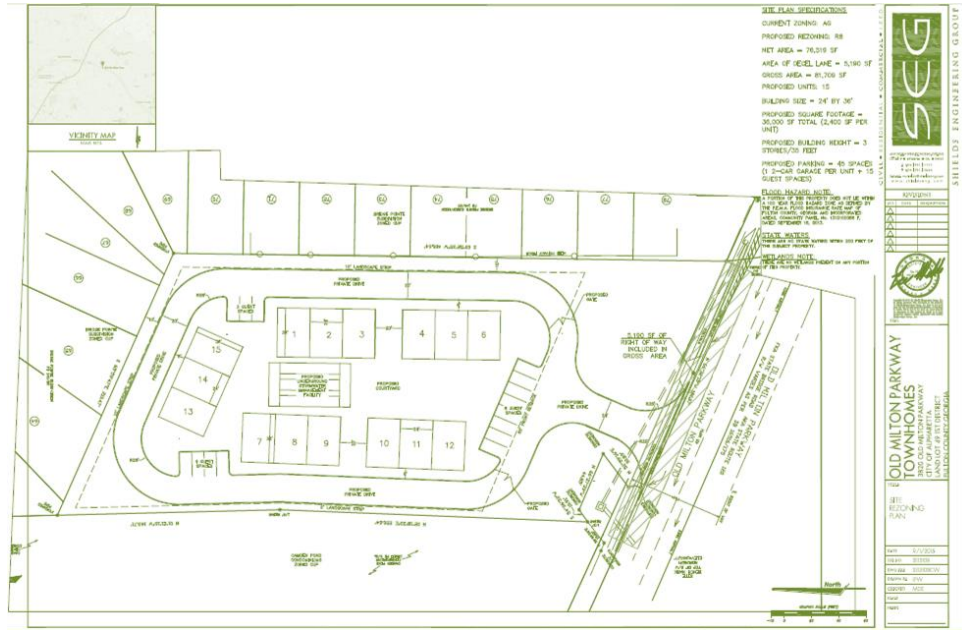
Property – 3820 Old Milton Pkwy





"Architecture should speak of its time and place, but yearn for timelessness." Frank Gehry

Proposed Site Plan – Gated community of 15 Attached Homes with central plaza.



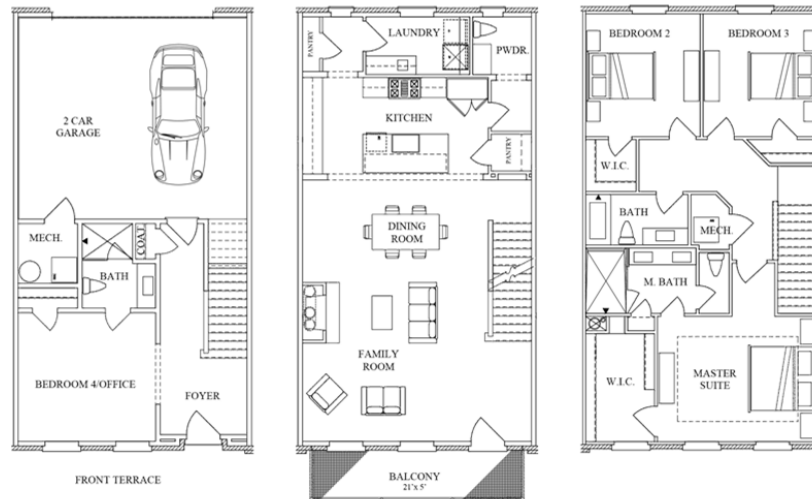
Proposed Architectural Styles





"Architecture should speak of its time and place, but yearn for timelessness." Frank Gehry

Proposed Floor Plan



If you have any questions or concerns, please don't hesitate to contact us!

Contact Information:

Rob Beecham

rob@beechamgroup.com

c - 770-688-0046

o - 404.720.5664

www.beechamgroup.com

CITIZEN PARTICIPATION FORM - PART B

This form must be completed and submitted to the City of Alpharetta Community Development Department a minimum of twenty (20) working days prior to the scheduled Public Hearing. Failure to do so will result in cancellation of the scheduled hearing.

Public Hearing or Project Name: 3820 Old Milton Parkway Town Home Project

Contact Name: Rob Beecham

Telephone: 770-688-0064

Please describe comments and concerns provided by any and all individuals contacted as part of the the Citizen Participation Program. If any individuals provided written correspondence, please attach copies of same to this report.

We have only been contacted by one adjacent property owner. Deb Baumgartner contacted us via email with questions

regarding several large pine trees that overshadow her property. We advised her that we intend to remove the trees. She

also asked if we would protect her fence which we advised her that we would protect her fence. Her final question was regarding

potential vandalism and damage to her property. We assured her that we could closely watch the project and that we had

excellent project management as well as insurance coverage for such events. She was satisfied with our answers.

Method by which these individuals were contacted. Please mark all that apply. *Please provide samples of any and all written communications used to provide notification.*

- | | |
|--|---|
| ☒ Letter | ☐ Personal Visits |
| ☐ Telephone | ☐ Group Meeting |
| ☐ Email | ☐ Other (Please Specify) _____ |

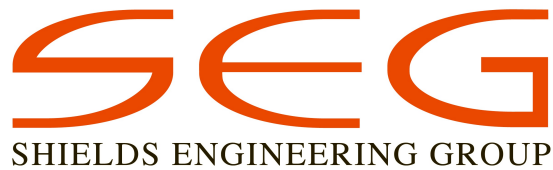
Attach a list of people who have been notified of this application and provided information describing the subject proposal. Please note that ALL adjoining property owners MUST be notified.

I, the undersigned, as an authorized representative of the applicant and Public Hearing item identified above, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Citizen Participation Form - Part B and in any and all documents provided in support of this report are true and accurate. I further understand that any false statements provided by representatives of the applicant as part of this report may result in penalties up to and including denial of the subject application.

Signature of Authorized Agent: _____

Date: 10-14-18

Print Form



September 29, 2015

Harry Beecham
Beecham Group
885 Woodstock Road, Ste 430-180
Roswell, GA 30075

**RE: Trip Generation Report
Old Milton parkway Townhomes
3820 Old Milton Parkway
City of Alpharetta**

Harry,

In accordance with the City of Alpharetta's Public Hearing Application, Shields Engineering Group has completed the following Trip Generation Report for your proposed 15 unit town home development (Trip Generation, 9th Edition, ITE):

Land Use (ITE Code)	Intensity		Daily		A.M. Peak		P.M. Peak		
			Total	In	Out	Total	In	Out	Total
Townhome (230)	15	Units	100	1	6	7	5	3	8
TOTAL			100	1	6	7	5	3	8

Since the proposed project has less than 100 or more peak hour vehicular trips, no traffic study will be submitted.

If you have any questions, please give me a call.

Respectively Submitted,

SHIELDS ENGINEERING GROUP, INC.

A handwritten signature in black ink that reads 'Martin D. Shields'.

Martin D. Shields, MCE, PE, LEED^{AP}
Principal

cc: file













COUNCIL AGENDA REPORT

FROM: Kathi Cook, Community Development Director
Richard McLeod, Senior Planner

SUBJECT: CLUP-15-11/Z-15-10/CU-15-11/V-15-25 Thompson Street
Flats

CITY COUNCIL: November 16, 2015

PLANNING COMMISSION:

This item was heard at the November 5th Planning Commission meeting. No one spoke in favor or against the proposal. After discussion, the Commission unanimously recommended approved of the request with changes to the building height limit and permitted a minimum landscape strip of 9' adjacent to the property to the west, east and south.

RECOMMENDATION:

Approve CLUP-15-11/Z-15-10/CU-15-11/V-15-25 Thompson Street Flats request for a Land Use amendment and zoning change with the following conditions:

1. The site, shall be zoned DT-LW. Land Use shall be "Mixed Use Live-Work.
2. Property shall be developed substantially in accordance with submitted plan by CORE dated 9/21/2015 as presented on 11/5/15. However, lot yield depicted is not guaranteed and subject to meeting all City code requirements and conditions of zoning.
3. Site and architecture shall be substantially similar to elevations submitted and meet requirements of the Alpharetta Downtown Code and be final approved by Staff. The sides of the building shall have significant architectural features along Thompson Street.
4. Thompson Street shall generally be improved as follows: 36 foot half width right-of-way to incorporate 12 foot walkway, 6 foot planting area, 8 foot on-street parking, and 10 foot travel lane with final approval by Staff. Final Roadway configuration to match concurrent zonings as approved by Senior Transportation Engineer.
5. Thompson Street shall include stacked stone or granite wall between sidewalk and the park with final approval by Staff. Under ledge lighting of wall shall be required. Benches approved by Staff shall be provided in dedicated pocket park area.

6. **Roadways with on-street parking shall incorporate curb extensions at intersections. All entrance drives shall be constructed with decorative pavers approved by Staff.**
7. **Development shall not be gated.**
8. **Internal sidewalks to the front of units shall be provided.**
9. **Landscaping along Thompson Street shall be provided to screen the internal streets. Include a mix of evergreens and deciduous trees, shrubs, and ground covers of varying heights, textures and colors.**
10. **Additional consideration shall be given to those trees that will be visible from Thompson Street that add to the overall aesthetics and “Park-Like” appearance of the Thompson Street landscape.**
11. **The 23” pecan tree, the 41” Water Oak (#355), 24” Black walnut (#368), shall be incorporated into the site plan. Applicant will make every effort to incorporate the 28” Water Oak (#363), 48” Water Oak (#365), the 36” water oak (#372) and the 25” Water Oak (#366) into the site plan with final approval by Staff. Applicant shall be responsible for any recompense.**
12. **Street trees along Thompson Street shall be a minimum of 6” caliper at time of planting.**
13. **A minimum 9’ landscape strip to west and south and east shall be provided and incorporate existing trees as approved by Arborist.**
14. **Applicant shall make an effort to determine if any existing landscaping (ornamental trees and shrubs) can be spaded and relocated on site to enhance the maturity level of landscaping at time of project completion.**
15. **Additional encroachment into the CRZ of saved trees on a case by case basis will be allowed if retaining walls, tree wells, structural soils, or other innovative measures are used. This will be allowed where constructability may be a challenge based upon topography or other site factors.**
16. **Amenity areas shall be improved with hardscape and landscape as depicted, with final approval by Staff.**
17. **Building height shall be limited to 40’-0” with additional height allowed up to 48 feet for the observatory.**

REPORT-IN-BRIEF

The applicant, Rick Sjöholm, is requesting to rezone 2.3 acres from R-12 to DT-LW and change the Comprehensive Land Use Plan from “Professional/Business Office” and “Commercial” to “Mixed Use Live Work”. The applicant is requesting a conditional use to allow 10 units per acre. The applicant is also requesting a variance for the height of the building from 3 stories or 40’ to 48’ for the 4th floor conservatory. The four properties combined are approximately 2.3 acres in size.

DISCUSSION

The submitted request, if approved, will allow the applicant to build a project consisting of four, six unit residential condominium “for sale” with park and open space. The property is located south of Thompson Street and the north side of Old Milton Parkway and to the west of Old Milton Holdings.

The property is currently zoned R-12 which requires 12,000 square foot lots and is located within the Downtown Master Plan area and designated as Downtown-Live/Work within the Future Land Use Plan. The DT-LW (Downtown-Live/Work) zoning is being requested which permits consideration of up to 8 units per acre subject to site conditions. The request is for 4 buildings with 6 attached “for-sale” units in each building. The total requested density is 10 units per acre which is over the 8 units permitted in the DT-LW zoning except as approved by the City Council.

The property to the north is currently zoned MU and O-P, the property to the west is zoned C-2, the property to the east and south is zoned O-I with the funeral home. The proposed development would replace 4 existing homes.

The buildings will be filled with 24 luxury condominiums with a large central park. The prices on the units range from \$500,000 to \$1,000,000. The parking is underneath the buildings in a secured environment. Residents can walk either to Avalon or downtown.

Results from the Downtown Master Plan study show residential demand over the next five years within the downtown area as follows:

- High-end (Single-family) Condo: 45 - 50 units.

The only condominiums zoned are the Alpharetta Lofts which have 32 units and are nearing completion and the West Canton Lofts which are zoned for 24 units but have not begun construction. The luxury condominiums, Alpharetta Lofts, on Canton Street were being built before the study was completed. Both projects are located on Canton Street. Old Milton Holdings was approved for 54 stacked flats just east of this site.

The trees on the subject site are mainly around the perimeter. A 23” pecan tree is being saved located along the front of the property as well as a 41” water oak. A 36” water oak and 24” Black Walnut located along the south property line will also be incorporated. However, there is a large Magnolia #343 that is to be taken down. The Critical Root Zone can be encroached but the building is too close to the tree.

The traffic report shows there are 186 daily trips from the development. The weekday AM Peak Hour is 16 trips and the weekday PM Peak Hour is 19 trips.

Traffic for the proposed development was calculated using equations and rates contained in the Institute of Transportation Engineers' (ITE) *Trip Generation Manual*, Ninth Edition, 2012. The trip generation was calculated assuming 24 residential condominiums (Land Use 230). The table below summarizes the trip generation for the proposed development under the full build-out year.

Project Trip Generation Summary										
Land Use	ITE Code	Daily Traffic			AM Peak Hour			PM Peak Hour		
		Total	Enter	Exit	Total	Enter	Exit	Total	Enter	Exit
Residential Condominium/Townhouse (24 units)	230	186	93	93	16	3	13	19	13	6
Gross Trips		186	93	93	16	3	13	19	13	6

The Alpharetta Downtown Code requires a minimum of 10% amenity space on all sites. The amenity space on the site plan is privately owned and for use by the residents and encompasses 18.4% (19,083 sq. ft.) of the site and is viewable to the public. The civic space is about 8.2% (8,562 sq. ft.) of the site which doesn't meet the required 10% rule; however, when you combine that with the portion of Thompson Street for on street parking which the applicant is creating it meets the 10%

The civic space is the portion of open space for public use defined by the combination of certain physical constants including the relations among their intended use, their size, their landscaping, and their adjacent buildings.

Architecture is designed by Hug and Associates and captures the intent of the Alpharetta Downtown Code. The buildings should be brick, stone or painted brick with hard coat stucco. They will require review by the City's Downtown Architect.

The conditional use permit is requested for the applicant to permit the 10 units per acre exceeding allowed 8 units per acre that the Alpharetta Downtown Code allows. If the applicant can include the recommended specimen trees on the site the density can be supported because this location is adjacent to commercial zoning to the west and south. The density and condominium configuration would not be appropriate on the north side and is better situated for this site due to adjacent commercial.

The applicant also requests a height variance. The Alpharetta Downtown Code in the UDC states that all properties in DT-LW have a height limit of 40 feet or 3 stories. This application is for 4 stories. The applicant is asking for an 8 feet variance to take the building to 47 feet. However, the 4th story is an observatory and takes up only a portion of the 4th floor.

Residential development is known to increase school enrollment. Fulton County calculated the potential maximum number of children who may live on the property by using the Fulton County schools standard calculation to distinguish the number of children that a residential development will generate. The following chart outlines these figures:

**FULTON COUNTY SCHOOLS
AVERAGE SCHOOL AGE CHILDREN PER HOUSEHOLD
BASED ON HOUSING TYPE**

Condominiums Average # 24	
Manning Oaks Elementary School	2 - 3
Hopewell Middle School	1 - 1
Alpharetta High School	0 - 1

Based on the total figure for all three-school levels, it can be assumed that the proposed development could house approximately 3 - 5 school age children. Alpharetta High can meet demand however; Manning Oaks Elementary and Hopewell Middle School are shown to be over capacity.

STANDARDS FOR ZONING CHANGES

The Planning Commission and the City Council shall consider the following standards in considering a rezoning application, giving due weight or priority to those factors particularly appropriate to the circumstances of each application:

- a. Whether the zoning proposal will permit a use that is suitable in view of the zoning use and development of adjacent and nearby property.

The zoning will allow a use that is compatible with recent rezonings which include the Hedgewood detached product at the corner of Thompson Street and Haynes Bridge and the recently approved attached and detached site plan approved southeast of this site. Recently, the Andrews Homes attached product was approved. However, the highest density approved has been 8.8 units per acre permitted for Old Milton Holdings. With some adjustments, such as; adding walls to protect specimen trees located on the site as well as adjustments to provide heavy landscaping on the site the proposed density could be an appropriate transition adjacent to commercially zoned property.

- b. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

The proposal should not impact adjacent property, however heavy landscape screening should be installed along the property line adjacent to the neighboring parcels.

- c. Whether the zoning proposal will adversely affect the natural environment.

The proposal could impact the natural environment if the applicant is not required to incorporate specimen trees onsite as well as offsite trees. There are several specimen trees that will be taken down as part of the project therefore every effort shall be made to incorporate perimeter trees.

- d. Whether there are substantial reasons why the property cannot or should not be used as currently zoned.

The property is currently zoned R-12 permitting the construction of 12,000 square foot lots. The newly adopted Downtown Master Plan contemplates a greater density that is also sensitive to the environment and helps to promote the Thompson Linear Park system. Density should not be granted where sites do not contribute to the proposed linear park.

- e. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of public facilities or services, including but not limited to existing streets and transportation facilities, schools, water or sewer utilities, and police or fire protection.

This use will add 3-5 students to the school system. However their target is empty nesters.

- f. Whether the zoning proposal is supported by new or changing conditions not anticipated or reflected in the existing zoning on the property.

The proposal is supported by new or changing conditions. The passage of the Downtown Master Plan acknowledges the changes.

- g. Whether the zoning proposal reflects a reasonable balance between the promotion of the public health, safety, morality or general welfare against the right to unrestricted use of property.

The request to rezone from R-12 to DT-LW reflects a reasonable balance.

- h. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

The current zoning would permit the construction of “for-sale” residential on 12,000 square foot lots. The Alpharetta Downtown Code was adopted as part of the recent Alpharetta Downtown Master Plan in July.

- i. The extent to which the zoning proposal is consistent with the Comprehensive Plan.

The property does meet the Comprehensive Land Use plan as it has been changed recently to the Mixed Use Live Work.

COMPREHENSIVE LAND USE PLAN

The Unified Development Code Section 4.1.3 STANDARDS FOR CLUP AMENDMENT APPROVAL provides criteria for consideration when evaluating a request for a CLUP amendment as listed below:

- A. The extent to which a change in the economy, land use or development opportunities of the area has occurred.

The proposed development reflects the goals outlined in the Downtown Master Plan.

- B. The extent to which the proposed designation is in compliance with the goals and policies of the Plan.

The Comprehensive Land Use Plan discusses the goal to promote and encourage residential densities and designs that ensure varied living areas and housing types. The properties to the east with Old Milton Holdings, and across the street with Andrews Homes and Avalon, have been developed with Medium and High density residential with quite a bit of mixed use development.

- C. The extent to which the proposed designation would require changes in the provision of public facilities and services.

The designation would not require changes to public facilities and services.

- D. The extent to which the proposed designation would impact the public health, safety, and welfare.

The proposal would not impact the public health, safety and welfare.

- E. The extent to which additional land area is needed to be developed for a specific type of use.

N/A

F. The extent to which area demographics or projections are not occurring as projected.

Demographics and projections have changed for the area. However the Downtown Plan study found that additional residential density is needed close to the downtown area.

CONDITIONAL USES

City staff has reviewed the applicant's request and compared it to the conditional use standards established in UDC Sec. 4.2.3 (B) which are as follows:

A conditional use otherwise permitted within a zoning district shall be considered to be compatible with other uses permitted in the district, provided that due consideration is given to the following objective criteria at a public hearing and satisfactory provisions or arrangements are made for:

1. Access into and out of the property with regard to traffic and pedestrian safety, volume of traffic flow, and emergency vehicles, as well as the type of street providing access;

Response:

The Daily Trip Analysis shows almost 186 daily trips from the project.

2. The extent to which refuse areas, loading and service areas, off street parking, and buffers and screening are provided on the property;

Response:

Not Applicable

3. Ensuring that the conditional use will not be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity or diminish and impair property values within the surrounding neighborhood;

Response:

The condominium project will not be injurious to those around it, but the density of 10 units to the acre over 8 units per acre and the number of specimen trees that are being removed could be problematic. There are several perimeter trees that should be incorporated into the site.

4. Ensuring that the conditional use will not increase local or state expenditures in relation to the cost of servicing or maintaining neighboring properties;

Response:

Not applicable.

5. Ensuring that the conditional use will not impede the normal and orderly development of surrounding property for uses predominant in the area; and

Response:

Not applicable

6. Ensuring that the location and character of the conditional use is considered to be consistent with a desirable pattern of development for the city, in general.

Response:

The condominium project will not be injurious to those around it. The density is greater than the 8.8 approved however; it is adjacent to commercial property.

VARIANCE REQUIREMENTS

The City of Alpharetta Unified Development Code Article IV, Section 4.5.3 outlines the criteria set forth for granting a variance. The ordinance specifically states..."a variance may be granted in whole or in part, or with conditions, in such individual case of unnecessary hardship upon a finding that":

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; or

The ordinance requirements do create a hardship for the applicant. The recently adopted Alpharetta Downtown Code recommends permitting up to 3 stories or 40 feet in height. The applicant has a building that is 39'-6" and meets the code; however they are installing a 4th floor observatory that is smaller than the main floor. Because the observatory does not span the entire building the massing is still appropriate. Also the ends of the building front Thompson Street which minimizes the impact.

- (2) The application of the Ordinance to this particular piece of property would create an unnecessary hardship; or

The variance to allow 48 feet is to accommodate the observatory. Without the variance, the applicant would have to remove the observatory.

- (3) There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned.

Not applicable.

- (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of the City of Alpharetta ordinances,

Not applicable.

CONCURRENCES

Staff's analysis finds that the requested rezoning can be supported. The civic area should be required to include benches as well as the landscaping proposed. The higher density proposed may be appropriate in this location only because of the locations adjacent to commercial. Every effort should be made to include existing tree coverage and limit impacts.

CITIZEN PARTICIPATION PLAN

The applicant notified everyone within 500 feet of the intent for the property. A meeting was held where surrounding property owners could attend and no one attended. The applicant met with Lawson Finlayson of River Rock Development that adjoins this project to the east. The applicant says he offered his full support.

Attachments

Site Plan

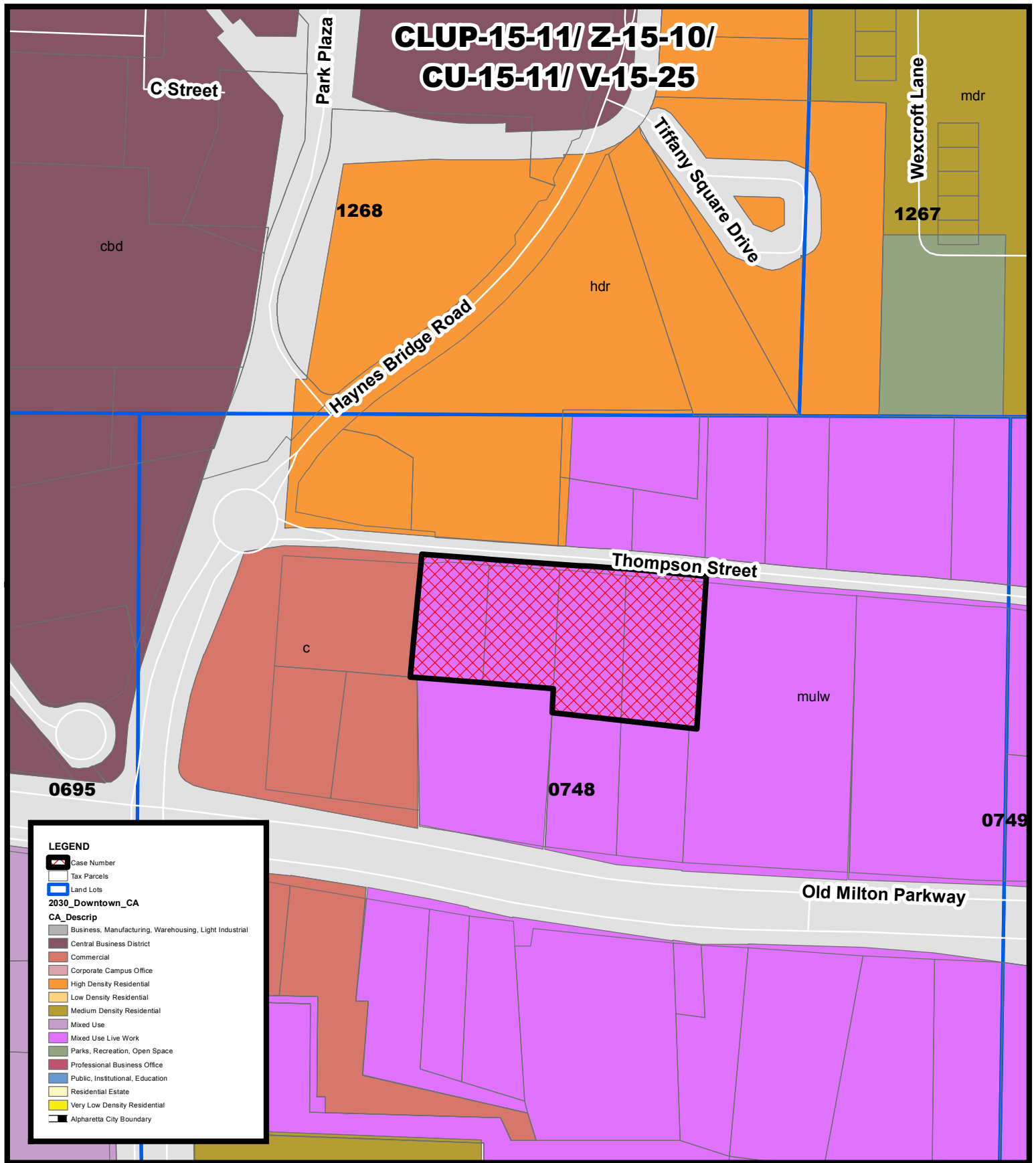
Architectural Drawings



Aerial Map Thompson Street Flats

**Case: CLUP-15-11/ Z-15-10/
 CU-15-11/ V-15-25
 D/LL: 1/2/0748
 PC Date: 11/05/2015
 CC Date: 11/16/2015**

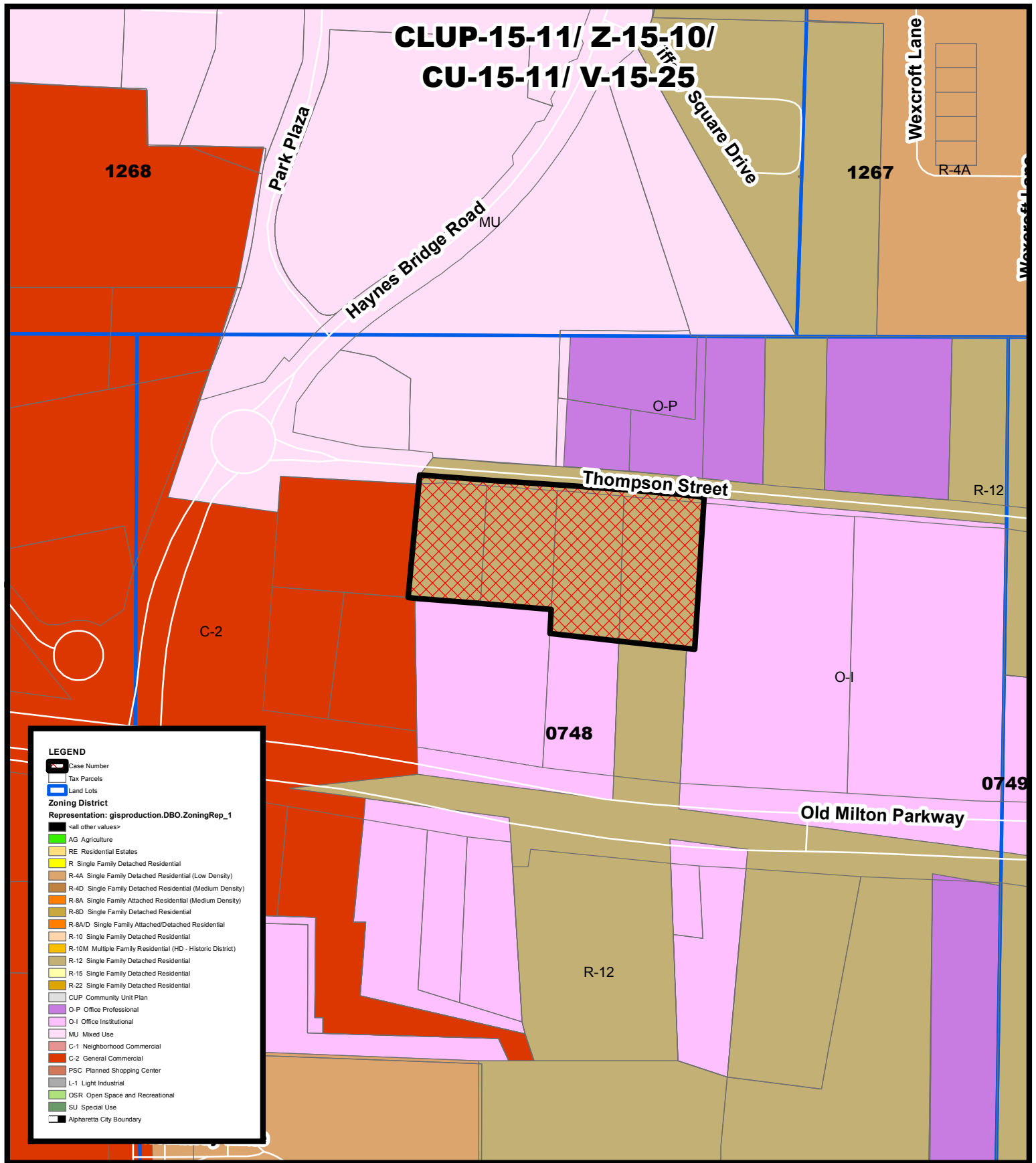
**Location Map Provided by:
 Community Development - GIS**



2030 Land Use Thompson Street Flats

**Case: CLUP-15-11/ Z-15-10/
CU-15-11/ V-15-25**
D/LL: 1/2/0802, 0803
PC Date: 09/09/2015
CC Date: 09/28/2015

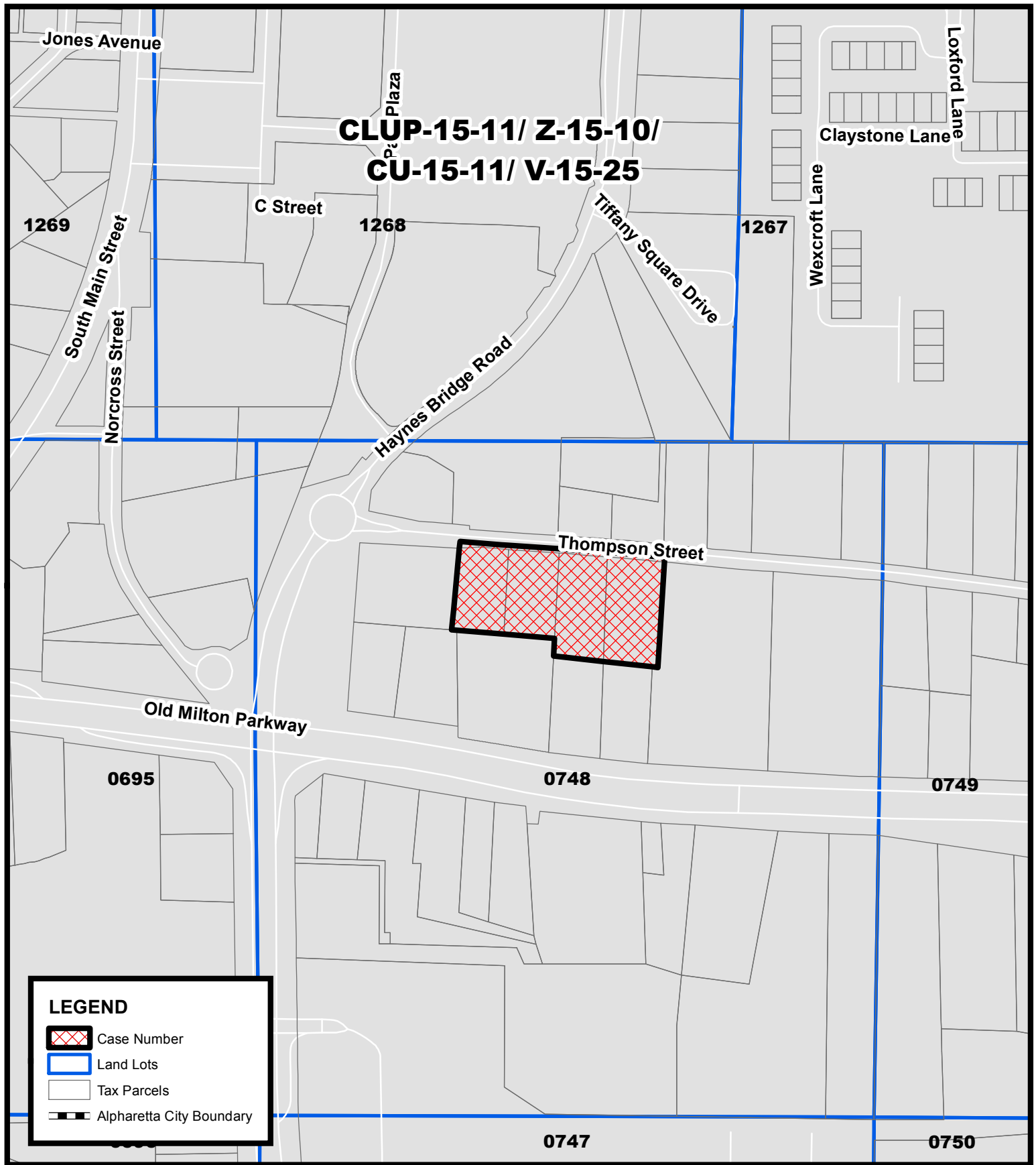
**Location Map Provided by:
Community Development - GIS**



Zoning Map Thompson Street Flats

**Case: CLUP-15-11/ Z-15-10/
CU-15-11/ V-15-25
D/LL: 1/2/0748
PC Date: 11/05/2015
CC Date: 11/16/2015**

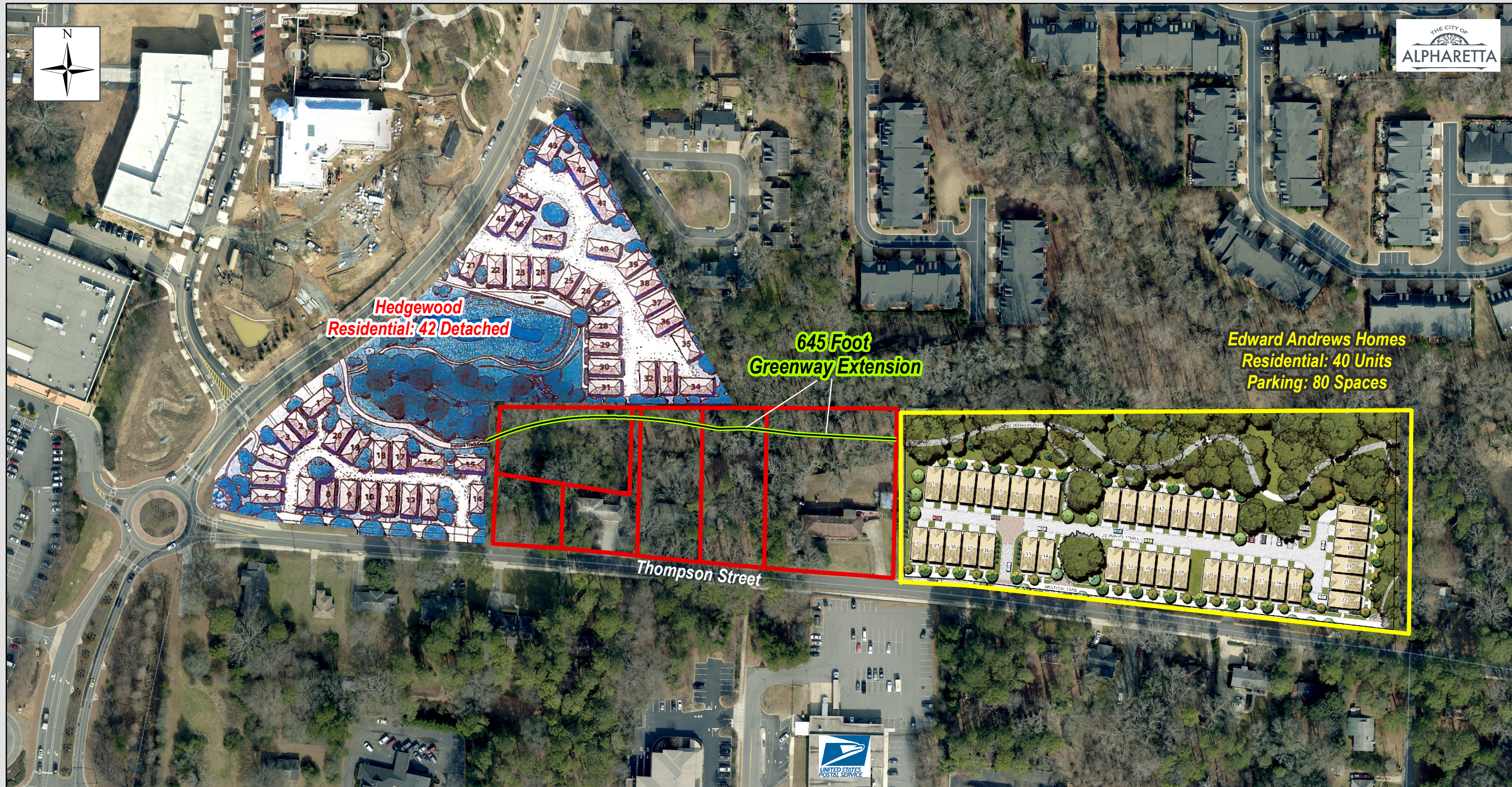
**Location Map Provided by:
Community Development - GIS**



Location Map Thompson Street Flats

**Case: CLUP-15-11/ Z-15-10/
 CU-15-11/ V-15-25**
D/LL: 1/2/0802, 0803
PC Date: 11/05/2015
CC Date: 11/16/2015

**Location Map Provided by:
 Community Development - GIS**



Thompson Street Development

Location Map Provided by:
Community Development - GIS

 Existing Tax Parcels

1"=150'



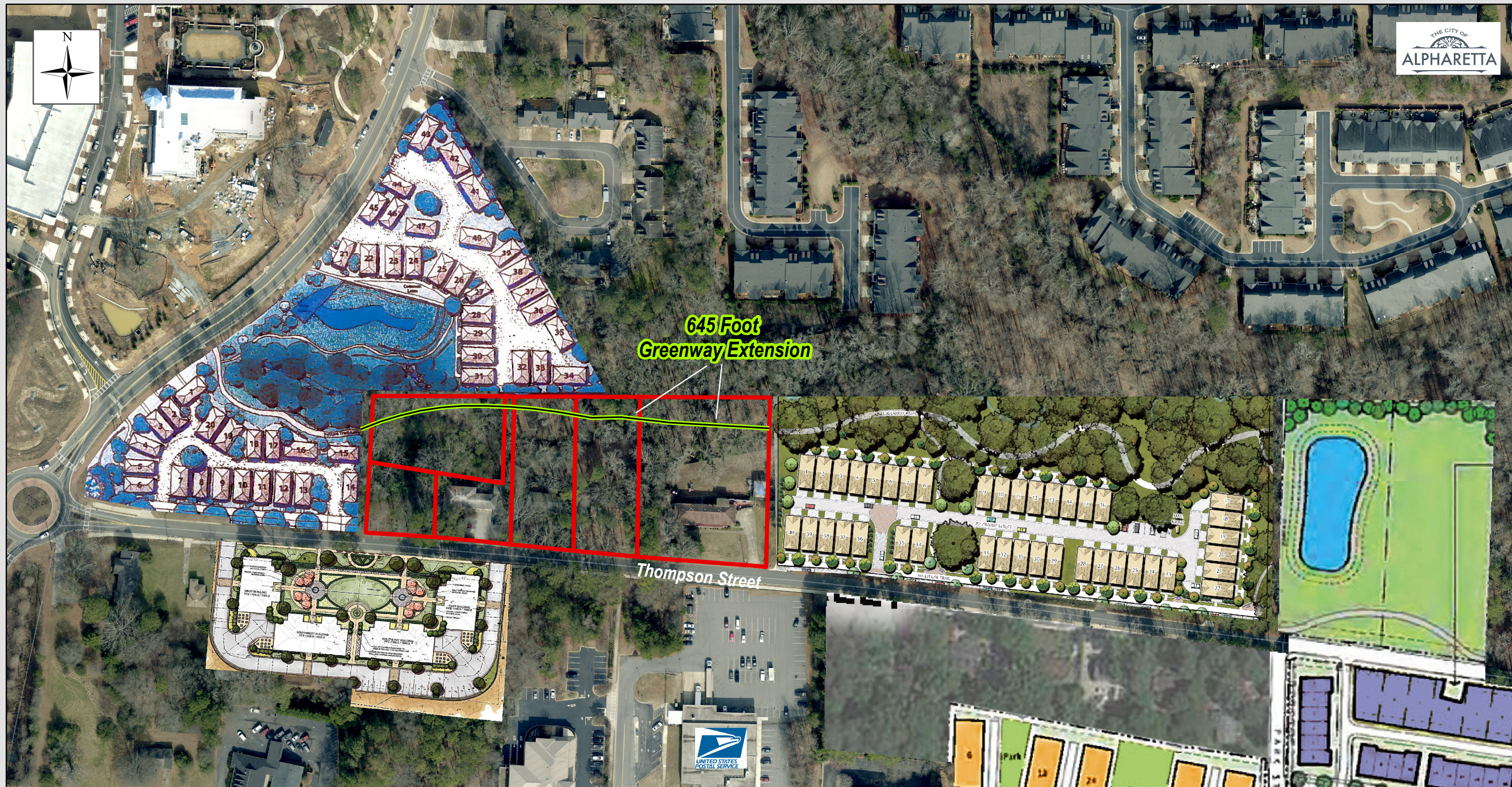
1"=250'



Thompson Street Development

Location Map Provided by:
Community Development - GIS





1"=150'

Thompson Street Development

Location Map Provided by:
Community Development - GIS

 Existing Tax Parcels

CITY OF ALPHARETTA

CLUP-15-11/Z-15-10/CU-15-11
THOMPSON ST FLATS

PUBLIC HEARING APPLICATION

mail: _____

COMMUNITY DEVELOPMENT DEPARTMENT • 2 PARK PLAZA • ALPHARETTA, GA 30009

1. **This page should be the first page in each of your completed application packets.**
2. **It is preferred that all responses be typed. Illegible applications will not be accepted.**
3. **Prior to signing and submitting your application, please check all information supplied on the following pages to ensure that all responses are complete and accurate. Incomplete applications will not be accepted.**
4. **Payment of all applicable fees must be made at the time of application. Payment may be made via cash, credit card (American Express, Master Card or Visa), or check made payable to "City of Alpharetta."**
5. **Applications will be accepted only on the designated submittal dates between the hours of 8:30 AM and 3:30 PM.**
6. **If you have any questions regarding this form, please contact the Community Development Department by calling 678-297-6070.**

Contact Information:

Contact Name: Rick Sjolhm

Telephone: 678-525-4653

Address: 1304 Bombay Lane

Suite: _____

City Roswell

State: Ga

Zip: 30076

Fax: _____

Mobile Tel: 678-525-4653

Email: r.sjolhm@yahoo.com

Subject Property Information:

Address: 51,61,71 and 83 Thompson St.

