



City of Fairburn  
56 Malone Street  
Fairburn, GA 30213  
August 12<sup>th</sup>, 2019 @ 6:00 PM

### **WORKSHOP AGENDA**

- |      |  |  |
|------|--|--|
| I.   | Meeting Called to Order:                   | The Honorable Elizabeth Carr-Hurst, Mayor  |
| II.  | Roll Call                                  | Shana T. Moss, Interim City Clerk  |
| III. | Presentations:                             |  |
|      | 1. Ms. Victoria Brooks                     | U.S. Census Bureau<br>Partnership Specialist<br>Atlanta Regional Census Center                       |
|      | 2. Ms. Chapin Payne                        | City of Fairburn, Park and Recreation Director<br>State Champion Track Team<br>Volunteer of the Year |
| IV.  | Discussions:                               | Councilmembers   |
| V.   | Review of Agenda Items for Council Session | Councilmembers   |
| VI.  | Adjournment                                | Councilmembers   |



CITY OF FAIRBURN  
City Hall  
56 Malone Street  
Fairburn, GA 30213  
August 12<sup>th</sup>, 2019 @ 7:00 PM

### Regular Agenda

## *The Honorable Mayor Elizabeth Carr-Hurst, Presiding*

The Honorable Mayor Pro-Tem Linda J. Davis  
The Honorable Pat Pallend  
The Honorable Ulysses J. Smallwood

The Honorable Alex Heath  
The Honorable Hattie Portis-Jones  
The Honorable James Whitmore

Mr. Randy Turner

City Attorney

I. Meeting Called to Order:

The Honorable Mayor Carr-Hurst

II. Roll Call:

Shana T. Moss  
Interim City Clerk

III. Invocation:

Bishop Aaron Lackey  
Temple of Prayer  
Family Worship Cathedral  
Fairburn, GA

IV. Pledge of Allegiance:

In Unison

V. Presentation:

Fulton County Grant Presentation  
Mental Fitness

VI. Public Comments: Thirty (30) minutes shall be available for public comments. Each speaker shall be limited to three (3) minutes; however, a speaker may transfer his or her three (3) minutes to another speaker, but no speaker shall be permitted to speak for more than (6) minutes; further in the event, if more than ten (10) speakers desire to speak, each speaker shall be limited to two (2) minutes and no speaker may speak more than four (4) minutes. Issues raised at this time are generally referred to the City Administrator for review. Responses will be provided at a later date.

VII. Adoption of the Council Agenda:

Councilmembers

VIII. Adoption of Consent Agenda Items:

Councilmembers

IX. Adoption of City Council Minutes: (July 22, 2019)

Councilmembers



X. Public Hearing:  
**Planning and Zoning**

Ms. Tarika Peeks

**Rezoning 19RZ-006-South Fulton, LLC.** For the Mayor and Council to review a petition to allow the development of a single-family residential subdivision.

XI. Agenda Items:

1. **Office of the City Clerk**

Ms. Shana T. Moss

For Mayor and Council to approve individual appointees to the City of Fairburn's Ethics Board.

2. **Office of the City Clerk**

Ms. Shana T. Moss

Fulton County Department of Registration & Elections. For Mayor and Council to approve an Ordinance authorizing Fulton County to conduct the city's election for three council seats on November 5<sup>th</sup>, 2019.

3. **Planning and Zoning/Community Development**

Ms. Tarika Peeks

For the Mayor and Council to approve a boundary line agreement for city owned property on Cemetery Street and Washington Street.

4. **Community Development**

Mr. Lester Thompson

Approval of Task Order # 1 with Pond and Company for Professional Engineering & Landscape Architectural Services.

5. **Community Development**

Mr. Lester Thompson

Approval of Condemnation of Parcel 7 on Howell Avenue Extension Project. For Mayor and Council to approve condemnation of Parcel 7 Greenland (Georgia) Inc. on the Howell Avenue Extension Project.

6. **Utility (Water & Sewer)**

Mr. Lee Hauesler

Approval of Task Order # 136 with Integrated Science and Engineering for 2019-2020 NPDES Phase 1 Compliance Activities.

7. **Utilities (Water & Sewer)**

Mr. Lee Hauesler

Approval of Task Order # 137 with Integrated Science and Engineering for Impaired Water Sampling for 2019-2020.

8. **Utility (Water & Sewer)**

Mr. Lee Hauesler

Approval of Task Order #138 with Integrated Science & Engineering for NPDES Phase I-SWMP Development.

**9. Police Department**

Chief Stoney Mathis

Police Department-Speed Limit Reduction on Gullatt Road. For Mayor and Council to approve the Police Department's request to reduce the speed limit on Gullatt Road from 35 mph to a posted speed of 25 mph for the safety of pedestrians and vehicles.

**10 City Attorney**

Mr. Randy Turner

For Mayor and Council to approve the Intergovernmental Agreement between Fulton County, Georgia and the City of Fairburn for Wastewater Services.

**11. Office of the Mayor**

Mayor Elizabeth Carr-Hurst

Ninety-Day Moratorium on Extended Stay Residential Facilities, or other similar accommodations on Georgia Highway 74.

XII. Council Comments

Councilmembers

XIII. Executive Session

None

XIV. Adjournment

Councilmembers

\*When an Executive Session is required, one will be called for the following issues:

(1) Personnel (2) Real Estate or (3) Litigation.