Current Zoning: O-P

District: 1

Section: 2

Land Lot: 748

Parcel ID: See attached parcel ID list

Proposed Zoning: ~~R-40~~ DT-LW Current Use: Four Residential Homes

WALKUP FLATS

This Application For (Check All That Apply):

☐ Conditional Use

☐ Master Plan Amendment

☒ Rezoning

☐ Master Plan Review

☒ Variance

☐ Public Hearing

☐ Comprehensive Plan Amendment

☐ Other (Specify): _____

PARCEL ID NUMBERS

51 THOMPSON ST. – 12270 307 480 693

61 THOMPSON ST. – 12270 307 480 610

71 THOMPSON ST. – 12270 307 480 321

83 THOMPSON ST. – 12270 307 480 743

PROPERTY OWNER AUTHORIZATION

Property Owner Information:

Contact Name Beverly Sullivan, Executive of Estate of Louise A. Goswami

Telephone 478 987-2266

Address 83 THOMPSON ST.

State GA.

City ALPHARETTA

State GA. Zip _____

Authorization:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified below which is the subject of the attached Application for Public Hearing before the City of Alpharetta, Georgia.

As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Public Hearing in request of the items indicated below.

- | | |
|---|--|
| ☐ Amendment | ☐ Special Use |
| ☒ Rezoning | ☐ Conditional Use |
| ☐ Variance | ☐ Master Plan |
| ☐ Land Use Application | ☐ Other _____ |

Identify Authorized Applicant:

Name of Authorized Applicant Thor Management LLC

Telephone 578 525 4653

Address 1304 Bonney Lane

State _____

City Roswell

State GA

Zip 30076

So Sworn and Attested:

Owner Signature

Beverly A. Sullivan, Executive
Estate of Louise A. Goswami

Date

7/28/2015

Notary:

Notary Signature

YAMARA DAVIDSON



Date

7/28/2015

PROPERTY OWNER AUTHORIZATION

Property Owner Information:

Contact Name: KATHY COCHREN Telephone: _____
Address: 51 THOMPSON ST. Suite: _____
City: ALPHARETTA State: GA. Zip: 30009

Authorization:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified below, which is the subject of the attached Application for Public Hearing before the City of Alpharetta, Georgia.

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- | | |
|---|--|
| ☐ Annexation | ☐ Special Use |
| ☒ Rezoning | ☐ Conditional Use |
| ☐ Variance | ☐ Master Plan |
| ☐ Land Use Application | ☐ Other _____ |

Identify Authorized Applicant:

Name of Authorized Applicant: RICK SJOBLOM Telephone: 678-525-4653
Address: 1304 BOMBAY LN Suite: _____
ROSWELL State: GA. Zip: 30076

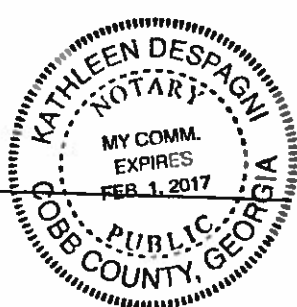
Sworn and Attested:

Signature: Kathy N. Cochren
Kathy N. Cochren

Date: 7-28-15
7-28-15

Signature:

Signature:



Date: 7-28-15

PROPERTY OWNER AUTHORIZATION

Property Owner Information:

Contact Name: BERT BLACKWELL Telephone: _____
Address: 71 THOMPSON ST. Suite: _____
City: ALPHARETTA State: GA Zip: 30009

Authorization:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified below, which is the subject of the attached Application for Public Hearing before the City of Alpharetta, Georgia.

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- | | |
|---|--|
| ☐ Annexation | ☐ Special Use |
| ☒ Rezoning | ☐ Conditional Use |
| ☐ Variance | ☐ Master Plan |
| ☐ Land Use Application | ☐ Other _____ |

Identify Authorized Applicant:

Name of Authorized Applicant: RICK SJRHOIM Telephone: 678-525-4653
Address: 1304 BOMBAY LN. Suite: _____
City: ROSWEIL State: GA Zip: 30076

So Sworn and Attested:

Owner Signature: Bert L. Blackwell

Date: 7-28-2015
7-28-2015

Notary:

Notary Signature: [Signature]



Date: 7-28-2015

PROPERTY OWNER AUTHORIZATION

Property Owner Information:

Contact Name: KATY COCHRAN Telephone: _____

Address: 41 THOMPSON ST. Suite: _____

City: ALPHARETTA State: GA Zip: 30009

Authorization:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified below, which is the subject of the attached Application for Public Hearing before the City of Alpharetta, Georgia.

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- | | |
|---|--|
| ☐ Annexation | ☐ Special Use |
| ☒ Rezoning | ☐ Conditional Use |
| ☐ Variance | ☐ Master Plan |
| ☐ Land Use Application | ☐ Other _____ |

Identify Authorized Applicant:

Name of Authorized Applicant: RICK STODOLM Telephone: 678-525-4653

Address: 1304 BOMBAY LN Suite: _____

City: ROSWELL State: GA Zip: 30076

So Sworn and Attested:

Owner Signature: Katy N. Cochran

Date: 7-28-15

Notary:

Notary Signature: [Signature]

Date: 7-28-15



APPLICANT REQUEST AND INTENT

What is the proposed use(s) of the property?

Applicant requests ~~R-10~~ zoning on 2.39 acres to specifically allow 24 residential condominium units as shown on the attached site plan.

DT-LW
WALK UP FLATS

Applicant's Request (*Please itemize the proposal*):

Combine all 4 parcels to accommodate the development of 24 luxury condominium flats in four three story buildings surrounding a large central park. Community would be gated, private and priced from approximately half a million to a million dollars.

Applicant's Intent (*Please describe what the proposal would facilitate*):

Proposal would facilitate twenty four high end condominium flats designed for an older profile looking to consolidate from a large subdivision home into a smaller, elegantly finished unit on one level offering full security and being within walking distance of the new City Hall Project and Avalon.

ALPHARETTA PLANNING COMMISSION REVIEW CRITERIA

How will this proposal be compatible with surrounding properties?

Conforms with other new developments in the Thompson Road corridor and immediate surrounding developments, including Avalon and the new Alpharetta City Center (See attached list)

How will this proposal affect the use and value of the surrounding properties?

This project would replace four existing 1960 era ranch homes with 24 high end flats in a secure environment.

Can the property be developed for a reasonable economic use as currently zoned? Please explain why or why not.

This project at 10 units per acre is feasible due to the fact that we are building flats with covered parking in a secured environment which enables us to sell the product for a high square foot rate. We are also delivering fairly large units which what this specific market profile is demanding. These are not entry level condo's but a sophisticated product being marketed to a sophisticated purchaser.

What would be the increase to population and traffic if the proposal were approved?

There are currently 4 ranch homes on the properties generating 2 cars per home or 8 total units. We are proposing 24 units at 2 cars per home or 48 total units, thus creating 40 net total additional units.

What would be the impact to schools and utilities if the proposal were approved?

Impact on schools would be minimal because most of the anticipated owners would be older with grown children. Impact on utilities would be consistent with the proposed density of the new overlay district at 10 units per acre.

How is the proposal consistent with the Alpharetta Comprehensive Plan; particularly the Future Land Use Map?

This project conforms to the new Overlay District Land Use Map adopted in July of this year.

Are there existing or changing conditions which affect the development of the property and support the proposed request?

The entire Thompson St. corridor is experiencing redevelopment triggered by it's location between the two new major developments in Alpharetta, Avalon and the New City Center Project. This project conforms with the new Overlay District for this area adopted in July.

On a separate sheet or sheets, please provide any information or evidence that supports your request and the statements that you have provided in this application.

BOARD OF ZONING APPEALS REVIEW CRITERIA

Please respond to the following ONLY if you are applying for a zoning variance.

Are there extraordinary and exceptional conditions pertaining to the subject property because of its size, shape, or topography? Please describe them.

NO. WE SIMPLY WANT TO PUT A ROOF WITH DORMERS WHICH BRINGS THE TOTAL HEIGHT OF THE BUILDINGS TO 43.8 FEET MEASURING FROM THE FINISHED FLOOR TO THE AVERAGE HEIGHT OF THE CENTER HIGHER ROOFS. WE ARE ASKING FOR 48' TO COVER ANY GRADE DROPS AT THE FOUNDATIONS.

Would the application of the Zoning Code standards as they relate to the subject property create an unnecessary hardship? Please explain.

WITHOUT THE VARIANCE WE WOULD HAVE TO GO TO A FLAT ROOF WHICH COMPLETELY CHANGES THE LOOK AND STYLE OF OUR PRODUCT.

Are there conditions that are peculiar to the subject property? Please describe them in detail.

SINCE WE ARE SO CLOSE TO THE ALPHARETTA CITY CENTER WE WANT TO MAINTAIN A MUCH MORE TRADITIONAL LOOK.

Would relief, if granted, cause substantial detriment to the public good or impair the purpose and intent of the Zoning Code? Please defend your response.

THERE IS NOTHING ABOUT THIS TYPE OF ROOF THAT WOULD BE A DETRIMENT TO THE PUBLIC GOOD. THE CITY CENTER HAS CERTAINLY ESTABLISHED THIS LOOK AND OUR INTENTION IS TO EMULATE THAT LOOK.

On a separate sheet or sheets, please provide any information or evidence that supports your request and the statements that you have provided in this application.

CITIZEN PARTICIPATION FORM – PART A (CONT.)

- 1. RIVERROCK DEVELOPMENT (ADJOINING PROPERTY FRONTING HAYNES BRIDGE ROAD AND OLD MILTON PARKWAY.**
- 2. HEDGEWOOD PROPERTIES – CORNER OF HAYNES BRIDGE AND NE CORNER OF THOMPSON ST**
- 3. PROVIDENCE GROUP – WARREN JOLLY –10 ACRES AT HAYNES BRIDGE ROAD AND ACADAMY ST.**
- 4. OLD MILTON VILLAGE – BOB CHEELEY – 21 ACRES FRONTING THOMPSON ST. AND OLD MILTON PARKWAY.**

DISCLOSURE FORM

The Official Code of Georgia Annotated requires disclosure of campaign contributions to government officials by an applicant or opponent of a rezoning or public hearing petition (O.C.G.A. 36-67 A-1).

Applicants must file this form with the City of Alpharetta Community Development Department within ten (10) days after filing for rezoning or public hearing. Opponents to a rezoning or public hearing petition must file this form five (5) days prior to the Planning Commission meeting at which the subject rezoning or public hearing petition is scheduled to be heard.

Name of Applicant or Opponent: _____

Subject Public Hearing Case: _____

Campaign Contribution Information:

Please provide the requested information for each contribution with a dollar amount or value of \$250 or more made within the past two (2) years to an Alpharetta Official by the individual identified above. Please use a separate form for each Alpharetta Official to whom such a contribution has been made.

If the individual identified above has made no such contributions to an Alpharetta Official within the past two (2) years, please indicate this by entering "N/A" on the appropriate lines below.

Name of Official: N/A

Position: _____

Description of Contribution: N/A

Value: _____

Description of Contribution: _____

Value: _____

Description of Contribution: _____

Value: _____

Description of Contribution: _____

Value: _____

Description of Contribution: _____

Value: _____

Campaign Contribution Information:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Disclosure Form is true and accurate and that I have disclosed herein any and all campaign contributions made to an Official of the City of Alpharetta, Georgia in accordance with O.C.G.A. 36-67 A-1.

Signature: _____

J. Richard Smith

Date: _____

8/3/15

Written Description – Thompson Street Overall

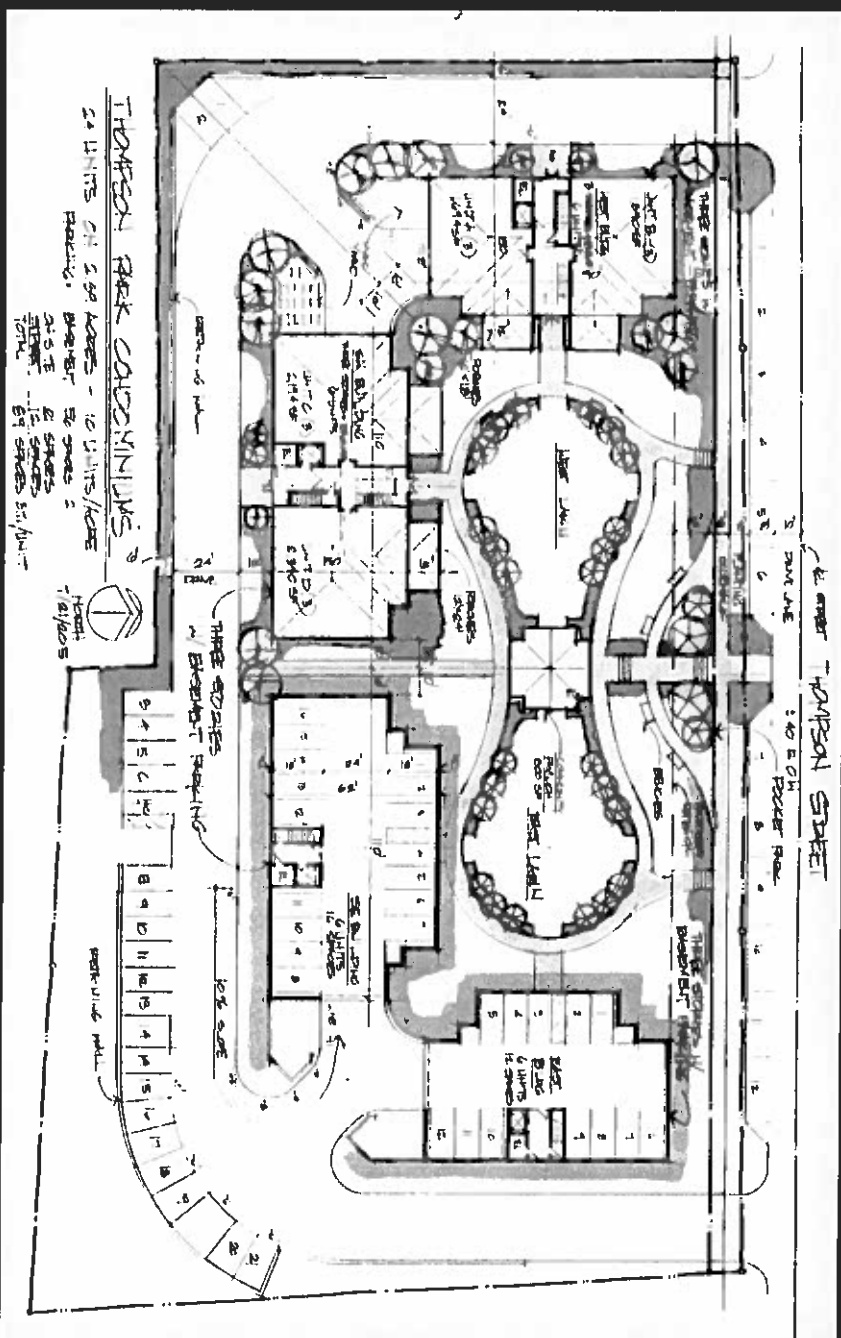
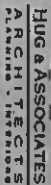
All that tract or parcel of land lying and being in Land Lot 748, 1st District, 2nd Section, City of Alpharetta, Fulton County, Georgia, and being more particularly described as follows:

To find the point of beginning, commence at the intersection of the northerly right of way of Old Milton Parkway and the easterly line of Land Lot 748; thence leaving said Land Lot line and running westerly along the northerly right of way of Old Milton Parkway 515.30 feet to a point; thence leaving said right of way N 01°28'53" E a distance of 209.87 feet to an axle found and the **POINT OF BEGINNING**; thence N 82°24'59" W a distance of 107.71 feet to a tie road found; thence N 82°16'31" W a distance of 106.94 feet to an iron pin found; thence N 01°41'01" E a distance of 31.74 feet to an iron pin found; thence N 85°18'31" W a distance of 220.00 feet to a #3 rebar found; thence N 04°21'55" E a distance of 210.02 feet to an iron pin set on the southerly right of way of Thompson Street (right of way varies); thence along said right of way of Thompson Street the following courses and distances: N 86°59'15" E a distance of 27.74 feet to a point; thence S 85°27'18" E a distance of 114.27 feet to a point; thence S 03°46'57" E a distance of 13.35 feet to a point; thence S 83°30'39" E a distance of 10.01 feet to a point; thence N 03°45'49" E a distance of 13.55 feet to a point; thence S 85°27'18" E a distance of 56.43 feet to an iron pin set; thence S 84°45'42" E a distance of 108.98 feet to a point; thence S 85°26'38" E a distance of 102.34 feet to a point; thence S 87°37'01" E a distance of 19.17 feet to an iron pin set; thence leaving said right of way S 01°15'53" W a distance of 258.83 feet to a tie rod found; thence N 81°01'31" W a distance of 18.71 feet to the **POINT OF BEGINNING**. Said tract contains 103,953 square feet or 2.386 acres.

P.O. BOX 640
LEWISVILLE, GEORGIA 30046
(770) 345-2890



**BARTON SURVEYING
INC.**
P.O. BOX 640
LEBANON, GEORGIA 30146
(770) 345-2870



CITIZEN PARTICIPATION FORM - PART A

This form must be completed and submitted with the applicant's completed Public Hearing Application. Applications submitted to the City of Alpharetta without a completed Citizen Participation Form - Part A will not be accepted.

Public Hearing or Project Name: Thompson Park Condominiums

Contact Name: Rick Sjöholm

Telephone: 678-525-4653

The following people will be notified of this application and provided information describing the subject proposal. Please note that ALL adjoining property owners MUST be notified. Use additional pages as needed.

All adjoining property owners as required

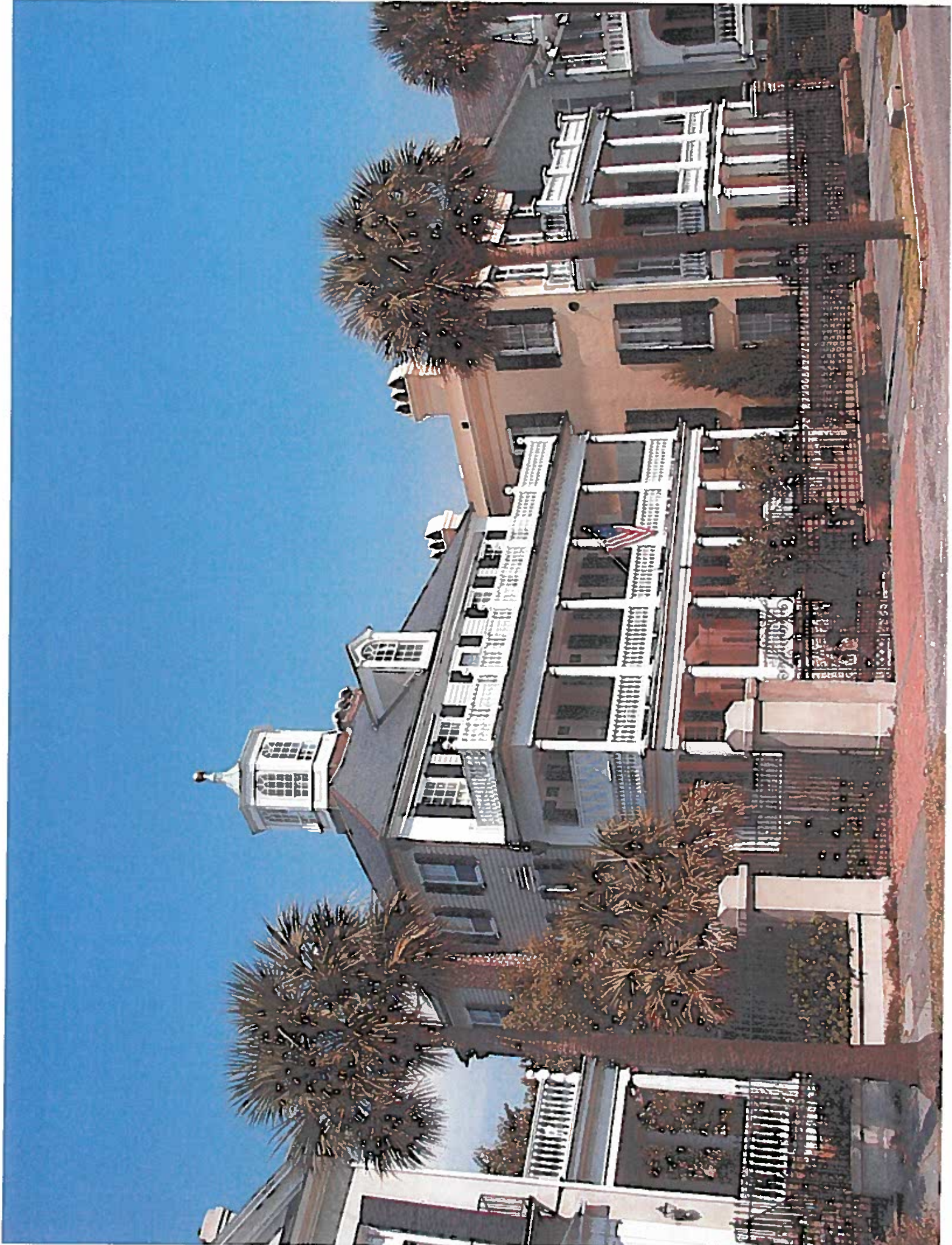
New proposed or approved developments in immediate area.

Method by which these individuals will be contacted. Please mark all that apply. If you select "Other," please provide a description of the method of contact that will be used.

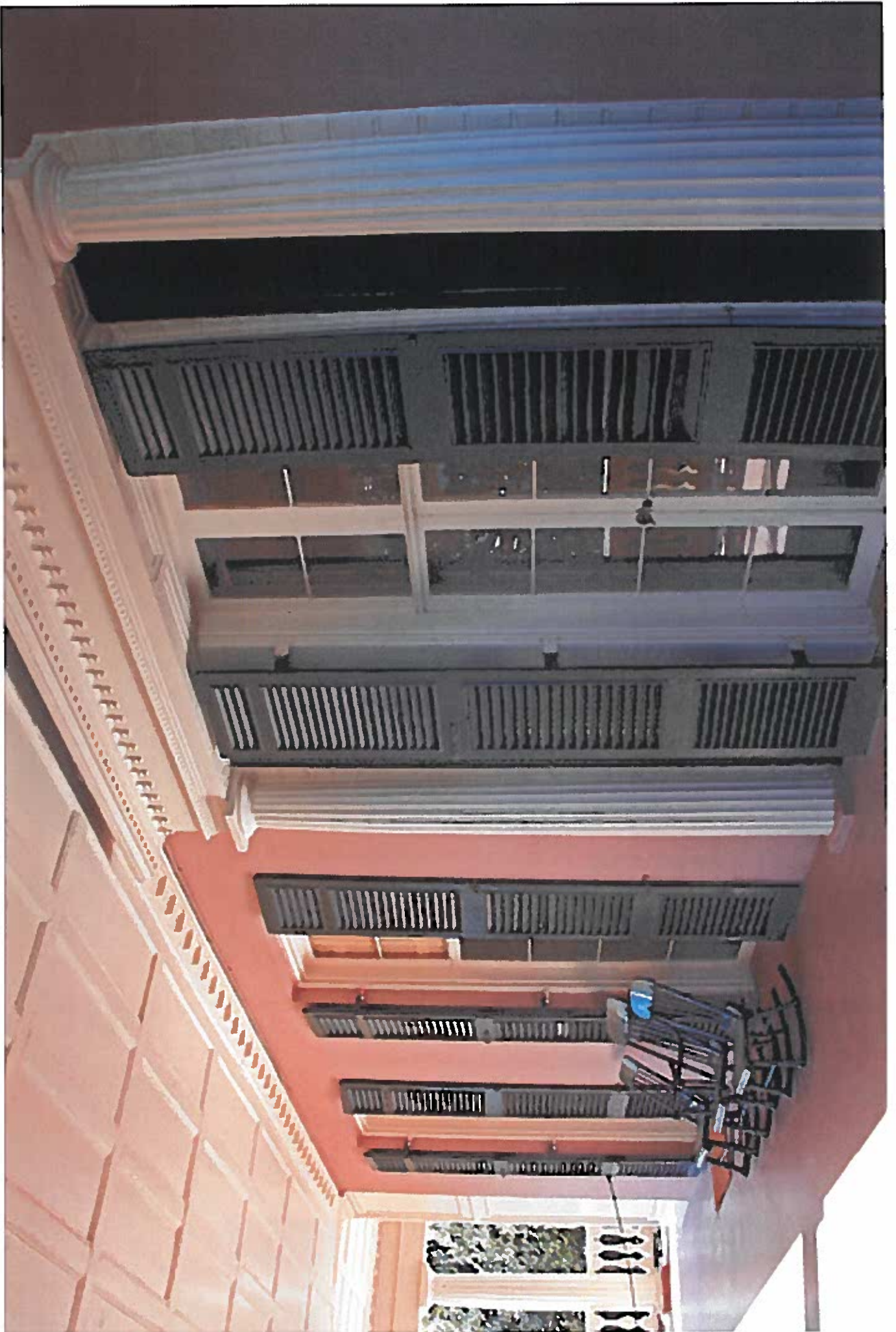
- | | |
|------------------------------------|---|
| ☐ Letter | ☐ Personal Visits |
| ☐ Telephone | ☒ Group Meeting |
| ☐ Email | ☐ Other (Please Specify) _____ |

Please describe the method(s) by which these individuals will have the opportunity to respond or contact the applicant with questions or concerns about the proposal.

We will have a group meeting where we can outline project program and answer any questions or concerns. We will follow up with any outstanding issue on an individual basis as needed.





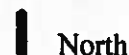


15-09-09-01 Thompson
Street
Alpharetta
Arborist Report

Reference UDC
Alpharetta, Georgia



Location Map



All of the following information is based upon visual field observations and 25 years of practical horticultural experience. No scientific or lab tests have been performed. I certify that all information in this report is true and inclusive to the best of my knowledge and is prepared in good faith.

Outdoor Spaces, LLC

By Scott Hall, Owner

On Site Specimen Evaluation Date: September 14, 2015

Report Date: September 16, 2015

Revised Date:



Outdoor Spaces, LLC
Scott Hall, Owner
RLA, Certified Arborist
Certificate Number: SO-5434A
404-328-6561 Cell
678-965-4784 Fax
scottandcyrena@bellsouth.net

Warranty Disclaimer:

No warranties express or implied are made with respect to the report of aforementioned specimen trees. It is understood the OWNER makes use of this report by the ARBORIST at OWNER's sole risk and that the report is provided as best judgment opinion. In no manner does this report guarantee the life or imply any length of life span of the trees that are determined to be specimens.

Arborist Note:

Due to certain species and undesirable traits, some trees shall be considered in poor condition if the following is true. Numerous trees grown in a native setting may appear to grow as multi-trunk; however this is not desirable in most trees. Most trees that have multi-trunks at the base are usually created when two separate trees grow together or the tree branches off at an early age and they become Co-Dominate Leaders. Either scenario is an undesirable condition for most trees because they both create weak crotches, included bark and/or a prime place for debris and water to get trapped that will always cause decay. In this case these trees become a life safety issue and can not be considered specimen trees.

Some trees are an exception to this rule, such as, but not limited to:

Crape Myrtles, Birches, Wax Myrtles, Red Buds, Fringe Trees, Dogwoods, Hollies, Cedars, Sourwoods, Sweet Bay Magnolias, Red Bays and Live Oaks.

These are an exception because they naturally create sucker growth from the roots and/or trunk or do not typically have the life safety issues because they are not large growing trees.

Reference: **Sinclair, Wayne A., 1936. Diseases of Trees and Shrubs / Wayne A. Sinclair and Howard H. Lyon.-2nd ed. Published 2005**

ARTICLE III. LAND DEVELOPMENT ACTIVITIES

SECTION 3.2 TREE PROTECTION

3.2.1 DEFINITIONS

Caliper. A standard of trunk measurement for understory or replacement trees. Caliper inches are measured at the height of 6 inches above the ground for trees up to and including 4 inch caliper and 12 inches above the ground for trees larger than 4 inch caliper.

Diameter Breast-Height (DBH). The standard measure of overstory tree size (for trees existing on a site). The tree trunk is measured at a height of 4 ½ feet above the ground. If a tree splits into multiple trunks below 4 ½ feet, measure the trunk at its most narrow point beneath the split.

Hardwood Tree. Any tree that is not coniferous (cone bearing). This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

Softwood Tree. Any coniferous (cone bearing) tree. This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

Specimen Tree. Any tree which qualifies for special consideration for preservation due to its size, type, condition, location or historical significance. See additional requirements for Specimen Trees in Appendix B.

Tree. Any living, self-supporting woody or fibrous plant which normally obtains a diameter breast height of at least three (3) inches, and typically has one (1) main stem or trunk and many branches.

Understory. Those trees that grow beneath the overstory, and will generally reach a mature height of under 40 feet.

APPENDIX B

SPECIMEN TREES

Some trees on a site warrant special consideration and encouragement for conservation. These trees are referred to as Specimen Trees.

The following criteria are used by the Director to identify specimen trees.

A Specimen Tree is any tree which qualifies for special consideration for preservation due to its size, type, condition, location, or historical significance and is determined by the City Arborist, prior to development, to be in overall good health without the aid of a specialized care plan according to accepted ISA practices, and which also meets the minimum size criteria set forth below.

Size Criteria

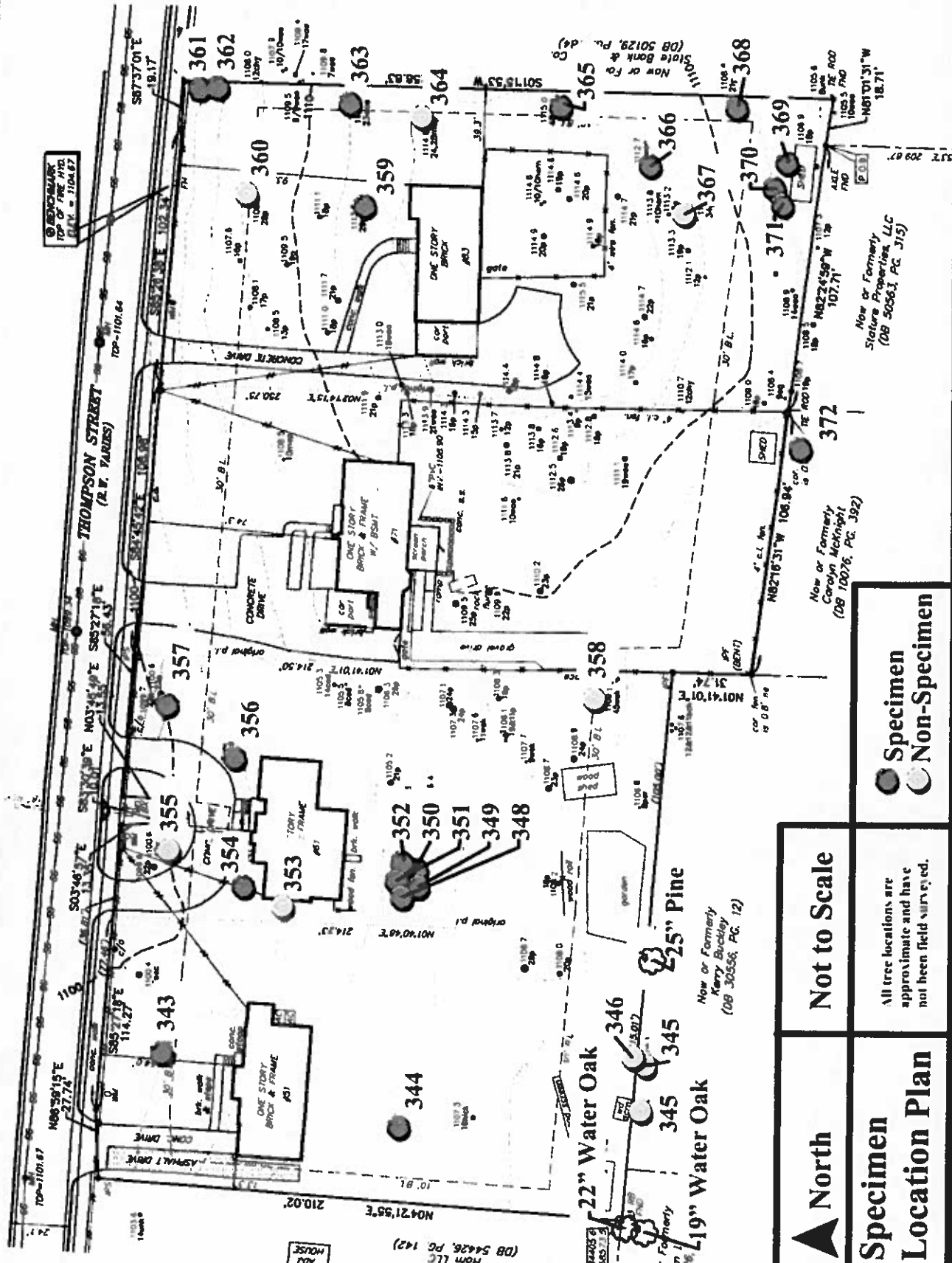
Pine Trees: 30-inch (30") diameter or larger Overstory Trees: 24-inch (24") diameter or larger Understory Trees: 8-inch (8") diameter or larger

In order to encourage the conservation of Specimen Trees and the incorporation of these trees into the design of projects, additional density credit will be given for Specimen Trees, which are successfully saved by a design feature specifically designated for such purpose. Credit for any Specimen Tree thus saved would be two (2) times the assigned unit value shown in Table 3.4. The Critical Root Zone of Specimen Trees will be protected with hog-back/wire-back tree save fencing with metal support poles.

If a Specimen Tree is to be removed, a plan or written document indicating the reason for the removal must be submitted to the Director.

Specimen Trees that cannot be saved (see Section 3.2.13) must be replaced with trees having three (3) times the unit value of the tree removed with a minimum four-inch (4") tree caliper by species with potentials for comparable size and quality.

Any Specimen Tree which is removed without the appropriate review and approval of the Director must be replaced by trees with a total density equal to eight (8) times the unit value of the tree removed with a minimum four-inch (4") tree caliper. Size alone will determine whether a tree was a specimen quality if the tree is removed without approval and there is no evidence of its condition. Violations will be subject to the applicable penalties as described in Section 3.2.19.



	North
Specimen Location Plan	Not to Scale
	All tree locations are approximate and have not been field surveyed.

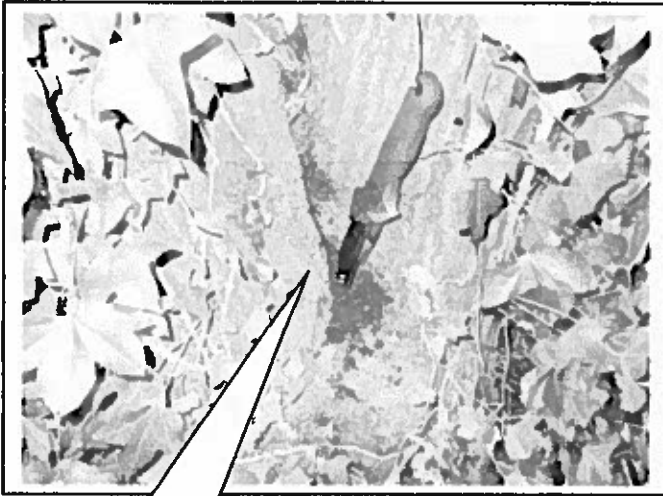
Specimen
 Non-Specimen

**Appendix A
Specimen Analysis**

Tree #	Size/ Species	Health Condition	Structural Condition	Specimen	Comments	Photo # (See Attached)
343	33" Southern Magnolia	Excellent	Excellent	Yes		
344	25" Red Maple	Good	Good	Yes		
345	36" Water Oak	Poor	Poor	No	Lower main branches dead/dying with symptoms of Hypoxylon Canker. 2 Co-Dominate Leaders with weak crotches and included bark. Due the species, a multi-stem tree at or near the base of the tree is undesirable and a life safety issue.	1-2
346	37" Water Oak	Poor	Poor	No	Severe cavity in main leader. Possible signs of Hypoxylon Canker. 2 Co-Dominate Leaders with weak crotches and included bark. Due the species, a multi-stem tree at or near the base of the tree is undesirable and a life safety issue.	3-4
347	42" Water Oak	Poor	Poor	No	3 Co-Dominate Leaders with weak crotches and included bark. 1 Leader sounds hollow. Due the species, a multi-stem tree at or near the base of the tree is undesirable and a life safety issue.	5
348	22" Ligustrum	Good	Good	Yes		
349	10" Ligustrum	Good	Good	Yes		
350	14" Ligustrum	Good	Good	Yes		
351	16" Ligustrum	Good	Good	Yes		
352	16" Ligustrum	Good	Good	Yes		
353	11" Ligustrum	Poor	Poor	No	Several main limbs gone.	
354	13" Crape Myrtle	Good	Good	Yes		
355	41" Water Oak	Poor	Poor	No	Active gummosis coming from main trunk. Numerous trunk Galls.	6-7
356	11" Crape Myrtle	Good	Good	Yes		
357	8" Dogwood	Good	Good	Yes		
358	40" Water Oak	Poor	Poor	No	Severe cavity with decay. Fruiting bodies in root zone. Trunk sounds hollow.	8-11
359	32" Pine	Good	Good	Yes		
360	32" Pine	Fair	Poor	No	Several cavities with decay.	12-13
361	12" Crape Myrtle Estimated	Good	Good	Yes		
362	12" Crape Myrtle Estimated	Good	Good	Yes		
363	28" Water Oak	Good	Good	Yes		

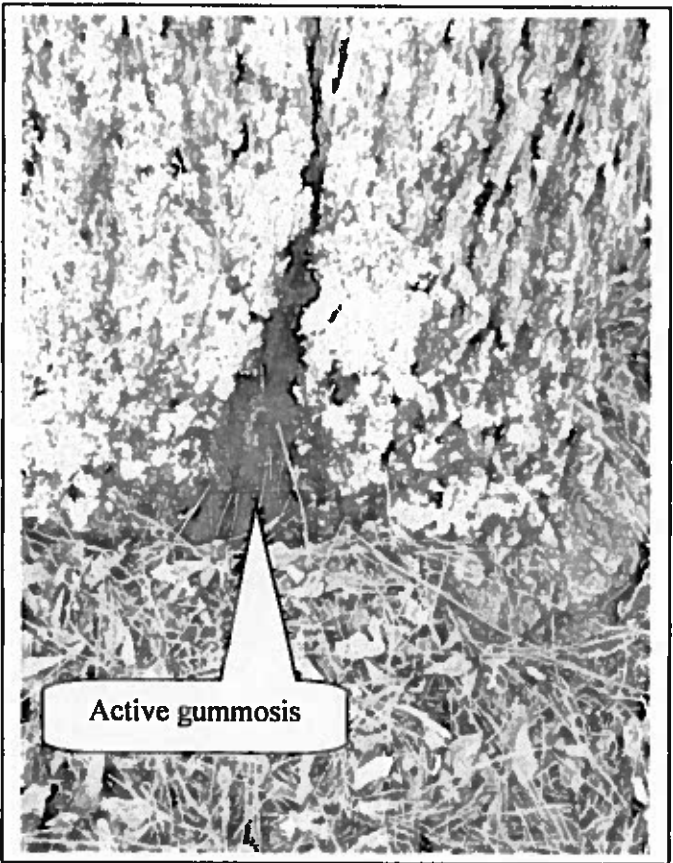
**Appendix A
Specimen Analysis**

Tree #	Size/ Species	Health Condition	Structural Condition	Specimen	Comments	Photo # (See Attached)
364	43" Red Maple	Fair	Poor	No	3 Co-Dominate Leaders with decay, weak crotches and included bark. Trunks sound hollow. Due the species, a multi-stem tree at or near the base of the tree is undesirable and a life safety issue.	14
365	48" Water Oak	Good	Good	Yes		
366	25" Water Oak	Good	Good	Yes		
367	32" Pine	Poor	Poor	No	Thinning foliage. Large Cavity with decay.	15
368	24" Black Walnut	Fair	Good	Yes		
369	9" Red Tip Photinia	Good	Good	Yes		
370	10" Red Tip Photinia	Good	Good	Yes		
371	19" Red Tip Photinia	Good	Good	Yes		
372	36" Water Oak	Fair	Good	Yes	Couple of trunk Galls	16



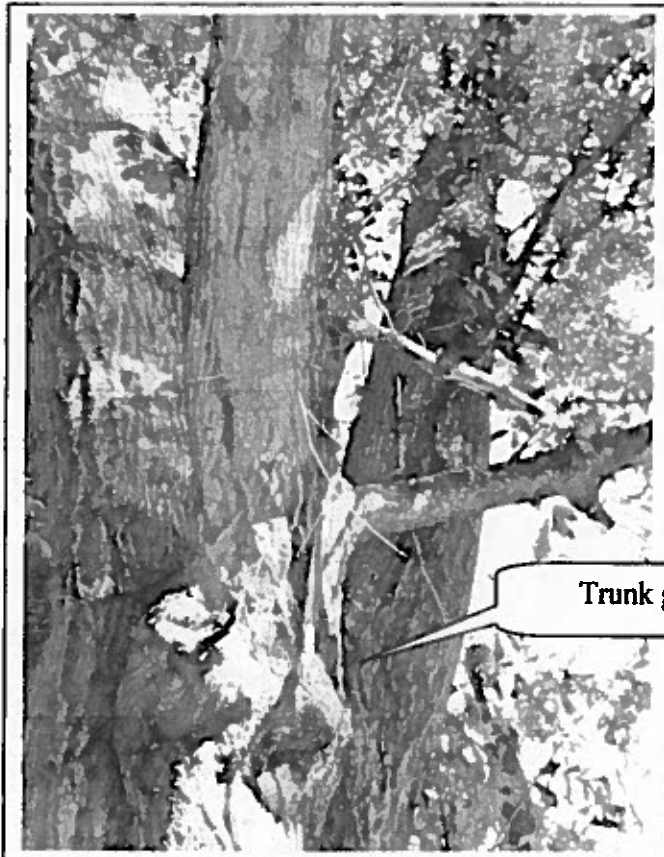
Decay in crotch.

Photo5



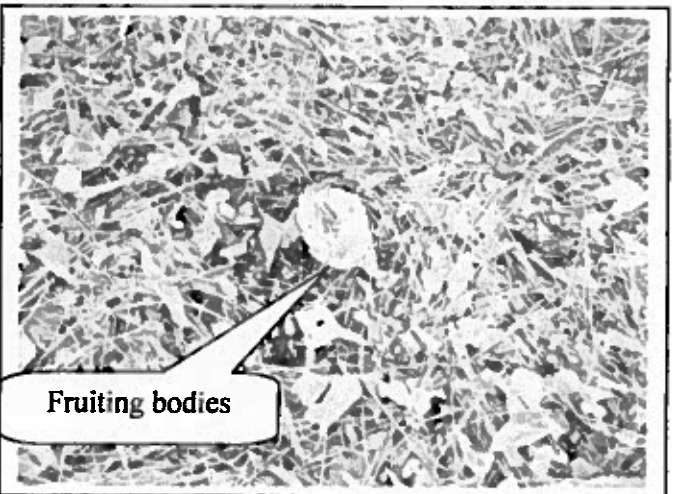
Active gummosis

Photo 6



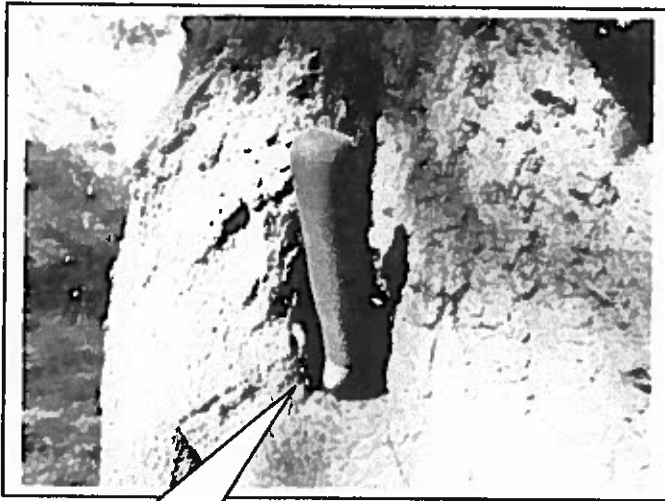
Trunk galls

Photo 7



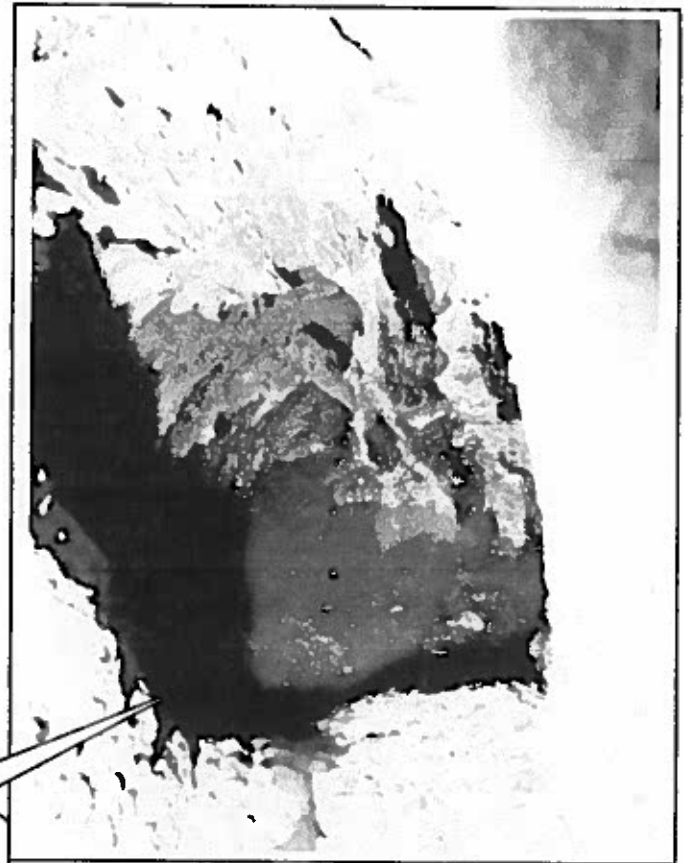
Fruiting bodies

Photo 8



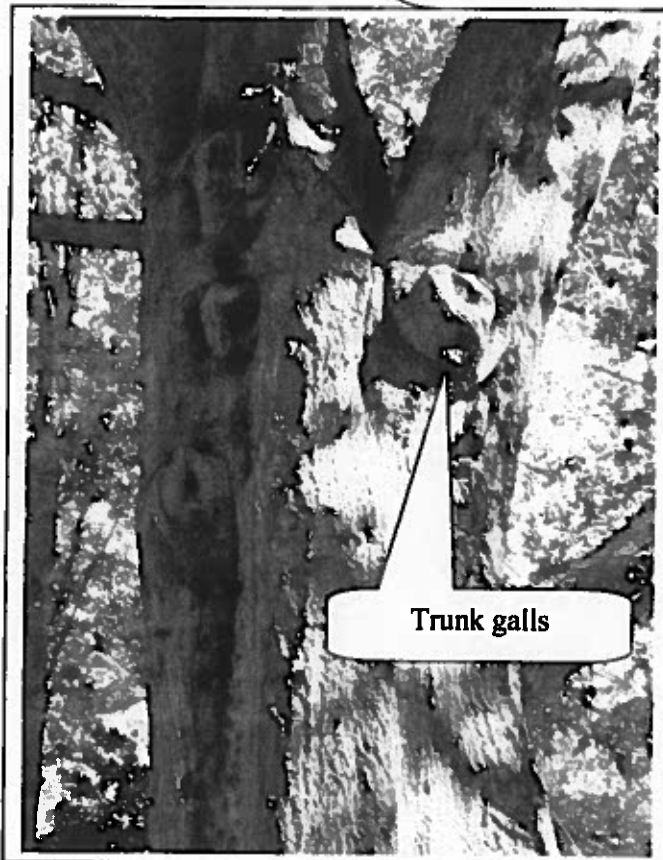
Cavity in trunk

Photo 9



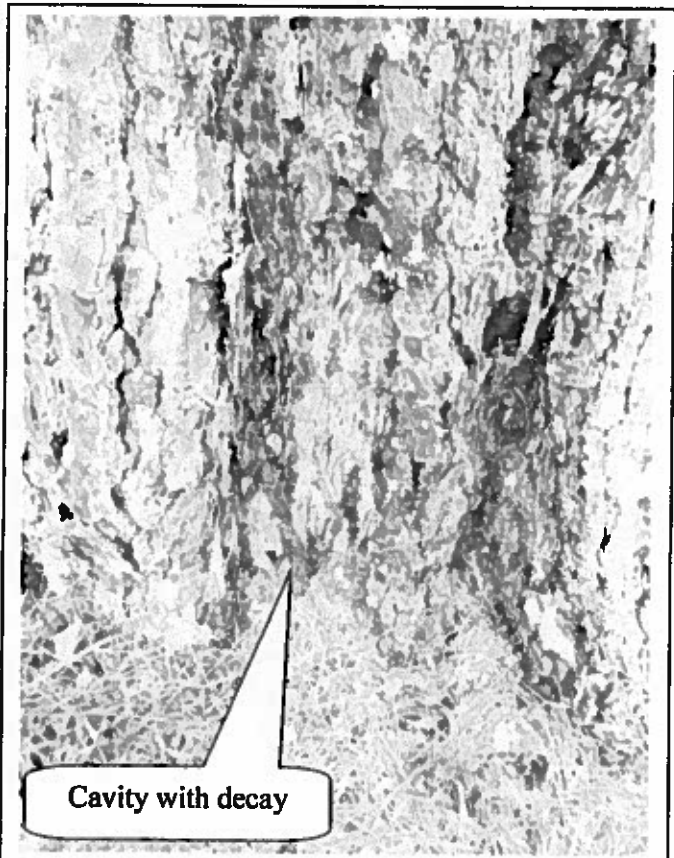
Cavity in trunk
holding water

Photo 10



Trunk galls

Photo 11



Cavity with decay

Photo 12

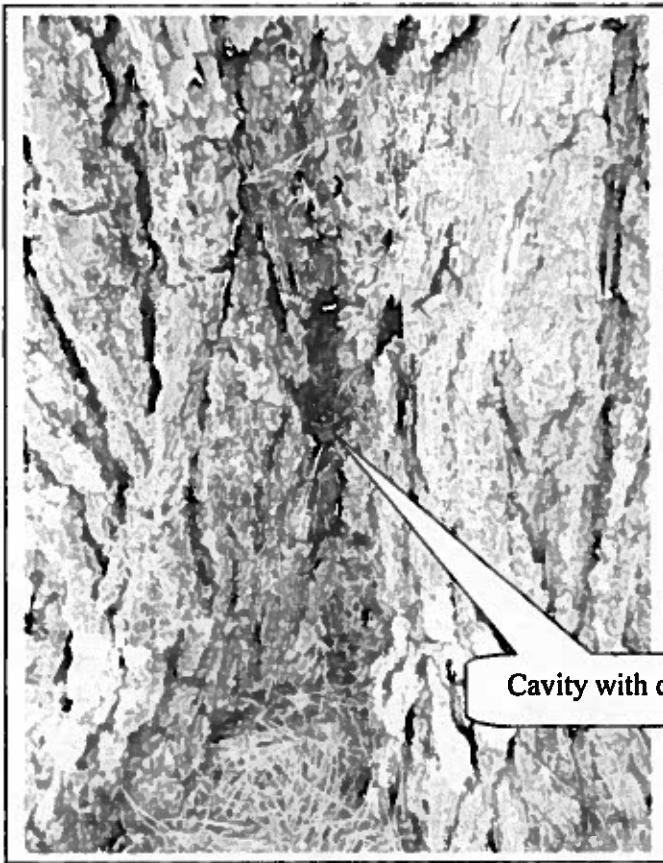


Photo 13

Cavity with decay

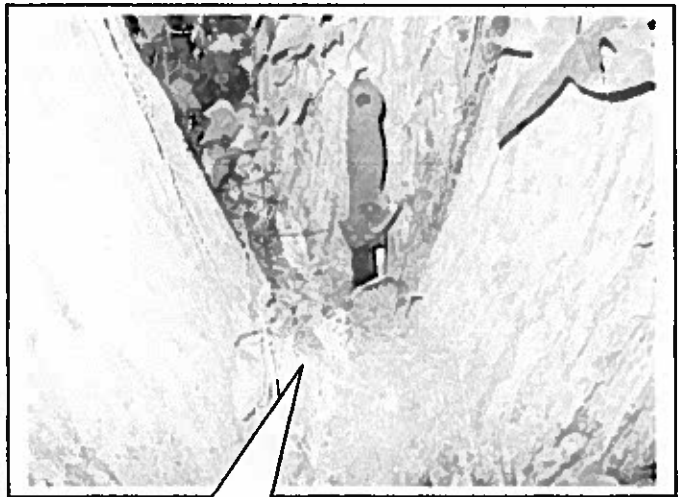


Photo 14

Decay in crotch



Photo 15

Cavity with decay

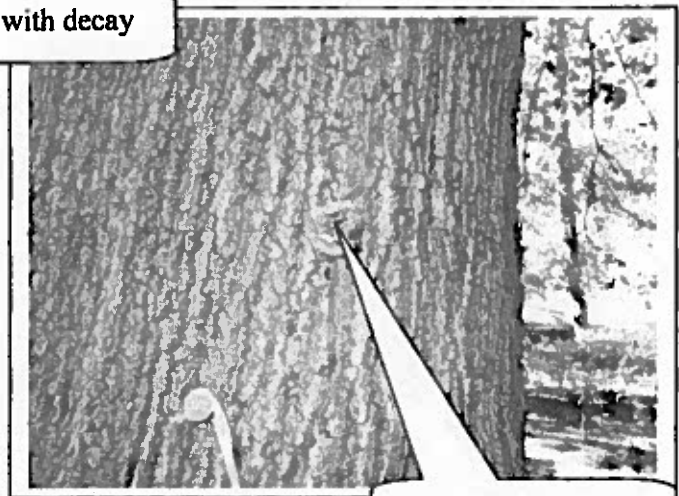


Photo 16

Trunk gall

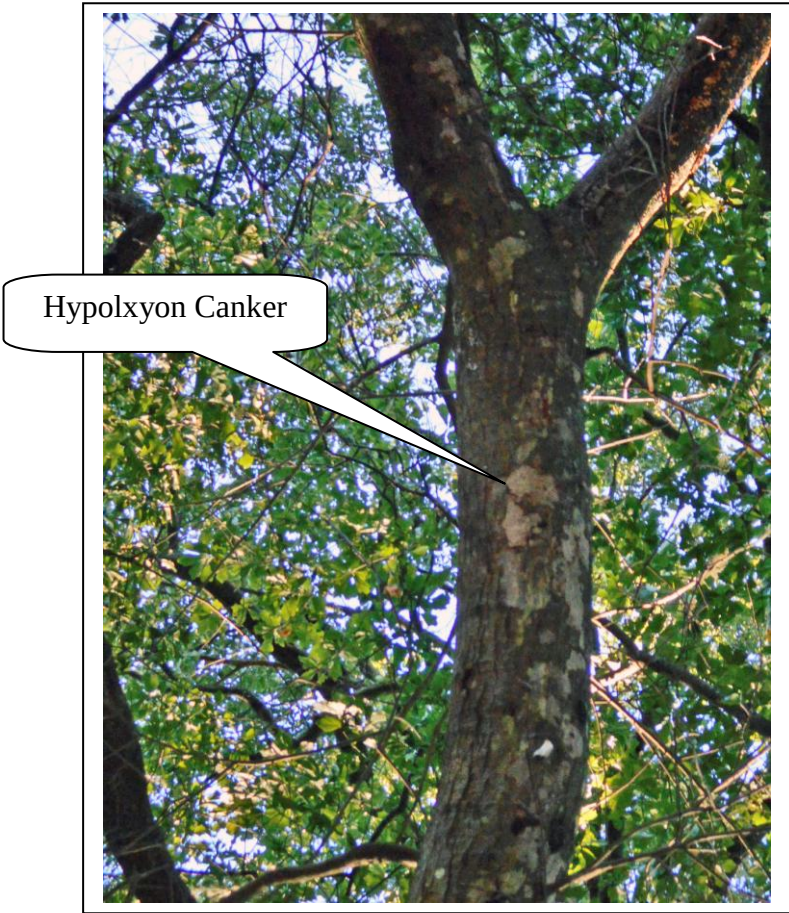


Photo 1



Photo 2



Photo 3



Photo 4



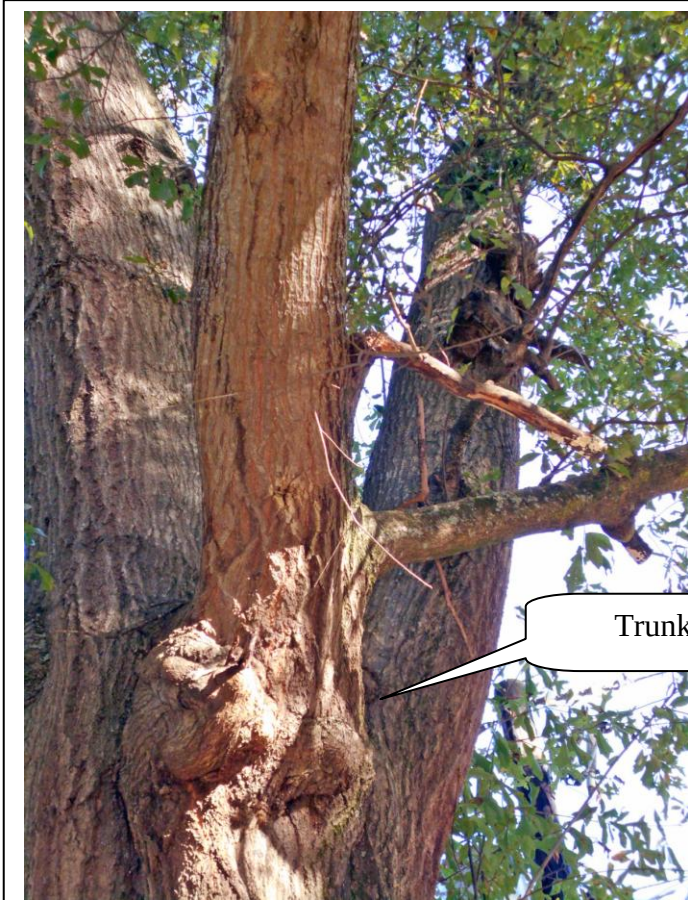
Decay in crotch.

Photo5



Active gummosis

Photo 6



Trunk galls

Photo 7



Fruiting bodies

Photo 8



Cavity in trunk

Photo 9



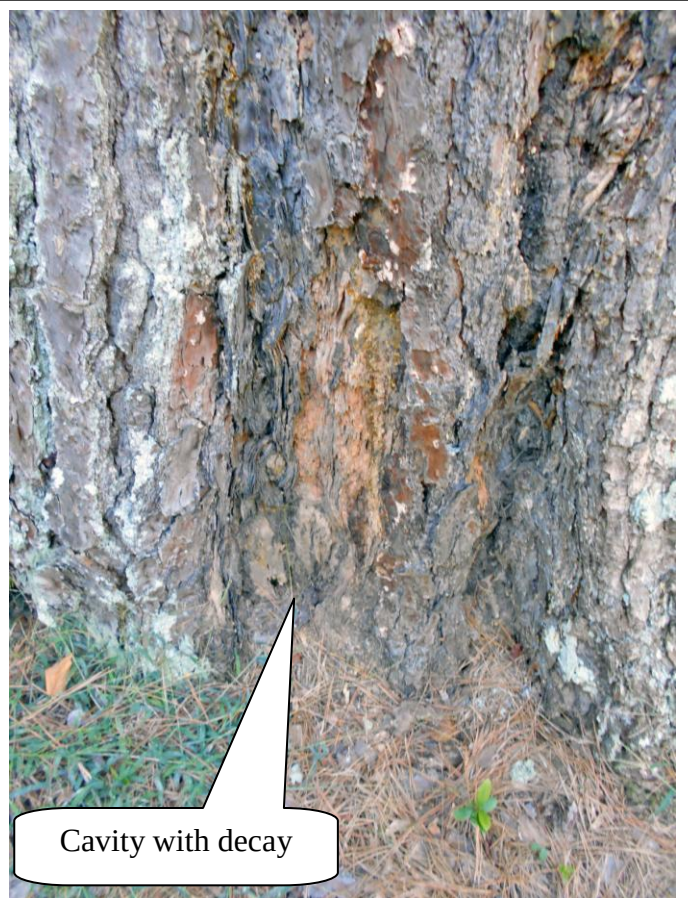
Cavity in trunk
holding water

Photo 10



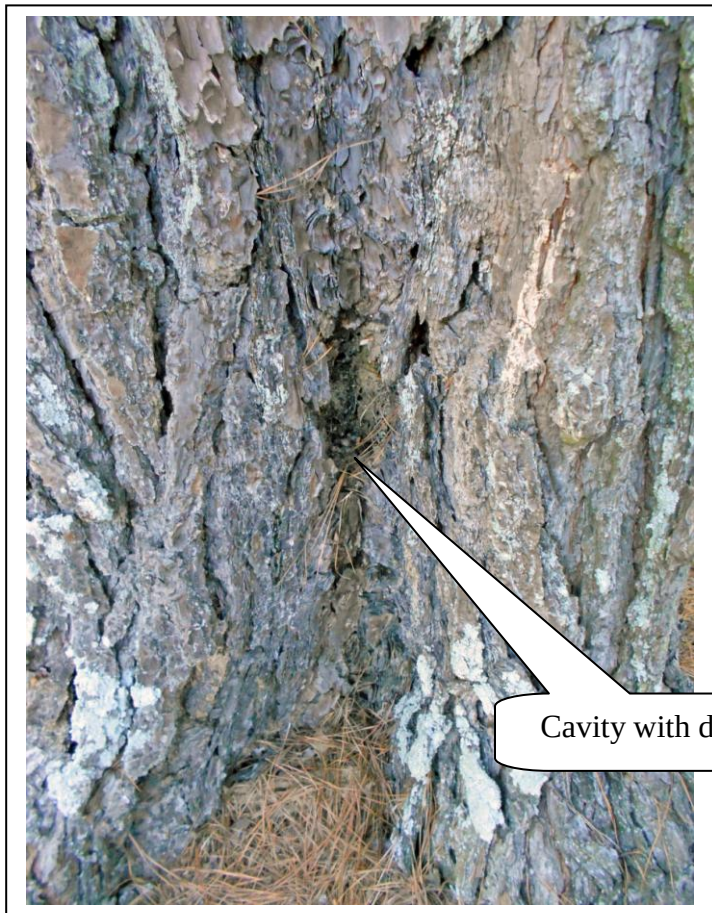
Trunk galls

Photo 11



Cavity with decay

Photo 12



Cavity with decay

Photo 13



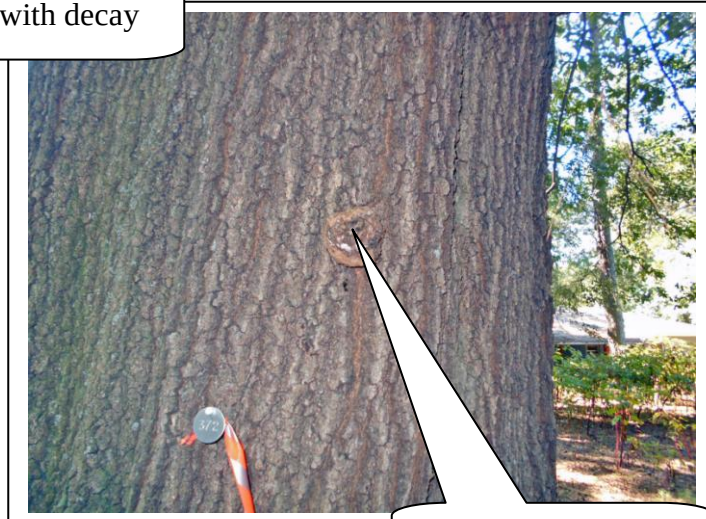
Decay in crotch

Photo 14



Cavity with decay

Photo 15



Trunk gall

Photo 16

Thompson Park Condominiums

City of Alpharetta, Georgia

The Park Concept Plan

Project Overview

The proposed Thompson Park Condominiums development is comprised of approximately 24 condominiums and is located on Thompson Street in Alpharetta, Georgia.

Trip Generation

Traffic for the proposed development was calculated using equations and rates contained in the Institute of Transportation Engineers' (ITE) *Trip Generation Manual*, Ninth Edition, 2012. The trip generation was calculated assuming 24 residential condominiums (Land Use 230). The table below summarizes the trip generation for the proposed development under the full build-out year.

Project Trip Generation Summary										
Land Use	ITE Code	Daily Traffic			AM Peak Hour			PM Peak Hour		
		Total	Enter	Exit	Total	Enter	Exit	Total	Enter	Exit
Residential Condominium/Townhouse (24 units)	230	186	93	93	16	3	13	19	13	6
Gross Trips		186	93	93	16	3	13	19	13	6







BUILDING HEIGHT CALCULATIONS

THOMPSON PARK CONDOMINIUMS

THOR MANAGEMENT, LLC

LOCATED IN LAND LOT 748

1st DISTRICT, 2nd SECTION

CITY OF ALPHARETTA

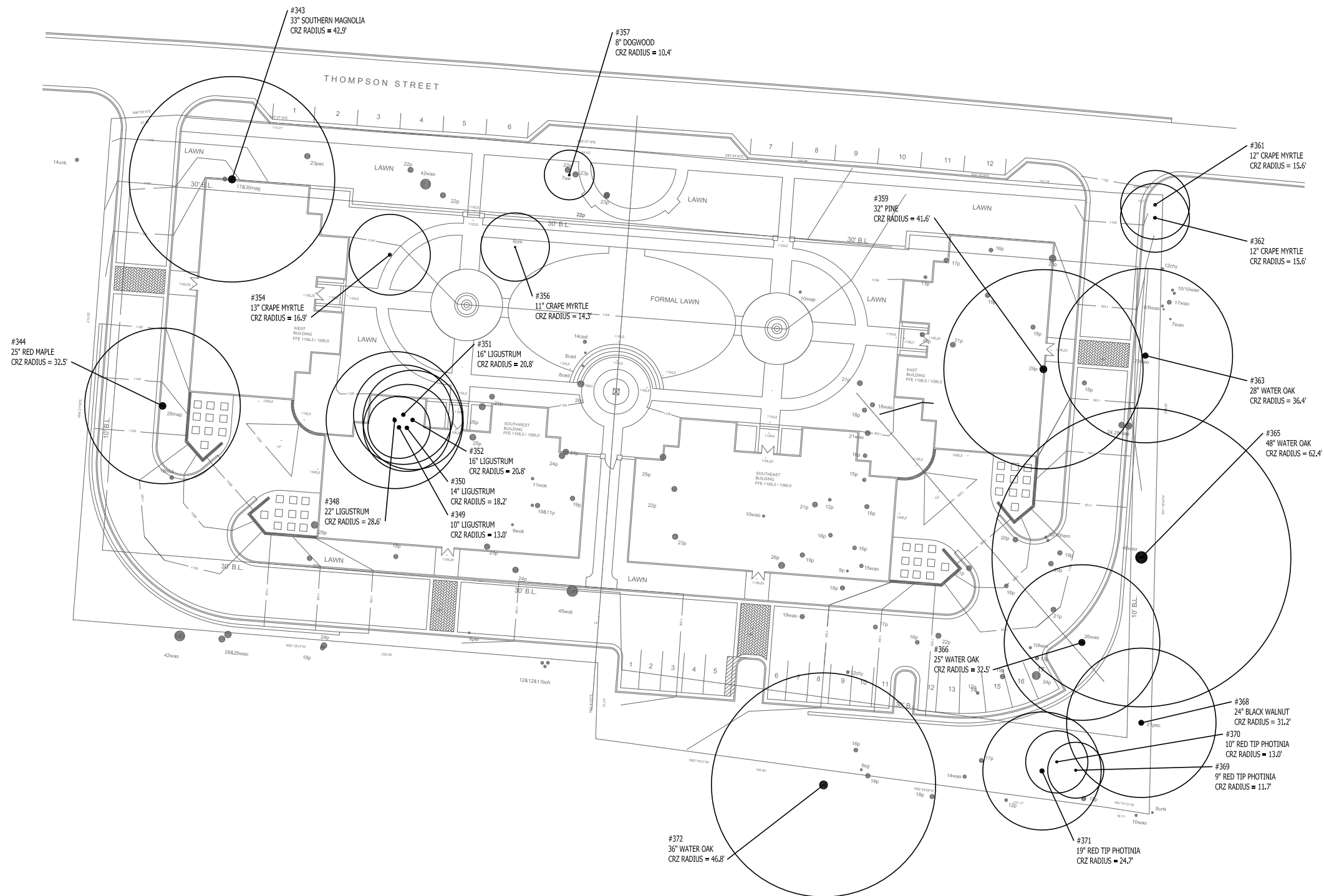
FULTON COUNTY, GEORGIA

OCTOBER 26, 2015 NTS



CONCEPT PLAN PLANT LIST

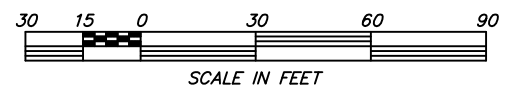
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CRITICAL ROOT ZONE RADIUS FOR SPECIMEN TREES
THOMPSON PARK CONDOMINIUMS

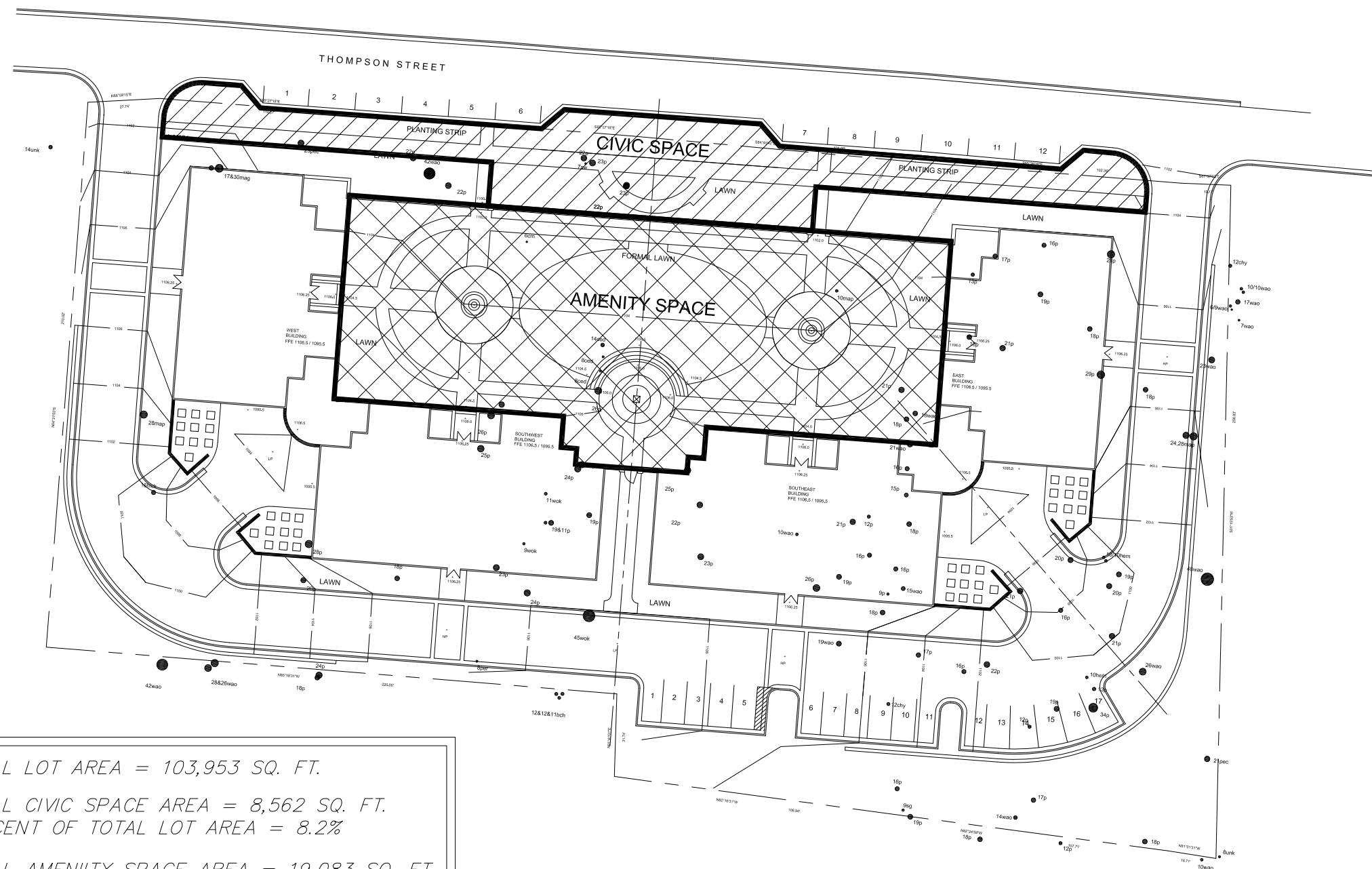
THOR MANAGEMENT, LLC

LOCATED IN LAND LOT 748
1st DISTRICT, 2nd SECTION
CITY OF ALPHARETTA
FULTON COUNTY, GEORGIA
OCTOBER 16, 2015 1"=50'



AREA = 103,953 SQ. FT.
2.386 ACRES

Critical Root Zone (CRZ) of Existing Specimen Trees:
(1.3 feet X inches DBH = radius in feet)
DBH = Diameter at Breast Height



TOTAL LOT AREA = 103,953 SQ. FT.

 TOTAL CIVIC SPACE AREA = 8,562 SQ. FT.
PERCENT OF TOTAL LOT AREA = 8.2%

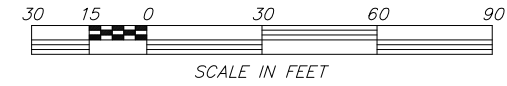
 TOTAL AMENITY SPACE AREA = 19,083 SQ. FT.
PERCENT OF TOTAL LOT AREA = 18.4%

GRID NORTH (GA. WEST ZONE)

CIVIC AND AMENITY SPACE AREA PERCENTAGES

THOMPSON PARK CONDOMINIUMS

THOR MANAGEMENT, LLC
LOCATED IN LAND LOT 748
1st DISTRICT, 2nd SECTION
CITY OF ALPHARETTA
FULTON COUNTY, GEORGIA
OCTOBER 26, 2015 1"=50'









City Council Meeting and Public Hearing

STAFF REPORT

Submitting Department: Finance
Submitted By: Thomas Harris, Finance Director
Meeting Date: November 16, 2015

I. AGENDA ITEM TITLE: PROCUREMENT CARD POLICY (2ND READING)

II. RECOMMENDATION:

Adopt the attached ordinance (2nd reading) approving the Procurement Card Policy.

III. REPORT IN BRIEF:

The Mayor and Council of the City of Alpharetta recognize it is essential that the public have confidence in the integrity and impartiality of the City's administration of its financial affairs. As such, the City approved an updated Procurement Policy in November 2014 to reflect current business practices including revised procurement thresholds, change order thresholds, and local vendor preferences.

The Procurement Policy guides certain aspects of procurement card usage (e.g. purchasing thresholds). However, procurement card program activities have historically been administered through procedures established, managed, and audited by the Finance Department. Recent changes in State Law (House Bill 192) necessitate the adoption of a formal procurement card policy that governs the operations, management, and auditing of the procurement card program.

The attached Procurement Card Policy brings the City in alignment with State law.

IV. ALTERNATIVES:

V. ATTACHMENTS:

Procurement Card Policy Ordinance, Procurement Card Policy (Exhibit A of Ordinance)



AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF ALPHARETTA, GEORGIA, ADOPTING A COMPREHENSIVE PROCUREMENT CARD POLICY FOR THE CITY OF ALPHARETTA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Mayor and Council of the City of Alpharetta recognize it is essential that the public have confidence in the integrity and impartiality of the City's administration of its financial affairs;

WHEREAS, the use of procurement cards for official government purchases is a customary and economical business practice to improve cash management, reduce costs, and increase efficiency;

WHEREAS, the City has established procedures but desires to establish a formal policy to govern operations, management, and auditing of the procurement card program;

NOW, THEREFORE BE IT ORDAINED that the Procurement Card Policy, attached hereto as Exhibit "A" and by this reference incorporated as if set forth herein, is hereby adopted as the City of Alpharetta Procurement Card Policy; and

BE IT FURTHER ORDAINED that this Ordinance shall become effective on December 1, 2015, and any and all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed; and

BE IT FURTHER ORDAINED that this Ordinance shall become part of The Code of the City of Alpharetta, Georgia.

ADOPTED AND APPROVED this ____ day of _____, 2015.

CITY OF ALPHARETTA, GEORGIA

By: _____
David Belle Isle, Mayor

COUNCILMEMBERS

(SEAL)

Attest:

Coty Thigpen, City Clerk

First Reading: _____

Second Reading: _____

Adopted: _____



Finance Department

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Procurement Card Policy



Financial Management Policy

Adopted Date: TBD

Effective Date: TBD

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I. INTRODUCTION

I. Introduction

A. Purpose

The purpose of this Policy is to set requirements and standards for the City of Alpharetta Procurement Card Program ("P-Card Program"). This Policy is not intended to replace current State of Georgia statutes but is intended to comply with such state laws and establish more efficient guidelines for elected officials and City staff using P-Cards. All purchases utilizing a P-Card must be in accordance with these guidelines and with state law.