Mayor and Council Meeting Minutes  
July 22<sup>nd</sup>, 2019  
City Hall  
7:00 PM

- I. The meeting was called to order by the Honorable Mayor Elizabeth Carr-Hurst at 7:00 pm.
- II. Roll Call was taken by Interim City Clerk, Shana T. Moss with the following members present:

Mayor Elizabeth Carr-Hurst

Mayor Pro Linda J. Davis

Councilman Pat Pallend

Councilman Ulysses J. Smallwood

Councilman Alex Heath

Councilwoman Hattie Portis-Jones

Councilman James Whitmore

The attendance of Mayor and Council constituted a quorum and the meeting proceeded.

*Little Miss Payton Lynch joined Mayor Carr-Hurst on the dais as an Honorary Member of Mayor and Council.*

- III. The invocation was given by Pastor Douglas Thompson of Harvest Rain International of Fairburn.
- IV. The Pledge of Allegiance was recited in unison.
- V. Presentations: There were none.
- VI. Public Comments:
  1. Ms. Lula Howard stated she has lived in Fairburn for 25 years. She resides on Washington Street and she has concerns regarding debris such as limbs and leaves. Every time she calls, she is told the machine is down. Also, in her area on Splitwood Lane when it rains the debris goes into the street. She is further concerned about the trash cans that are left on the road after the trash is collected.
  2. Mr. Alexander Doose spoke regarding the Frankie Arnold Stage. He stated he and his wife recently celebrated their 30<sup>th</sup> Wedding Anniversary at the stage and the stage is in bad shape. He observed deterioration of the building and property there was a wasp nest next to the columns on front of the stage. There is discoloration on the steps and the grass hasn't been take care of. Paint is peeling on the ceiling of the stage and there is no name identification on the stage.
  3. Mr. Walt Brown addressed Mayor and Council representing The Ronnie Thames Foundation. The Ronnie Thames Foundation is a 501(c)(3) nonprofit organization dedicated to helping children and their families who have faced devastation and suffering as the result of a fire. The foundation was founded in 2013 by Ron and Teresa Thames in honor of Ron's son Ronnie who was tragically killed in a motorcycle accident in 2004. Their mission is an endearing tribute to the memory of Ronnie Thames. The Ronnie Thames Foundation is committed to being an agent of assistance to firefighters and community organizations by providing educational programs focused on the prevention of fires through safety awareness. Mr. Brown further stated that the Thames Foundation would be sponsoring Biscuits with the Bravest on Saturday August 24, 2019 from 9:00 am-1:00 pm in Downtown Fairburn. This event will honor the Fairburn and Union City Fire Departments. This event will also be educational to enlighten citizens as to the dangerous job that firefighters have.



4. Mrs. Beatrice Doose spoke regarding the Frankie Arnold Stage. She stated she and her husband reside on Valley Drive and this stage should be a Beacon of Light for the city. She does not think the stage is being kept up and being named to honor a councilwoman (former) is not acceptable in its current condition. She would like to see the city spruce it up and remain dedicated to keeping it up.

5. Mrs. Igna Kennedy spoke regarding the Lighting Community. She said vacant houses are being demolished and she is glad. There were problems in the community with unsavory activities but they are now gone. She often sees Mr. Harvey Stokes and Mr. Eddie Powell and their teams in the area picking up trash and debris.

VII. Adoption of the Council Agenda. *Mayor Hurst informed Council she would like to add an item to the original agenda. The item added would be the Utility Relocation of the East Broad LCI project. Motion to approve the addition and the regular agenda was made by Councilman Pallend and the second was provided by Councilman Whitmore.* *Vote: (6-0) Motion Carried.*

VIII. Adoption of the Consent Agenda Items: There was not a consent agenda.

IX. Adoption of City Council Minutes from June 10<sup>th</sup>, 2019. Motion to approve was made by Councilman Smallwood and the second was provided by Mayor Pro-Tem Davis. *Vote: (6-0) Motion Carried.*

X. Public Hearing  
Planning and Zoning

Ms. Tarika Peeks

*Mayor Carr-Hurst opened the Public Hearing at 7:20 p.m.*

Rezoning 19RZ-005-City of Fairburn. City Planner Ms. Tarika Peens presented the rezoning of +/- 0.953 acres of City owned property adjacent to the Clorox warehouse facility on Creekwood Road from AG-1 (Agricultural District) to M-1 (Light Industrial District). Clorox is in need to expand the warehouse/distribution facility located at 1595 Oakley Industrial Blvd., by adding 345,450 square feet of floor area. The expansion of the facility was approved by the City in 2010 and was authorized pursuant to a 2010 development by the Atlanta Regional Commission.

**In Favor of Rezoning:**

Mr. Larry Dingle, LLC of Grantley LLC commended staff on the rezoning process and stated this rezoning was approved by ARC.

**Opposition:** None

*Mayor Carr-Hurst closed the Public Hearing at 7:25 p.m.*

Motion to approve the rezoning was made by Councilman Whitmore and the second was provided by Mayor Pro-Tem Davis. *Vote: (6-0) Motion Carried.*

XI. Agenda Items:

1. Office of the Mayor

Mayor Elizabeth Carr-Hurst

Tyler Technologies. Mayor Carr-Hurst stated the city's current utility system (Harris) is 10 years old and will no longer be supported. Incode and Utility Billing need to support one another. The current system is antiquated and December 31, 2019 the current system will no longer be available. On June 13<sup>th</sup>, 2019 she and councilmembers Davis, Pallend and some city staff met with Tyler Technologies to discuss the integration process. Mr. Blake Reynolds of Tyler Technologies was present and stated he enjoyed the initial meeting with Fairburn and would love for his company to have the city's business. The initial cost would be \$69,420.00 and the yearly maintenance thereafter would be

\$11,120.00. The motion to approve was made by Councilman Heath and the second was provided by Mayor Pro-Tem Davis.