B. Program Overview

The P-Card Program streamlines payments for goods and/or services for city business by eliminating the administrative burdens and costs associated with traditional methods of payment.

Benefits and efficiencies include:

1. Cardholders and user departments
 - a. Streamlines the purchasing process by reducing the need for purchase orders and check requests.
 - b. Reduces petty cash/reimbursement handling and processing.
 - c. Provides a more direct and efficient means of obtaining goods and/or services.
 - d. Expands available vendors and competition.
2. Finance Department
 - a. Reduced burden on the procurement function for small dollar and non-biddable goods and/or services.
 - b. Reduces overhead expenses related to accounting processes for payments.
 - c. Increases efficiency through the consolidation of multiple charges on one billing summary requiring only one payment (to the Bank).
3. Vendors
 - a. Lower overhead (e.g. billing, collection, paperwork).
 - b. Improved cash flow due to quicker payment cycle.

I. INTRODUCTION

C. Definitions

When used in this Policy, the following words, terms, and phrases, and their derivations, shall be the meaning ascribed to them in this section, except where context clearly indicates a different meaning.

1. **Cardholder:** City employee or elected official (subject to stipulations defined herein) who is approved to hold a P-Card. Cardholders are purchasing agents for the City and shall comply with all applicable City procurement policies and procedures including this Policy.
2. **Cardholder Agreement Form:** Issuance of a P-Card will require a signed *Cardholder Agreement*. At a minimum, the *Cardholder Agreement* will require documented approval by the Procurement Official, employee to whom the P-Card is issued, and the employee's Department Director. Please refer to Appendix A for an example *Cardholder Agreement*.
3. **Department Coder:** City employee responsible for managing the Cardholders' day-to-day P-Card Program activities and usage. Department coders shall comply with all applicable City procurement policies and procedures including this Policy
4. **Department Director:** The director of the user department utilizing the P-Card Program. Department directors are responsible for ensuring the integrity of the P-Card Program within their department by ensuring compliance with all applicable City procurement policies and procedures including this Policy. Where applicable, Department Director will also refer to his/her designee(s).
5. **Procurement Card ("P-Card"):** A type of corporate charge card that allows the City to take advantage of the existing credit card infrastructure to make electronic payments for allowable purchases of goods and/or services. In the simplest terms, a P-Card is a charge card, similar to a consumer credit card.
6. **Procurement Card Usage Notice Form:** At the end of each billing cycle and reconciliation process, the Procurement Official will audit and log P-Card Program process/documentation deficiencies onto the *P-Card Usage Notice* Form and submit to the Cardholder and approving Department Director for remedies. Please refer to Appendix B for an example *P-Card Usage Notice* Form.
7. **Procurement Official:** The principal purchasing official of the City. The Finance Director is the City's Procurement Official. The Procurement Official is responsible for the overall administration of the P-Card Program including implementation, training, management, monitoring, reporting, and auditing. Where applicable, Procurement Official will also refer to his/her designee(s).

I. INTRODUCTION

8. Sales Tax Exemption Form: O.C.G.A. §48-8-3 exempts purchases made by the City within the State of Georgia from State Sales Tax when payment is made with appropriated funds. Cardholders must present the Department of Revenue's *Sales Tax Certificate of Exemption* Form to vendors upon request. Please refer to Appendix C for the *Sales Tax Certificate of Exemption* Form.

D. Application of Federal and State Law

It is intended that this Policy shall conform to all applicable provisions of the laws of the United States and the State of Georgia, and the provisions hereof shall be so construed wherever possible. In the event any portion of this Policy shall be declared invalid for its failure to conform to state or federal law, such invalidity shall not affect the remaining portions hereof. Notwithstanding any other provision of this Policy, the City may enter into any contract, follow any procedure, or take any action that is otherwise at variance with this Policy if necessary or convenient to receiving funds from the government of the United States, State of Georgia, or other governmental/public entities.

E. Equal Opportunity

The City of Alpharetta hereby gives public notice that it is the policy of the City to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. It is our policy that no person in the United States of America shall, on the grounds of race, color, national origin, sex, age, or disability be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of our programs or activities.

F. Public Access to P-Card Information

Interested persons shall have access to information regarding City procurement transactions in accordance with City policy and the Georgia Open Records Act, O.C.G.A. §50-18-70, *et seq.*

G. Unauthorized Purchases

No purchases of materials, supplies, equipment, or services shall be made in the name of the City or one of its departments, except such as required for official use by the City or one of its departments. Purchases in the name of the City or one of its departments for personal use/gain (includes vendor loyalty programs) by an individual or for any purpose other than official use are prohibited.

II. STAFF RESPONSIBILITIES

II. Staff Responsibilities

A. Authority and Duties of the Procurement Official

The Procurement Official is responsible for the overall administration of the P-Card Program including implementation, training, management, monitoring, reporting, and auditing.

The Procurement Official shall have the authority and duty as provided throughout this Policy including, but not limited to, the following:

1. Serves as liaison between the Cardholders and the Bank.
2. Maintains the signed *Cardholder Agreement* (Appendix A) for all Cardholders.
3. Establishes P-Card Program operating procedures that:
 - a. Ensures compliance with all applicable City procurement policies and procedures including this Policy.
 - b. Ensures the secure ordering of new P-Cards and cancellation of existing P-Cards when lost/stolen or when a Cardholder changes job duties/leaves employment.
 - c. Ensures timely payment and/or allocation of transactions to the general ledger at least monthly.
 - d. Ensures proper documentation and storage of receipts, logs, and approvals.
 - e. Ensures sufficiently documented internal controls and other measures (e.g. audits) to prevent and/or detect misuse or abuse of the P-Card.
 - f. Ensures transactions are audited at least monthly and deficiencies are submitted to the Department Director, Department Coder, and/or Cardholder for corrective action (see Appendix B for an example *P-Card Usage Notice* form).
 - g. Ensures continual training for Cardholders to be delivered at least annually (existing Cardholders) or upon delivery of the P-Card (new Cardholders).
4. Works with Department Directors to identify job titles or positions that require a P-Card or that would be good candidates for use of a P-Card.
5. Identifies P-Cards with immaterial usage to determine if the P-Cards are needed. P-Cards with no activity for six months will be considered dormant and the account subject to closing.

II. STAFF RESPONSIBILITIES

6. Escalates transaction disputes with the Bank after contact from the Cardholder and/or Department Coder does not result in a decision.
7. Keeps Cardholders up-to-date on new or changing information.
8. Upon receipt of information indicating fraudulent use or lost/stolen P-Cards immediately report it to the Bank and notify the Department Director, Department Coder, and Cardholder at the first opportunity during business hours
9. Maintains account information and secures all Cardholder information.
10. Provides instruction, training, and assistance to Cardholders and Department Coders.

B. Authority and Duties of the Department Director

Department Directors are responsible for ensuring the integrity of the P-Card Program within their department by ensuring compliance with all applicable City procurement policies and procedures including this Policy.

Department Directors shall have the authority and duty as provided throughout this Policy including, but not limited to, the following:

1. Maintain knowledge of all applicable City procurement policies and procedures including this Policy to allow for the effective management of P-Card activity and usage within their respective department.
2. Designate a Department Coder to manage the day-to-day activity and usage of P-Cards within their department.
3. Request P-Cards for employees in their respective department by submitting a signed *Cardholder Agreement* (Appendix A) to the Procurement Official for processing.
4. Review and approve Cardholders' monthly transaction activity as part of the monthly approval process. Verification is attesting that the transactions are valid, the amount charged is accurate, and that the transactions serve a valid City purpose.
5. Ensure all purchases are in accordance with applicable City procurement policies and procedures including this Policy and are only for legitimate business purposes. Misuse (inappropriate, unauthorized, or fraudulent use) of the card may subject the cardholder to disciplinary action, criminal prosecution, and/or termination of City employment.

II. STAFF RESPONSIBILITIES

6. Ensure that appropriate disciplinary actions are taken for violation of this Policy and any related procedures.
7. Upon receipt of information indicating fraudulent use or lost/stolen P-Cards immediately report it to the Bank and notify the Department Coder, Cardholder, and Procurement Official at the first opportunity during business hours.
8. Ensure the return of a P-Card upon a Cardholder's employment termination or extended leave, transfer to another department/position (if P-Card is no longer a requirement), or upon request to forfeit card.

C. Authority and Duties of the Cardholder

Cardholders are purchasing agents for the City and shall comply with all applicable City procurement policies and procedures including this Policy.

Cardholders shall have the authority and duty as provided throughout this Policy including, but not limited to, the following:

1. Maintain knowledge of all applicable City procurement policies and procedures including this Policy to allow for the effective management of their P-Card activity and usage.
2. Ensure that no other persons have access to any card information (i.e. card account number, expiration date, security code).
3. Obtain best-value for P-Card purchases by striving to obtain competitive pricing from qualified vendors.
4. Ensure all purchases are in accordance with applicable City procurement policies and procedures including this Policy and are only for legitimate business purposes. Misuse (inappropriate, unauthorized, or fraudulent use) of the card may subject the Cardholder to disciplinary action, criminal prosecution, and/or termination of City employment.
5. Obtain original itemized receipts (e.g. invoices, charge slips, cash register receipts and phone/mail/fax/internet order forms and confirmations) for all P-Card transactions and provide to the Department Coder. The original itemized receipts should display the date of purchase, vendor name, itemized descriptions, cost, and tax exemption status. If a receipt is lost, the Cardholder/Department Coder must attach a written memorandum (signed by their department director) to the monthly P-Card statement explaining the purchase transaction. The memorandum will be submitted to the Procurement Official. Employees who repeatedly lose receipts will be subject to P-Card revocation.

II. STAFF RESPONSIBILITIES

6. Ensure vendors do not charge Georgia Sales and Use Tax. If tax is charged, contact vendor to obtain a credit to the card. Documentation of attempts to obtain credit for the tax charged in error must be maintained with the documentation for the transaction where the tax was charged.
7. Review and approve monthly transaction activity as part of the monthly approval process. Verification is attesting that the transactions are valid, the amount charged is accurate, and that the transactions serve a valid City purpose.
8. Upon receipt of information indicating fraudulent use or lost/stolen P-Cards immediately report it to the Bank and notify the Department Director, Department Coder, and Procurement Official at the first opportunity during business hours.
9. Return P-Card when terminating employment, out on extended leave, transferring to another department (if P-Card is no longer a requirement), or upon request to forfeit card.
10. Attempt to resolve a dispute or billing error directly with the vendor. If a Cardholder cannot resolve the dispute or error with the vendor directly, then the Cardholder shall escalate to the Department Coder.

D. Authority and Duties of the Department Coder

Department Coders are assigned the responsibility of managing the Cardholders' day-to-day P-Card Program activities and usage and shall comply with all applicable City procurement policies and procedures including this Policy.

Department Coders shall have the authority and duty as provided throughout this Policy including, but not limited to, the following:

1. Maintain knowledge of all applicable City procurement policies and procedures including this Policy to allow for the effective management of P-Card activity and usage within their respective department.
2. Regularly monitor transactions and account activity to ensure that all purchases are for legitimate City business use. Transactions must be reviewed in a timely manner in order to identify fraud or misuse and is necessary to qualify for the liability protection included with the Bank.
3. Collect original itemized receipts (e.g. invoices, charge slips, cash register receipts and phone/mail/fax/internet order forms and confirmations) from assigned Cardholders for all P-Card transactions. The original itemized receipts should display the date of purchase, vendor name, itemized descriptions, cost,

II. STAFF RESPONSIBILITIES

and tax exemption status. If a receipt is lost, the Cardholder/Department Coder must attach a written memorandum (signed by their department director) to the monthly P-Card statement explaining the purchase transaction. The memorandum will be submitted to the Procurement Official. Employees who repeatedly lose receipts will be subject to P-Card revocation.

4. Complete the monthly reconciliation process:
 - a. Review and reconcile each assigned Cardholders' invoices/receipts to their respective card statement.
 - b. Attach all receipts and other related documentation to each Cardholders' monthly statement.
 - c. Review all documentation to ensure:
 - i. Original receipts are included in an orderly fashion to allow for easy reference (e.g. sorted by charge date);
 - ii. Insufficient/missing documentation is noted and explained in detail (avoid technical jargon);
 - iii. State Sales and Use Tax was not charged; and
 - iv. Purchases were for legitimate City business use.
5. Review and approve Cardholders' monthly transaction activity as part of the monthly approval process. Verification is attesting that the required documentation has been attached.
6. Attempt to resolve any disputes with vendors (including sales tax charges) that have not been resolved by Cardholder.
7. Upon receipt of information indicating fraudulent use or lost/stolen P-Cards immediately report it to the Bank and notify the Department Director, Cardholder, and Procurement Official at the first opportunity during business hours.
8. Ensure the return of a P-Card upon a Cardholder's employment termination or extended leave, transfer to another department/position (if P-Card is no longer a requirement), or upon request to forfeit card.

III. P-CARD USAGE

III. P-Card Usage

A. P-Card Categories

1. General P-Cards

Cardholders are limited to one active P-Card under this category. Eligible Cardholders include elected officials, permanent (part-time or full-time) City employees, or temporary/seasonal City employees (subject to the limitations contained herein). Requests to provide temporary/seasonal City employees with a P-Card will require a memorandum, signed by the Department Director, documenting the need for the P-Card and will be subject to approval by the Procurement Official. There will be no exceptions to the following:

- a. P-Cards will not be issued to contractors (e.g. person hired for a pre-determined period of time for a specific project).
- b. P-Cards will not be issued in the name of a Department or work unit (e.g. Fire Suppression) to be shared by multiple employees except for P-Cards provided under the City's Travel and Meal Expenditure Policy.

Issuance of a P-Card will require a signed *Cardholder Agreement* (Appendix A). At a minimum, the *Cardholder Agreement* will require documented approval by the Procurement Official, employee to whom the P-Card is issued, and the employee's Department Director. Cardholders must meet all applicable training requirements as described in Section VI of this Policy.

2. Emergency P-Cards

The City has two Emergency P-Cards which are issued to the City Administrator and Procurement Official. These P-Cards are kept in a secure location and are not released until an emergency declaration by the City Administrator. In accordance with the City's Procurement Policy, the City Administrator may authorize an emergency procurement when there exists an immediate threat or danger to public health, safety, welfare, loss of public or private property, or interruption in the delivery of essential governmental services. The City Administrator will notify the City Council of the emergency as well as the expenses incurred.

III. P-CARD USAGE

B. Transaction Limits

The P-Card has transaction limits. The maximum charge allowed for a single transaction is known as the “single transaction limit”. The monthly available credit for each P-Card is known as the “Monthly Credit Limit”. A P-Card transaction will be denied when swiped if the transaction exceeds any of these established limits.

Transaction Limits				
Cardholder Category	Single Transaction Limit	Monthly Credit Limit	Approval Authority	Cardholders
General	\$2,499.99	\$10,000.00	Department Director	City Elected Officials/Employees
Emergency	\$100,000.00	\$100,000.00	Declaration of Emergency by the City Administrator	City Administrator and Procurement Official

1. P-Card transaction limits (single/monthly) can be set lower than the limits listed above, but cannot exceed them except as noted below.
2. The Procurement Official can authorize the use of P-Cards for targeted purchases in excess of \$2,499.99 upon written justification that: (1) no other feasible payment options exist (e.g. vendor will not accept a purchase order; vendor will not invoice; etc.); (2) delays associated with other payment methods (e.g. purchase order process) would have a detrimental effect; and/or (3) the City can realize savings through early payment discounts, rebates, etc.

C. Allowable Purchases

P-Cards may be used to purchase goods and/or services not prohibited by this policy or state law. Such purchases include, but are not limited to:

1. Purchases of goods and/or services for official City use which fall within the transactional restrictions of this policy and are not otherwise restricted under this policy.
2. Emergency purchases in accordance with the City’s Procurement Policy.

D. Prohibited Purchases

Cardholders may not use a P-Card for the following purchases unless otherwise noted:

1. Goods and or services for personal use (non-public purpose).

III. P-CARD USAGE

No Exceptions. Cardholders are prohibited from using the P-Card for the purchase of any goods and/or services not directly or indirectly related to official City business. Intentional use of the card for personal purchases will result in disciplinary action, up to and including termination from City employment and criminal prosecution.

2. Cash advances, cash-back arrangements, and similar transactions (including ATMs and money-transfer locations such as Western Union).

No Exceptions.

3. Money orders, traveler's checks, and similar products.

No Exceptions.

4. Gift cards, calling cards, pre-paid cards.

Exceptions require prior approval from the Procurement Official.

5. Alcoholic beverages (either stand-alone or as part of a meal) and tobacco products.

Exceptions are made for Public Safety initiatives approved by the Public Safety Director (e.g. DUI training).

6. Firearms, ammunition, and explosives.

Exceptions are made for Public Safety initiatives approved by the Public Safety Director (e.g. explosives training).

7. Fuel (Fulton County Fuel depot provides the most economical pricing and should be used whenever feasible).

Exceptions include fuel purchases made with City issued fuel cards (e.g. Wright Express cards) and documented situations when it was not feasible to go to the Fulton County Fuel Depot (e.g. trips out of town, situations where there was not enough fuel to make it to the Depot, etc.).

8. Expenses for which per diem rates apply (in accordance with the City's Travel and Meal Expenditure Policy).

9. Unauthorized purchases also include purchases generally considered legitimate that are disallowed/not approved by the Cardholder's Department Director.

10. Purchases or transactions made with the intent to circumvent the City purchasing policy, transactional limits, or state law.

III. P-CARD USAGE

E. Split Purchases Prohibited

Cardholders are prohibited from splitting a transaction between two or more transactions on a single P-Card account, two or more transactions on multiple P-Card accounts, or two or more transactions using the P-Card and a purchase order in order to circumvent competitive procurement requirements as set forth in the City's Procurement Policy.

Cardholders are prohibited from splitting a transaction between two or more transactions on a single P-Card, two or more transactions on multiple P-Cards, or two or more transactions using a P-Card and a purchase order in order to circumvent the Transaction Limits set forth herein.

Only the Procurement Official can authorize the use of P-Cards for targeted purchases in excess of transaction limits pursuant to this Policy.

F. Payment of Sales and Use Tax

O.C.G.A. §48-8-3 exempts purchases made by the City from State Sales Tax when payment is made with appropriated funds. Cardholders must present the Department of Revenue's *Sales Tax Certificate of Exemption* Form ST-5 (Appendix C) to vendors upon request. Purchases made in other states are subject to that state's sales tax.

Cardholders are responsible for making a good faith effort to ensure that vendors do not charge State Sales Tax on City purchases.

- If taxes are charged, the Cardholder must contact the vendor to obtain a credit to the account. Credits cannot be obtained by any other method, including, but not limited to, cash, gift cards, or store credit without approval from the Procurement Official.
- If the vendor cannot deduct the sales tax because of pre-set controls within their computer system or will not honor the exemption, the Cardholder may continue with the purchase but must note the refusal on the receipt (include all substantiating details such as vendor's employee name/title, date, time, etc.).

G. Returns

Cardholders are responsible for coordinating returns with the vendor and making sure a proper credit is obtained. Credits shall be issued to the Cardholder's account. Refunds in the form of cash, gift cards, or store credit are not allowed without approval from the Procurement Official.

IV. P-CARD DOCUMENTATION

H. Cardholder Liability

The P-Card is a “corporate” charge card that will not affect the Cardholder’s personal credit; however, it is the Cardholder’s responsibility to ensure that the card is used within the guidelines of the City’s applicable policies and procedures.

The City will not accept liability or financial responsibility for unauthorized use of P-Cards (e.g. purchases made for personal use).

Cardholders must ensure all purchases are in accordance with applicable City procurement policies and procedures including this Policy and are only for legitimate business purposes. Misuse (inappropriate, unauthorized, or fraudulent use) of the P-Card may subject the Cardholder to disciplinary action, criminal prosecution, and/or termination of City employment.

I. Dormant P-Cards

P-Cards with no activity for six months will be considered dormant and the account subject to closing.

IV. P-Card Documentation

A. Transaction Documentation

Supporting documentation in the form of original itemized receipts (e.g. invoices, charge slips, cash register receipts and phone/mail/fax/internet order forms and confirmations) must accompany each transaction. The original itemized receipts should display the date of purchase, vendor name, itemized descriptions, cost, and tax exemption status. If a receipt is lost, the Cardholder/Department Coder must attach a written memorandum (signed by their department director) to the monthly P-Card statement explaining the purchase transaction. The memorandum will be submitted to the Procurement Official. Employees who repeatedly lose receipts will be subject to P-Card revocation.

B. Records Retention Requirements

The City Clerk maintains the official Records Retention Schedule for the City. Documents related to the P-Card Program will be retained in accordance with the record series parameters provided under State law.

V. P-CARD COMPLIANCE

C. E-Verify

The Georgia Security and Immigration and Compliance Act, O.C.G.A. §13-10-91, requires certain vendors to file an affidavit that the vendor and its subcontractors have registered and participate in the federal work authorization program known as E-Verify. This program is intended to ensure that only lawful citizens or lawful immigrants are employed by the vendor or subcontractor. The City obtains this signed and notarized affidavit from vendors prior to entering into any service contract \$2,500.00 or greater (subject to applicability standards as set forth in law). The P-Card single transaction limit is lower than the \$2,500.00 E-Verify threshold negating the need to obtain an affidavit for P-Card purchases. Should the Procurement Official authorize a P-Card charge that is (1) in excess of the transaction limits and (2) falls under the E-Verify law, an affidavit will need to be obtained for the transaction.

V. P-Card Compliance

A. Merchant Category Code Authorizations

Merchant Category Codes (MCC's) are assigned by a vendor's bank based on the type of goods and/or services that they typically provide. Allowing or blocking certain MCC's, while not a fail-safe protection against unauthorized use of the P-Card, does provide a measure of protection against unauthorized or prohibited purchases.

The Procurement Official determines the City-authorized MCC groups that will be available to all Cardholders. Transactions at non-authorized MCC's are denied at the point-of-sale.

B. Internal Controls

An internal control structure is established to ensure compliance with all applicable City procurement policies and procedures including this Policy.

Internal controls include:

1. Appropriate separation of duties between individuals initiating transactions (Cardholders), reviewing and approving transactions for payment (Department Coders, Department Directors, and Procurement Official), and payment of monthly billing statement (Finance Department/Accounts Payable).
2. Appropriate hierarchical review and approval of purchases by someone with supervisory authority over the Cardholder and/or the authority to question

VI. P-CARD TRAINING

purchases if needed (Department Coders, Department Directors, Procurement Official, and/or Finance Department/Accounts Payable).

C. Internal Audits

1. Monthly Audits

At the end of each billing cycle and reconciliation process, the Procurement Official will audit and log P-Card Program process/documentation deficiencies onto the *P-Card Usage Notice* Form (Appendix B) and submit to the Cardholder and approving Department Director for remedies. Failure to remedy the deficiencies and/or a repeated pattern of deficiencies will result in removal of the P-Card and, depending on the severity of the deficiency, disciplinary action, criminal prosecution, and/or termination of City employment.

2. On-site Audits

The Procurement Official will conduct random audits to ensure compliance with the City's P-Card Program policy and procedures. The audit will be based on selected transactions and a periodic visual review of the purchased item (if applicable). Upon request, the Department Director, Department Coder, and/or Cardholder will assist with the location of the purchased item.

VI. P-Card Training

P-Card Program training is required for Department Directors, Department Coders, and Cardholders.

1. P-Card Training Session – Periodic training sessions will be provided to focus on program fundamentals including participant responsibilities, process flow, documentation requirements, fraud prevention, and follow-up compliance and auditing measures.
2. P-Card Knowledge Assessment – Department Directors, Department Coders, and Cardholders are required to complete/pass a knowledge assessment annually (existing City staff and Elected Officials) or before a P-Card is issued (new City staff and Elected Officials).

APPENDIX A

Appendix A

Example *Cardholder Agreement*



P-CARD APPLICATION AND ACCEPTANCE AGREEMENT

FINANCE DEPARTMENT
2 PARK PLAZA
ALPHARETTA, GA 30009

I, _____, hereby request a City P-Card.

1. I agree to comply with the terms and conditions of this Agreement and with the provisions of the *Purchasing Policies* and *Procurement Card Policies and Procedures*. All documents are available on the AlphaWeb as well as by contacting your Finance Liaison.
2. I understand that the City is liable to SunTrust Bank for all charges I make on the P-Card.
3. I agree to use the P-Card for authorized official business purchases only and agree not to charge personal purchases. I authorize the City to take whatever steps are necessary to collect an amount equal to the total of the improper purchases, including but not limited to declaring such purchases an advance on my wages to the extent allowed by law.
4. I agree to notify the P-Card Administrator at Purchasing@alpharetta.ga.us if my name or contact information changes. I further acknowledge that name changes will require proof of change (i.e. copy of marriage license and/or decree of legal name change).
5. If the P-Card is lost or stolen, I will **immediately** notify SunTrust Bank at 1-800-836-8562. I will also notify my Department Director, Department Coder, and the P-Card Administrator at Purchasing@alpharetta.ga.us, in writing/e-mail, at the first opportunity during normal business hours.
6. I understand that improper or fraudulent use of the P-Card may result in disciplinary action, up to and including termination of my employment. I further understand that the City may suspend my right to use the P-Card at any time for any reason.
7. I agree to surrender the P-Card immediately upon request or upon termination of employment for any reason.

Cardholder Agreement and Acceptance:

Employee Signature: _____ Date: _____
 Print Name: _____ Last 4 Digits of SSN: _____
 Employee's E-mail Address: _____ Phone: _____
 Department: _____

Cardholder's Department Director:

Request Approval/Signature: _____ Date: _____

Director of Finance /Procurement Official:

Request Approval/Signature: _____ Date: _____

Cardholder Acknowledgement of Receipt of Card:

The City of Alpharetta is pleased to present you with this P-Card. It represents trust in you and your empowerment as a responsible agent to safeguard and protect City of Alpharetta assets.

Last 4 Digits of Card Number: _____ Card Expiration Date: _____

Cardholder Signature for Card Receipt: _____ Date Received: _____

APPENDIX B

Appendix B

Example P-Card Usage Notice Form



P-CARD CARD USAGE NOTICE

FINANCE DEPARTMENT
2 PARK PLAZA
ALPHARETTA, GA 30009

Date: _____

To: _____ Last (4) Digits of Card: _____

CC: _____, Department Director
Thomas Harris, Finance Director
Shawn Mitchell, Budget & Procurement Manager

From: Finance Department, Budget & Procurement Division

Re: P-Card Statement Date (Mo/Yr): _____

Finance Department staff has reviewed the monthly P-card transactions. Please follow up with _____, in writing, within two weeks from the date of this notice detailing the action(s) taken and providing any necessary documentation.

- _____ **Sales taxes paid.** All purchases made with a P-Card are exempt from State of Georgia sales tax. Although sales tax reimbursement is no longer required, if sales tax is charged, it is the cardholder's responsibility to attempt to secure a credit from the vendor and document such process as part of the statement's backup.
- _____ **Inadequate or no description of item purchased.** Sales receipt does not give a proper description of the item purchased. Please explain/describe the item purchased. Descriptions must also be added when receipt uses store coding, inventory codes, abbreviations, etc. that do not clearly name or describe the purchase.
- _____ **Original receipt not included.** All receipts accompanying the monthly statement are to be the originals. Copies may be kept for department records or to include with travel expense reports.
- _____ **Exceeded single transaction limit/split charge.** The single transaction limit is \$2,499.99. For any purchases over \$2,499.99, please see your department's admin staff for assistance in initiating a purchase order.
- _____ **Travel meal purchased.** For non-local travel, the City provides per diem for meal and incidental costs. Please remit reimbursement within ten (10) business days.
- _____ **Local fuel purchased.** For all City owned vehicles, fuel for local vicinity driving (within 50 miles of City Hall) should be purchased through the Fulton County fuel depot. Please inform your department's admin staff if the fuel purchase was related to non-city vehicle so they can document accordingly. All fuel receipts must be marked with vehicle ID and driver name.
- _____ **Itemized meal receipt not included.**
- _____ **Food purchase – no list of participants / no explanation.** In order to comply with IRS regulations, the City requires itemized meal receipts and the final sales receipt. All food and meal purchases must be accompanied with a list of those attending and the reason for the purchase/meeting. Please forward the itemized meal receipt and/or details noted within ten (10) business days. If the receipt cannot be located and the vendor will not provide a duplicate, your department director should provide an explanatory memo detailing the reasons for lack of compliance with this section.
- _____ **Missing receipt.** The P-Card receipt for _____ was not included with the monthly statement. Please provide a written memo within ten (10) business days, signed by your department director, explaining the reason for lack of compliance with this section.
- _____ **Non Staples purchase.** In order to receive the best price for office supplies, the City only purchases office supplies from Staples. Please provide an explanatory memo along with documentation supporting why this purchase was not possible/appropriate to be initiated through Staples. If research proves that another source is less than Staples, please provide that information.
- _____ **Other:** _____

Please contact the appropriate Finance Department liaison with any questions you may have regarding the information contained herein.

CITY OF ALPHARETTA
2 PARK PLAZA
ALPHARETTA, GA 30009
WWW.ALPHARETTA.GA.US
678.297.6000

APPENDIX C

Appendix C

Sales Tax Certificate of Exemption

FormST-5 (Rev. 2/2012)



STATE OF GEORGIA
DEPARTMENT OF REVENUE
SALES TAX CERTIFICATE OF EXEMPTION
GEORGIA PURCHASER OR DEALER
EFFECTIVE OCTOBER 1, 2011

To: _____
(SUPPLIER) (DATE)

(SUPPLIER'S ADDRESS) (CITY) (STATE) (ZIP CODE)

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

- ☐ 1. Purchases or leases of tangible personal property or services for resale. O.C.G.A. § 48-8-30.
- ☒ 2. For use by the Federal Government, Georgia State Government, any county, municipality, qualifying authority or public school system of this state. Payment must be made by warrant on appropriated Government funds.
A Georgia sales and use tax number is not required for this exemption. O.C.G.A. § 48-8-3(1).
- ☐ 3. Purchases or leases of tangible personal property or services for **RESALE ONLY** by a church, qualifying nonprofit child caring institution, nonprofit parent teacher organization or association, nonprofit private school (grades K-12), nonprofit entity raising funds for a public library, member councils of the Boy Scouts of the U.S.A. or Girl Scouts of the U.S.A. **THIS EXEMPTION DOES NOT EXTEND TO ANY PURCHASE TO BE USED BY OR DONATED BY THE PURCHASING ENTITY.** A Georgia sales and use tax number is not required for this exemption. O.C.G.A. § 48-8-3(15),(39),(41),(56),(59),and(71).
- ☐ 4. Non-returnable materials used to package tangible personal property for shipment or sale. These items shall be used solely for packaging and shall not be purchased for reuse. O.C.G.A. § 48-8-3(35).
- ☐ 5. Aircraft, watercraft, motor vehicles, and other transportation equipment manufactured or assembled in this state sold by the manufacturer or assembler for use exclusively outside of this state when possession is taken by the purchaser within this state for the sole purpose of removing the property from this state under its own power due to the fact that the equipment does not lend itself more reasonably to removal by other means. A Georgia sales and use tax number is not required for this exemption. O.C.G.A. § 48-8-3(32).
- ☐ 6. The sale of aircraft, watercraft, railroad locomotives and rolling stock, motor vehicles, and major components and replacement/repair parts of each, which will be used principally to cross the borders of this state in the service of transporting passengers or cargo by common carriers in interstate or foreign commerce under authority granted by the United States government. Private and contract carriers are not exempt. O.C.G.A. § 48-8-3(33)(A).

PURCHASER'S BUSINESS ACTIVITY

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

Name of Purchaser: CITY OF ALPHARETTA, GEORGIA Sales Tax Number: 301-682441

Purchaser's Address: 2 PARK PLAZA City: ALPHARETTA State: GA ZIP Code: 30009

Name: THOMAS G HARRIS Signature: [Signature] Title: FIN DIRECTOR

A dealer must secure one completed certificate from each buyer making tax exempt purchases. The dealer must maintain a copy of the certificate presented for audit purposes. Certificates must be obtained within 90 days of the exempt sale being completed or within 120 days of the Department's request. Certificates obtained within 120 days of the Department's request must meet the good faith standard as defined in O.C.G.A. § 48-8-38. Exempt sales cannot be made to Taxpayers holding a "214" prefix sales and use tax number.



City Council Meeting and Public Hearing

STAFF REPORT

Submitting Department: Recreation and Parks
Submitted By: Lisa Cherry, Rec. & Parks Deputy Director
Meeting Date: November 16, 2015

I. AGENDA ITEM TITLE: PARKS WITHOUT BORDERS PROGRAM WITH JOHNS CREEK RECREATION AND PARKS

II. RECOMMENDATION:

Adopt a resolution in support of continuing and expanding the Parks without Borders program with Johns Creek Recreation and Parks for girls recreational softball, youth recreational baseball, and youth recreational lacrosse for the 2016 Spring and Fall seasons, and authorize the Mayor to execute all necessary documents.

III. BUDGET IMPLICATIONS:

BUDGETED ITEM: NO

FISCAL IMPACT: NO

INCLUDED IN CURRENT FY CPTL BUDGET: NO

INCLUDED IN CURRENT FY OPRT. BUDGET: NO

TOTAL PROJECT COST:

APPROPRIATIONS:

<u>ACCOUNT TITLE/NUMBER</u>	<u>DOLLAR AMOUNT</u>

EXTERNAL FUNDING SOURCES:

<u>ACCOUNT TITLE/NUMBER</u>	<u>DOLLAR AMOUNT</u>

IV. REPORT IN BRIEF:

A recommendation listed in the City of Alpharetta Recreation and Parks Department's ("ARPD") Master Plan 2025 is to continue and/or develop partnerships with neighboring municipalities for the provision of mutually beneficial recreation and parks programs and services. In 2015, City officials approved a one-year memorandum of understanding with the City of Johns Creek Recreation and Parks Department ("Johns Creek") for mutual waiving of non-resident fees for youth recreational softball for the spring and fall seasons. This MOU was unofficially dubbed the "Parks without Borders" program.

ARPD and Johns Creek employees have independently and collectively evaluated the effectiveness of the arrangement. Based on participation trends and positive feedback from participants, the relationship has met the goal of being beneficial to residents of both cities.

The success of the initial Parks without Borders program led staff to consider opportunities to expand to other programs including youth recreational baseball and lacrosse. Our partners, Alpharetta Youth Softball Association and Alpharetta Youth Baseball Association, support the arrangement and believe continuing and expanding the Parks without Borders program will make our programs stronger and allow us to serve more young people.

Staff presented this item to Council at the November 9, 2015 City Council meeting. The comments and feedback from Council was very positive. A resolution in support of continuing and extending the Parks without Borders program with Johns Creek and the MOU outlining the terms of the partnership were drafted. These documents have been reviewed and approved by City Attorney Sam Thomas. Johns Creek officials have reviewed and agreed to the terms of the MOU.

V. ALTERNATIVES:

VI. ATTACHMENTS:

MOU between Alpharetta and Johns Creek, Resolution between Alpharetta and Johns Creek

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF ALPHARETTA
AND THE CITY OF JOHNS CREEK**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into by and between the City of Alpharetta ("Alpharetta"), a municipal corporation of the State of Georgia, and the City of Johns Creek ("Johns Creek").

WHEREAS, the Cities of Alpharetta and Johns Creek are adjoining communities in North Fulton County; and

WHEREAS, each City maintains and staffs respective departments within each City for the purpose of providing recreation and parks services; and

WHEREAS, the Cities have determined that it is to their best interest and mutual advantage to share certain programs and facilities;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties agree as follows:

1. GENERAL PURPOSE OF MOU.

The purpose of this MOU is to take another step to continue to foster a long-term mutually beneficial relationship between Alpharetta and Johns Creek as it relates to parks and recreation programs and services as a way to better serve the Cities' respective citizens, offer a wider variety of recreational services, and grow the relationship between the Cities such that similar opportunities can be developed over time.

2. GENERAL RESPONSIBILITIES OF PARTIES.

(a) Alpharetta shall waive non-resident fees for Johns Creek residents who participate in Alpharetta's recreational youth softball, baseball, and lacrosse programs, provided space is available.

(b) Johns Creek shall waive non-resident fees for Alpharetta residents who participate in Johns Creek's recreational youth softball, baseball, and lacrosse programs, provided space is available.

(c) Travel/select softball, baseball and lacrosse programs are not included in this MOU.

- (d) Residents of each City shall have first priority to register for their City's recreation programs (at least two (2) weeks before open registration). Residents of the other City shall have second priority to register for the recreational youth softball, baseball, and lacrosse programs (at least one (1) week before open registration). The open registration period for non-Alpharetta and non-Johns Creek residents shall begin after the priority registration ends.
- (e) Full time employees (including elected officials) of each partner City and their immediate family members living in the same household will be considered residents of the City in which they are employed. As residents of the partner City, eligible employees/family members may register for recreational youth softball, baseball, and lacrosse programs during the partner City's resident registration period and will pay resident registration fees. Each partner City will waive non-resident fees for the full time employees and their immediate family members of the other City. To receive the non-resident fee waiver, an employee must provide proof of employment with the partner City when registering for the program. An employee who resigns or is terminated prior to the start of the program must pay the non-resident fee to the other City. These guidelines are not applicable for part-time and seasonal employees, contracted vendors, and volunteers.
- (f) The MOU shall become effective with registration for the Spring 2016 recreational youth softball, baseball, and lacrosse seasons and shall continue through registration for the Fall 2016 recreational youth softball, baseball, and lacrosse seasons.
- (g) At the conclusion of the Spring 2016 season, Alpharetta and Johns Creek officials (to include the Mayors and City Manager/Administrator, or their designees), shall evaluate the effectiveness of the MOU in meeting established goals. Officials shall evaluate participation in recreational youth softball, baseball, and lacrosse, and the other terms of the MOU to ensure they are fair and just for both parties. The parties shall exercise their best efforts to resolve any issues.
- (h) This MOU shall automatically terminate at the end of the Fall 2016 season.

- (i) Early Termination. Both parties shall have the ability to terminate the MOU without cause with six (6) months prior written notice to the other party. The termination shall be effective at the end of the six (6) month period.

3. ADMINISTRATION.

- (a) The parties place high value on regular, timely and full communications between themselves, and commit themselves to ensuring strong communication links through their actions.
- (b) Each party will designate a single point of contact to coordinate all activities between the parties involved.
- (c) Communication between the two parties at the highest level (Mayors, any Administrator/City Manager) will take place if judged necessary by the respective Recreation & Parks Directors of each City.
- (d) More specific delineations of roles, responsibilities, resources and commitments concerning particular matters may be addressed in written guidelines approved by the Alpharetta Recreation & Parks Director and the Johns Creek Recreation & Parks Director, if such guidelines are consistent with the general purposes of this MOU.
- (e) Unless otherwise provided for herein, this MOU does not impose specific program, resources, or budgetary obligations on either party.

4. OTHER PROVISIONS.

- (a) Indemnity. Each City shall indemnify, defend, and hold the other City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney's fees, arising out of the acts, errors, or omissions of the indemnifying City, its officers, officials, employees, agents, and volunteers in the performance of its obligations under this MOU, except to the extent the injuries were caused by the indemnified City, to the extent, if any, allowed by law.
- (b) Insurance. Each City shall be responsible for obtaining and maintaining its own liability and property insurance against losses or liability related to this MOU.

- (c) No Third Party Beneficiaries. There are no third party beneficiaries to this MOU. No person or entity other than a party to this MOU shall have any rights hereunder or any authority to enforce its provisions. Nothing in this MOU shall be deemed to waive either party's sovereign or other immunity.
- (d) Duration – Termination. The term of the MOU shall be for a period of one year. This MOU shall take effect and be in full force on December 1, 2015. The MOU will be terminated pursuant to Section 2 (h) or Section (i) of this MOU.
- (e) Relationship Between the Parties. In consideration of the mutual services provided herein, both parties agree that nothing contained herein is intended to be or should be construed in any manner as creating or establishing the relationship of partners or joint venturers between the parties hereto or as constituting an agency relationship in any manner whatsoever. The individual parties are and shall remain independent entities with respect to all services performed under this MOU. Each party represents that it has, or will secure all its expense, all personnel required in performing its service obligation under this MOU and that the acts of its employees performing the service under this MOU shall be the acts of employees of that entity alone. Each entity agrees that in the performance of this mutual service, its employees shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the other entity to this MOU, including, but not limited to, medical and hospital care, sick and vacation leave, disability, Worker's Compensation or Unemployment Compensation.
- (f) Severability. In the event any part or provision of this MOU is held to be invalid, the remainder of this MOU shall not be affected thereby and shall continue in full force and effect.
- (g) Applicable Law. This MOU shall be governed in all respects as to the validity, construction, capacity, performance, or otherwise by the laws of the State of Georgia.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year written below.

CITY OF ALPHARETTA, GEORGIA

Date: _____

By: _____
David Belle Isle, Mayor

APPROVED AS TO FORM:

C. Sam Thomas, P.C.
City Attorney for the
City of Alpharetta, Georgia

CITY OF JOHNS CREEK, GEORGIA

Date: _____

By: _____
Michael E. Bodker, Mayor

APPROVED AS TO FORM:

Richard A. Carothers
City Attorney for the
City of Johns Creek, Georgia

A RESOLUTION TO AUTHORIZE AND APPROVE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ALPHARETTA, GEORGIA AND THE CITY OF JOHNS CREEK, GEORGIA FOR THE PURPOSE OF WAIVING THE NON-RESIDENT FEE FOR YOUTH GIRLS' RECREATIONAL SOFTBALL, YOUTH RECREATIONAL BASEBALL, AND YOUTH RECREATIONAL LACROSSE FOR THE SPRING AND FALL 2016 SEASONS AND OTHER RELATED PURPOSES

WHEREAS, the Mayor and Council of the City of Alpharetta, Georgia (the "City Council") are charged with the protection of the health, safety and welfare of the citizens of Alpharetta; and

WHEREAS, the City of Alpharetta (the "City"), through its Recreation and Parks Department, provides certain recreational programs and facilities to the public; and

WHEREAS, registration for such programs is generally based on a priority system in which residents of the City have first priority to register as participants in such recreation programs offered in City Parks; and

WHEREAS, subject to program availability, non-residents of the City desiring to participate in such recreation programs are generally required to pay an additional fee ("non-resident fee") in order to register and participate in such programs; and

WHEREAS, other neighboring jurisdictions have implemented policies providing for similar priority registration for residents and the assessment of non-resident fees for non-resident program registration and participation; and

WHEREAS, the City desires to enter into that certain Memorandum of Understanding with the City of Johns Creek, attached hereto and incorporated herein by this referent (the "MOU"), in which each city agrees to waive the assessment of a non-resident fee against residents of the other city for youth girls' recreational softball, youth recreational baseball, and youth recreational lacrosse programs for the 2016 Spring and Fall seasons only; and

WHEREAS, notwithstanding the MOU, City residents will still have the first priority to register for participation in City recreation programs;

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Alpharetta, Georgia, that the attached Memorandum of Understanding with the City of Johns Creek providing for (i) the mutual waiver of non-resident fees for youth girls' recreational softball, youth recreational baseball, and youth recreational lacrosse programs for the 2016 Spring and Fall seasons and (ii) the mutual provision of a second tier priority status for registration by residents of the other city in the providing city's youth girls recreational softball, youth recreational baseball, and youth recreational lacrosse programs for the 2016 Spring and Fall seasons is hereby approved, and the Mayor is hereby authorized to execute same.

SO APPROVED, ADOPTED, and EFFECTIVE this _____ day of _____, 2015.

CITY OF ALPHARETTA, GEORGIA

By: _____

David Belle Isle, Mayor

COUNCILMEMBERS

(SEAL)

Attest:

Coty Thigpen, City Clerk



City Council Meeting and Public Hearing STAFF REPORT

Submitting Department: Legal
Submitted By: Sam Thomas, City Attorney
Meeting Date: November 16, 2015

I. AGENDA ITEM TITLE: INTERGOVERNMENTAL AGREEMENT WITH CITY OF MILTON: FACILITY USE AND COURT SERVICES

II. RECOMMENDATION:

Staff requests approval of an intergovernmental agreement with the City of Milton to allow and provide for, under certain terms and conditions, the limited use of certain facilities at the Crabapple Government Center for the purpose of supporting the City of Milton's municipal court operations.

III. REPORT IN BRIEF:

IV. ALTERNATIVES:

V. ATTACHMENTS:

IGA

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF MILTON, GEORGIA AND
THE CITY OF ALPHARETTA, GEORGIA
REGARDING LEASE AND JOINT USE
OF MUNICIPAL COURT FACILITIES

This Intergovernmental Agreement (“IGA”), effective this _____ day of _____, 2015 (the “Effective Date”), is entered into by and between the **CITY OF MILTON, GEORGIA**, a municipal corporation formed under the laws of the State of Georgia and acting buy and through its governing authority, the City of Milton Mayor and City Council (hereinafter "**Milton**") and the **CITY OF ALPHARETTA, GEORGIA**, a municipal corporation formed under the laws of the State of Georgia and acting buy and through its governing authority, the City of Alpharetta Mayor and City Council (hereinafter "**Alpharetta**").

RECITALS:

WHEREAS, the parties are authorized to enter into this IGA pursuant to Article IX, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 regarding intergovernmental contracts (“Intergovernmental Contracts Clause”);

WHEREAS, the Intergovernmental Contracts Clause authorizes the cities to enter into an agreement for the joint or separate use of facilities or equipment, but such contracts must deal with activities, services, or facilities which the contracting parties are authorized by law to undertake or provide (GA CONST., Art. IX, Sec. III, Para. I); and

WHEREAS, Alpharetta owns a Municipal Court facility located at 12624 Broadwell Road, Alpharetta, Georgia 30004 in Fulton County (the “Premises”), which facility is convenient to Milton residents; and

WHEREAS, O.C.G.A. § 36-32-12 provides that “sessions of a municipal court may be held outside the municipality for which the municipal court is established if such sessions are held within a county in which the municipality is located or has its legal situs;” and

WHEREAS, both Alpharetta and Milton are located in Fulton County; and

WHEREAS, Milton is looking for a facility to house its Municipal Court operation; and

WHEREAS, Alpharetta already does or intends to hold sessions only on Tuesdays, Wednesdays, and Thursdays; and

WHEREAS, Milton already does or intends to hold its Municipal Court sessions only on Mondays and Fridays; and

WHEREAS, Alpharetta and Milton desire to enter into this IGA regarding (1) the lease by Milton of certain space within the Premises to house Milton's Municipal Court sessions and offices, (2) Milton's exclusive right to use the Courtroom (defined below) during normal Business Hours (defined as 9:00 AM until 5:00 PM) on Mondays and Fridays, and (3) the parties' joint right to use and operate within Common Areas (defined below) on the Premises; and

WHEREAS, Milton and Alpharetta believe the best interests of both Milton and Alpharetta will be served by the exchange contemplated in this IGA, the projects and services to be undertaken pursuant to this IGA, and those ancillary activities otherwise forming a part of this IGA.

NOW THEREFORE, in consideration of the mutual benefits to the parties hereto and all of the citizens they represent and other good and valuable consideration as set forth herein below, Milton and Alpharetta enter into this IGA upon the following terms, conditions, and stipulations:

I. INCORPORATION OF RECITALS.

The Recitals set forth above are hereby incorporated in and made a part of this IGA by this reference.

II. LEASE AND RIGHT TO USE

A. General Terms/Definitions.

1. **Building.** A floorplan for the building located on the Premises (the "Building") is attached hereto as **Exhibit A.1** and incorporated herein by reference.
2. **Common Areas.** "Common Areas" generally include space that is not included in portions of the Premises and Building set aside for Milton or Alpharetta's exclusive use, including but not limited to parking, sidewalks, entrances, hallways, lobbies, elevators, restrooms, walkways and plazas.
3. **Courtroom.** The "Courtroom" is the area labeled as "courtroom" in **Exhibit A.1**.

B. Right to Use.

1. **Common Areas/Courtroom.** During the term of this IGA, Milton and Alpharetta shall have a joint right to use the Common Areas on the Premises, and Milton shall have an exclusive right to use the Courtroom during Business Hours on Mondays and Fridays. Milton's use of the Courtroom shall be limited solely to conducting sessions of Milton's Municipal Court during Business Hours on Mondays and Fridays. Alpharetta shall have the sole and exclusive right to use the Courtroom at all times other than during Business Hours on Mondays and Fridays. All use of the Common Areas shall be subject to any reasonable rules and regulations promulgated by Alpharetta, provided that such rules shall not interfere with

the public's ability to access the Milton Municipal Court facilities or offices or Milton's ability to hold Municipal Court sessions on the Premises in compliance with applicable law.

2. **Control of Access.**

- a. **Generally.** Milton, its agents, employees, invitees, and guests, shall have access to the Premises and reasonable ingress and egress to Common Areas of the Building twenty-four hours a day, seven days a week during the term of this IGA; provided, however, Alpharetta by reasonable regulation may control such access for public safety and protection of all Building occupants or as needed for making repairs and alterations, provided that such regulation shall not interfere with the public's ability to access Milton's Municipal Court offices during Business Hours or Milton's ability to hold Municipal Court sessions during Business Hours on Mondays and Fridays. Milton's access to the Premises, as authorized herein, shall be exclusively for the purpose of (1) using the Leased Premises (hereafter defined) at any time to conduct Municipal Court operations and (2) conducting Municipal Court sessions during Business Hours on Mondays and Fridays.
- b. **After Hours.** Milton shall be responsible for providing access to the Premises to its agents, employees, invitees and guests after Business Hours and on weekends and holidays, but in no event shall Milton's use of and access to the Premises during non-Business Hours compromise the security of the Building. Milton's access to the Premises, as authorized herein, shall be exclusively for the purpose of (1) using the Leased Premises (hereafter defined) at any time to conduct Municipal Court operations and (2) conducting Municipal Court sessions during Business Hours on Mondays and Fridays.
- c. **Security.** Alpharetta will continue to maintain security of the court on Tuesdays, Wednesdays and Thursdays when Alpharetta's Municipal Court is in session. Milton will maintain security of the court on Mondays and Fridays when Milton's Municipal Court is in session, and Alpharetta will allow Milton to use its security checkpoint equipment during such times.
- d. **Other Access Matters.** Milton shall conduct its operations in such a manner as to not impair Alpharetta's access to Room 202 at any time. Except in the case of an emergency, the point of ingress and egress into the Premises for Milton, its agents, employees, invitees, and guests shall be through the entry and exit doors facing Crabapple Road. Except in the case of an emergency, Milton, its agents, employees,

invitees, and guests, shall not have access to the stairwell leading down to the entry and exit doors facing Broadwell Road. In addition, Milton, at its cost, shall erect a half-gate or half-door, or similar physical barrier to be approved by Alpharetta limiting access to the stairwell and shall post signage acceptable to Alpharetta regarding the limited access.

C. Lease.

1. **Leased Premises.** Milton shall lease and have exclusive control over the portions of the Building depicted in **Exhibit A.2**, attached hereto and incorporated herein by reference (“Leased Premises”), during the term of this IGA. Milton’s use of the Leased Premises shall be limited to conducting Municipal Court operations. Milton shall have quiet enjoyment and possession of the Leased Premises provided Milton complies with all of its obligations under this IGA. The Leased Premises may also be referred to as Milton’s Court Offices.
2. **Improvements and Alterations to the Leased Premises.** Subject to Alpharetta’s consent, which consent shall not be unreasonably withheld, Milton may make structural and/or interior alterations to this Leased Premises at Milton’s expense, and Milton will procure any permits necessary to complete such improvements. Alpharetta shall provide Milton with access to the Building/Premises and its systems as needed to complete such improvements or alterations; provided that such access shall not interfere with Alpharetta’s normal use of the Building and Premises during Business Hours, and, if any portion of the Building or Premises is damaged during such improvements or alterations, Milton will correct such damage at its expense. Alpharetta hereby consents to the improvements and modifications shown in **Exhibit B**.
3. **Alpharetta Right of Entry.** Alpharetta shall have the right, at all reasonable times and upon reasonable notice and without unreasonably interfering with Milton’s business, either itself or through its authorized agents, to enter the Leased Premises to make repairs and inspect any mechanical systems and electrical devices. Further, Alpharetta shall have the right to enter the Leased Premises at any time without notice in the event of an emergency.

- D. Premises Operation and Maintenance Costs.** During the term of this IGA, Alpharetta shall be responsible for all costs associated with operation and maintenance of the Premises (including but not limited to utility costs, standard building lighting, heating and air conditioning, janitorial costs, trash/dumpster pickup, and landscaping costs). Alpharetta shall make all standard repairs and replacements to the Premises, including, but not limited to, the Building and Common Areas, except as specifically agreed upon in writing by the parties hereto. Alpharetta’s Building

maintenance shall include but not be limited to the roof, foundation, exterior walls, windows, interior structural walls, all structural components, and all Building systems, such as mechanical, electrical, HVAC, and plumbing. Repairs and replacements shall be made within a reasonable time (depending upon the nature of the repair or replacement needed) after Alpharetta is notified or has actual knowledge of the need for the repair or replacement. Notwithstanding anything to the contrary in this paragraph, Milton will be responsible for costs associated with improvements it makes to the Leased Premises pursuant to Section II(C)(2) and repairs and replacements directly associated with those improvements.

E. Compensation. In exchange for Milton's right to use described in Section II(B), lease interests described in Section II(C), and other services described in Section II(D), Milton will pay Alpharetta three thousand dollars (\$3,000) per month during the term of this IGA.

F. Modifications to the Premises/Signage.

- 1. Signage.** Alpharetta will add Milton to interior and exterior signage, including but not limited to door and directory signage; provided that such signage shall be of similar scale to existing Alpharetta signage. The parties agree to cooperate in the location and style of signage at the Premises during the term of this IGA. Any dispute regarding the location of signage at the Premises shall be resolved pursuant to Section IV of this IGA. Milton shall reimburse Alpharetta for any costs associated with signage modifications.
- 2. Courtroom.** The parties will cooperate in completing any improvements and modifications to the Courtroom, which improvements and changes may be mutually agreed upon by the parties, and the parties agree that any improvements or modifications to the Courtroom shall not negatively impact Milton's operation of Municipal Court sessions within the Courtroom. Any dispute regarding improvements to the Courtroom shall be resolved pursuant to Section IV of this IGA.
- 3. Leased Space.** Alpharetta has consented to the improvements and modifications shown in **Exhibit B**. Pursuant to Section II(C)(2) above, subject to Alpharetta's consent, which consent shall not be unreasonably withheld, Milton may, at its expense, make additional improvements to and modify the Leased Premises.

G. Solicitor's Continued Right to Use. Alpharetta will continue to allow Milton's Solicitor to use the Solicitor's current office space and will continue to allow Milton's Solicitor to work on Milton matters in that space.

III. TERM AND TERMINATION

- A. **Term.** This IGA shall commence upon execution by the parties and shall have an Initial Term of five (5) years. At the end of the Initial Term, and at the end of each Renewal Term (defined below), this IGA shall automatically renew for an additional one (1) year term (“Renewal Term”) absent one party giving the other party written notice of non-renewal at least six (6) months prior to the date of renewal. This IGA may renew for a maximum of five (5) one-year Renewal Terms.
- B. **Termination for Convenience.** Either party may terminate this IGA for convenience by providing written notice of termination to the other party at least six (6) months prior to the date of termination.
- C. **Upon Termination.** At the expiration or earlier termination of this IGA, Milton shall (i) deliver each and every part of the Leased Premises to Alpharetta and (ii) remove all of Milton’s personal property, equipment and fixtures from the Premises. Any permanent modifications/alterations to the structure of the Leased Premises will remain. Alpharetta hereby agrees that Milton shall be allowed to remove all equipment installed by Milton; provided that Milton repairs any damage resulting from the removal of such equipment.

IV. DISPUTE RESOLUTION

If any disputes or issues arise in connection with this IGA, either party shall have the right to demand a meeting of the cities’ respective City Managers. If the dispute cannot be resolved amicably between the City Managers, then either party shall have the right to request the other party participate in non-binding mediation. The mediator shall be mutually agreed upon, and the costs of the mediator shall be shared equally between the parties. In the event there is no request for mediation or mediation efforts fail, then any dispute or issues shall be resolved through litigation. In the event mediation is unsuccessful or deemed futile, the parties shall each be entitled to pursue all available remedies at law or equity; provided that any action or suit related to this IGA shall be brought in the Superior Court of Fulton County, Georgia, or the Northern District of Georgia, as applicable, and the parties hereby submit to the jurisdiction and venue of such court.

V. MISCELLANEOUS

A. **Insurance.**

1. **Alpharetta.** Alpharetta shall procure and maintain a commercially reasonable policy of fire, flood and liability insurance on the Premises throughout the term of this IGA. Said insurance policy shall have aggregate annual coverage of no less than \$1,000,000 for liability and

\$5,000,000 for flood/fire. Further, Alpharetta shall ensure that Milton is covered as an additional insured on such insurance policy.

- 2. Contractors/Subcontractors.** During any construction on the Premises, the respective party completing such construction shall ensure by written contract that all contractors and subcontractors maintain commercially reasonable insurance insuring against claims for injuries to persons or damages to property which may arise from or in connection with the work being performed and that both Milton and Alpharetta are listed as additional insured to such policies, including, but not limited to, a general liability policy with limits of no less than one million dollars (\$1,000,000.00). Further, the party contracting for such work shall comply with O.C.G.A. § 13-10-90, et seq., O.C.G.A. § 50-36-1, et seq., O.C.G.A. § 36-91-1, et seq., and/or all other applicable law.

- B. Assignment or Transfer.** The rights, privileges and obligations under this IGA shall not be assigned or transferred by any party without the prior written consent of the other party.
- C. Notices.** All notices given pursuant to this IGA shall be in writing and shall be deemed received, and shall be effective when: (i) personally delivered, or (ii) on the third day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (iii) upon actual delivery when sent via national overnight commercial carrier to the party at the address given below, or at a substitute address previously furnished to the party by written notice in accordance herewith:

To Milton:

City of Milton, Georgia
13000 Deerfield Parkway, Suite 107
Milton, GA 30004
ATTN: City Manager

To Alpharetta:

City of Alpharetta, Georgia
2 Park Plaza
Alpharetta, GA 30009
ATTN: City Administrator

Either party shall have the right, from time to time, to change the address to which notices to it shall be sent by giving to the other party at least ten (10) days prior notice of the changed address.

- D. Public Procurement Requirements.** Each party agrees that it will comply with all public works bidding requirements of the State of Georgia related to any construction, improvements, or services completed on the Premises.
- E. E-verify and Title VI.** Each party agrees that it will comply with all E-Verify and Title VI requirements and execute any documents reasonably required related to such compliance. Further, each party agrees that any contracts let for work completed on the Premises shall contain all required E-verify and Title VI requirements under applicable law.
- F. Entire Agreement/Amendment.** This IGA contains the entire agreement of the parties and supersedes all prior communications or agreements, whether oral, written, or understood, regarding the subject of this IGA. This IGA may be modified or amended only in writing properly executed by both parties.
- G. Headings and Severability.** The brief capitalized and underlined headings or titles preceding each paragraph are for purposes of identification, convenience and ease of reference only and in no way define, limit or describe the scope or intent thereof, or of this IGA nor in any way affect this IGA, and such headings or titles shall be disregarded in the construction of this IGA. Should any article(s) or section(s), or any part thereof, later be deemed unenforceable by a court of competent jurisdiction, the offending portion of the IGA should be severed, and the remainder of this IGA shall remain in full force and effect to the extent possible.
- H. Waiver.** No failure of any party hereto to exercise any right or power granted under this IGA, or to insist upon strict compliance by the other party with this IGA, and no custom or practice of any party at variance with the terms and conditions of this IGA, shall constitute a general waiver of any future breach or default or affect either party's right to demand exact and strict compliance by any other party hereto with the terms and conditions of this IGA.
- I. Governing Law.** The parties shall comply with all applicable laws, ordinances and regulations related to their respective use of the Premises and performance of this IGA. This IGA shall be governed by, construed under, performed and enforced in accordance with the laws of Georgia.
- J. Interpretation.** The parties hereto have cooperated in the preparation of this IGA. Hence, should any provision of this IGA require judicial interpretation, it is agreed and stipulated by and between the parties that the court interpreting or construing the same shall not apply a presumption that the terms, conditions and provisions hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against the party who prepared the same.

- K. Counterparts.** This IGA may be executed in multiple counterparts each of which is deemed an original of equal dignity with the others and which is deemed one and the same instrument as the others.
- L. Successors and Assigns.** Subject to the provision of this IGA regarding assignment, this IGA shall be binding on the heirs, executors, administrators, successors and assigns of the respective parties, provided that no party may assign this IGA without prior written approval of the other party.
- M. Third Parties.** This IGA shall be exclusively for the benefit of the parties hereto and shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action or other right.
- N. Sovereign Immunity.** Nothing contained in this IGA shall be construed to be a waiver of either party's sovereign immunity or any individual's qualified good faith or official immunities.
- O. Force Majeure.** Neither party shall be liable for its respective non-negligent or non-willful failure to perform or shall be deemed in default with respect to the failure to perform (or cure a failure to perform) any of its respective duties or obligations under this IGA or for any delay in such performance due to: (a) any cause beyond its respective reasonable control; (b) any act of God; (c) any change in applicable governmental rules or regulations rendering the performance of any portion of this IGA legally impossible; (d) earthquake, fire, explosion or flood; (e) strike or labor dispute; (f) delay or failure to act by any governmental or military authority other than the party claiming the benefit of this provision; or (g) any war, hostility, embargo, sabotage, civil disturbance, riot, insurrection or invasion. In such event, the time for performance shall be extended by an amount of time equal to the period of delay caused by such acts, and all other obligations shall remain intact.
- P. Records.** Each party shall maintain records relating to matters covered by this IGA as required by law and by any additional requirements in this IGA. Such records shall be maintained for at least a period of three years following the termination of this IGA.
- Q. Authorization.** Each of the individuals executing this IGA on behalf of his or her respective party agrees and represents to the other party that he or she is authorized to do so and further agrees and represents that this IGA has been duly passed upon by the required governmental agency or council in accordance with all applicable laws and spread upon the minutes thereof. The parties hereto agree that this IGA is an intergovernmental contract and is entered into pursuant to Article IX, Section III, Paragraph I of the Constitution of the State of Georgia 1983.

IN WITNESS WHEREOF, Milton and Alpharetta have caused this IGA to be executed under seal as of the Effective Date first provided above.

CITY OF MILTON, GEORGIA

Joe Lockwood, Mayor

[CITY SEAL]

ATTEST:

Sudie AM Gordon, City Clerk

NOTARY PUBLIC:

My Commission Expires: _____

[AFFIX NOTARY SEAL OR STAMP]

CITY OF ALPHARETTA, GEORGIA

David Belle Isle, Mayor

[CITY SEAL]

APPROVED AS TO FORM:

ATTEST:

C. Sam Thomas, City Attorney

Print: _____
City Clerk

NOTARY PUBLIC:

My Commission Expires: _____

[AFFIX NOTARY SEAL OR STAMP]



City Council Meeting and Public Hearing

STAFF REPORT

Submitting Department: Public Works
Submitted By: Pete Sewczwicz, Public Works Director
Meeting Date: November 16, 2015

I. AGENDA ITEM TITLE: ENCORE PARKWAY BRIDGE REPLACEMENT AND GREENWAY CONNECTION

II. RECOMMENDATION:

Please award ITB #15-011 to C.W. Matthews in the amount of \$14,632,396.94 and authorize the Mayor to execute all necessary contracts with the Georgia Department of Transportation and Fulton County regarding the Encore Parkway Bridge Replacement and Greenway Connection Projects.

III. BUDGET IMPLICATIONS:

BUDGETED ITEM: YES

FISCAL IMPACT: YES

INCLUDED IN CURRENT FY CPTL BUDGET: YES INCLUDED IN CURRENT FY OPRT. BUDGET: NO

TOTAL PROJECT COST: \$14,632,396.94

APPROPRIATIONS:

ACCOUNT TITLE/NUMBER	DOLLAR AMOUNT
Encore Pkwy - Grants/NFCID Contributions (34041100-541410-C0005)	\$12,643,550.14
Encore Pkwy - COA/Fulton County (30141100-541410-C0005)	\$338,164.53
Encore Pkwy - ABC Contribution GTIB (30176100-541410-C0005)	\$1,650,682.27
-	\$0.00
-	\$0.00
-	\$0.00

EXTERNAL FUNDING SOURCES:

ACCOUNT TITLE/NUMBER	DOLLAR AMOUNT
GDOT Grant (34041100-331351-C0005)	\$7,600,000.00
GDOT TE Grant (34041100-331350-C0005)	\$780,793.14
NFCID Contribution SRTA Grant (34041100-336001-C0005)	\$1,000,000.00
NFCID Contribution (34041100-336002-C0005)	\$3,262,757.00
Fulton County Waterline Contribution (30141100-336000-C0005)	\$247,038.00
ABC Sidewalk Contribution (30176100-371000-C0005)	\$1,650,682.27

IV. REPORT IN BRIEF:

The Encore Parkway Bridge Replacement and Greenway Connection Project was a result of the North Point Activity Center Livable Centers Initiative Study. The Encore Parkway project will provide transportation enhancements to accommodate appropriate turn lanes, pedestrian, and bicycle facilities from Westside Parkway to North Point Parkway, including connection to the Big Creek Greenway further down North Point Parkway.

This section of Encore Parkway currently has two through lanes for traffic. Sidewalks are currently found in a few, disconnected segments along this section of Encore Parkway, including across the bridge over State Route (Georgia) 400. No bicycle facilities are provided. The roadway concept along Encore Parkway includes wide sidewalks and bicycle lanes to promote pedestrian activity. Additionally, the median will be landscaped and there is a wide landscape buffer between the bicycle lane and sidewalk. The connection from the intersection of Encore Parkway and North Point Parkway to the Big

Creek Greenway entrance will include minimum 8 foot wide sidewalks.

The Encore Parkway Project started in 2008, and the North Fulton Community Improvement District (NFCID) played a vital role from the start. In 2010 the City received \$4,000,000 in construction funds through a Livable Centers Initiative (LCI) Grant. The NFCID led the design efforts and paid for the design fees associated with the Encore project. The City also received a Transportation Enhancement (TE) Grant during this time period and the City elected to allocate these funds, \$780,793.14 towards a greenway connection along North Point Parkway. The City was responsible for funding the design work associated with the Greenway Connection. Additionally, with funding from ABC and the City in the amount of \$1,741,808.80, CID commitment of \$4,262,757 (including \$1 million through a State Road Toll authority grant – SRTA), and County waterline contribution of \$247,038, the City had a total construction allocation of \$11,032,396.94 in June 2015.

The project was advertised for competitive bids on June 11, 2015. Bids for the project were received on July 23, 2015, and the City received a total of three bids from the following:

- | | |
|---|-----------------|
| • C.W. Matthews Contracting Company, Inc. | \$14,632,396.94 |
| • G.P.'s Enterprise, Inc. | \$17,398,830.46 |
| • Astra Group | \$18,348,888.00 |

Recall, this project has two separate components, Encore Parkway and the Greenway connection. The construction cost for CW Matthews to complete the Encore Parkway portion is \$13,513,439.27; and the cost to complete the Greenway Connection is \$871,919.67; and \$247,038.00 for Waterline work (see attached MOU with Fulton County); total cost to complete the project is \$14,632,696.94.

Between June 11th and now the City and NFCID have been working with the Georgia Department of Transportation (GDOT) to obtain additional funds for construction, \$3.6M, to fund the shortfall. GDOT identified Encore as a possible Bus Rapid Transit Exit and the design team had to account for such in the design, which meant longer spans to accommodate bus movements. These longer spans played a role in the project coming in over budget. Additionally, if the Encore project did not move forward and GDOT moved forward with the Bus Rapid Transit plan they would have to invest far greater than \$3.6M into improvements to Encore Parkway to accommodate the Bus Rapid Transit project. The City received confirmation GDOT allocated an additional \$3.6M to the project and the attached contract from GDOT reflects the additional dollars. Attached is a sample contract from GDOT outlining the total project cost and the total funds from GDOT for the Encore Parkway Bridge Replacement. City staff is waiting on a final contract, but due to time constraints associated with the start of the project, City staff decided it would be best to move forward. Any significant changes to the contract and City staff will bring back the contract to Council for approval. The project duration is 540 days; however the bridge shall be drivable by November of 2016 to assist in the holiday shopping period.

The total construction cost, Encore and Greenway (excluding Fulton County waterline scope) is \$14,385,358.94 and the breakdown of the funds and where the funds are from is as follows:

- | | |
|----------------------|--------------|
| • City of Alpharetta | \$ 91,126.53 |
|----------------------|--------------|

• ABC	\$1,650,682.27
• NFCID	\$3,262,757.00
• NFCID (SRTA Grant)	\$1,000,000.00
• TE Funds	\$ 780,793.14
• GDOT	\$7,600,000.00

The costs noted above are for construction only. The NFCID has funded additional monies totaling \$3.2 million as follows: project/construction management services (\$1,032,772), engineering (\$1,351,307), and right-of-way acquisition (\$875,000).

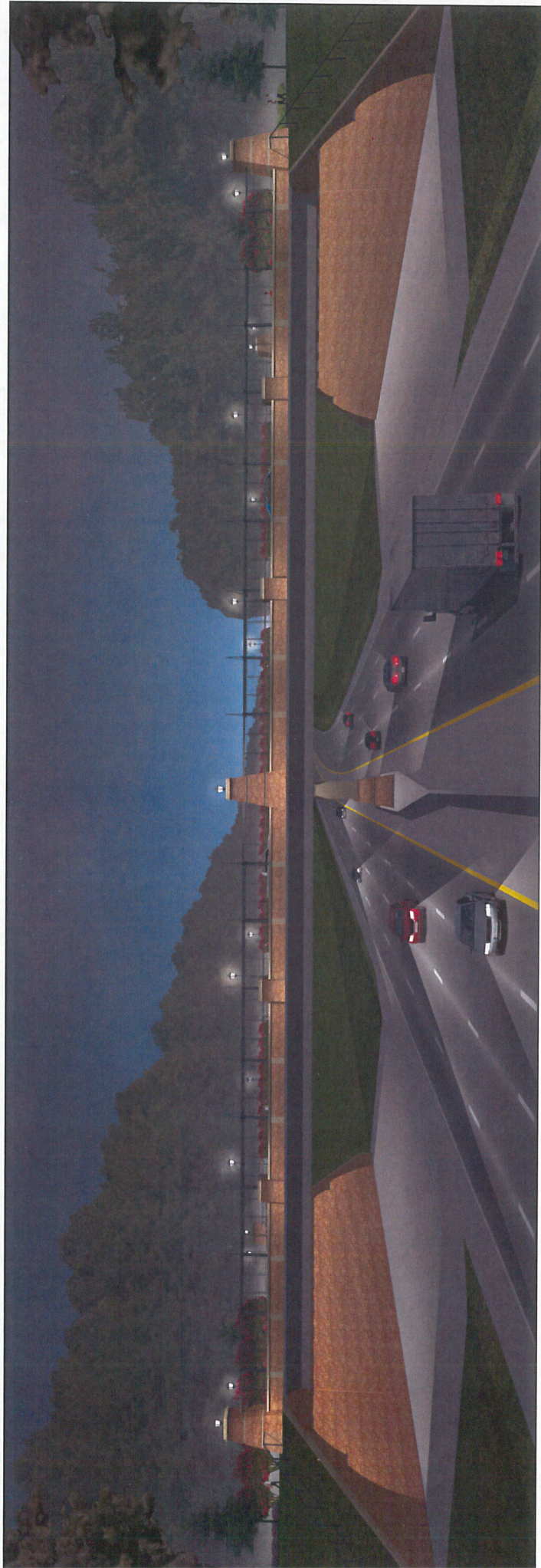
As this is a unit price contract, progress payments to the contractor will be based on the quantity of work completed for each item per the values submitted by the contractor in its bid to the City. The City's representative will verify the quantity is correct prior to approving the payment. In this particular case the City's field representative will be representatives from Atkins. The NFCID has allocated funding for construction management and inspections for this project. Atkins will serve as an extension of City staff and they will verify all pay quantities are accurate prior to submitting payment requests from the contractor to the City.

The schedule is aggressive for the bridge, but CW Matthews is an accomplished contractor and has the resources to meet the schedule, so long work is able to commence at the first of the year. In good faith, CW Matthews has already started working with utility companies regarding relocation schedules to minimize conflicts once bridge work begins. Thus, City staff and the NFCID team recommends awarding the Encore Parkway Bridge Replacement and Greenway Connection projects to CW Matthews.

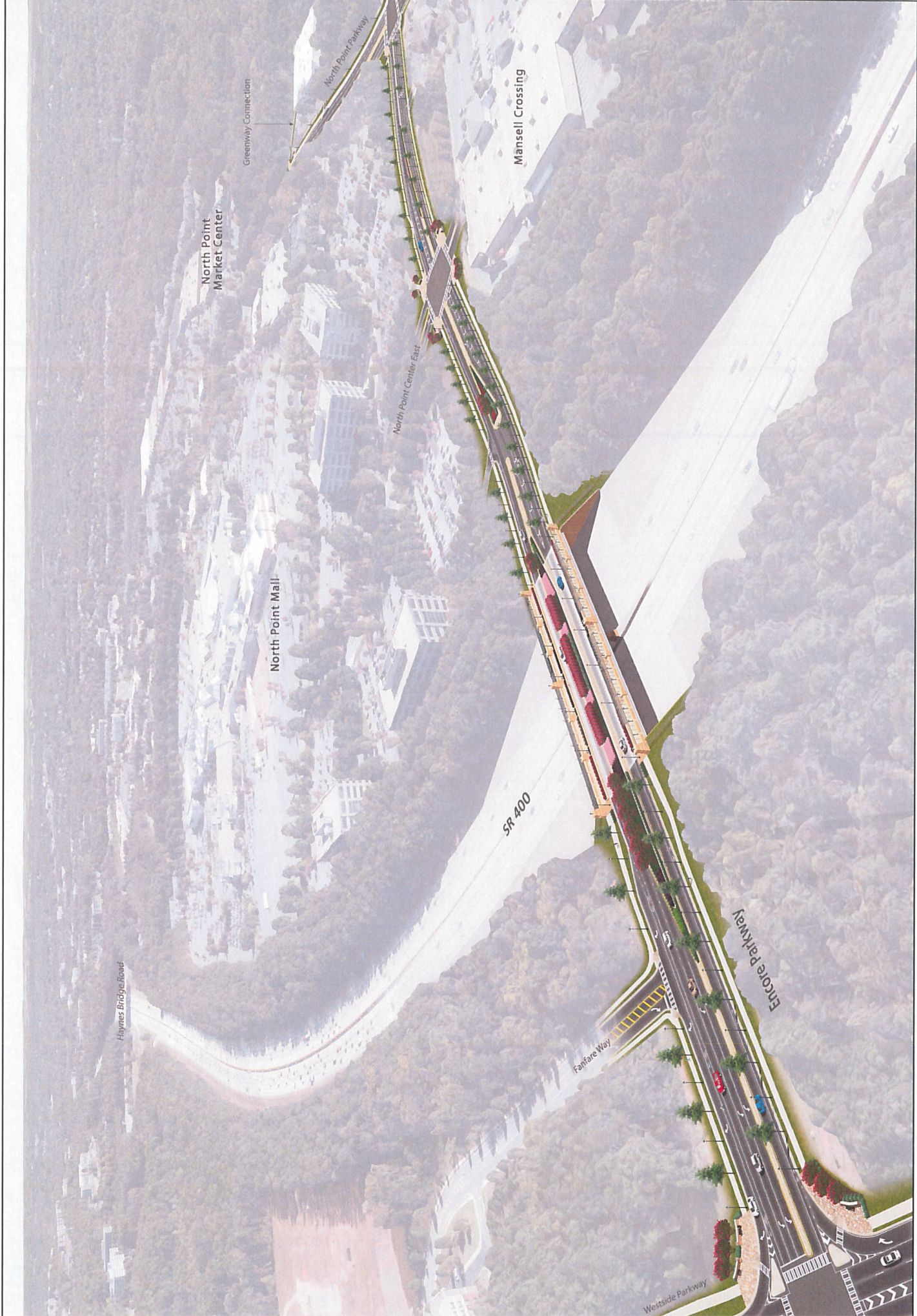
V. ALTERNATIVES:

VI. ATTACHMENTS:

Renderings, TE Executed Agreement, GDOT Contract, Fulton County MOU



Perspective View from SR 400
 Encore Parkway Bridge



Aerial Perspective Looking North

Encore Parkway Streetscape Improvements and Bridge over SR 400

**AGREEMENT
for
TRANSPORTATION ENHANCEMENT ACTIVITIES
between
DEPARTMENT OF TRANSPORTATION
STATE OF GEORGIA
and the
CITY OF ALPHARETTA**

THIS AGREEMENT, made and entered into this 24 day of July, 2015, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, hereinafter referred to as the "DEPARTMENT", and the City of Alpharetta, hereinafter referred to as the "SPONSOR".

WHEREAS, the SPONSOR has been approved by the DEPARTMENT to carry out a Transportation Enhancement Activity which consists of: **P.I. No. 0010339, Fulton County**, hereinafter referred to as the "PROJECT"; and

WHEREAS, the DEPARTMENT is authorized to receive federal funding for Transportation Enhancement Activities for Georgia pursuant to provisions of Title 23, Chapter 2, Subchapter 1, Section 133; and

WHEREAS, the PROJECT is expected to positively impact the quality of transportation in the State of Georgia; and

WHEREAS, the DEPARTMENT desires to financially participate with the SPONSOR in the implementation of the PROJECT; and

WHEREAS, the SPONSOR has represented to the DEPARTMENT that it has the authority to receive and expend federal funds for the purpose of this PROJECT and is qualified and experienced to provide such services necessary for the construction of the PROJECT and the DEPARTMENT has relied upon such representations; and

WHEREAS, under Section 32-2-2(a)(7) of the Official Code of Georgia Annotated, the DEPARTMENT is authorized to participate in such an undertaking.

NOW, THEREFORE, the DEPARTMENT and the SPONSOR, both governmental entities of the State of Georgia, pursuant to Article IX, Section III, Paragraph I(a) of the Georgia Constitution of 1983, and in consideration of the mutual promises and covenant contained herein, do hereby agree as follows:

ARTICLE I SCOPE AND PROCEDURE

The SCOPE AND PROCEDURE for this PROJECT shall be: **Construction of Encore Parkway Greenway Connection**, as set forth in Exhibit A, WORK PLAN, which is attached hereto and incorporated as if fully set out herein. The scope of work is further defined by the PROJECT design and construction plans ("PROJECT PLANS") on file with the DEPARTMENT and the SPONSOR and referenced as if attached hereto and incorporated as if fully set out herein.

The SPONSOR shall be responsible for assuring that the PROJECT will be economically feasible and based upon sound engineering principles, meet American Association of State Highway and Transportation Officials ("AASHTO") Guidelines and will be sensitive to ecological, environmental and archeological issues.

The WORK PLAN sets out the scope of work for the PROJECT. It is understood and agreed that the DEPARTMENT shall participate only in the PROJECT as specified in Exhibit A, WORK PLAN.

During the development of the PROJECT the SPONSOR has taken into consideration, as applicable, the DEPARTMENT's "Standard Specifications for the Construction of Transportation Systems", 2013 Edition; ***"Supplemental Specifications Book", current edition***; AASHTO standards for bicycle facilities; FHWA guidelines for pedestrian facilities; compliance with the Americans with Disabilities Act of 1990; compliance with the U.S. Secretary of the Interior "Standards and Guidelines, Archaeology and Historic Preservation"; compliance with Section 106 of the National Historic Preservation Act of 1966 and with Section 4(f) of the US DOT Act of 1966; compliance with the Archaeology and Historic Preservation Act of 1974; compliance with the Archaeological Resources Protection Act of 1979 and with the Native American Graves Protection and Repatriation Act, the Georgia Abandoned Cemeteries and Burial Grounds Act of 1991; compliance with the DEPARTMENT's Scenic Byways Designation and Management Program, and with the American Society of Landscape Architect Guidelines; compliance with the Outdoor Advertising Requirements as outlined in the Official Code of Georgia Annotated, Section 32-6-70 et.seq. and other standards and guidelines as may be applicable to the PROJECT.