Vote: (6-0) Motion Carried.

2. Office of the City Clerk

Ms. Shana T. Moss

Interim City Clerk, Shana T. Moss presented the Invoice and Intergovernmental Agreement for Fulton County Department of Registration and Elections for the 2019 General Election. Fairburn will have 3 council seats on the ballot for the November 5, 2019 General Election. The projected cost of the election will be \$33,350.00. The motion to approve was made by Councilman Smallwood with the second provided by Councilman Whitmore.

Vote: (6-0) Motion Carried.

3. Finance Department

Ms. Angela Jackson

Finance Director Ms. Angela Jackson presented 6 budget amendments to council for approval. All of the funds are allocated and funded through the FY 2018-2019 Budget. The budget amendments were:

2-1 To transfer funds from various line items to fund the Gateway Project and the Park and Ride Parking Lot. \$568,262.00

2-2 To transfer funds to provide operating expenses for Court Services. \$142,000.00

2-3 To appropriate technology revenue for Police Technology expenses. \$20,000.00

2-4 To transfer funds to build the docks at Duncan Park. \$24,871.00

2-5 To transfer funds for the August 2019 election expenses. \$33,350.00

2-6 To appropriate TSPLOST revenue to fund road improvements. \$356,930.00

Councilwoman Portis-Jones had questions regarding the new fire station being built that the citizens voted on. She said this is what the mayor and council should be focused on. Ms. Jackson stated the fire station was approved with different funds. Mayor Carr-Hurst stated these funds were allocated within this budget Year. The motion to approve was made by Councilman Whitmore with the second provided by Councilman Heath.

Vote: (5-1) Motion Carried.

Opposed: Councilwoman Portis-Jones

4. Parks and Recreation

Ms. Chapin Payne

Parks and Recreation Director Ms. Chapin Payne presented a usage agreement between the City of Fairburn Parks and Recreation Department and Soccer in the Streets, Inc. This agreement will provide a sports-based youth development program to children and families in the city. This program will be free and will consist of the free soccer program and uniform cost. Soccer-in-the-Streets Community Program Manager, Mr. Ulric Alsobrook was present for the meeting. The motion to approve this agreement was made by Councilman Pallend and the second was provided by Mayor Pro-Tem Davis.

Vote: (6-0) Motion Carried.

5. Community Development

Mr. Lester Thompson

Community Development Director Mr. Lester Thompson presented a contract for Pond & Company for on call Professional Engineering and Landscape Architectural Services. The motion to approve was made by Councilman Whitmore with the second provided by Mayor Pro-Tem Davis.

Vote: (6-0) Motion Carried.

6. Engineering/Public Works

Mr. Lester Thompson

Mr. Lester Thompson presented a contract for Moreland Altobelli Associates, Inc. for on-call Construction Management Services. Moreland Altobelli assist with the construction management for the city's CDBG, LMIG and TSPLOST programs and other special projects as required. This agreement is for the duration of three (3) years. The motion to approve was made by Councilman Whitmore and the second was provided



by Councilman Heath.

Vote: (6-0) Motion Carried.

Engineering

Mr. Lester Thompson

Mr. Lester Thompson presented a ratification for the Georgia Department of Transportation for the SR 14; Campbellton Road; Smith Street and Washington Street. The project includes streetscape enhancements along US 29 from Malone Street to approximately 175 feet north of Strickland Street. This agreement was time sensitive; therefore, upon review by Attorney Turner, Mayor Carr-Hurst executed the contract. The motion to approve was made by Mayor Pro-Tem Davis with the second provided by Councilman Whitmore.

Vote: (6-0) Motion Carried.

7. Engineering

Mr. Lester Thompson

Mr. Lester Thompson presented information on Mr. Aaron Phillips, CEO of AMCON as the city's appointment to the South Fulton CID Board. Motion to approve was made by Councilman Pallend with the second provided by Councilman Heath.

Vote: (6-0) Motion Carried.

8. Utility (Water & Sewer)

Mr. Lester Thompson

Mr. Lester Thompson presented Task Order #135 with Integrated Science and Engineering, Inc. (ISE) For Renaissance Parkway Sanitary Outfall Construction Phase Services. This task order is for orders associated with civil engineering, water and wastewater, and water resource engineering on an as needed basis. Motion to approve was made by Councilman Smallwood and the second was provided by Mayor Pro-Tem Davis.

Vote: (6-0) Motion Carried.

9. Engineering

Mr. Lester Thompson

Mr. Lester Thompson presented the 2019 LMIG/TSPLOST Road Improvement Project Contract Award with ShepCo Paving, Inc. for an amount of \$544,893.71. The City of Fairburn receives an annual grant of approximately \$170,000 in LMIG funds for various road improvements. The motion to approve was made by Councilman Whitmore and the second was provided by Councilman Smallwood.

Vote: (6-0) Motion Carried.