Upon the approval of the right of way plans by the DEPARTMENT, the necessary rights of way for the PROJECT shall be acquired by the SPONSOR. Right of Way acquisition shall be in accordance with Public Law 91-646, the Uniform Relocation Assistance and Real Properties Policies Act of 1970, as amended, and the rules and regulations of the FHWA including, but not limited to, Title 23, United States Code; 23 CFR 710, et. seq., and 49 CFR Part 24, and the rules and regulations of the DEPARTMENT. Failure of the SPONSOR to follow these requirements may result in the loss of Federal funding for the PROJECT and it will be the responsibility of the SPONSOR to make up the loss of that funding. All required right of way shall be obtained and cleared of obstructions, including underground storage tanks, prior to advertising the PROJECT for bids. The SPONSOR shall further be responsible for making all changes to the approved right of way plans, as deemed necessary by the DEPARTMENT, for whatever reason, as needed to purchase the right of way or to match actual

conditions encountered. The SPONSOR shall be responsible for certifying the Right of Way. The SPONSOR further acknowledges that no acquisition of rights of way shall proceed until all applicable archaeological, environmental and historical preservation clearances have been approved.

The SPONSOR shall ensure that all contracts as well as any subcontracts for implementation of the PROJECT shall comply with the Federal and State legal requirements imposed on the DEPARTMENT and any amendments thereto. The SPONSOR is required and does agree to abide by those provisions governing the DEPARTMENT's authority to contract, specifically, but not limited to Sections 32-2-60 through 32-2-77 of the Official Code of Georgia Annotated; the DEPARTMENT's Rules and Regulations governing the Prequalification of Prospective Bidders, Chapter 672-5; and the DEPARTMENT's "Standard Specifications", 2013 Edition; ***"Supplemental Specifications Book", current edition;*** and any Supplemental Specifications and Special Provisions as applicable for the PROJECT.

The SPONSOR further agrees to comply with and shall require the compliance and physical incorporation of Federal Form FHWA-1273 into all contracts or subcontracts for construction.

ARTICLE II TIME OF PERFORMANCE

TIME IS OF THE ESSENCE IN THIS AGREEMENT. The SPONSOR shall perform its responsibilities for the PROJECT, commencing on receipt of written "Notice to Proceed" from the DEPARTMENT, and shall complete the PROJECT no later than **December 31, 2016**. **No work on any phase shall begin without a written notice to proceed from the DEPARTMENT.**

The work shall be carried on expeditiously, it being understood, however, that this Agreement may be extended or continued in force by mutual consent of the parties and evidenced by a written amendment thereto.

ARTICLE III CONTINGENT INTEREST

The DEPARTMENT shall retain a contingent interest in the PROJECT for as long as there continues a Federal interest in the PROJECT as determined by the DEPARTMENT's calculation of the economic life of the PROJECT. Should the work under the Agreement include Federal monies for purchase of real property, the Federal interest, and therefore the DEPARTMENT's contingent interest, shall be perpetual and recorded as described below. Based on the scope of work, as set forth in Exhibit A, WORK PLAN AND APPLICABLE PHASE, the DEPARTMENT has determined the economic life of the PROJECT to be **Five (5)** years from the date of PROJECT Final Acceptance.

Upon any sale or disposition of the PROJECT or the filing of an application for abandonment of the PROJECT under United States Code (U.S.C.) Title 49 Chapter 109 of all or any part of the PROJECT, the SPONSOR shall repay immediately in full to the DEPARTMENT an amount equal to the Federal Share of the funds involved in the improvement or rehabilitation of such part, segment or entirety of the PROJECT under this Agreement, said Federal Share to be determined in accordance with the DEPARTMENT's determination of the fair market value of the PROJECT at the time of disposition.

The term "any sale or disposition" as used in this Article shall mean any sale, abandonment, or disposition (1) for use not consistent with the purposes for which the Federal Share was originally granted pursuant to the Agreement, or (2) for a use consistent with such purposes wherein the transferee in the sale or disposition does not enter into an assignment and assumption agreement with the owner with respect to the owner's obligation thereunder as if the transferee had been the original owner thereof.

Upon completion of the PROJECT, the SPONSOR shall record in the appropriate land records, if applicable, in a form mutually agreeable to the parties hereto, a notice reciting that the property was improved with Federal assistance under this Agreement and that its use and disposition are subject to the terms of this Agreement. Verification of compliance with this paragraph shall be provided to the DEPARTMENT.

ARTICLE IV COVENANTS AGAINST CONTINGENT FEES

The SPONSOR shall comply with all relevant requirements of all Federal, State and local laws. The SPONSOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the SPONSOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the SPONSOR, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the DEPARTMENT 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 fee, commission, percentage, brokerage fee, gift or contingent fee.

ARTICLE V EMPLOYMENT OF DEPARTMENT'S PERSONNEL

The SPONSOR shall not employ any person or persons in the employ of the DEPARTMENT for any work required by the terms of this Agreement, without the written permission of the DEPARTMENT except as may otherwise be provided for herein.

ARTICLE VI REVIEW OF WORK

Authorized representatives of the DEPARTMENT and the Federal Highway Administration, ("FHWA"), may at all reasonable times review and inspect the activities and data collected under the terms of this Agreement and any amendments thereto, including but not limited to, all reports, drawing, studies, specifications, estimates, maps and computations prepared by or for the SPONSOR. The DEPARTMENT reserves the right for reviews and acceptance on the part of affected public agencies, railroads and utilities insofar as the interest of each is concerned.

Acceptance shall not relieve the SPONSOR of its professional obligation to correct, at its expense, any of its errors in the work. The DEPARTMENT's review recommendations shall be incorporated into the work activities of the SPONSOR.

The SPONSOR shall keep accurate records in a manner approved by the DEPARTMENT with regard to the use of the property and submit to the DEPARTMENT upon request, such information as is required in order to ensure compliance with this ARTICLE.

ARTICLE VII RESPONSIBILITY FOR CLAIMS AND LIABILITY

The SPONSOR shall be responsible for any and all damages to property or persons and shall indemnify and save harmless the DEPARTMENT, its officers, agents and employees from all suits, claims, actions or damages of any nature whatsoever resulting from the negligence of the SPONSOR in the performance of work under this Agreement.

The SPONSOR shall be responsible to perform all work required to obtain all applicable PROJECT permits, including, but not limited to, Cemetery, Tennessee Valley Authority (TVA) and US Army Corps of Engineers permits, Stream Buffer Variances and Federal Emergency Management Agency (FEMA) approvals. The SPONSOR shall provide all mitigation required for the project, including but not limited to permit related mitigation. All mitigation costs are considered PE costs. PROJECT permits and non-construction related mitigation must be obtained and completed 3 months prior to the scheduled let date. These efforts shall be coordinated with the DEPARTMENT.

It is understood by the SPONSOR that claims, damages, losses and expenses may include monetary claims made by the construction contractor for the PROJECT, and its related facilities, that are a result of the SPONSOR's negligence or improper representation in the plans.

The SPONSOR shall require that the provisions of this Article are included in all contracts and subcontracts.

These indemnities shall not be limited by reason of any insurance coverage held by the SPONSOR or the SPONSOR's contractors or subcontractors.

ARTICLE VIII COMPENSATION AND PAYMENT

It is agreed that the compensation hereinafter specified includes both direct and indirect costs chargeable to the PROJECT under generally accepted accounting principles and as allowed in the Federal Acquisition Regulations Subpart 31.6, and not prohibited by the Laws of the State of Georgia.

It is understood that the PROJECT is being developed under the guidance of the Innovative Financing Procedures as agreed to by the SPONSOR and as set forth in the executed Memorandum of Understanding on file with the DEPARTMENT. The Innovative Financing Procedures allow the SPONSOR to initiate Preliminary Engineering and Right of Way acquisition and apply allowable expenditures for these Phases toward the required Twenty Percent (20%) Local Match.

The estimated cost of the project is **One Million** and No/100 Dollars (**\$1,000,000.00**). The DEPARTMENT shall be responsible for eighty percent (80%) of the total cost of the project not to exceed the federal contribution. The SPONSOR shall be responsible for all cost exceeding the DEPARTMENT's contribution but shall contribute a minimum of twenty percent (20%).

	<u>Federal</u>	<u>Local</u>	<u>Total</u>
Construction	\$800,000	\$200,000	\$1,000,000

The total federal contribution for this PROJECT is **Eight Hundred Thousand** and No/100 Dollars (**\$800,000.00**) and is the maximum amount of the DEPARTMENT's obligation. The SPONSOR shall be solely responsible for any and all amounts in excess of the maximum amount of the DEPARTMENT's obligation.

Prior to award of the project the SPONSOR shall submit to the DEPARTMENT a bid tabulation, the low bidders DBE goal sheet and their recommendation for awarding the project. The DEPARTMENT will review the information and issue a written recommendation to award or reject the bids. If a recommendation to award is given by the DEPARTMENT a written Notice to Proceed with Construction will be issued. No work shall begin until this Notice to Proceed has been issued.

The SPONSOR shall coordinate right of way activities with the DEPARTMENT's District Right of Way Engineer and construction activities with the DEPARTMENT's Area Engineer. In the event the SPONSOR, Right of Way Engineer, or Area Engineer recommend changes representing a fundamental departure from the PROJECT's approved Work Plan, the changes shall be reviewed by the DEPARTMENT's Project Manager. If the changes are approved, the DEPARTMENT's Project Manager shall prepare a supplemental agreement to amend the Agreement's Work Plan.

The SPONSOR shall submit to the DEPARTMENT monthly reports of the PROJECT's progress including: monthly accomplishments; further work to be done and any problems encountered

or anticipated. Payment shall be made monthly on the basis of calendar months, in proportion to the percentage of work completed for each phase of work and after approval of a certified voucher from the SPONSOR. Should the work for the PROJECT begin within any one month, the first voucher shall cover the partial period from the beginning date of the work through the last day of that month. The vouchers shall be numbered consecutively and submitted each month until work on the PROJECT is completed.

Payment shall be made in the amount of sums earned less previous partial payments. The final invoice shall reflect the actual cost of work accomplished by the SPONSOR and shall be the basis for final payment. The final invoice shall include all eligible cost incurred by the SPONSOR for Preliminary Engineering, Right of Way, and Construction. Final payment will be made at eighty (80) percent of the final invoice amount not to exceed the total federal contribution.

Expense for travel will be an allowable expense for the SPONSOR under this Agreement; however, travel will be limited to charges that are directly attributable to the project. In addition, no travel expenses will be allowed for out of state travel.

Should the DEPARTMENT, pursuant to the provisions of ARTICLE XIV, terminate the work under this agreement, the SPONSOR shall be paid for the percentage of work completed at the point of termination, notwithstanding any just claims by the SPONSOR.

ARTICLE IX FINAL PAYMENT

IT IS FURTHER AGREED that upon completion and acceptance of the work by the SPONSOR, the SPONSOR shall submit to the DEPARTMENT *the "Sponsor's Certification of Right of Way Acquisition form, if necessary, and "Sponsor's Certification of Final Acceptance" form*, and the final invoice. The DEPARTMENT shall process the final invoice report initiating the DEPARTMENT's project close-out procedures. Whereupon the DEPARTMENT shall pay to the SPONSOR a sum equal to one hundred percent (100%) of the total compensation as set forth in ARTICLE VIII, herein, and consistent with all approved invoices, less the total of all previous partial payments, paid or in the process of payment.

The SPONSOR agrees that acceptance of this final payment shall be in full and final settlement of all claims arising against the DEPARTMENT for work done, materials furnished, costs incurred, or otherwise arising out of this Agreement and shall release the DEPARTMENT from any and all further claims of whatever nature, whether known or unknown, for and on account of said Agreement, and for any and all work done, and labor and materials furnished in connection with the same.

The SPONSOR shall allow the examination and verification of costs by the DEPARTMENT's representatives, in accordance with the provisions of Article XII, herein. If the DEPARTMENT's examination of the contract cost records, as provided for in Article XII, results in unallowable expenses, the SPONSOR shall immediately be responsible for reimbursing the DEPARTMENT the full amount of such disallowed expenses.

ARTICLE X RIGHT OF FIRST REFUSAL

A determination by the SPONSOR to sell or dispose of the PROJECT shall entitle the DEPARTMENT to the right of first refusal to purchase or lease the PROJECT at net liquidation value. Such right of first refusal shall be retained for as long as the DEPARTMENT holds a contingent interest in the PROJECT pursuant to Article III of this Agreement.

Should the DEPARTMENT elect to purchase or lease the PROJECT at any time after completion of the PROJECT no compensation shall be provided for the value added as a result of the PROJECT.

ARTICLE XI SUBSTANTIAL CHANGES

No material changes in the scope, character, complexity or duration of the PROJECT from those required under the Agreement shall be allowed without the execution of a Supplemental Agreement between the DEPARTMENT and SPONSOR.

Minor changes in the work which do not involve increased compensation, extensions of time or changes in the goals and objectives of the PROJECT, may be made by written notification of such change by either party with written approval by the other party.

ARTICLE XII MAINTENANCE OF CONTRACT COST RECORDS

The SPONSOR shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the PROJECT, inclusive of a job cost or project cost report, and used in support of its proposal and shall make such material available at all reasonable times during the period of the Agreement and for three years from the date of final payment under this Agreement, for inspection by the DEPARTMENT, and any reviewing agencies, and copies thereof shall be furnished upon request. The SPONSOR agrees that the provisions of this Article shall be included in any contracts it may make with any subcontractor, assignee or transferee.

ARTICLE XIII SUBLETTING, ASSIGNMENT OR TRANSFER

It is understood by the parties to this Agreement that the work of the SPONSOR is considered personal by the DEPARTMENT. The SPONSOR agrees not to assign, sublet or transfer any or all of its interest in this Agreement without prior written approval of the DEPARTMENT.

The DEPARTMENT reserves the right to review all subcontracts prepared in connection with the Agreement, and the SPONSOR agrees that it shall submit to the DEPARTMENT any proposed subcontract documents together with subcontractor cost estimates for review and written concurrence of the DEPARTMENT in advance of their execution.

All subcontracts in the amount of \$10,000.00 or more shall include the provisions set forth in this Agreement.

ARTICLE XIV TERMINATION

The DEPARTMENT reserves the right to terminate this Agreement at any time for any reason, with or without cause upon thirty (30) days written notice to the SPONSOR, notwithstanding any just claims by the SPONSOR for payment for services rendered prior to the date of termination.

It is understood by the parties hereto that should the DEPARTMENT terminate this Agreement prior to the completion of an element of work the SPONSOR shall be reimbursed for such work element based upon the percentage of work completed.

Failure to meet the time set out for completion of an approved work authorization, may be considered just cause for termination of the Agreement.

ARTICLE XV OWNERSHIP OF DOCUMENTS

The SPONSOR agrees that all reports, drawings, studies, specifications, survey notes, estimates, maps, computations, computer diskettes and printouts and other data prepared by or for it under the terms of this Agreement shall be delivered to, become and remain the property of the DEPARTMENT upon termination or completion of the work. The DEPARTMENT shall have the right to use the same without restriction or limitation and without additional compensation to the SPONSOR other than that provided for in this Agreement.

ARTICLE XVI PUBLICATION AND PUBLICITY

Articles, papers, bulletins, data, studies, statistics, interim or final reports, oral transmittals or any other materials reporting the plans, progress, analyses, results, or findings of work conducted under this Agreement shall not be presented publicly or published without prior written approval by the DEPARTMENT.

IT IS FURTHER AGREED that all releases of information, findings, and recommendations shall include a disclaimer provision and that all published reports shall include that disclaimer on the cover and title page in the following form:

"The contents in this publication reflect the views of the author(s), who is (are) responsible for the facts and accuracy of the data presented herein. The opinions, findings, and conclusions in this publication are those of the author(s) and do not necessarily reflect the official views or policies of those of the Department of Transportation, State of Georgia or the Federal Highway Administration. This publication does not constitute a standard, specification or regulation."

IT IS FURTHER AGREED that if any information concerning the PROJECT, its conduct, results or data gathered or processed should be released by the SPONSOR without prior approval from the DEPARTMENT, the release of same shall constitute grounds for termination of this Agreement without indemnity to the SPONSOR; but should any such information be released by the DEPARTMENT, or by the SPONSOR with such prior written approval, the same shall be regarded as public information and no longer subject to the restrictions of this Agreement.

Provided, however, that should the release of such information be required under the Georgia Open Records Act, Section 50-18-70, et seq., O.C.G.A., the restrictions and penalties set forth herein shall not apply. Any request for information directed to the SPONSOR, pursuant to the Georgia Open Records Act, for documents that are either received or maintained by the SPONSOR in the performance of a service or function for or on behalf of the DEPARTMENT shall be released pursuant to provisions of the Act. Further, the SPONSOR agrees to consult with the DEPARTMENT prior to releasing the requested documents.

ARTICLE XVII COPYRIGHTING

The SPONSOR shall be prohibited from copyrighting the final reports or copyrighting any papers, interim reports, forms or other material which are a part of the work under this Agreement, without written approval from the DEPARTMENT. The DEPARTMENT reserves the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish, use and authorize others to use, the work prepared under this Agreement.

ARTICLE XVIII CONTRACT DISPUTES

This Agreement shall be deemed to have been executed in Fulton County, Georgia, and all questions of interpretation and construction shall be governed by the laws of the State of Georgia.

ARTICLE XIX INSURANCE

Prior to beginning work, the SPONSOR shall obtain and where applicable cause its contractors and subcontractors to obtain and furnish certificates to the DEPARTMENT for the following minimum amounts of insurance:

- (1) Workman's Compensation Insurance in accordance with the laws of the State of Georgia.
- (2) Public Liability Insurance in an amount of not less than one hundred thousand dollars (\$100,000.00) for injuries, including those resulting in death to any one person, and in an amount of not less than three hundred thousand dollars (\$300,000.00) on account of any one occurrence.
- (3) Property Damage Insurance in an amount of not less than fifty thousand dollars (\$50,000.00) from damages on account of any occurrence, with an aggregate limit of one hundred thousand dollars (\$100,000.00).
- (4) Valuable Papers Insurance in an amount sufficient to assure the restoration of any plans, drawings, field notes, or other similar data relating to the work covered by the PROJECT.

Insurance shall be maintained in full force and effect during the life of the Agreement and until final completion of the PROJECT.

ARTICLE XX
COMPLIANCE WITH APPLICABLE LAW

A. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands the regulations for "CERTIFICATION OF COMPLIANCES WITH FEDERAL PROCUREMENT REQUIREMENTS, STATE AUDIT REQUIREMENT, AND FEDERAL AUDIT REQUIREMENTS" as stated in Attachment A of this Agreement and will comply in full with said provisions.

B. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands the provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-Free Workplace Act" as stated in Attachment B of this Agreement and will comply in full with said provisions.

C. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands the provisions of the "Sponsor Certification Regarding Debarment, Suspension and Other Responsibility Matters" as stated in Attachment C of this Agreement and will comply in full with said provisions.

D. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands the regulations for "COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964," as amended, and 23 CFR 200 et.seq. as stated in Attachment D of this Agreement and will comply in with said provisions.

E. The undersigned certify that the provisions of Sections 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated relating to Conflict of Interest and State Employees and Officials Trading with the State have been complied with in full.

F. The SPONSOR acknowledges and agrees that failure to complete appropriate certifications or the submission of a false certification shall result in the termination of this Agreement pursuant to the provisions of Article XIV.

G. IT IS FURTHER AGREED that the SPONSOR shall use its best efforts to subcontract a minimum of Nine percent (9%) of the total amount of PROJECT funds to Disadvantaged Business Enterprise (DBE) as defined and provided for under the Federal Rules and Regulations 49 CFR 26 et.seq. The SPONSOR shall ensure that DBE firms are certified with the DEPARTMENT's Equal Employment Opportunity Office. The SPONSOR shall submit to the DEPARTMENT, for its review and concurrence, a copy of the proposed subcontract including the name of the DBE subcontractor. The Sponsor further agrees to the following assurances for participation by Disadvantaged Business Enterprises in Department of Transportation financial assistance programs:

(1) The Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The Sponsor shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Sponsor's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation in this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter to enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

(2) The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Sponsor deems appropriate.

H. IT IS FURTHER AGREED that the SPONSOR shall comply and shall require its subcontractors to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 et.seq. and 49 U.S.C. 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791; and regulations and amendments thereto.

I. IT IS FURTHER AGREED that the SPONSOR shall, and shall require its contractors and subcontractors to, comply with all applicable requirements of the Davis-Bacon Act of 1931, 40 U.S.C. 276(a); as prescribed by 23 U.S.C. 113, for Federal-aid highway projects, except for projects located on roadways classified as local roads or rural minor collector, which are exempt.

The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, said parties have hereunto set their hand and affixed their seals the day and year above first written.

DEPARTMENT OF TRANSPORTATION

CITY OF ALPHARETTA

Russell McManis
Commissioner (SEAL)

[Signature]
MAYOR

ATTEST:

[Signature]
Treasurer



Amanda Day
Witness

Signed, Sealed & Delivered

This 23rd Day of September,
2014,
in the presence of:

[Signature]
NOTARY PUBLIC



I attest that the Corporate Seal attached to this Document is in fact the seal of the Corporation and that the Officer of this Corporation executing this Document does in fact occupy the official position indicated and is duly authorized to execute such document on behalf of this Corporation.

ATTEST:

APPROVED AS TO FORM:

[Signature]
C. SAM THOMAS, CITY ATTORNEY

[Signature], CMC

58-6011454
Federal Employer Tax No.





MAYOR

David Belle Isle

COUNCIL

D.C. Aiken

Michael Cross

Jim Gilvin

Mike Kennedy

Donald F. Mitchell

Chris Owens

CITY ADMINISTRATOR

Robert J. Regus

CITY HALL

Two South Main Street

Alpharetta, Georgia 30009

Tel: 678.297.6000

Fax: 678.297.6001

24-HOUR INFORMATION

www.alpharetta.ga.us

Our Mission

*To make a positive difference
in the community by efficiently
managing public resources and
providing effective services that
exceed the expectations of our
citizens.*

Our Core Values

*Excellence
Stewardship
Integrity
Service
Loyalty*

TO WHOM IT MAY CONCERN:

This is to certify that the attached is a true and correct copy of:

"A RESOLUTION TO AUTHORIZE THE CITY OF ALPHARETTA (HEREIN AFTER REFERRED TO AS "SPONSOR") AND THE GEORGIA DEPARTMENT OF TRANSPORTATION (HEREIN AFTER REFERRED TO AS "DEPARTMENT") TO CONTRACT FOR FUNDING UNDER THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (HEREIN AFTER REFERRED TO AS "TEA-21")."

Approved by the Alpharetta City Council on August 18, 2014.

Certified this 23rd day of September, 2014.

Coty Thigpen

Coty Thigpen
City Clerk
City of Alpharetta





1736

A RESOLUTION TO AUTHORIZE THE CITY OF ALPHARETTA (HEREINAFTER REFERRED TO AS "SPONSOR") AND THE GEORGIA DEPARTMENT OF TRANSPORTATION (HEREINAFTER REFERRED TO AS "DEPARTMENT") TO CONTRACT FOR FUNDING UNDER THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (HEREINAFTER REFERRED TO AS "TEA-21")

WHEREAS, the Secretary of the United State Department of Transportation (hereinafter referred to as "US DOT") and the Commissioner of the DEPARTMENT are authorized to contract for Transportation Enhancement Project; and

WHEREAS, the contract for financial assistance imposes certain duties upon SPONSOR including but not limited to the provision of its local share of the project costs; and

WHEREAS, the SPONSOR guarantees that it will comply with Title VI of the Civil Rights Act of 1964, all other pertinent directives, and all US DOT requirements; and

WHEREAS, to complete the project, SPONSOR will use Disadvantaged Business Enterprises to the fullest extent possible and will implement and administer procedures to ensure that minority business are competitive for contracts and purchase orders when procuring services including but not limited to construction contracts, supplies, equipment contracts, or consultant contracts.

NOW, THEREFORE BE IT SO RESOLVED BY THE SPONSOR THAT:

1. The Mayor or Mayor Pro Tem is authorized to execute the contract on behalf of the City of Alpharetta with the DEPARTMENT for aid in financing construction, and all over activities incidental thereto, of Transportation Enhancement Activity pursuant to Public Law 105-178 (1998); and all other provisions as set forth in the contract with the DEPARTMENT.
2. The Assistant City Administrator or City Attorney is authorized to execute and file an assurance or any other document required by the US DOT and the DEPARTMENT certifying compliance with Title VI of the Civil Rights Act of 1964.
3. The Grants Administrator is authorized to furnish any and all additional information that may be required by US DOT or the DEPARTMENT in connection with the application for the Transportation Enhancement Activity project and budget.
4. That the Alpharetta City Council is authorized to set forth and execute affirmative disadvantaged business policies in connection with the participation goal established by the Georgia Department of Transportation.

5. The City of Alpharetta has contributed to date the sum of \$95,919.57 towards preliminary engineering for this project.

6. The City of Alpharetta has identified sufficient resources to complete the Scope of Work for this project and make all payments not covered by the federal Transportation Enhancement Activity funding contribution.

Adopted this 18th day of August 2014.

CITY OF Alpharetta, GEORGIA

By: [Signature]
Mayor

[Signature: Ronald Mitchell]
Council Member

[Signature]
Council Member

[Signature]
Council Member

[Signature]
Council Member

[Signature]
Council Member

[Signature]
Council Member

Attest: [Signature]
City Clerk



BOVIS KYLE

BOVIS, KYLE, BURCH & MEDLIN

ATTORNEYS AT LAW

C. SAM THOMAS, P.C.
ALPHARETTA CITY ATTORNEY
cst@boviskyle.com

200 ASHFORD CENTER NORTH
SUITE 500
ATLANTA, GEORGIA 30338-2668

DIR LINE (678)338-3904
TEL 770.391.9100
FAX 770.668.0878

September 9, 2014

Georgia Department of Transportation
Office of Program Delivery
One Georgia Center
600 W. Peachtree Street NW
Atlanta, Georgia 30308

Re: Contracts for Transportation Enhancement Activity Funds

Dear Ms. Genetha Rice-Singleton:

This communication serves as the official opinion of counsel regarding the above-referenced matter pursuant to the requirements of the Transportation Equity Act for the 21st Century (TEA-21), P.L. 105-178 (1998). The City of Alpharetta (hereinafter referred to as "SPONSOR") has been approved for funding under TEA-21 and the Federal Highway Administration (FHWA) has concurred in said approval. As such, I certify that SPONSOR is authorized to plan, construct and implement Transportation Enhancement Activity projects for the following reasons:

1. SPONSOR is authorized under Sections 1.12 and 1.13 of the Charter of the City of Alpharetta (Ga. Laws 1981, p. 4609) to plan, construct, implement and maintain Transportation Enhancement Activity projects. These functions may be carried out directly by SPONSOR or by agreements with other parties.

2. SPONSOR is authorized under Sections 1.12 and 1.13 of the Charter of the City of Alpharetta (Ga. Laws 1981, p. 4609) to provide for its share of project funds for the Transportation Enhancement Activity project. *See Attached*

Further, I certify that contracting for Transportation Enhancement Funds does not violate applicable Federal, State and/or local laws. Moreover, I certify that there is no pending litigation or other pending action that may adversely affect the proposed project in the program or SPONSOR's ability to perform its duties under the contract.

Very truly yours,



C. Sam Thomas, P.C.
Alpharetta City Attorney

CST/tlr
Attachment

**SEE
ATTACHMENT E
FOR
ATTORNEY
REFERENCES**

CERTIFICATION OF SPONSOR

I hereby certify that I am the Mayor and duly authorized representative of the City of Alpharetta whose address is Two South Main Street, Alpharetta, GA 30009. I hereby certify to the best of my knowledge and belief that:

1. 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 any Federal agency, a Member of Congress, an officer or employee of Congress, or any 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.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this 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.

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 Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

The SPONSOR also agrees that the language of this certification shall be included in all subcontracts and lower tier subcontracts which exceed \$10,000.00 and that all such recipients and sub-recipients shall certify and disclose accordingly.

I also certify that neither I nor the above entity I here represent has:

- (a) employed or retained for a commission, percentage, brokerage contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above entity) to solicit or secure this Agreement.
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or

- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above entity) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

9-15-14
Date

[Signature]
Signature



APPROVED AS TO FORM:

[Signature]
C. SAM THOMAS, CITY ATTORNEY

CERTIFICATION OF DEPARTMENT OF TRANSPORTATION

STATE OF GEORGIA

I hereby certify that I am the Commissioner of the Department of Transportation of the State of Georgia, and that the above consulting firm, or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as here expressly stated, (if any):

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal Highway Funds, and is subject to applicable State and Federal Laws, both criminal and civil.

7-2-15

Date



Commissioner

ATTACHMENT A

CERTIFICATION OF COMPLIANCES

I hereby certify that I am a principal and duly authorized representative of the City of Alpharetta whose address is Two South Main St. and it is also certified that:
Alpharetta, GA 30009

I. PROCUREMENT REQUIREMENTS

The below listed provisions of Federal Procurement requirements shall be complied with throughout the contract period:

- (a) 49 CFR Part 18 Section 36
Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments – Procurement
- (b) 23 CFR 635 Subpart A – Contract Procedures

II. STATE AUDIT REQUIREMENT

The provisions of Section 36-81-7 of the Official Code of Georgia Annotated, relating to the “Requirement of Audits” shall be complied with throughout the contract period in full such that:

- (a) Each unit of local government having a population in excess of 1,500 persons or expenditures of \$ 175,000.00 or more shall provide for and cause to be made an annual audit of the financial affairs and transactions of all funds and activities of the local government for each fiscal year of the local government.
- (b) The governing authority of each local unit of government not included above shall provide for and cause to be made the audit required not less often than once every two fiscal years.
- (c) The governing authority of each local unit of government having expenditures of less than \$ 175,000.00 in that government’s most recently ended fiscal year may elect to provide for and cause to be made, in lieu of the biennial audit, an annual report of agreed upon procedures for that fiscal year.
- (d) A copy of the report and any comments made by the state auditor shall be maintained as a public record for public inspection during the regular working hours at the principal office of the local government. Those units of local government not having a principal office shall provide a notification to the public as to the location of and times during which the public may inspect the report.

- (e) The audits of each local government shall be conducted in accordance with generally accepted government auditing standards.

III. FEDERAL AUDIT REQUIREMENT

The provisions of OMB Circular A-133 issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156 shall be complied with throughout the contract period in full such that:

- (a) Non-Federal entities that expend \$ 300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133.
- (b) Non-Federal entities that expend less than \$ 300,000 a year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).
- (c) Except for the provisions for biennial audits provided in paragraphs (1) and (2) below, audits required shall be performed annually. Any biennial audit shall cover both years within the biennial period.
- (1) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits biennially. This requirement must still be in effect for the biennial period under audit.
- (2) Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits biennially.
- (d) The audit shall be conducted in accordance with Generally Accepted Government Auditing Standards.

9-15-14

Date



Signature

APPROVED AS TO FORM:



C. SAM THOMAS, CITY ATTORNEY

ATTACHMENT B

**CERTIFICATION OF SPONSOR
DRUG-FREE WORKPLACE**

- (1) The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-Free Workplace Act" have been complied with in full; and
- (2) A drug-free workplace will be provided for the SPONSOR's employees during the performance of the contract; and
- (3) Each subcontractor hired by the SPONSOR shall be required to ensure that the subcontractor's employees are provided a drug-free workplace. The SPONSOR shall secure from that subcontractor the following written certification: "As part of the subcontracting agreement with the SPONSOR, <the subcontractor> certifies to the SPONSOR that a drug-free workplace will be provided for the subcontractor's employees during the performance of this contract pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated Section 50-24-3"; and
- (4) It is certified that the SPONSOR will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.

ATTACHMENT C
SPONSOR
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND
OTHER RESPONSIBILITY MATTERS

The SPONSOR certifies that it has read and understands the attached instructions and that to the best of my knowledge and belief the firm and its representatives:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by the Georgia Department of Transportation and by any Federal department or agency;
- (b) Have not within a three year period preceding this Agreement been convicted of or had a civil judgement rendered against the firm or its representatives for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State, or Local) transaction or contract under a public transaction in violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification;
- (d) Have not within a three year period preceding this Agreement had one or more public transactions (Federal, State or Local) terminated for cause or default; and
- (e) That the firm will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" as attached hereto and without motivation, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

I acknowledge that this certification is provided pursuant to Executive Order 12549 and 49 CFR Part 29 and that this firm agrees to abide by the rules and conditions set forth therein for any misrepresentation that would render this certification erroneous, including termination of this Agreement and other remedies available to the Georgia Department of Transportation and Federal Government.

I further acknowledge that this certificate is to be furnished to the Georgia Department of Transportation, in connection with this Agreement involving participation of Federal Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Instructions for Attachment C Certification

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions (SPONSORS)

1. By signing and submitting this contract the SPONSOR is providing the certification set out in Attachment C.

2. The inability of the SPONSOR to provide the certification required may not necessarily result in denial of participation in this covered transaction. The SPONSOR shall then submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the SPONSOR to furnish a certification or an explanation shall disqualify such person or firm from participation in this transaction.

3. The certification, Attachment C, is a material representation of fact upon which reliance is placed by the Department before entering into this transaction. If it is later determined that the SPONSOR knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause of default.

4. The SPONSOR shall provide immediate written notice to the Department if at any time the SPONSOR learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in these instructions and the certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.

6. The SPONSOR agrees by submitting this proposal/contract that should the proposed covered transaction be entered into, it shall not knowingly enter into a lower tier covered transaction with a person/firm who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the Department.

7. The SPONSOR further agrees by submitting this proposal/contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", as provided by the Department without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A SPONSOR in a covered transaction may rely upon a certification of a prospective participant in lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. The SPONSOR may decide the method and frequency by which it determines the eligibility of its principals.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by these instructions. The knowledge and information of the SPONSOR is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if the SPONSOR in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction in addition to other remedies available to the Federal Government, the Georgia Department of Transportation may terminate this transaction for cause or default.

ATTACHMENT D

NOTICE TO SPONSOR COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this Agreement, the SPONSOR, for itself, its assignees and successors in interest (hereinafter referred to as the "SPONSOR"), agrees as follows:

(1) **Compliance with Regulations:** The SPONSOR will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations [also 49 CFR Part 27]), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** The SPONSOR, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, national origin, or sex in the selection and retention of subcontractors including procurement of materials and leases of equipment. The SPONSOR will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program, set forth in Appendix B of the Regulations. In addition, the SPONSOR will not participate either directly or indirectly in the discrimination prohibited by 23 CFR 200.

(3) **Solicitations for Subcontracts, Including Procurement of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiations made by the SPONSOR for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the SPONSOR of the SPONSOR's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin or sex.

(4) **Information and Reports:** The SPONSOR will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the SPONSOR is in the exclusive possession of another who fails or refuses to furnish this information, the SPONSOR shall so certify to the State Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain this information.

(5) **Sanctions for Noncompliance:** In the event of the SPONSOR's noncompliance with the nondiscrimination provisions of this contract, the State Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the SPONSOR under the contract until the SPONSOR complies, and/or
- (b) cancellation, termination or suspension of this contract, in whole or in part.

(6) **Incorporation of Provisions:** The SPONSOR will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The SPONSOR will take such action with respect to any subcontract or procurement as the State Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the SPONSOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the SPONSOR may request the State to enter into such litigation to protect the interests of the State, and, in addition, the SPONSOR may request the United States to enter into such litigation to protect the interests of the United States.

EXHIBIT A WORK PLAN CONSTRUCTION PHASE

The Scope and Procedure of the Project is stated as follows:

SECTION A - DESCRIPTION OF THE PROJECT

The PROJECT consists of providing services connected with construction of Encore Parkway Greenway Connection in

Fulton County. The PROJECT PLANS on file with the DEPARTMENT and the SPONSOR and referenced as if attached hereto and incorporated as if fully set out herein identify the detailed construction work to be accomplished for the PROJECT.

The SPONSOR shall be responsible for the following activities:

1. Comply with conditions listed in the Georgia Department of Natural Resources Historic Preservation Division finding of no adverse effect.
2. Advertise the project for public bid according to the requirements of the Official Code of Georgia, Title 32, Chapter 2, excluding that provision which provides for negotiations and the Required Contract Provisions (Form FHWA-1273) as given in 23 C.F.R. 633 subpart A and 49 C.F.R. Part 18. Upon opening bids, the SPONSOR shall award the PROJECT to the lowest reliable bidder.
3. All bidders submitting bids must be registered subcontractors. All bidders submitting bids in excess of \$2,000,000 must be pre-qualified with the DEPARTMENT. If construction work involves welded structures, such as bridges, the manufacturer of the structure shall be on the GDOT QPL List 60.
4. The SPONSOR shall hold a pre-construction conference for the project with, at a minimum, the contractor and the DEPARTMENT's Area Engineer.
5. Provide copies of the SPONSOR's construction subcontract, construction schedule, and contact list to the DEPARTMENT's Area Engineer for use in monitoring PROJECT construction and reviewing payment invoices.
6. Provide copies of the completed construction plans to the DEPARTMENT's Project Manager and to the local Area Engineer.
7. Submit to the DEPARTMENT's Area Engineer a copy of all proposed DBE subcontracts, including the name of the subcontractor.

8. Ensure that DBE firms are certified with the DEPARTMENT'S Equal Employment Opportunity Office.
9. Check the third party contractor's payrolls for, including but not limited to, compliance with appropriate wage rates and Disadvantage Business Enterprise (DBE) participant goal and submit monthly reports on DBE participation to the DEPARTMENT's Area Engineer. DBE monitoring and reporting requirements are outlined in the DEPARTMENT's publication entitled "Disadvantaged Business Enterprise Program Criteria for Acceptability", current edition.
10. Retain a Resident On-site Construction Inspector.
11. Provide for total on-site PROJECT management; working with the third party contractor to establish sequences for work.
12. Submit monthly progress reports and invoices to the DEPARTMENT's Area Engineer until final acceptance of the PROJECT by the SPONSOR and submittal of "Sponsor's Certification of Final Acceptance" form, final voucher, materials certification statement, and "Statement of Final Project Expenditures" form.
13. Maintain adequate project files including but not limited to project diary, material certificates, insurance documents, complete construction plans and specifications, and third party contractor payrolls.
14. The Sponsor is responsible for field quality testing (i.e. slump, air, cylinders) of concrete used in sidewalks and other minor concrete items. The technicians that perform this work shall be GDOT certified. Concrete cylinders may be brought to a GDOT laboratory for testing or can be tested at a non-GDOT laboratory, as long as the laboratory is accredited by AASHTO in AASHTO T-22 or ASTM C-39. The Sponsor must notify the Area Engineer when the contractor intends to place concrete or asphalt mixtures. For all materials not tested by the DEPARTMENT, the SPONSOR will certify that material suppliers and materials conform to the requirements of the Agreement, plans and specifications. These materials are expected to comply with generally accepted industry standards for the individual items.
15. Have a Resident Inspector obtain AS BUILT CONSTRUCTION PLANS.
16. Furnish the DEPARTMENT with a copy of the AS BUILT CONSTRUCTION PLANS.
17. Comply with all applicable state and federal laws, rules and regulations and guidelines.

The DEPARTMENT shall be responsible for the following activities:

1. Provide a project engineer to conduct spot inspections, verify progress, and approve invoices for payment.
2. Conduct materials testing of all materials typically used in highway construction that become a permanent part of the travelway and its safety appurtenances. An exception to this are minor concrete items such as sidewalks.

The SPONSOR and DEPARTMENT shall follow the following reimbursement procedures:

For payment purposes, the SPONSOR shall forward monthly invoices, with copies of the contractor's invoices, descriptions of work performed during the payment period, and any other documentation requested or required by the DEPARTMENT, to the DEPARTMENT's Area Engineer. The DEPARTMENT shall process the SPONSOR's reimbursement request according to standard procedures established by the DEPARTMENT. It is understood that the DEPARTMENT shall process or make findings on all reimbursement requests in a timely and efficient manner.

The SPONSOR agrees to abide by the terms and conditions governing the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 49 CFR Part 18.

The SPONSOR shall comply with the following provisions applicable to construction of the PROJECT:

- a. Content of Construction Contracts. The SPONSOR hereby agrees to contract for the construction of the PROJECT in accordance with the legal requirements imposed on the DEPARTMENT, specifically but not limited to the provisions governing the DEPARTMENT's authority to enter into contracts, Sections 32-2-60 through 32-2-77 of the Official Code of Georgia Annotated, as amended and the Department of Transportation's Rules and Regulations governing the Prequalification of Prospective Bidders, Chapter 672-5 and 23 CFR Part 633, Required Contract Provisions (Form FHWA -1273)

The SPONSOR certifies and shall require any contractor or subcontractor to certify that it has examined the plans for the PROJECT and the Department's "Standard Specifications", 2013 Edition; ***"Supplemental Specifications Book", current edition;*** and any Supplemental Specifications and Special Provisions applicable for the PROJECT and shall construct or cause the construction of the PROJECT in accordance with the requirements of the DEPARTMENT.

The SPONSOR further certifies and shall require any contractor or subcontractor to certify compliance with the responsibilities detailed under Subsection e. Work Stoppage, below.

- b. Right to Inspect. The DEPARTMENT, its authorized representatives, agents or employees and the Federal Highway Administration shall have the right to inspect any and all construction and work within the right of way of the PROJECT in order to verify that the SPONSOR, its authorized representatives, agents, employees, contractor, or subcontractor are complying with all undertakings, duties and obligations under this Agreement. Such inspections shall not unreasonably or unnecessarily interfere with any construction. The SPONSOR shall keep the DEPARTMENT notified of all construction and construction schedules.

The right to inspect shall include but not be limited to the right to spot inspect and verify the progress of the work, confirm quantities and quality of the work and provide for the testing of concrete and asphalt if needed.

At approximately fifty percent (50%) completion of the PROJECT, the SPONSOR shall contact the Historic Preservation Division of the Georgia Department of Natural Resources and arrange a site visit. Upon completion of the PROJECT, the SPONSOR shall contact the Historic Preservation Division in order to arrange for a final site visit. The purpose of the inspections by the Historic Preservation Division is to ensure that the materials used will meet the U.S. Secretary of Interior's Standards for Rehabilitation.

- c. No Assumption of Liability. The DEPARTMENT by reserving the right to review and inspect the SPONSOR's construction plans, contract documents and schedules and to inspect and review the construction and work shall have no obligation to inspect and review. Further, the DEPARTMENT, does not assume, but expressly disclaims, any liability or responsibility for the SPONSOR's or any other entities work on the PROJECT.
- d. Standards of Construction. All construction activities on the PROJECT shall be performed:
1. in a good, workmanlike and non-negligent manner;
 2. in a manner that avoids endangering the safety of any person, employee, tenant, servant, guest, invitee, contractor, subcontractor or agent;

3. in accordance with all applicable laws, the provision of applicable contract documents and the applicable provisions of this Agreement; and
 4. free of all mechanics' and material liens upon or against the entire PROJECT property.
- e. Work Stoppage. In the event of the discovery of significant archaeological remains, construction shall be stopped and the SPONSOR shall notify the Georgia Department of Natural Resources of the discovery. In this context, to be "significant", such remains would have to be able to provide important and non-redundant information that could not be obtained from other sources. The SPONSOR shall notify the Georgia Department of Natural Resources of the discovery of intact cultural features such as, but not limited to, foundations and wells. The construction shall remain stopped until the Georgia Department of Natural Resources has completed their evaluation of the remains.
- f. Project Maintenance and Operation. Upon completion of the PROJECT, the SPONSOR shall assume full responsibility for the continued operation and maintenance, including the grass strip between the curb and gutter and the sidewalk within the Project limits, at no additional cost to the DEPARTMENT. The DEPARTMENT and Federal Highway Administration reserve the right to conduct periodic site inspections for the purpose of confirming proper operation and maintenance of the PROJECT.



GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

Contract No. and Name: PI 0010339, Fulton County, Encore Parkway

Greenway Connection

Name of Contracting Entity: City of Alpharetta

By executing this affidavit, the undersigned person or entity verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the Georgia Department of Transportation has registered with, is authorized to participate in, and is participating in the federal work authorization program commonly known as E-Verify*, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

The undersigned person or entity further agrees that it will continue to use the federal work authorization program throughout the contract period, and it will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the undersigned with the information required by O.C.G.A. § 13-10-91(b).

The undersigned person or entity further agrees to maintain records of such compliance and provide a copy of each such verification to the Georgia Department of Transportation at the time the subcontractor(s) is retained to perform such service.

95319
EEV / E-Verify™ User Identification Number

1/29/2008
Date of Authorization

[Signature]
BY: Authorized Officer or Agent
(Contractor Name)

01-15-14
Date

Mayor
Title of Authorized Officer or Agent of Contractor

David Belle Isle
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

23rd DAY OF September, 2014

[Signature]
Notary Public

My Commission Expires: Jan. 14, 2017



* or any subsequent replacement 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

APPROVED AS TO FORM:

[Signature]
C. SAM THOMAS, CITY ATTORNEY

ATTACHMENT E:

ATTORNEY

REFERENCES

(f)[(g)] In addition to the area now embraced within the corporate limits of the City of Alpharetta, the following described property shall be included within said corporate limits:

All of that tract or parcel of land lying and being in Land Lot 1239 of the 2nd District, 2nd Section of Fulton County, Georgia, and bounded on the south by Rucker Road, bounded on the east by the corporate limits of the City of Roswell, bounded on the west by the corporate limits of the City of Roswell, and bounded on the north by the current corporate limits of the City of Alpharetta. (Ga. Laws 1986, Act No. 804 (H.B. 1356), p. 3673, § 1; Ga. Laws 1997, Act. No. 72 (H.B. 602), § 1; Ord. No. 577, 10-3-05; Ord. No. 592, 3-28-06)

Sec. 1.12. Powers and construction.

(a) This city shall have all powers possible for a city to have under the present or future constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter.

(b) The powers of this city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of this city.

Sec. 1.13. Examples of powers.

The corporate powers of this city may include but are not limited to the following:

- (1) *Property taxes*: To levy and to provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation;
- (2) *Other taxes*: To levy and collect such other taxes as may be allowed now or in the future by state law;
- (3) *Business regulation and taxation*: To levy and to provide for the collection of license fees and taxes on privileges, occupations, trades and professions; to license and regulate the same; to provide for the manner and method of

payment of such licenses and taxes; and to revoke such licenses after due process for failure to pay any city taxes or fees;

- (4) *Appropriations and expenditures:* To make appropriations for the support of the government of the city, to authorize the expenditure of money for any purpose authorized by this charter and for any purpose for which a municipality is authorized by the law of the State of Georgia, and to provide for the payment of expenses of the city;
- (5) *Municipal debts:* To appropriate and borrow money for the payment of debts of the city and to issue bonds for the purpose of raising revenue to carry out any project, program or venture authorized by this charter or the laws of the State of Georgia;
- (6) *Municipal property ownership:* To acquire, dispose of, and hold in trust or otherwise, any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the city;
- (7) *Gifts:* To accept or refuse gifts, donations, bequests or grants from any source for any purpose related to the powers and duties of the city and the general welfare of its citizens, on such terms and conditions as the donor or grantor may impose;
- (8) *Condemnation:* To condemn property, inside or outside the corporate limits of the city for present or future use, and for any corporate purpose deemed necessary by the governing authority, under Title 36 (Eminent Domain) of the Code of Georgia, 1933 [Title 22, O.C.G.A.], or under other applicable public acts as are or may be enacted;
- (9) *Municipal utilities:* To acquire, lease, construct, operate, maintain, sell and dispose of public utilities, including but not limited to a system of waterworks, sewers and drains, sewage disposal, gas works, electric light plants, transportation facilities, public airports, and any other public utility; to fix the taxes, charges, rates, fares, fees,

assessments, regulations and penalties and withdrawal of service for refusal or failure to pay same and the manner in which such remedies shall be enforced;

- (10) *Public utilities and services:* To grant franchises or make contracts for public utilities and public service, to prescribe the rates, fares, regulations and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor, insofar as not in conflict with valid regulations by the public service commission;
- (11) *Roadways:* To lay out, open, extend, widen, narrow, establish or change the grade of, abandon, or close, construct, pave, curb, gutter, adorn with shade trees, otherwise improve, maintain, repair, clean, prevent erosion of, and light roads, alleys, and walkways within the corporate limits of

the city; and to grant franchises and rights-of-way throughout the streets and roads, and over the bridges and viaducts, for the use of public utilities;

- (12) *Public improvements:* To provide for the acquisition, construction, building, operation and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries, markets and market houses, public buildings, libraries, public housing, airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational, recreational, conservation, sport, curative, corrective, detentional, penal and medical institutions, agencies, and facilities; and any other public improvements, inside or outside the corporate limits of the city and to regulate the use thereof, and for such purposes, property may be acquired by condemnation under Title 36 of the Code of Georgia, 1933 [Title 22, O.C.G.A.], or other applicable public acts, as are or may be enacted;
- (13) *Building regulation:* To regulate the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, electrical, gas and heating and air conditioning codes and to regulate all housing, building, and building trades; to license the construction and erection of buildings and all other structures;
- (14) *Planning and zoning:* To provide such comprehensive city planning for development by zoning; subdivision regulation and the like as the city council deems necessary and reasonable to insure a safe, healthy, and aesthetically pleasing community;
- (15) *Public peace:* To provide for the prevention and punishment of drunkenness [sic. drunkenness], riots, and public disturbances;
- (16) *Special areas of public regulation:* To regulate or prohibit junk dealers, pawn shops, the manufacture, sale or transportation of intoxicating liquors, the use and sale of firearms, to regulate the transportation, storage and use of combustible, explosive and inflammable materials, the use of lighting and heating equipment, and any other business

or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers, and itinerant trades, theatrical performances, exhibitions, shows of any kind whatever, by taxation or otherwise; to license, tax, regulate, or prohibit professional fortune telling, palmistry, adult bookstores, and massage parlors;

- (17) *Regulation of roadside areas:* To prohibit or regulate and control the erection, removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings and any and all other structures or obstructions upon or adjacent to the rights-of-way of streets and roads or within view thereof, within or abutting the corporate limits of the city and to prescribe penalties and punishment for violation of such ordinances;
- (18) *Health and sanitation:* To prescribe standards of health and sanitation and to provide for the enforcement of such standards;
- (19) *Air and water pollution:* To regulate the emission of smoke, chemical and other noxious fumes, vehicle exhaust and other air pollutants which are admitted into the air space of the city; and to regulate and control any and all chemical, trash, unclean, impure or corrupt material that may be exposed to the water flowing in, around and through the city;
- (20) *Fire regulations:* To fix and establish fire limits and from time to time to extend, enlarge or restrict same; to prescribe fire safety regulations not inconsistent with general law, relating to both fire prevention and detection and to fire fighting, and to prescribe penalties and punishment for violation thereof;
- (21) *Public hazards, removal:* To provide for the destruction and removal of any building or other structure which is or may become dangerous or detrimental to the public;
- (22) *Solid waste disposal:* To provide for the collection and disposal of garbage, rubbish and refuse and to regulate the collection and disposal of garbage, rubbish and refuse by others; and to provide for the separate collection of glass,

tin, aluminum, cardboard, paper, and other recyclable materials and to provide for the sale of such items;

- (23) *Garbage fees:* To levy, fix, assess, and collect a garbage, refuse and trash collection and disposal and other sanitary service charge, tax or fee for such services as may be necessary in the operation of the city from all individuals, firms, and corporations residing in or doing business therein benefiting from such services; to enforce the payment of such charges, taxes or fees, and to provide for the manner and method of collecting such service charges;
- (24) *Sewer fees:* To levy a fee, charge or sewer tax as necessary to assure the acquiring, constructing, equipping, operating, maintaining and extending of a sewage disposal plant and sewerage system, and to levy on the users of sewers and the sewerage system a sewer service charge fee or sewer tax for the use of the sewers; and to provide for the manner and method of collecting such service charges and for enforcing payment of same; to charge, impose and collect a sewer connection fee or fees, and to charge the same from time to time; such fees to be levied on the users connecting with the sewerage system;
- (25) *Nuisance:* A nuisance shall be defined and abated as provided by Georgia Code Annotated, Title 72 [O.C.G.A. § 41-1-1 et seq.], as amended;
- (26) *Municipal property protection:* To provide for the preservation and protection of property and equipment of the city and the administration and use of same by the public, and to prescribe penalties and punishment for violations thereof;
- (27) *Jail sentences:* To provide that persons given jail sentences in the city's municipal court shall work out such sentence in any public works or on the streets, roads, drains and squares in the city; or to provide for commitment of such persons to any county work camp or jail by agreement with the appropriate county officials;
- (28) *Animal regulations:* To regulate and license, or prohibit the keeping or running at large of animals and fowl and to

provide for the impoundment of same, if in violation of any ordinance or lawful order; also to provide for their disposition by sale, gift, or humane destruction, when not redeemed as provided by ordinance; to provide punishment for violation of ordinance enacted hereunder;

- (29) *Motor vehicles*: To regulate the operation of motor vehicles and exercise control over all traffic, including parking, upon or across the streets, roads, alleys and walkways of the city;
- (30) *Taxicabs*: To regulate and license vehicles operated for hire in the city; to limit the number of such vehicles; to require the operators thereof to be licensed; to require public liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to regulate and rent parking spaces in public ways for the use of such vehicles;
- (31) *Pensions*: To provide and maintain a system of pensions and retirement for members of the governing authority and employees of the city as provided by Georgia Code Annotated 69-1019 [O.C.G.A. § 36-35-4], as amended;
- (32) *Special assessments*: To levy and provide for the collection of special assessments to cover the costs for any public improvements;
- (33) *Contracts*: The City of Alpharetta shall have the power to enter into contracts and agreements with other governmental entities and with private persons, firms and corporations.
- (34) *City agencies and delegation of power*: To create, alter or abolish departments, boards, offices, commissions and agencies of the city, and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to same;
- (35) *Penalties*: To provide penalties for violations of any ordinance adopted pursuant to the authority of this charter and the laws of the State of Georgia;
- (36) *Police and fire protection*: To exercise the power of arrest through duly appointed policemen and to organize and operate a fire fighting agency;

- (37) *Emergencies*: To establish procedures for determining and proclaiming that an emergency situation exists within or without the city, and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health or well being of the citizens of the city;
- (38) *Urban redevelopment*: To organize and operate an urban redevelopment program;
- (39) *Public transportation*: To organize and operate such public transportation systems as are deemed beneficial;
- (40) *General health, safety, and welfare*: To define, regulate and prohibit any act, practice, conduct or use of property which is detrimental to health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city and to provide for the enforcement of such standards;
- (41) *Other powers*: To exercise and enjoy other powers, functions, rights, privileges and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants; and to exercise all implied powers necessary to carry into execution all powers granted in this charter as fully and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia. No listing of particular powers in this charter shall be held to be exclusive of others, nor restrictive of general words and phrases granting powers; but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the constitution or applicable laws of the State of Georgia.

(Ord. No. 395, § 1, 9-2-97)

Sec. 1.14. Exercise of powers.

All powers, functions, rights, privileges and immunities of the city, its officers, agencies or employees shall be carried into execution as provided by this charter. If this charter makes no

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. 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 any Federal 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.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this 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.

2. 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. 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.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

CONSTRUCTION AGREEMENT
Between
DEPARTMENT OF TRANSPORTATION
STATE OF GEORGIA
and
CITY OF ALPHARETTA

This Agreement, made and entered into this _____ day of _____ 2015, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, hereinafter called the "DEPARTMENT", and City of Alpharetta, GEORGIA, hereinafter called the "SPONSOR."

WHEREAS, the SPONSOR has been approved by the DEPARTMENT to carry out a Federal-aid Project which consists of the construction of Project CR 1332/Encore Parkway from Westside Parkway to North Point Parkway, P.I. 0010241, hereinafter referred to as the "PROJECT"; and

WHEREAS, the DEPARTMENT is authorized to receive federal funding for Projects for Georgia pursuant to provisions of 23 U.S.C. Section 133(b)(8); and

WHEREAS, the PROJECT is expected to positively impact the quality of transportation in the State of Georgia; and

WHEREAS, the DEPARTMENT desires to participate with the SPONSOR in the implementation of the PROJECT; and

WHEREAS, the SPONSOR has represented to the DEPARTMENT that it has the authority to receive and expend federal funds for the purpose of this PROJECT and is qualified and experienced to provide such services necessary for the construction of the PROJECT and the DEPARTMENT has relied upon such representations; and

WHEREAS, under Section 32-2-2(a)(7) of the Official Code of Georgia Annotated, the DEPARTMENT is authorized to participate in such an undertaking:

NOW, THEREFORE, in consideration of the mutual promises and covenant contained herein, it is agreed by and between the DEPARTMENT and the SPONSOR THAT:

ARTICLE I SCOPE AND PROCEDURE

The SCOPE AND PROCEDURE for this PROJECT shall be CR 1332/Encore Parkway from Westside Parkway to North Point Parkway, as set forth in Exhibit A, WORK PLAN, which is further defined by the PROJECT estimate sheets ("PROJECT PLANS") on file with the DEPARTMENT and the SPONSOR and referenced as if attached hereto and incorporated as if fully set forth herein.

The SPONSOR shall be responsible for assuring that the PROJECT will be economically feasible and based upon sound engineering principles, meet American Association of State Highway and Transportation Officials ("AASHTO") Guidelines and will be sensitive to ecological, environmental and archaeological issues.

The WORK PLAN sets out the scope of work for the PROJECT. It is understood and agreed that the DEPARTMENT shall participate only in the PROJECT as specified in Exhibit A, WORK PLAN.

The SPONSOR shall work with the Georgia Department of Transportation District 7 to advise the SPONSOR on the WORK PLAN and provide guidance during implementation of the PROJECT.

During the development of the PROJECT the SPONSOR has taken into consideration, as applicable, the DEPARTMENT'S Standard Specifications for the Construction of Roads and Bridges, AASHTO guidelines; FHWA guidelines; compliance with the U.S. Secretary of the Interior "Standards and Guidelines, Archaeology and Historic Preservation"; compliance with Section 106 of the National Historic Preservation Act of 1966 and with Section 4(f) of the US DOT Act of 1966; compliance with the Archaeology and Historic Preservation Act of 1974; compliance with the Archaeological Resources Protection Act of 1979 and with the Native American Graves Protection and Repatriation Act, the Georgia Abandoned Cemeteries and Burial Grounds Act of 1991; compliance with the DEPARTMENT'S Scenic Byways Designation and Management Program, and with the American Society of Landscape Architect Guidelines; compliance with the Outdoor Advertising Requirements as outlined in the Official Code of Georgia Annotated, Section 32-6-70 et.seq. and other standards and guidelines as may be applicable to the PROJECT.

The SPONSOR has acquired rights of way, if required, and related services for the PROJECT in accordance with State and Federal Laws, DEPARTMENT'S Right of Way Procedure Manual, Federal Regulations and particularly Title 23 and 49 of the Code of Federal Regulations ("CFR"), as amended. The SPONSOR further acknowledges that no acquisition of rights of way occurred until all applicable archaeological, environmental and historical preservation clearances were approved.

The SPONSOR shall ensure that all contracts as well as any subcontracts for the construction of the PROJECT shall comply with the Federal and State legal requirements imposed on the DEPARTMENT and any amendments thereto. The SPONSOR is required and does agree to abide

by those provisions governing the DEPARTMENT's authority to contract, specifically, but not limited to Sections 32-2-60 through 32-2-77 of the Official Code of Georgia Annotated; the DEPARTMENT's Rules and Regulations governing the Prequalification of Prospective Bidders, Chapter 672-5; and the DEPARTMENT's "Standard Specifications", Current Edition; "Supplemental Specifications Book", current edition; and any Supplemental Specifications and Special Provisions as applicable for the PROJECT.

The SPONSOR further agrees to comply with and shall require the compliance and physical incorporation of Federal Form FHWA-1273 into all contracts or subcontracts for construction, as attached hereto and incorporated herein as Exhibit B, Terms and Conditions.

ARTICLE II COVENANTS AGAINST CONTINGENT FEES

The SPONSOR shall comply with all relevant requirements of Federal, State and local laws including but not limited to those applicable requirements as outlined in Exhibit B, TERMS AND CONDITIONS. The SPONSOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the SPONSOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the SPONSOR, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the DEPARTMENT 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 fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE III REVIEW OF WORK

Authorized representatives of the DEPARTMENT and the Federal Highway Administration, ("FHWA"), may at all reasonable times review and inspect the activities and data collected under the terms of this Agreement and amendments thereto, including but not limited to, all reports, drawings, studies, specifications, estimates, maps, and computations, prepared by or for the SPONSOR. The DEPARTMENT reserves the right for reviews and acceptance on the part of effected public agencies, railroads and utilities insofar as the interest of each is concerned.

Acceptance shall not relieve the SPONSOR of its professional obligation to correct, at its expense, any of its errors in the work. The DEPARTMENT's review recommendations shall be incorporated into the work activities of the SPONSOR.

ARTICLE IV
TIME OF PERFORMANCE

TIME IS OF THE ESSENCE IN THIS AGREEMENT. The SPONSOR shall perform its responsibilities for the PROJECT, commencing on receipt of written "Notice to Proceed" from the DEPARTMENT, shall complete the Project no later than 540 Calendar Days after receipt of the written "Notice to Proceed" (based on the construction time). The work shall be carried on in accordance with the schedule attached to this Agreement as "Exhibit C", WORK SCHEDULE, with that unforeseen events may make necessary some minor variations in that schedule.

The work shall be carried on expeditiously, it being understood, however, that this Agreement may be extended or continued in force by mutual consent of the parties and evidenced by a written amendment thereto.

ARTICLE V
RESPONSIBILITY FOR CLAIMS AND LIABILITY

The SPONSOR shall, to the extent permitted by law, be responsible for any and all damages to property or persons and shall save harmless the DEPARTMENT, its officers, agents and employees from all suits, claims, actions or damages of any nature whatsoever resulting from the negligence of the SPONSOR in the performance of the work under this Agreement.

It is understood by the SPONSOR that claims, damages, losses, and expenses may include monetary claims made by the construction contractor for the PROJECT, and its related facilities, that are a result of the SPONSOR's negligence or improper representation in the plans.

The SPONSOR shall ensure that the provisions of this Article are included in all contracts and subcontracts.

These indemnities shall not be limited by reason of any insurance coverage held by the SPONSOR or the SPONSOR's contractors or subcontractors.

ARTICLE VI
INSURANCE

Prior to beginning work, the SPONSOR shall obtain and where applicable cause its subcontractors to obtain and furnish certificates to the DEPARTMENT for the following minimum amounts of insurance:

- A. Workmen's Compensation Insurance in accordance with the laws of the State of Georgia.
- B. Public Liability Insurance in an amount of not less than one hundred thousand dollars (\$100,000) for injuries, including

those resulting in death to any one person, and in an amount of not less than three hundred thousand dollars (\$300,000) on an account of any one occurrence.

- C. Property Damage Insurance in an amount of not less than fifty thousand dollars (\$50,000) from damages on account of any occurrence, with an aggregate limit of one hundred thousand dollars (\$100,000).
- D. Valuable Papers Insurance in an amount sufficient to assure the restoration of any plans, drawings, field notes, or other similar data relating to the work covered by the PROJECT.

Insurance shall be maintained in full force and effect during the life of the Agreement and until final completion of the PROJECT.

ARTICLE VII COMPENSATION AND PAYMENT

It is agreed that the compensation hereinafter specified includes both direct and indirect costs chargeable to the PROJECT under generally accepted accounting principles and as allowed in the Federal Acquisition Regulations Subpart 31.6 and not prohibited by the Laws of the State of Georgia.

It is understood and agreed that the total estimated construction cost of the PROJECT as outlined in this Article and as shown in Exhibit "D", BUDGET ESTIMATE, attached hereto and incorporated as if fully set out herein, is Thirteen Million Five Hundred Thirteen Thousand Four Hundred Thirty-Nine Dollars and Twenty-Seven Cents (\$13,513,439.27). The total estimated cost of the PROJECT to be financed using FEDERAL program funds through the Georgia Department on Transportation is Seven Million Six Hundred Thousand Dollars and Zero Cents (\$7,600,000.00), which is the total state/federal contribution to the PROJECT and is the maximum amount of the DEPARTMENT'S obligation. The approved PROJECT budget shall include any claims by the SPONSOR for all costs incurred by the SPONSOR in the conduct of the entire scope of work for the PROJECT.

The SPONSOR shall be solely responsible for any and all amounts in excess of the state contribution. In no event shall the Federal contribution of the project exceed Seven Million Six Hundred Thousand Dollars and Zero Cents (\$7,600,000.00), which is the DEPARTMENT'S maximum obligation.

It is understood and agreed that nothing in the foregoing shall prevent an adjustment of the estimate of the PROJECT costs, provided that the DEPARTMENT'S maximum obligation under this Agreement is not exceeded and that the original intent of the PROJECT is not substantially altered from the approved PROJECT. In order to adjust said budget estimate, it is also understood that the SPONSOR shall request any and all budget changes in writing and that the DEPARTMENT

shall approve or disapprove the requested budget estimate change in writing.

The SPONSOR shall submit to the DEPARTMENT monthly reports of the PROJECT's progress to include a report on what was accomplished during the month, anticipated work to be done during the next month and any problems encountered or anticipated. Payment on account of the above fee will be made monthly on the basis of calendar months, in proportion to the percentage of the work completed for each phase of work. Payments shall be made after approval of a certified voucher from the SPONSOR. Upon the basis of its review of such vouchers, the DEPARTMENT shall, at the request of the SPONSOR, make payment to the SPONSOR as the work progresses, but not more often than once a month. Should the work for the PROJECT begin within any one month, the first voucher shall cover the partial period from the beginning date of the work through the last date of the month in which it began. The vouchers shall be numbered consecutively and subsequent vouchers submitted each month until the work is completed. Payment will be made in the amount of sums earned less previous partial payments. The final invoice shall reflect the actual cost of work accomplished by the SPONSOR under the terms of this Agreement, and shall be the basis for final payment.

No expense for travel shall be an allowable expense for the SPONSOR under this Agreement unless such travel is listed in the approved PROJECT budget submitted by the SPONSOR to the DEPARTMENT. In addition, budgeted costs for travel shall be limited to the amount included in the approved PROJECT budget, unless prior DEPARTMENT approval is obtained for increasing such amount.

Should the work under this Agreement be terminated by the DEPARTMENT, pursuant to the provisions of ARTICLE XIV, the SPONSOR shall be paid based upon the percentage of work completed at the point of termination, notwithstanding any just claims by the SPONSOR.

ARTICLE VIII FINAL PAYMENT

IT IS FURTHER AGREED that upon completion of the work by the SPONSOR and acceptance by the DEPARTMENT of the work, including the receipt of any final written submission by the SPONSOR and a final statement of costs, the DEPARTMENT shall pay to the SPONSOR a sum equal to one hundred percent (100%) of the total compensation as set forth in all approved invoices, less the total of all previous partial payments, paid or in the process of payment.

The SPONSOR agrees that acceptance of this final payment shall be in full and final settlement of all claims arising against the DEPARTMENT for work done, materials furnished, costs incurred, or otherwise arising out of this Agreement and shall release the DEPARTMENT from any and all further claims of whatever nature, whether known or unknown, for and on account of said Agreement, and for any and all work done, and labor and materials furnished, in connection with the same.

The SPONSOR will allow examination and verification of costs by the DEPARTMENT's representatives before final payment is made, in accordance with the provisions of Article XII, herein. If the DEPARTMENT'S examination of the contract cost records, as provided for in Article XII, results in unallowable expenses, the SPONSOR shall immediately be responsible for reimbursing the DEPARTMENT the full amount of such disallowed expenses.

ARTICLE IX CONTINGENT INTEREST

The DEPARTMENT shall retain a contingent interest in the PROJECT for as long as there continues a Federal interest in the PROJECT as determined by the DEPARTMENT's calculation of the economic life of the PROJECT. Based on the scope of work, as set forth in Exhibit A, WORK PLAN, the DEPARTMENT has determined the economic life of the PROJECT to be five years from the date of the PROJECT Final Acceptance.

ARTICLE X RIGHT OF FIRST REFUSAL

A determination by the SPONSOR to sell or dispose of the PROJECT shall entitle the DEPARTMENT to the right of first refusal to purchase or lease the PROJECT at net liquidation value. Such right of first refusal shall be retained for as long as the DEPARTMENT holds a contingent interest in the PROJECT pursuant to Article IX of this Agreement.

Should the DEPARTMENT elect to purchase or lease the PROJECT at any time after completion of the PROJECT no compensation shall be provided for the value added as a result of the PROJECT.

ARTICLE XI SUBSTANTIAL CHANGES

No material changes in the scope, character, complexity, or duration of the PROJECT from those required under the Agreement shall be allowed without the execution of a Supplemental Agreement between the DEPARTMENT and SPONSOR.

Minor changes in the work which do not involve increased compensation, extensions of time, or changes in the goals and objectives of the PROJECT, may be made by written notification of such change by either party with written approval by the other party.

ARTICLE XII MAINTENANCE OF CONTRACT COST RECORDS

The SPONSOR shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the PROJECT and used in support of its proposal and shall make such material available at all reasonable times during the period of the Agreement, and for three years from the date of final payment under the Agreement, for inspection by the DEPARTMENT and any reviewing agencies, and copies thereof shall be furnished upon request. The SPONSOR agrees that the provisions of this Article shall be included in any Agreement it may make with any subcontractor, assignee, or transferee.

An Audit of the Agreement shall be provided by the SPONSOR. The audit shall be conducted by an independent accountant or accounting firm in accordance with audit requirements, 49 CFR 18.26 and OMB Circular 128 or any revision or supplement thereto. PROJECT costs shall be documented within the OMB Circular 128 audit. An audit shall be submitted to the DEPARTMENT in a timely manner in each of the SPONSOR's fiscal years for the period of the Agreement.

ARTICLE XIII SUBLETTING, ASSIGNMENT, OR TRANSFER

It is understood by the parties to this Agreement that the work of the SPONSOR is considered personal by the DEPARTMENT. The SPONSOR agrees not to assign, sublet, or transfer any or all of its interest in this Agreement without prior written approval of the DEPARTMENT.

The DEPARTMENT reserves the right to review all subcontracts prepared in connection with the Agreement, and the SPONSOR agrees that it shall submit to the DEPARTMENT proposed subcontract documents together with sub-contractor cost estimates for the DEPARTMENT's review and written concurrence in advance of their execution.

All subcontracts in the amount of \$10,000.00 or more shall include the provisions set forth in this Agreement.

ARTICLE XIV TERMINATION

The DEPARTMENT reserves the right to terminate this Agreement at any time for just cause, or for any cause upon 30 days written notice to the SPONSOR, notwithstanding any just claims by the SPONSOR for payment of services rendered prior to the date of termination.

It is understood by the parties hereto that should the DEPARTMENT terminate this Agreement prior to the completion of an element of work the SPONSOR shall be reimbursed for such work element based upon the percentage of work completed.

Failure to meet the time set for completion of an approved work authorization, may be considered just cause for termination of the Agreement.

ARTICLE XV
OWNERSHIP OF DOCUMENTS

The SPONSOR agrees that all reports, drawings, studies, specifications, survey notes, estimates, maps, computations, computer diskettes and printouts and other data prepared by or for it under the terms of this Agreement shall remain the property of the SPONSOR upon termination or completion of the work. The DEPARTMENT shall have the right to use the same without restriction or limitation and without additional compensation to the SPONSOR other than that provided for in this Agreement.

ARTICLE XVI
CONTRACT DISPUTES

This Agreement shall be deemed to have been executed in Fulton County, Georgia, and all questions of interpretation and construction shall be governed by the Laws of the State of Georgia.

ARTICLE XVII
COMPLIANCE WITH APPLICABLE LAWS

- A. The undersigned certify that the provisions of Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated relating to Conflict of Interest and State employees and officials trading with the State have been complied with in full.
- B. IT IS FURTHER AGREED that the SPONSOR shall comply and shall require its subcontractors to comply with the regulations for COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, as amended, and 23 CFR 200, as stated in Exhibit E of this Agreement.
- C. IT IS FURTHER CERTIFIED that the provisions of Section 50- 24-1 through 50-24-6 of the Official Code of Georgia Annotated relating to the "Drug-Free Workplace Act" have been complied with in full, as stated in Exhibit F of this Agreement.
- D. The SPONSOR acknowledges and agrees that failure to complete appropriate certifications or the submission of a false certification shall result in the termination of this Agreement pursuant to the provisions of Article XIV.
- E. IT IS FURTHER AGREED that the SPONSOR shall subcontract a minimum of twelve percent (12%) of the total amount of PROJECT funds to Disadvantaged Business Enterprise (DBE) as defined

and provided for under the Federal Rules and Regulations 49 CFR parts 23 and 26. The SPONSOR shall ensure that DBE firms are certified with the DEPARTMENT's Equal Employment Opportunity Office. The SPONSOR shall submit to the DEPARTMENT for its review and concurrence, a copy of the proposed subcontract including the name of the DBE subcontractor.

- F. IT IS FURTHER AGREED that the SPONSOR shall comply and shall require its subcontractors to comply with all applicable requirements of the American with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 et.seq. and 49 U.S.C. 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791; and regulations and amendments thereto.
- G. IT IS FURTHER AGREED that the SPONSOR shall, and shall require its contractors and subcontractors to, comply with all applicable requirements of the Davis-Bacon Act of 1931, 40 U.S.C. 276(a); as prescribed by 23 U.S.C. 113, for Federal-aid highway projects, except roadways classified as local roads or rural minor collectors.
- H. IT IS FURTHER AGREED that the SPONSOR shall, and shall require its contractors and subcontractors to, comply with GA Code Title 25, Section 9, Georgia Utility Facility Protection Act, CALL BEFORE YOU DIG 1-800-282-7411.

The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

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

Recommended:

Department of Transportation

City of Alpharetta, Georgia

By: _____ (Seal)
Commissioner

By: _____ (Seal)
Mayor David Belle Isle

Attest:

Signed, sealed and delivered
This ____ day of _____,
2015, in the presence of:

Treasurer

Witness

Notary Public

This Agreement, approved by
City of Alpharetta, the _____
day of _____, 2015

Attest:

Name and Title

Federal Employer Identification
Number:

EXHIBITS

Exhibit A	Work Plan
Exhibit B	Required Contract Provisions Federal-Aid Construction Contracts
Exhibit C	Work Schedule
Exhibit D	Budget Estimate
Exhibit E	Civil Rights Compliance Certification
Exhibit F	Certification of Drug-Free Workplace

EXHIBIT A

WORK PLAN

CITY OF ALPHARETTA

P.I. No. 0010241

CR 1332/ENCORE PARKWAY FROM WESTSIDE PARKWAY TO NORTH POINT PARKWAY

GENERAL DESCRIPTION OF WORK TO BE PERFORMED

PROJECT consists of the improvement of Encore Parkway from Westside Parkway to North Point Parkway. The improvements include bicycle and pedestrian, widening, and landscaping. The existing Encore Parkway bridge over SR 400 will be replaced and upgraded in order to accommodate future SR 400 managed lanes, and the following:

1. Traffic Control
2. Erosion Control
3. Clearing and Grubbing
4. Demolition of existing bridge over SR 400
5. Construction of new bridge over SR 400
6. Adjust water and sewer utilities
7. Construct full depth pavement and overlay from Westside Parkway to North Point Parkway
8. Install traffic signals along corridor
9. Install landscaping and hardscaping features
10. Install striping and signage
11. Complete clean up and disposal of waste materials

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

- A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway

does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading,

promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or

1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required

to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make

such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate

specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an

interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages.

In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages.

The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater

percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting

officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

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.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. 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 any Federal agency, a Member of Congress, an officer or an employee of Congress, or an employee of a Member of

connection with this 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.

2. 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. 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.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT C

WORK SCHEDULE

CITY OF ALPHARETTA

P.I. No. 0010241

CR 1332/ENCORE PARKWAY FROM WESTSIDE PARKWAY TO NORTH POINT PARKWAY

Project work to begin within six months of receiving the approved signed contract and Notice to Proceed.

Construction will be completed by date stated in the contract, Article IV, Time of Performance.