10. Water and Sewer

Mr. Lester Thompson

Mr. Lester Thompson presented contract award to Crawford Grading & Pipeline, Inc in the amount of \$310,615.00 for the Renaissance Parkway Sanitary Sewer Outfall Project. Proposals for the Renaissance Parkway Sanitary Sewer Outfall Project (RFP# 18-009, Sewer Installation – Renaissance Parkway) were originally requested on July 6, 2018 by the City of Fairburn's Utility Department. The project was placed on-hold to redesign the layout to eliminate excess clearing and reduce construction costs. The redesign required an easement acquisition from the Knight Group. The easement agreement with the Knight Group was approved at the February 11<sup>th</sup>, 2019 City Council Meeting. The project was put back out to bid based on the new alignment on April 24<sup>th</sup>, 2019 (IFB # 19-001)- RENAISSANCE PARKWAY SANITARY SEWER OUTFALL). The bid opening date was May 29<sup>th</sup>, 2019 at 3:00p.m. at which time the two (2) bids received were opened and read aloud. After completion of the bid evaluation, it was determined that Crawford Grading & Pipeline, Inc. was the lowest responsive and responsible bidder with a bid price of \$310,615.00. The motion to approve was made by Mayor Pro-Tem Davis with the second provided by Councilman Whitmore.

Vote: (6-0) Motion Carried.

11. Electrical Department

Mr. Eddie Powell

Mr. Eddie Powell, Electrical Superintendent presented the contract award for the LCI East Broad Streetscape Project. This project will allow 28 additional parking spaces downtown and allow phone and cable lines to be underground. The allowance of additional parking spaces will be along E. Broad Street



from Landmark Christian School parking lot. The motion to approve was made by Councilman Whitmore and the second was provided by Councilman Heath. Vote: (6-0) Motion Carried.

XII. Council Comments:

Councilwoman Portis-Jones stated she is the lone ranger regarding the budget. There are items that are not being talked about. She has not received a mid-year budget review. She stated the city's budget is a factual document, it serves a specific reasoning as the city's charter state this. She has a fiduciary duty as an elected official that she takes seriously.

Councilman Pallend welcomed Payton Lynch the honorary guest member of council.

Councilman Smallwood applauded the city staff for a job well done. The city is beautiful, and the park is always pristine, he applauded Parks and Recreation Director Ms. Chapin Payne and her team.

Mayor Pro-Tem Davis had no comment.

Councilman Heath stated he would like to thank every staff member and city employee for their hard work. He said each of you make the mayor and council look good.

Councilman Whitmore had no comment.

Miss Payton Lynch (Guest Honorary Member) stated she was nervous when she first got to the meeting. She was very excited and enjoyed herself.

Mayor Carr-Hurst stated the City of Fairburn lost two great citizens. Former Councilman Doug Crawford passed away. Mr. Ricky Hilley-Owner of Casablanca Catering passed away. Casablanca was in the process of relocating to Fairburn from Palmetto. Mayor Carr-Hurst stated his wife, Mrs. Ursula Hilley stated she was still moving forth because that is what Rick wanted. Rick would say, "the show doesn't stop." Mayor Carr-Hurst asked everyone to keep both families in their prayers. She further stated she takes her fiduciary duties seriously and she is above board with every transaction in the city. Also, she stated if anyone wants to come in and review anything in city hall, they are welcome to come in. When she took office, she stated she was going to move Fairburn forward and that is what she is doing.

XIII. Executive Session: there was none.

XIV. Adjournment: With no further business at 8:21 p.m. a motion to adjourn was made by Councilman Whitmore and the second was provided by Mayor Pro-Tem Davis.



**CITY OF FAIRBURN  
MAYOR & CITY COUNCIL  
AGENDA ITEM**

**SUBJECT: REZONING 19RZ-006 - South Fulton, LLC**

( ) AGREEMENT      ( ) POLICY / DISCUSSION      ( ) CONTRACT  
( ) ORDINANCE      ( ) RESOLUTION      ( X ) OTHER

**Planning and Zoning Commission: 07.02.19**

**Mayor and City Council: 08.12.19**

**DEPARTMENT:** Community Development/Planning and Zoning

**BUDGET IMPACT:** None

**PUBLIC HEARING:** ( X ) Yes      ( ) No

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**PURPOSE:** For the Mayor and City Council to review a rezoning petition to allow the development of a single-family residential subdivision.

**DESCRIPTION:** The applicant is requesting to rezone 34.24 acres along Fayetteville Road from AG-1 (Agricultural District) and R-1 (Single-family Residential District) to R-3 (Single-family Residential District) to allow the development of a 54-lot single-family residential subdivision.

**PLANNING AND ZONING COMMISSION RECOMMENDATION: APPROVAL CONDITIONAL**

**STAFF RECOMMENDATION: APPROVAL CONDITIONAL**

  
Elizabeth Carr-Hurst, Mayor

## APPLICATION INFORMATION

### Rezoning Petition 19RZ-006

#### APPLICANT/PETITIONER INFORMATION

<b>Property Owner</b>	<b>Petitioner</b>
Kirby K. Johnson Sr. Estate	South Fulton, LLC

#### PROPERTY INFORMATION

<b>Address, Land Lot, and District:</b>	0 Fayetteville Road [parcel no. 09F110300450097], Land Lot 45, 46, 53 and District 9F
<b>Frontage:</b>	Fayetteville Road
<b>Area of Property:</b>	34.24 acres
<b>Existing Zoning and Use:</b>	AG-1 (Agricultural District) and R-1 (Single-family Residential) and Undeveloped
<b>Overlay District:</b>	N/A
<b>Prior Zoning Cases/History:</b>	None
<b>2035 Comprehensive Future Land Use Map Designation:</b>	Rural Residential
<b>Compatibility with Fairburn's 2035 Comprehensive Plan:</b>	The request to rezone property from AG-1 (Agricultural District) and R-1 (Single-family Residential District) to R-3 (Single-Family Residential District) to allow a 54-lot single-family residential subdivision is not compatible with the 2035 Comprehensive Plan and Future Development Map which designates the area as rural residential. However, the surrounding single-family land uses [R-1, R-2, and R-3] are consistent with the proposed use of the land.
<b>Proposed Zoning:</b>	R-3 (Single-Family Residential District)