Award contract	December 30, 2015
Construction NTP	January 5, 2016
Substantial Completion	July 5, 2017
Final inspection	July 19, 2017
Punch List Complete	August 31, 2017

EXHIBIT D

CONSTRUCTION COST

CITY OF ALPHARETTA

P.I. No. 0010241

ENCORE PARKWAY STREETSCAPES & BIG CREEK GREENWAY EXTENSION					C.W. Matthews Contracting Co., Inc.
ITEM NO.	DESCRIPTION	APPROX QTY	UNITS	UNIT PRICE	AMOUNT
ROADWAY ITEMS:					
150-1000	TRAFFIC CONTROL - PI 0010241	1	LS	\$147,027.68	\$147,027.68
150-9011	TRAFFIC CONTROL - WORKZONE LAW ENFORCEMENT (CONTRACTOR BIDS)	2000	HR	\$35.00	\$70,000.00
153-1300	FIELD ENGINEERS OFFICE TP 3	1	EA	\$70,160.79	\$70,160.79
163-0232	TEMPORARY GRASSING	8	AC	\$150.00	\$1,200.00
163-0240	MULCH	111	TN	\$250.00	\$27,750.00
163-0300	CONSTRUCTION EXIT	2	EA	\$1,585.54	\$3,171.08
163-0520	CONSTRUCT AND REMOVE TEMPORARY PIPE SLOPE DRAIN	200	LF	\$15.83	\$3,166.00
163-0529	CONSTRUCT AND REMOVE TEMPORARY SEDIMENT BARRIER OR BALED STRAW CHECK DAM	205	LF	\$5.50	\$1,127.50
163-0541	CONSTRUCT AND REMOVE ROCK FILTER DAMS	5	EA	\$891.16	\$4,455.80
163-0543	CONSTRUCT AND REMOVE STONE FILTER BERMS	100	LF	\$44.56	\$4,456.00
163-0550	CONSTRUCT AND REMOVE INLET SEDIMENT TRAP	43	EA	\$100.00	\$4,300.00
165-0030	MAINTENANCE OF TEMPORARY SILT FENCE, TP C	3800	LF	\$0.90	\$3,420.00
165-0041	MAINTENANCE OF CHECK DAMS - ALL TYPES	175	LF	\$2.20	\$385.00
165-0101	MAINTENANCE OF CONSTRUCTION EXIT	2	EA	\$1,122.29	\$2,244.58
165-0105	MAINTENANCE OF INLET SEDIMENT TRAP	43	EA	\$40.00	\$1,720.00
165-0110	MAINTENANCE OF ROCK FILTER DAM	5	EA	\$334.99	\$1,674.95
165-0112	MAINTENANCE OF STONE FILTER BERM	100	LF	\$16.75	\$1,675.00
167-1000	WATER QUALITY MONITORING AND SAMPLING	5	EA	\$200.00	\$1,000.00
167-1500	WATER QUALITY INSPECTIONS	18	MO	\$300.00	\$5,400.00
171-0030	TEMPORARY SILT FENCE, TYPE C	7500	LF	\$2.60	\$19,500.00
207-0203	FOUND BKFILL MATL, TP II	273	CY	\$55.31	\$15,099.63
210-0100	GRADING COMPLETE- PI 0010241	1	LS	\$3,880,293.44	\$3,880,293.44

211-0200	BRIDGE EXCAVATION, GRADE SEPARATION	247	CY	\$67.23	\$16,605.81
310-1101	GR AGGR BASE CRS, INCL MATL	14300	TN	\$23.81	\$340,483.00
318-3000	AGGR SURF CRS	250	TN	\$24.29	\$6,072.50
402-1812	RECYCLED ASPH CONC LEVELING, INCL BITUM MATL & H LIME	100	TN	\$99.44	\$9,944.00
402-3121	RECYCLED ASPH CONC 25 MM SUPERPAVE, GP 1 OR 2, INCL BITUM	3700	TN	\$70.90	\$262,330.00
402-3130	RECYCLED ASPH CONC 12.5 MM SUPERPAVE, GP 2 ONLY, INCL BITUM	1700	TN	\$89.57	\$152,269.00
402-3190	RECYCLED ASPH CONC 19 MM SUPERPAVE, GP 1 OR 2, INCL BITUM	2900	TN	\$71.36	\$206,944.00
413-1000	BITUM TACK COAT	4300	GL	\$2.34	\$10,062.00
430-0200	PLAIN PC CONC PVMT, CL 1 CONC, 10 INCH THICK	980	SY	\$117.82	\$115,463.60
432-5010	MILL ASPH CONC PVMT, VARIABLE DEPTH	4100	SY	\$5.75	\$23,575.00
433-1000	REINF CONC APPROACH SLAB	849	SY	\$151.84	\$128,912.16
441-0004	CONC SLOPE PAV, 4 IN	2600	SY	\$27.57	\$71,682.00
441-0104	CONC SIDEWALK, 4 IN	3300	SY	\$24.00	\$79,200.00
441-0108	CONC SIDEWALK, 8 IN	560	SY	\$49.45	\$27,692.00
441-0204	PLAIN CONC DITCH PAVING, 4 IN	140	SY	\$33.01	\$4,621.40
441-0600	CONC HEADWALLS	1	CY	\$1,400.00	\$1,400.00
441-0748	CONCRETE MEDIAN, 6 IN	110	SY	\$52.49	\$5,773.90
441-5004	CONCRETE HEADER CURB, 10 IN	410	LF	\$17.45	\$7,154.50
441-6216	CONC CURB & GUTTER, 8 IN X 24 IN, TP 2	350	LF	\$22.51	\$7,878.50
441-6222	CONC CURB & GUTTER, 8 IN X 30 IN, TP 2	4500	LF	\$16.18	\$72,810.00
441-6740	CONC CURB & GUTTER, 8 IN X 30 IN, TP 7	4400	LF	\$16.57	\$72,908.00
446-1100	PV,T REINF FABRIC STRIPS, TP 2, 18 INCH WIDTH	200	LF	\$18.12	\$3,624.00
500-0100	GROOVED CONCRETE	1581	SY	\$7.47	\$11,810.07
500-1011	SUPERSTR CONCRETE, CL D, BR NO-1	1	LS	\$886,786.44	\$886,786.44
500-2110	CONCRETE PARAPET, SPCL DESIGN	1992	LF	\$214.68	\$427,642.56
400-3002	CLASS AA CONCRETE	437	CY	\$616.76	\$269,524.12
500-3201	CLASS B CONCRETE, RETAINING WALL	120	CY	\$843.73	\$101,247.60
500-9999	CLASS B CONC, BASE OR PVMT WIDENING	20	CY	\$225.37	\$4,507.40
507-9033	PSC BEAMS, AASHTO, BULB TEE, 74 IN, BR NO-1	5574	LF	\$258.15	\$1,438,928.10
511-1000	BAR REINF STEEL	81247	LB	\$0.69	\$56,060.43
511-3000	LB SUPERSTR REINF STEEL, BR NO-1	1	LS	\$182,934.91	\$182,934.91
520-1151	PILING IN PLACE, STEEL H, HP 14 X 89	4620	LF	\$68.97	\$318,641.40
520-4150	LOAD TEST, STEEL H, HP 14 X 89	1	EA	\$1.00	\$1.00
523-1100	DYNAMIC PILE TEST	2	EA	\$6,485.30	\$12,970.60
540-1102	REMOVAL OF EXISTING BR, BR NO -1	1	LS	\$385,492.40	\$385,492.40
544-1000	DECK DRAIN SYSTEM, BR NO -	1	LS	\$75,276.50	\$75,276.50
550-1180	STORM DRAIN PIPE, 18 IN, H 1-10	2300	LF	\$49.58	\$114,034.00

550-1240	STORM DRAIN PIPE, 24 IN, H 1-10	230	LF	\$97.60	\$22,448.00
550-4224	24" FES	1	EA	\$767.10	\$767.10
603-2182	STN DUMPED RIP RAP, TP 3, 24 IN	44	SY	\$60.69	\$2,670.36
603-7000	PLASTIC FILTER FABRIC	44	SY	\$5.46	\$240.24
607-4100	PLAZA COLUMNS AND WALLS, COMPLETE, STA 102+10 LT	1	LS	\$12,600.00	\$12,600.00
607-4100	PLAZA COLUMNS AND WALLS, COMPLETE, STA 102+10 RT	1	LS	\$14,040.00	\$14,040.00
607-4100	PLAZA COLUMNS AND WALLS, COMPLETE, STA 117+30 LT	1	LS	\$7,560.00	\$7,560.00
607-4100	PLAZA COLUMNS AND WALLS, COMPLETE, STA 117+30 RT	1	LS	\$7,560.00	\$7,560.00
607-4100	PLAZA COLUMNS AND WALLS, COMPLETE, STA 118+20 LT	1	LS	\$7,560.00	\$7,560.00
607-4100	PLAZA COLUMNS AND WALLS, COMPLETE, STA 118+20 RT	1	LS	\$7,560.00	\$7,560.00
607-4100	PLAZA COLUMNS AND WALLS, COMPLETE, STA 124+10 LT	1	LS	\$7,560.00	\$7,560.00
607-4100	PLAZA COLUMNS AND WALLS, COMPLETE, STA 124+10 RT	1	LS	\$7,560.00	\$7,560.00
611-3000	RECONSTR CATCH BASIN, GROUP 1	4	EA	\$2,450.00	\$9,800.00
611-3001	RECONSTR CATCH BASIN, GROUP 1, ADDL DEPTH	3	LF	\$260.00	\$780.00
615-1200	DIRECTIONAL BORE 4 IN	2051	LF	\$16.10	\$33,021.10
615-1200	DIRECTIONAL BORE 5 IN	530	LF	\$20.75	\$10,997.50
615-1200	DIRECTIONAL BORE 6 IN	360	LF	\$26.60	\$9,576.00
620-0100	TEMPORARY BARRIER, METHOD NO. 1	2000	LF	\$35.03	\$70,060.00
621-3125	CONCRETE BARRIER, TYPE 25S, MODIFIED	239	LF	\$410.00	\$97,990.00
621-3126	CONCRETE BARRIER, TYPE 26S	75	LF	\$275.00	\$20,625.00
627-1000	MSE WALL FACE, 0-10 FT HT, WALL NO-1	201	SF	\$74.54	\$14,982.54
627-1000	MSE WALL FACE, 0-10 FT HT, WALL NO-2	203	SF	\$68.55	\$13,915.65
627-1010	MSE WALL FACE, 10-20 FT HT, WALL NO-1	609	SF	\$74.54	\$45,394.86
627-1010	MSE WALL FACE, 10-20 FT HT, WALL NO-2	608	SF	\$68.55	\$41,678.40
627-1020	MSE WALL FACE, 20-30 FT HT, WALL NO-1	1015	SF	\$74.54	\$75,658.10
627-1020	MSE WALL FACE, 20-30 FT HT, WALL NO-2	3502	SF	\$68.55	\$240,062.10
627-1030	MSE WALL FACE, GTR THAN 30 FT HT, WALL NO-1	4625	SF	\$74.54	\$344,747.50
627-1100	COPING A, WALL NO-1	278	LF	\$121.05	\$33,651.90
627-1100	COPING A, WALL NO-2	242	LF	\$122.24	\$29,582.08
627-1180	ADDITIONAL MSE BACKFILL -WALL NO 1	1274	CY	\$41.71	\$53,138.54
627-1180	ADDITIONAL MSE BACKFILL -WALL NO 2	944	CY	\$42.22	\$39,855.68
632-0003	CHANGEABLE MESSAGE SIGN, PORTABLE, TYPE 3	4	EA	\$5,400.00	\$21,600.00
634-1200	RIGHT OF WAY MARKERS	25	EA	\$94.86	\$2,371.50
636-1020	HIGHWAY SIGNS, TP 1 MATL, REFL SHEETING, TP 3	108	SF	\$30.00	\$3,240.00

636-1033	HIGHWAY SIGNS, TP 1 MATL, REFL SHEETING, TP 9	53	SF	\$33.50	\$1,775.50
636-1041	HIGHWAY SIGNS, TP 2 MATL, REFL SHEETING, TP 9	78	SF	\$51.60	\$4,024.80
636-1077	HIGHWAY SIGNS, ALUM EXTRUDED PANELS, REFL SHEETING, TP 9	179	SF	\$32.00	\$5,728.00
636-2070	GALV STEEL POSTS, TP 7	379	LF	\$6.50	\$2,463.50
638-1003	STR SUPPORT FOR OVERHEAD SIGN, TP III, STA – 267+70	1	LS	\$68,850.00	\$68,850.00
639-3014	STEEL STRAIN POLE, TP IV, INCL LUMINAIRE ARM-40'	1	EA	\$9,750.00	\$9,750.00
639-3014	STEEL STRAIN POLE, TP IV, INCL LUMINAIRE ARM-45'	1	EA	\$9,995.00	\$9,995.00
639-3014	STEEL STRAIN POLE, TP IV, INCL LUMINAIRE ARM-55'	4	EA	\$14,290.00	\$57,160.00
639-3014	STEEL STRAIN POLE, TP IV, INCL LUMINAIRE ARM-50 & 55'	1	EA	\$18,505.00	\$18,505.00
641-1100	GUARDRAIL, TP T	80	LF	\$80.62	\$6,449.60
641-1200	GUARDRAIL, TP W	1130	LF	\$21.00	\$23,730.00
641-5000	GUARDRAIL ANCHORAGE, SPCL DES	1	EA	\$2,215.00	\$2,215.00
641-5001	GUARDRAIL ANCHORAGE, TP 1	3	EA	\$971.00	\$2,913.00
641-5012	GUARDRAIL ANCHORAGE, TP 12	1	EA	\$2,110.00	\$2,110.00
643-0010	FIELD FENCE WOVEN WIRE	1000	LF	\$10.86	\$10,860.00
643-8200	BARRIER FENCE (ORANGE), 4 FT	920	LF	\$1.90	\$1,748.00
643-8300	ORNAMENTAL FENCE	645	LF	\$43.60	\$28,122.00
643-8400	FENCE, SPECIAL DESIGN	1	LS	\$401,631.35	\$401,631.35
647-1000	TRAFFIC SIGNAL INSTALLATION NO - 1	1	LS	\$15,390.00	\$15,390.00
647-1000	TRAFFIC SIGNAL INSTALLATION NO - 2	1	LS	\$59,900.00	\$59,900.00
647-1000	TRAFFIC SIGNAL INSTALLATION NO - 3	1	LS	\$66,225.00	\$66,225.00
647-2140	PULL BOX, PB-4	2	EA	\$995.00	\$1,990.00
647-2150	PULL BOX, PB-5	5	EA	\$1,315.00	\$6,575.00
648-1350	IMPACT ATTENUATOR UNIT, TYPE P - PORTABLE	4	EA	\$10,000.00	\$40,000.00
649-0018	CONCRETE GLARE SCREEN 18 INCH	314	LF	\$70.00	\$21,980.00
652-0094	PAVEMENT MARKING, SYMBOL, TP 4	6	EA	\$50.00	\$300.00
652-5301	SOLID TRAF STRIPE, 6 IN, WHITE	3939	LF	\$0.30	\$1,181.70
652-5451	SOLID TRAFFIC STRIPE, 5 IN, WHITE	3187	LF	\$0.25	\$796.75
652-6301	SKIP TRAF STRIPE, 6 IN, WHITE	355	GLF	\$0.25	\$88.75
652-6501	SKIP TRAFFIC STRIPE, 5 IN, WHITE	355	GLF	\$0.20	\$71.00
653-0110	THERMOPLASTIC PVMT MARKING, ARROW, TP 1	6	EA	\$75.00	\$450.00
653-0120	THERMOPLASTIC PVMT MARKING, ARROW, TP 2	25	EA	\$75.00	\$1,875.00
653-0130	THERMOPLASTIC PVMT MARKING, ARROW, TP 3	4	EA	\$100.00	\$400.00
653-1501	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN, WHITE	2765	LF	\$0.50	\$1,382.50

653-1502	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN, YELLOW	3810	LF	\$0.50	\$1,905.00
653-1704	THERMOPLASTIC SOLID TRAF STRIPE, 24 IN, WHITE	391	LF	\$7.50	\$2,932.50
653-1804	THERMOPLASTIC SOLID TRAF STRIPE, 8 IN, WHITE	5677	LF	\$2.50	\$14,192.50
653-3501	THERMOPLASTIC SKIP TRAF STRIPE, 5 IN, WHITE	842	GLF	\$0.40	\$336.80
653-6004	THERMOPLASTIC TRAF STRIPING, WHITE	703	SY	\$4.00	\$2,812.00
653-6006	THERMOPLASTIC TRAF STRIPING, YELLOW	235	SY	\$4.00	\$940.00
654-1003	RAISED PVMT MARKERS TP 3	117	EA	\$7.50	\$877.50
657-1085	PREFORMED PLASTIC SOLID PVMT MKG, 8 IN, CONTRAST	4624	LF	\$4.50	\$20,808.00
657-3085	PREFORMED PLASTIC SKIP PVMT MKG, 8 IN, CONTRAST (BLACK-WHITE), TP PB	12052	GLF	\$3.50	\$42,182.00
657-6085	PREFORMED PLASTIC SOLID PVMT MKG, 8 IN, CONTRAST (BLACK-YELLOW)	4625	LF	\$4.50	\$20,812.50
668-1100	CATCH BASIN, GP 1	9	EA	\$2,450.00	\$22,050.00
668-1110	CATCH BASIN, GP 1, ADDL DEPTH	20	LF	\$260.00	\$5,200.00
668-2100	DROP INLET, GP 1	16	EA	\$2,100.00	\$33,600.00
668-2110	DROP INLET, GP 1, ADDL DEPTH	10	LF	\$260.00	\$2,600.00
668-2231	DROP INLET, GP 1, MODIFIED TP M-1	3	EA	\$5,500.00	\$16,500.00
668-4300	STORM SEWER MANHOLE, TP 1	4	EA	\$2,100.00	\$8,400.00
668-4311	STORM SEWER MANHOLE, TP 1, ADDL DEPTH, CL 1	8	LF	\$275.00	\$2,200.00
681-4220	LIGHTING STD, 40 FT MH, POST TOP	2	EA	\$3,620.00	\$7,240.00
681-6411	LUMINAIRE, TP 4, 108 W, 48 LED	2	EA	\$660.00	\$1,320.00
681-6906	35W, 32 LED, TYPE II, POST TOP	6	EA	\$2,135.00	\$12,810.00
681-6910	15 W 3000K SPOT LED LUMINAIRE	2	EA	\$1,910.00	\$3,820.00
681-6915	2' FACADE ILLUMINATING LED LUMINAIRE	8	EA	\$1,525.00	\$12,200.00
681-6916	4' FACADE ILLUMINATING LED LUMINAIRE	18	EA	\$2,525.00	\$45,450.00
682-1404	CABLE, TP XHHW, AWG NO 10	3000	LF	\$0.65	\$1,950.00
682-6231	CONDUIT, NONMETL, TP 3, 1 1/4 IN	6153	LF	\$1.25	\$7,691.25
682-6233	CONDUIT, NONMETL, TP 3, 2 IN	2965	LF	\$1.30	\$3,854.50
682-7065	UNDERBRIDGE CONDUIT DUCT BANK	315	LF	\$26.70	\$8,410.50
682-9023	ELECTRICAL JUNCTION BOX, GALVANIZED, SIZE 12" x 10" x 8"	5	EA	\$190.00	\$950.00
700-6910	PERMANENT GRASSING	2	AC	\$950.00	\$1,900.00
700-7000	AGRICULTURAL LIME	7	TN	\$125.00	\$875.00
700-8000	FERTILIZER MIXED GRADE	4	TN	\$475.00	\$1,900.00
700-8100	FERTILIZER NITROGEN CONTENT	166	LB	\$5.00	\$830.00
700-9300	SOD	15891	SY	\$6.50	\$103,291.50
702-0006	UNITS ABELIA X GRANDIFLORA -	48	EA	\$44.20	\$2,121.60
702-0253	EUNYMUS ALATUS 'COMPACTUS'	8	EA	\$79.20	\$633.60

702-0500	JUNIPERUS CONFERTA -	235	EA	\$40.20	\$9,447.00
702-0542	LAGERSTROEMIA INDICA-'MUSCOGEE'	26	EA	\$475.90	\$12,373.40
702-0542	LAGERSTROEMIA INDICA-'VICTOR'	92	EA	\$63.20	\$5,814.40
702-0560	LIRIOPE MUSCARI 'BIG BLUE'	4242	EA	\$15.20	\$64,478.40
702-0610	LOROPETALUM CHINENSE -	77	EA	\$62.20	\$4,789.40
702-0678	MULLENBERGIA CAPILLARIS-	265	EA	\$17.45	\$4,624.25
702-0897	QUERCUS NUTTALLI -	49	EA	\$685.70	\$33,599.30
702-0981	ROSA SP.-	65	EA	\$45.20	\$2,938.00
716-2000	EROSION CONTROL MATS, SLOPES	25400	SY	\$0.80	\$20,320.00
754-4000	WASTE RECEPTACLE UNIT	8	EA	\$1,820.29	\$14,562.32
754-5000	BENCH	10	EA	\$1,511.58	\$15,115.80
766-7020	IRRIGATION SYSTEM - COMPLETE	1	LS	\$37,550.00	\$37,550.00
900-0039	BRICK PAVERS	22000	SF	\$8.86	\$194,920.00
936-1000	CCTV SYSTEM	3	EA	\$5,000.00	\$15,000.00
937-1000	VIDEO CAMERA SENSOR ASSEMBLY	12	EA	\$4,860.00	\$58,320.00
937-6150	PROGRAMMING MONITOR, TYPE A	2	EA	\$374.00	\$748.00
937-8000	TESTING (CCTV)	1	LS	\$675.00	\$675.00
937-8000	TESTING (VIDEO CAMERA SENSOR ASSEMBLY)	1	LS	\$675.00	\$675.00
937-8500	TRAINING	1	LS	\$675.00	\$675.00
999-0060	BIORETENTION AREA - ENHANCED SWALE	230	SY	\$135.81	\$31,236.30
999-9000	MISCELLANEOUS CONSTRUCTION	1	LS	\$200,000.00	\$200,000.00

\$13,513,439.27

EXHIBIT E

NOTICE TO CONTRACTORS COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this Agreement, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. Compliance with Regulations: The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations [also 49 CFR Part 27]), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, national origin, or sex in the selection and retention of subcontractors including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program, set forth in Appendix B of the Regulations. In addition, the Contractor will not participate either directly or indirectly in the discrimination prohibited by 23 CFR 710.405(b).
3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding or negotiations made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin or sex.
4. Information and Reports: The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the State Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
 - b. cancellation, termination or suspension of this contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provision of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interests of the State, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

EXHIBIT F

CERTIFICATION OF SPONSOR

DRUG-FREE WORKPLACE

I hereby certify that I am a principle and duly authorized representative of the City of Alpharetta whose address is 2 Park Plaza, Alpharetta, GA 30009 and it is also that:

1. The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-Free Workplace Act" have been complied with in full; and,
2. A drug-free workplace will be provided for the sponsor's employees during the performance of the contract; and,
3. Each subcontractor hired by the SPONSOR shall be required to ensure that the subcontractor's employees are provided a drug-free workplace. The SPONSOR shall secure from that subcontractor the following written certification: "As part of the subcontracting agreement with _____, certifies to the SPONSOR that a drug-free workplace will be provided for the subcontractor's employees during the performance of this contract pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated Section 50-24-3"; and,
4. It is certified that the undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.

Date

Signature

APPENDICES

Appendix A	Sponsor Certification regarding Debarment, Suspension, and other Responsibility Matters
Appendix B	Certification of Department of Transportation - State of Georgia
Appendix C	Certification of SPONSOR

APPENDIX A

CITY OF ALPHARETTA
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND
OTHER RESPONSIBILITY MATTERS

I hereby certify that I am the Mayor and duly authorized representative of the City of Alpharetta, whose address is 2 Park Plaza, Alpharetta, GA 30009, and I certify that I have read and understand the attached instructions and that to the best of my knowledge and belief the firm and its representatives:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by the Georgia Department of Transportation and by any Federal department or agency;
- 2) Have not within a three year period preceding this Agreement been convicted of or had a civil judgment rendered against the firm or its representatives for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State, or Local) transaction or contract under a public transaction in violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and,
- 4) Have not within a three year period preceding this Agreement had one or more public transaction (Federal, State or Local) terminated for cause or default.
- 5) That the firm will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" as attached hereto and without motivation, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

I acknowledge that this certification is provided pursuant to Executive Order 12549 and 49 CFR Part 29 and that this firm agrees to abide by the rules and conditions set forth therein for any misrepresentation that would render this certification erroneous, including termination of this Agreement and other remedies available to the Georgia Department of Transportation and Federal Government.

I further acknowledge that this certificate is to be furnished to the Georgia Department of Transportation, in connection with this

Agreement involving participation of Federal-Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date _____

(Seal)

Instructions for Appendix A Certification

Certification Regarding Debarment, Suspension, and Other Responsibility Matters -- Primary Covered Transactions (SPONSORS)

1. By signing and submitting this contract the SPONSOR is providing the certification set out in Appendix A.
2. The inability of the SPONSOR to provide the certification required may not necessarily result in denial of participation in this covered transaction. The SPONSOR shall then submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the SPONSOR to furnish a certification or an explanation shall disqualify such person or firm from participation in this transaction.
3. The certification, Appendix A, is a material representation of fact upon which reliance is placed by the Department before entering into this transaction. If it is later determined that the SPONSOR knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause of default.
4. The SPONSOR shall provide immediate written notice to the Department if at any time the SPONSOR learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in these instructions and the certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
6. The SPONSOR agrees by submitting this proposal/contract that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person/firm who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the Department.
7. The SPONSOR further agrees by submitting this proposal/contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as provided by the Department without modification, in all lower

tier covered transactions and in all solicitations for lower tier covered transactions.

8. A SPONSOR, in a covered transaction may rely upon a certification of a prospective participant in lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. The SPONSOR may decide the method and frequency by which it determines the eligibility of its principals.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by these instructions. The knowledge and information of SPONSOR is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if the SPONSOR in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction in addition to other remedies available to the Federal Government, the Georgia Department of Transportation may terminate this transaction for cause or default.

APPENDIX B

CERTIFICATION OF DEPARTMENT OF TRANSPORTATION

STATE OF GEORGIA

I hereby certify that I am the Commissioner of the Department of Transportation of the State of Georgia, and that the above consulting firm or his representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement to:

- a. employ or retain, or agree to employ or retain, any firm or person, or
- b. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as here expressly stated, (if any):

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal-aid Highway Funds, and is subject to applicable State and Federal Laws, both criminal and civil.

Date

Commissioner

APPENDIX C

CERTIFICATION OF CITY OF ALPHARETTA

STATE OF GEORGIA

I hereby certify that I am the Mayor of the CITY OF ALPHARETTA in the State of Georgia, and that the above consulting firm or their representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement to:

- a. employ or retain, or agree to employ or retain, any firm or person, or
- b. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as here expressly stated, (if any):

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal - aid Highway Funds, and is subject to applicable State and Federal Laws, both criminal and civil.

Date

CITY OF ALPHARETTA MAYOR

MEMORANDUM OF UNDERSTANDING

Between the City of Alpharetta Engineering / Public Works Department (hereinafter the CITY)

And

Fulton County, Department of Water Resources (hereinafter the COUNTY)

Project: Encore Pkwy Streetscape PI No- 0010241, Fulton County

City of Alpharetta Engineering / Public Works Department PI #-0010241, Fulton County.

Whereas the CITY proposes to undertake a project to construct Encore Pkwy Streetscape improvement by contract through its competitive bidding procedures; and

Whereas the COUNTY has the following utility (Sewer and Water) facilities which must be installed, adjusted or relocated as a result of the proposed contract: The facilities include 500 LF of 16 inch water main installation, including relocation fire hydrant, water valve box and water meters, and manhole adjustment as shown on construction plans for PI #-0010241.

Whereas the COUNTY does not have adequate equipment and staff to adjust its facilities or for other reasons considers it advantageous to have this work included in the contract to be let to bid by the CITY; now therefore,

The following is hereby mutually agreed to and understood by both parties:

1. The CITY shall undertake the project design and contracting and assume responsibility for its management and completion.
2. The COUNTY shall submit a cost estimate to the City for its utility relocation based on GDOT specifications and mean item summary.
3. The plans and estimate for the utility work shall be subject to approval of both the CITY and the COUNTY prior to advertising for bids.
4. All work, necessary for the adjustment or relocation of the described utilities in accordance with the final plans when approved, shall be included in the contract and let to bid by the CITY.
5. The COUNTY shall be responsible to assure that all utility (Sewer and Water) work is accomplished in accordance with the plans and specifications.
6. The COUNTY shall have the right to visit and to inspect the work at any time and to advise the CITY'S Engineer-in-Charge of any observed discrepancies or potential problems.

7. The COUNTY and the CITY shall respond, in a timely manner, to any issue that may arise during the construction phase. Every effort shall be made not to delay the contractor under any circumstances.
8. Upon completion of the work and upon certification by the COUNTY'S Engineers that the work has been completed in accordance with the plans and specifications, the COUNTY will accept the adjusted and additional facilities and will thereafter operate and maintain said facilities without further cost to the CITY or its contractor.
9. The COUNTY is responsible to reimburse all material and labor costs to the CITY related to specified utility relocations for this project. The reimbursement shall be based on the actual construction costs and shall be paid by the COUNTY within thirty (30) days after request by the CITY.

APPROVED FOR THE CITY BY:

David Belle Isle

Mayor, City of Alpharetta

(Date)

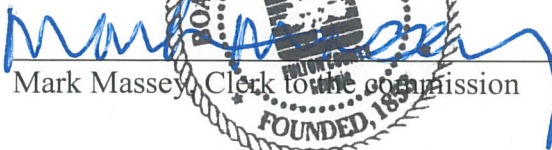
Attest:

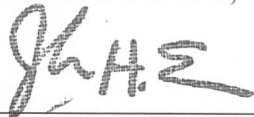
City Clerk

APPROVED FOR THE COUNTY BY:

Attest:

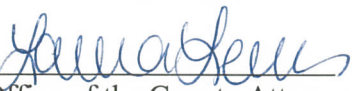
FULTON COUNTY, GEORGIA

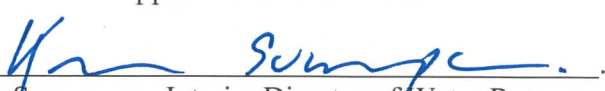

Mark Massey, Clerk to the Commission

By: 
John H. Eaves, Chair, Board of Commissioners

Approved As to Form:

Approved As To Content:

By: 
Office of the County Attorney


Kun Suwanarpa, Interim Director of Water Resources Dept.

ITEM # 14-0604 RCS 8/20/14
COUNCIL MEETING



City Council Meeting and Public Hearing

STAFF REPORT

Submitting Department: Administration
Submitted By: James Drinkard, Assistant City Administrator
Meeting Date: November 16, 2015

I. AGENDA ITEM TITLE: ART IN PUBLIC PLACES PROGRAM GUIDELINES

II. RECOMMENDATION:

Staff is seeking guidance in preparation for bringing the item forward at a later date for consideration and adoption.

III. REPORT IN BRIEF:

Staff will bring forward for discussion and guidance proposed guidelines for the Art In Public Places Program. The purpose of these guidelines is to establish a process for the selection, purchase, commission, placement, and maintenance of works of art located on publicly-owned properties.

It is the stated intent of the *Art In Public Places Program* to direct the inclusion of works of art in City construction projects and/or to otherwise guide the investment in and placement by the City of works of art in order to expand the experiences of the citizens of Alpharetta with art and enable them to better connect with the community and understand the lives and experiences of themselves and fellow citizens. Thus, it is the goal of the program to expend dollars so dedicated on works of art and art projects that advance public understanding of visual art and enhance the aesthetic quality of public places.

The attached draft program guidelines have been developed in cooperation with a committee of citizens appointed by the Mayor and led by Council Member Mitchell. Items in the document that are highlighted in green text are additions suggested by the committee, while items struck through and highlighted in red text are suggested by the committee for removal.

IV. ALTERNATIVES:

V. ATTACHMENTS:

Draft Guidelines - Art In Public Places Program

CITY OF ALPHARETTA

ART IN PUBLIC PLACES PROGRAM

GUIDELINES AND PROCEDURES

PURPOSE:

The purpose of these guidelines is to establish a process for the selection, purchase, commission, placement, and maintenance of works of art under the City of Alpharetta's *Art In Public Places Program*. These guidelines are understood to apply only to those projects which received approval funding, and/or were donated to the City of Alpharetta after the adoption of these guidelines by City Council. These guidelines shall not be understood to apply to works of art **that are not part of the *Art In Public Places Program* or that are** located on private property, even if such works of art are components of a private development that are required by the City of Alpharetta as part of established design guidelines or as a conditioning of zoning or variance, unless such work of art is donated to the City for the express purpose of being accessible to and enjoyed by the public.

INTENT:

It is the stated intent of the *Art In Public Places Program* to direct the inclusion of works of art in City construction projects and/or to otherwise guide the investment in and placement by the City of works of art in order to expand the experiences of the citizens of Alpharetta with art and enable them to better connect with the community and understand the lives and experiences of themselves and fellow citizens. The program shall strive to encourage artists capable of creating works of art for placement ~~or performance~~ in public places so as to expand cultural opportunities throughout the community and elevate Alpharetta's status within the region as a vibrant, intelligent, and culturally rich community. Thus, it is the goal of the program to expend dollars so dedicated on works of art and art projects that advance public understanding of **visual** art and enhance the aesthetic quality of public places. This goal shall be realized through:

1. The commission of artists and works of art of the highest quality, which represent an expression of our time, contribute to a sense of Alpharetta's identity, and entail some measure of public significance;
2. The acceptance through private donation of works of art of the highest quality, which represent an expression of our time, contribute to a sense of Alpharetta's identity, and entail some measure of public significance;
3. The nurturing of the artistic vitality of the City of Alpharetta through the encouragement of local artistic endeavors;
4. The encouragement of public dialogue that increases public understanding and enjoyment of **visual** art through appropriate public education forums and programs;
5. The encouragement of public interaction with public places, areas that provide for public ownership and accessibility, via the placement ~~or performance~~ of works of art;

6. The commission of a broad range of works of art, reflective of the overall diversity of current works in the field of visual ~~and performance~~ art;
7. The commission of works of ~~visual~~ art varying in style, scale, medium, form, and intent representative of the local, regional, national, and international arts communities and the rich diversity of Alpharetta;
8. The encouragement of artists to find creative means of incorporating works of art into the specific locations and environments selected for their placement and to reach creative solutions to the aesthetic challenges they have been employed to solve;
9. The broad distribution of commissions among artists and the encouragement of new and emerging artists;
10. The broad geographic distribution of works of art in the City of Alpharetta;
11. The encouragement of true collaborative efforts between artists and architects, engineers, landscape architects, and the residents of the unique neighborhoods and/or districts in which works of art are planned for placement.

GOALS:

The following goals are identified and established to guide the *Art In Public Places Program*, Alpharetta's elected officials and staff:

1. The *Art In Public Places Program* will reflect the diverse spectrum of beliefs, cultural heritage, traditions, and artistic expressions of the citizens and community of Alpharetta.
2. The *Art In Public Places Program* will include works of public art representing a wide variety of media and styles and support community interests to have an aesthetically pleasing built environment.
3. The *Art In Public Places Program* will identify and pursue additional sources of funding and donations of works of art to the City of Alpharetta.
4. The *Art In Public Places Program* will develop public art projects which enhance the environment of public spaces as well as the visual design form and content of the city, which enhance a particular district, and which may enhance the tourist and economic potential of Alpharetta and particular sites within the community.
5. The *Art In Public Places Program* will pursue opportunities to inform the public regarding public art including opportunities for public participation in all phases of the public art process.
6. The *Art In Public Places Program* will promote the visual arts in Alpharetta and inform and work to increase understanding within the community about the purposes and meaning of the works of art in Alpharetta's public art collection.
7. The *Art In Public Places Program* will document, maintain, and conserve works of public art in the collection, regardless of the source of acquisition.

DEFINITIONS:

For the purposes of these program guidelines, the following definitions shall apply:

Accession: The procedure by which a work of art is accepted and recorded as part of the *Art In Public Places Program* public collection.

Appraisal: A professional, certified evaluation of an artwork – its authenticity, condition, and provenance – to determine its monetary value.

Art In Public Places Panel: A standing committee consisting of not less than three and not more than seven members appointed by the Alpharetta City Council and responsible for advising the City Council on matters relating to the implementation of the *Art In Public Places Program*; including but not limited to advising on the selection of artists and works of public art. At least one appointed member of the panel must be a visual arts professional.

Art In Public Places Registry: a database of qualified artists who have registered with and been screened or pre-qualified by the Art In Public Places Panel as having suitable recognition and credentials to compete or be considered for future *Art In Public Places Program* projects.

Artist: An individual who creates original art and is recognized by professional peers and critics as a professional practitioner of the visual ~~craft, literary, musical, conceptual, or performing~~ arts, as judged by the quality of that practitioner's body of work and experience. This recognition is demonstrated in the artist's resume through credentials such as an exhibition record, past public art commissions, published work, ~~previous performances~~, reviews, and recommendations.

Artwork: Original art in various mediums; including but not limited to any portable or permanently fixed sculpture, mural, painting, drawing, ~~or mixed-media work or performance art~~; created by a professional artist, artists, or collaborative team. The work of art or identifying plaque cannot contain advertising or promotional content relating to living persons or to organizations, institutions, or businesses currently operating. A plaque accompanying the artwork and which provides the name of donor, artist, or artwork shall not be considered advertising.

Capital Improvement Program (CIP): The City of Alpharetta's program for advance planning of capital projects and developments.

Collaborative Art: Artwork generated by a group of designers / artists from different disciplines working together. Each discipline brings a different or new perspective to the design process. Often, collaborative teams will involve an artist, landscape architect, and an architect.

Commission: The act of hiring an artist(s) and artistic services contractually to create a work of art in exchange for financial compensation.

Consultant: Any firm, individual, joint venture, or team of firms or individuals, other than an artist, with which a developer, agency, or the City contracts for design or other services related to the *Art in Public Places Program*

Deaccession: The procedure by which to remove an artwork from the *Art In Public Places Program* public collection.

Designer: Any consultant providing design services for the execution of a public art project or subsequent renovation.

Donation: A work of art or series of artworks gifted to the City for long-term public display with the intent to transfer title of ownership to the City of Alpharetta.

Loan: A work of art of which ownership is retained by the donor during period of display on City property.

Maquette: A scale model either three dimensional or digital illustration of a proposed public artwork.

Memorial: A commemorative monument established to preserve the memory of a person, place, or event.

Monument: A building, statue, or other structure erected to commemorate a person, group of persons, or event, usually in recognition of some type of outstanding public service.

Performing Arts: Forms of creative activity; such as drama, music, and dance; that are performed live, in front of an audience.

Prominent Location: An exterior location that is accessible to the public, enjoys high visibility, and is used or visited by a large number of visitors and/or Alpharetta residents.

Project Planning Committee: A project planning committee shall be convened for every project pursued through the *Art In Public Places Program*. The committee shall include one or more of each of the following: an artist, a design consultant, site partner, neighborhood or community member, one member of the Art In Public Places Panel, and one member of City of Alpharetta staff.

Provenance: The history of a work of art and its creation and ownership, which is used to help establish its authenticity. Documents used for provenance include sales receipts, auction and exhibition catalogs, gallery labels, letters from the artist, and statements from people who knew the artist or the circumstances of creation of the artwork.

Public Art: Publicly accessible original art that enriches the Alpharetta community and evokes meaning. It may include permanent visual art, ~~performances~~, installations, and temporary works, preservation or restoration of unique architectural features, ornamentation or details. It may also include the artist-designed infrastructure and structures themselves. Public art should consider the site, its context, and audience and may possess functional as well as aesthetic qualities.

Public Art Funds: Funds established and/or designated by the City of Alpharetta and/or donated to the *Art In Public Places Program* for the expressed concern of advancing the public art program or collection.

Public Place: Publicly accessible landscapes, structures, and infrastructure. Public places include, but are not limited to public parks, plazas, streets and boulevards, bridges and stairways, buildings and waterworks.

Visual Arts: Art forms such as ceramics, drawing, photography, and sculpture that are created primarily for visual perception.

Work Of Art: Original art in various mediums; including but not limited to any portable or permanently fixed sculpture, mural, painting, drawing, ~~or~~ mixed-media work ~~or performance art~~; created by a professional artist, artists, or collaborative team. The work of art or identifying plaque

cannot contain advertising or promotional content relating to living persons or to organizations, institutions, or businesses currently operating. A plaque accompanying the artwork and which provides the name of donor, artist, or artwork shall not be considered advertising.

SELECTION CRITERIA FOR ARTISTS:

General criteria for the Art In Public Places Panel to consider in selecting artists for public projects include at a minimum:

1. The aesthetic and technical quality and originality of the artist's previous work as evidenced by slides and other supporting materials;
2. The artist's previous experience with public art projects of a similar scale and scope;
3. The artist's demonstrated ability to execute and complete a project in a timely and professional manner;
4. The artist's ability to communicate ideas verbally and visually, and work effectively in a team environment;
5. The appropriateness of the artist's proposal to the particular project and its probability of successful completion;
6. A wide variety of nationally known artists as well as local artists.

SELECTION CRITERIA FOR ARTWORK:

General criteria for the Art In Public Places Panel to consider in selecting works of art for public projects or inclusion in the *Art In Public Places* collection include at a minimum:

1. **Quality:** artwork must demonstrate the highest aesthetic quality, originality and artistic excellence;
2. **Media:** all visual forms and media may be considered, subject to the selection jury or the Art In Public Places Panel;
3. **Style:** artworks of all schools, styles, and tastes should be considered;
4. **Response to Site / Context:** artworks and art places should be appropriate in scale, material, form, content, and value for the immediate, general, social, and physical environments with which they are to relate. ~~The artwork should not appear to be an afterthought to the location or setting and should be thoroughly integrated into the proposed location on the site;~~
5. **Team Approach:** encourage the early involvement of the artist as a member of the project design team of architect, engineer, landscape architect, etc. Projects commissioned under the *Art In Public Places Program* should also include a robust program of public involvement to ensure that citizens, especially those who reside and/or work in close proximity to a given project site, have a voice in the project;
6. **Durability:** substantial consideration shall be given to structural and surface integrity and stability, permanence and weathering, resistance against theft, vandalism, and the probability of excessive maintenance and repair costs. Artwork must be constructed of long-lasting materials

(including nuts, bolts, and other metal fixtures) that will be in contact with each other that may produce oxidation

7. **Elements of Design / Purpose:** consider that public art, in addition to meeting aesthetic requirements, may also serve to establish focal points, terminate areas, modify, enhance, or define specific spaces or establish identity;
8. **Public Liability:** artworks and art places should be examined for unsafe conditions or factors that may bear on public liability;
9. **Diversity:** strive for diversity of style, scale, media, artists, community values, forms of expression, and equitable distribution of artworks throughout the City.

PROHIBITIONS:

Public art strengthens public places and enhances and promotes the City of Alpharetta's identity as a livable and creative city that is a desirable place to live, work, and visit. Therefore, under no circumstances may any work of art containing the following be considered for inclusion in the *Art In Public Places Program* or be displayed on or in any property or facility owned and/or maintained by the City of Alpharetta:

1. Specified anatomical areas as defined in Section 12-187 of the Code of the City of Alpharetta, Georgia; excepting that the artistic display of the nude human form may be allowed if such display is deemed by the Art In Public Places Panel to be tasteful and essential to the expression of the artistic work.
 - a. ~~Less than completely and opaquely covered human genitals or pubic region; buttock; or female breast below a point immediately above the top of the areola~~
 - b. ~~Human male genitalia in a discernibly turgid state, even if completely and opaquely covered~~
2. Specified sexual activities as defined in Section 12-187 of the Code of the City of Alpharetta, Georgia.
 - a. ~~Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty~~
 - b. ~~Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence~~
 - c. ~~Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation~~
 - d. ~~Fondling or touching of nude human genitals, pubic region, buttocks or female breast~~
 - e. ~~Masochism, erotic or sexually-oriented torture, beating or the inflicting of pain~~
 - f. ~~Erotic or lewd touching; fondling or other sexual contact with an animal by a human being~~
 - g. ~~Human excretion, urination, menstruation, vaginal or anal irrigation~~
3. Depictions of graphic and/or extreme violence

4. Designs that include logos, copyrighted or trademarked images, advertisements, or political, commercial, religious, or sexual symbols, themes or messages.

SELECTION METHODS:

Works of Art for the *Art In Public Places Program* may be selected by a variety of methods; the appropriate method for a given project or commission being determined in advance by the Art In Public Places Panel. In addition to the advertising of project opportunities, the Art In Public Places Registry is a resource for the review and direct selection of an artist or artwork. Selection methods may include but are not limited to:

1. **Open Competition:** The project is advertised locally, regionally, or nationally and through the Art In Public Places Registry. Interested artists may submit materials for review, which include slides, letter of interest, resume and supplementary materials such as reviews, articles, books or brochures.
2. **Limited Invitational:** A selected number of artists from the Art In Public Places Registry are invited to submit materials for review. Finalists may be selected to submit detailed models for the project for which they will be paid a fee.
3. **Invitation:** One artist from the Art In Public Places Registry is invited to submit materials for review, and may be commissioned to create a detailed proposal.
4. **Direct purchase:** An existing work is purchased for a specific project.

Selection of the artwork for City-sponsored projects is subject to the artist(s) providing materials and completion bond, as well as completing a contract as set forth by the City Attorney.