#### MEETING AND HEARING DATES

**Planning and Zoning Commission Meeting**  
July 2, 2019

**Mayor and City Council Public Hearing**  
August 12, 2019

#### INTENT

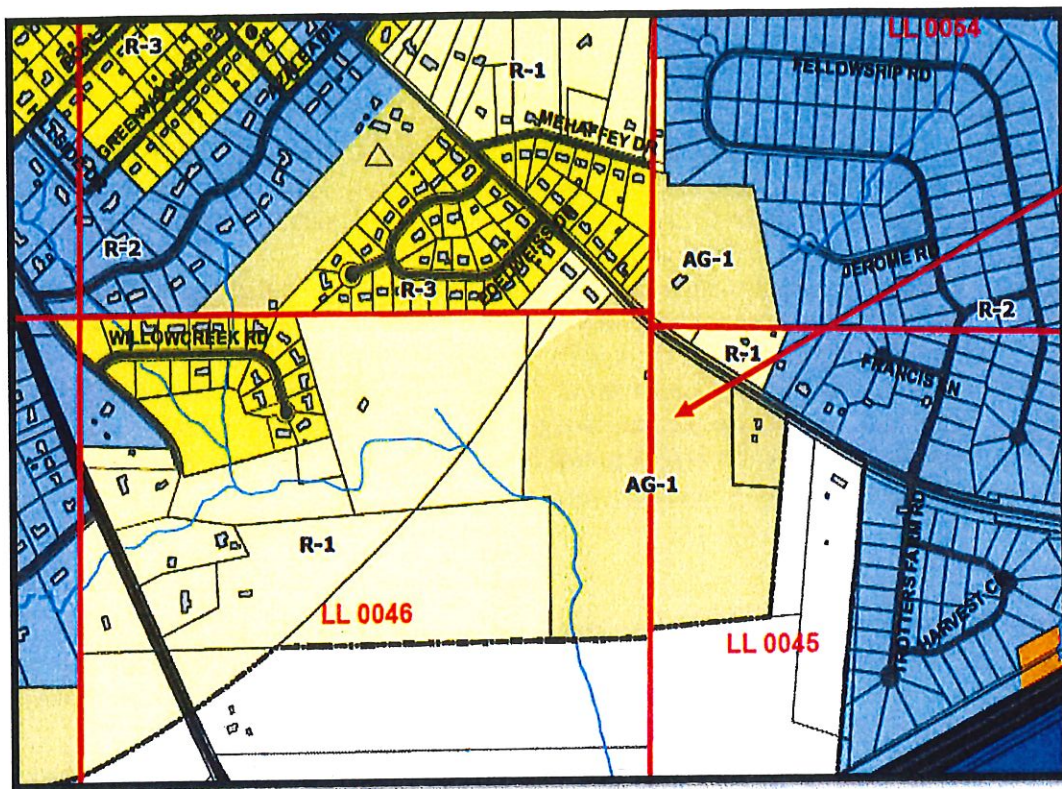
To rezone 34.24 acres along Fayetteville Road from AG-1 (Agricultural District) and R-1 (Single-family Residential District) to R-3 (Single-family Residential District) to allow the development of a 54-lot single-family subdivision.

#### EXISTING LAND USE AND ZONING OF ABUTTING PROPERTIES

**North:** AG-1 (Agricultural District), R-1 (Single-family Residential District), R-3 (Single-family Residential District),  
**East:** R-1 (Single-family Residential District), R-2 (Single-family Residential District)  
**South:** City of South Fulton  
**West:** R-1 (Single-family Residential District), R-3 (Single-family Residential District)



## Zoning Map



19RZ-006  
34.24 acres  
Fayetteville Rd.

## **PUBLIC PARTICIPATION**

The applicant held a public meeting on Thursday, June 20, 2019 from 6:30 p.m. to 8:00 p.m. at the Marriott Atlanta [7775 Ella Lane, Fairburn]. There were approx. three property owners from the Edelweiss neighborhood present at the meeting. The property owners expressed the following concerns about the proposed single-family development:

- Lot size
- Impact of the the project on their individual lots
- Entrance point into the subdivision
- Price point for the homes
- Facade materials and overall look of the homes

The applicant provided the following response to the issues and concerns in the Public Participation Report:

- The minimum lot size for R-2 and R-3 zoning districts was provided to the citizens.
- A site plan to show the entrance location of the subdivision.
- The façade materials will be comprised of hardi-plank, stone, brick, etc. Examples of possible house designs were provided.

## **STAFF COMMENTS**

### Engineering/Public Works:

1. When property fronting on an existing city street is to be developed or when the property is to be accessed from the existing city street, the developer shall cause to be constructed roadway improvements (pavement, signing, striping, curb and gutter and drainage) which are required along the existing road across the entire property frontage at no cost to the city. Required improvements shall not be less than provided in these regulations for the designated street classification. [Sec. 71-37 (a)]
2. Turning lanes shall be required by the city to meet projected traffic demand and/or safe operations, as determined by the city engineer. When provided, turning lanes shall meet the following criteria:



1. Prior to the approval of any plat by the appropriate jurisdiction, the Environmental Health Services Division of the Fulton County Board of Health shall review and approve the plat regarding water supply and sewage disposal. No person may sell, offer for sale, lease, begin construction or otherwise begin the physical improvement of an exemption plat development, nor shall a building permit be issued in any form until all requirements set forth by the Fulton County Board of Health have been met.
2. The Fulton County Board of Health will require that the owner/developer connect the proposed development to public water and public sanitary sewer.
3. Since this proposed development constitutes a premise where people live, onsite sanitary facilities will be mandatory prior to use or occupancy.
4. If this development includes a public swimming pool as defined in Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 - Health and Sanitation, Article XII - Swimming Pools and Natural Bathing Beaches (including spas, whirlpools, etc.), the owner or contractor must submit plans and approval by this department and must obtain a Fulton County Board of Health permit to construct before issuance of a building permit. Also, the owner of the facility must obtain a Board of Health permit to operate the pool prior to opening.
5. If the proposed development includes an existing individual onsite sewage management system(s), and the system(s) will be abandoned, it shall be abandoned in accordance with Fulton County regulations.
6. If this proposed development includes an existing individual onsite water supply system(s), and the system(s) will be abandoned, it shall be abandoned in accordance with Fulton County regulations.
7. If there is an existing structure to be demolished, this department is requiring that they be inspected by a certified pest control operator to ensure that the premise is rat free. If evidence of rodent infestation is found, the property must be baited prior to demolition.

#### *Environmental Justice*

1. Since this development is not an environmentally adverse use, Fulton County Board of Health does not anticipate any adverse impacts to the health of humans or the environment as a result of allowing the proposed subdivision.

### **ZONING IMPACT ANALYSIS**

#### ***A. Does the proposal permit a use that is suitable in view of the use and development of adjacent and nearby property?***

Staff is of the opinion that the proposed use is suitable in view of the use and development of adjacent and nearby properties. The surrounding area consists of: AG-1 (Agricultural District), R-1 (Single-family Residential District) and R-3 (Single-family Residential District) to the North and R-1 (Single-family Residential District) and R-2 (Single-family Residential District) to the east, City of South Fulton to the south, and R-1 (Single-family Residential District) and R-3 (Single-family Residential District) to the west.

The applicant is proposing to develop 54 single-family residential houses on the subject property with a pocket park to include greenspace, playground area, and pavilion. The development will provide sidewalks along Fayetteville Road, pedestrian scale lighting on internal roads, and well landscaped front and rear yards. The façade of each house will be constructed with a combination of two or more of the following materials: fiber-cement siding, wood shake, clapboard, brick and/or stone. The use of vinyl and EIFS [synthetic stucco] is strictly prohibited.

#### ***B. Does the proposal adversely affect the existing use or usability of adjacent or nearby property?***

Staff is of the opinion that the petition if approved will not have an adverse impact on the use or usability of adjacent or nearby properties. The subject property is surrounded by single-family residential zoning districts [R-1, R-2 and R-3].

***G. Does the proposal permit a use that can be considered environmentally adverse to the natural resources, environment, and citizens of Fairburn?***

Staff is of the opinion that the proposal would not permit a use which could be considered environmentally adverse to the natural resources, environment, or citizens of Fairburn. The developer will be required to adhere to the City's stream buffer ordinance and soil and erosion control best management practices (BMPs).

**STAFF RECOMMENDATION**

It is the opinion of staff that the rezoning request is not in conformity with the current Future Development Map, which recommends Rural Residential for the subject property. However, the proposed development of a 54-lot single-family residential subdivision is consistent with the surrounding uses which is single family residential [R-1, R-2 and R-3]. Single-family residential uses surround the subject property on all sides. The proposal is consistent with the Comprehensive Plan goals to: 1.) create stable, safe, well maintained neighborhoods that maintain their value over time, 2.) allow for a variety of home styles, materials, and lot sizes, and 3.) accommodate pedestrians to allow for alternative access to downtown. Therefore, based on these reasons, staff recommends **APPROVAL** **CONDITIONAL** of the rezoning petition.

Should the Mayor and City Council decide to rezone the subject property from AG-1 (Agricultural District) and R-1 (Single-family Residential District) to R-3 (Single-family Residential District) the staff recommends the following conditions. The applicant's agreement to these conditions would not change staff recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council.

A. To the owner's agreement to restrict the use of the subject property as follows:

1. Single-family Residential:

- a. A minimum of 28 lots shall have a minimum square footage of 21,780 square feet (1/2 acre)
  - b. A maximum of 26 lots shall have a minimum square footage of 14,520 square feet (1/3 acre).
2. The minimum heated floor area shall be a minimum of 1,600 square feet.

B. To the owner's agreement to abide by the following:

1. The property shall be developed in substantial conformity with the Zoning Site Plan prepared by Falcon Design stamped received June 24, 2019 and attached as Exhibit B. Any determination as to "substantial conformity" and deviation from the site plan shall be approved by Department of Community Development staff. The site plan is conceptual only and must meet or exceed the requirements of the City's regulations prior to the approval of a Land Disturbance Permit.
2. Property maintenance shall be accomplished through a homeowner's association in which membership shall be mandatory. Such maintenance shall encompass all individual lots and all common areas that are not contained within the boundaries of individual lots. Such association by-laws shall be subject to approval by the City Administrator and shall be recorded with covenants that shall be subject to approval by the City Administrator.

C. To the owner's agreement to the following site development considerations:

1. Building setbacks as follows:

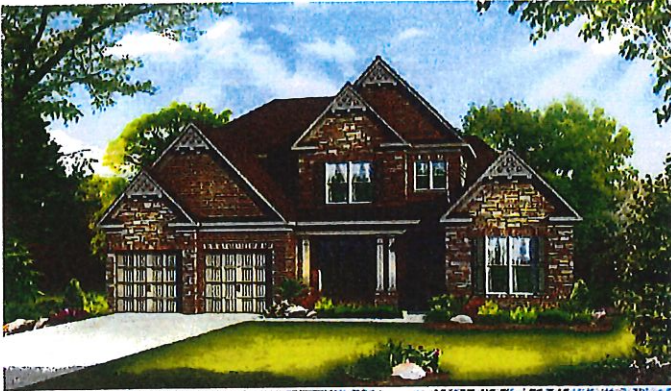
- a. Front: 45 feet
- b. Side: 10 feet
- c. Rear: 30 feet



## Impact Analysis

Applicant: South Fulton, LLC

1. Does the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby property? *The subject property is nearly 35 acres on the southwestern frontage of Fayetteville Road. The property's eastern and southern borders are in unincorporated Fulton county. To the northeast of the property is Trotter's Farm, a subdivision zoned R-2 with frontage on Fayetteville Road. To the north of the property are two land tracts. These tracts are 2 acres and 10 acres zoned R-1 and AG-1, respectively. Lands associated with these properties front on Fayetteville Road. To the northwest of the property there are multiple lots zoned R-3. Finally, to the west of the property is zoned R-1. All surrounding the surrounding properties are for residential use. The proposed single-family development is a suitable use among the surrounding residential uses.*
2. Does the zoning proposal adversely affect the existing use or usability of adjacent or nearby property? *The adverse effects of the proposed residential development on adjacent or nearby properties is very hard to measure, however, the most prominent uses surrounding the proposed residential development are also residential use properties. As the proposed use and the surrounding uses do not differ, it is unlikely that the proposed change would have an adverse effect on existing use of adjacent properties. In fact, the proposed development could positively impact the neighboring properties from a value perspective. The proposed single family development will fit in well with surrounding uses and offer additional housing to support Fairburn commercial growth.*
3. Does the property to be rezoned have a reasonable economic use as currently zoned? *The property is currently zoned AG-1 for a transitional zone between unincorporated Fulton and Fayette Counties and high density residential areas near downtown Fairburn. Allowed uses under current zoning include single family residential use, various agricultural uses, and other commercial uses. Despite being surrounded by denser zoning districts, this property is restricted to 1 acre or greater lots. Considering surrounding densities, the proposed R-2 zoning with stated conditions would be a more reasonable use as a low density project as defined by City's 2035 Future Land Use Plan.*
4. Will the zoning proposal result in a use that could create an excessive or burdensome use of existing streets, transportation facilities, utilities or schools? *Current zoning, AG-1, is considered a low density transitional use area. Notably, R-2 and R-3 are considered to be low density residential uses in the City's 2035 Future Land Use Plan. As currently zoned, we could reasonably develop 30 lots. When compared to the proposed lot count of 55, this is a marginal increase and one that would not be excessive on any of the city's infrastructure or public services.*



Ashley F



Calhoun



Claiborne



Edinburgh A





Emerson



Iberville

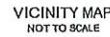


Wilmington



Woodstock

HP



PROPOSED ROAD (50' WIDE TYPICAL)

21,780 SF LOT

50' X 50' FOOTPRINT

15' FRONT SET

10' SIDE SET

10' SIDE SET

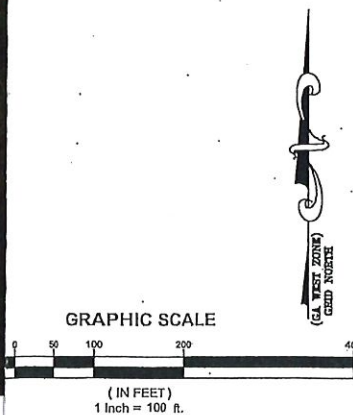
14,520 SF LOT

50' X 50' FOOTPRINT

15' FRONT SET

10' SIDE SET

10' SIDE SET



FLOOD INSURANCE RATE MAPS OF FULTON COUNTY, GEORGIA COMMUNITY  
13121C0482F & 13121C0470F EFFECTIVE DATE SEPTEMBER 18, 2013, NO PORTION  
OF THIS PROPERTY IS LOCATED IN A SPECIAL FEMA FLOOD HAZARD AREA.



LOCATED IN  
LAND LOTS 45, 46 & 53, DISTRICT 9F  
CITY OF FAIRBURN, GEORGIA

DATE		REVISIONS
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		

DATE:	6/19/19
SCALE:	1"=100'
PROJ NUMBER:	MP70
DRAWN BY:	WDM
REVIEWED BY:	JP

THIS DOCUMENT IS NOT VALID UNLESS IT BEARS THE  
ORIGINAL SIGNATURE OF THE REGISTRANT  
ACROSS THE REGISTRANT'S SEAL.

SHEET NUMBER

1.0



EXHIBIT "A"  
**SURVEY DESCRIPTION**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 45, 46 AND 53 OF THE 9TH DISTRICT OF FULTON COUNTY, GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO ARRIVE AT THE POINT OF BEGINNING, COMMENCE AT THE POINT OF INTERSECTION OF THE COMMON LINE OF LAND LOTS 46 AND 53, 9TH DISTRICT, FULTON COUNTY, GEORGIA, WITH THE SOUTHERLY RIGHT-OF-WAY OF FAYETTEVILLE ROAD (80' PUBLIC R/W) AND PROCEED NORTH 47 DEGREES 19 MINUTES 12 SECONDS WEST A DISTANCE OF 152.18 FEET TO A ONE HALF INCH REBAR LOCATED ON THE SOUTHERLY RIGHT-OF-WAY OF FAYETTEVILLE ROAD, SAID REBAR BEING THE POINT OF BEGINNING.

THENCE, PROCEED ALONG SAID RIGHT-OF-WAY WITH A CURVE 534.10', ALONG A CURVE TO THE LEFT (SAID CURVE HAVING A RADIUS OF 2,208.04', AND A CHORD BEARING SOUTH 52 DEGREES 16 MINUTES 28 SECONDS EAST, A DISTANCE OF 532.80 FEET) TO A POINT; THENCE, CONTINUING ALONG SAID RIGHT-OF-WAY, PROCEED SOUTH 59 DEGREES 12 MINUTES 14 SECONDS EAST A DISTANCE OF 26.52 FEET TO A ONE HALF INCH REBAR; THENCE LEAVING THE RIGHT-OF-WAY OF FAYETTEVILLE ROAD, PROCEED SOUTH 28 DEGREES 38 MINUTES 22 SECONDS WEST A DISTANCE OF 286.49 FEET TO A ONE HALF INCH REBAR; THENCE, SOUTH 41 DEGREES 07 MINUTES 25 SECONDS EAST A DISTANCE OF 491.37 FEET TO A ONE HALF INCH REBAR; THENCE, SOUTH 84 DEGREES 22 MINUTES 08 SECONDS EAST A DISTANCE OF 251.87 FEET TO A ONE HALF INCH REBAR; THENCE, SOUTH 08 DEGREES 04 MINUTES 52 SECONDS WEST A DISTANCE OF 755.97 FEET TO A CONCRETE MONUMENT; THENCE, NORTH 89 DEGREES 32 MINUTES 12 SECONDS WEST A DISTANCE OF 559.38 FEET TO A CONCRETE MONUMENT LOCATED ON THE COMMON LINE OF LAND LOTS 45 AND 46, 9TH DISTRICT, FULTON COUNTY, GEORGIA; THENCE, PROCEED NORTH 01 DEGREES 08 MINUTES 07 SECONDS WEST, ALONG SAID LAND LOT, LINE A DISTANCE OF 8.73 FEET TO A THREE QUARTER INCH OPEN TOP PIPE; THENCE, LEAVING SAID LAND LOT LINE, PROCEED NORTH 88 DEGREES 59 MINUTES 16 SECONDS WEST A DISTANCE OF 436.43 FEET TO A CONCRETE MONUMENT; THENCE, NORTH 02 DEGREES 32 MINUTES 14 SECONDS EAST A DISTANCE OF 828.71 FEET TO A ONE HALF INCH REBAR; THENCE, SOUTH 88 DEGREES 01 MINUTES 46 SECONDS WEST A DISTANCE OF 255.82 FEET TO A ONE HALF INCH REBAR; THENCE, NORTH 00 DEGREES 18 MINUTES 07 SECONDS EAST A DISTANCE OF 804.45 FEET TO A ONE HALF INCH REBAR LOCATED ON THE COMMON LINE OF LAND LOTS 46 AND 53, 9TH DISTRICT, FULTON COUNTY, GEORGIA; THENCE, SOUTH 88 DEGREES 36 MINUTES 28 SECONDS EAST ALONG SAID LAND LOT LINE, A DISTANCE OF 337.97 FEET TO A ONE INCH CRIMP TOP PIPE; THENCE, LEAVING SAID LAND LOT LINE, PROCEED NORTH 45 DEGREES 05 MINUTES 01 SECOND EAST A DISTANCE OF 138.87 FEET TO A ONE HALF INCH REBAR LOCATED ON THE SOUTHERLY RIGHT-OF-WAY OF FAYETTEVILLE ROAD (80' PUBLIC R/W), WHICH IS THE POINT OF BEGINNING,

SAID TRACT OR PARCEL CONTAINING 34.23 ACRES, (1,491,294 SQ. FT.)

Re: REZONING ORDINANCE 19RZ-006  
Property of South Fulton, LLC  
09F110300450097  
34.24 acres; Land Lots 45, 46 and 53  
District 9F  
Fairburn, Fulton County, Georgia

**STATE OF GEORGIA  
COUNTY OF FULTON**

**AN ORDINANCE TO REZONE CERTAIN PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF FAIRBURN FROM AG-1 (AGRICULTURAL) ZONING DISTRICT AND R-1 (SINGLE-FAMILY DWELLING) ZONING DISTRICT TO R-3 (SINGLE-FAMILY) ZONING DISTRICT; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES**

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRBURN, GEORGIA, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME:

**Section 1.** That the City of Fairburn Zoning Ordinance be amended, and the official maps established in connection therewith be changed so that the property located in the City of Fairburn as indicated on Exhibit "A" to this Ordinance be changed from AG- 1 (Agricultural) District and R-1 (Single-Family Dwelling) Zoning District to R-3 (Single-Family) Zoning District with the following conditions:

- A. To the owner's agreement to restrict the use of the Subject Property as follows:
  - 1. Single-Family Residential:
    - a. A minimum of 28 lots shall have a minimum square footage of 21,870 square feet (1/2 acre).
    - b. A maximum of 26 lots shall have a minimum square footage of 14,250 square feet (1/3 acre).
  - 2. The minimum heated floor area shall be a minimum of 1,600 square feet.
- B. To the owner's agreement to abide by the following:
  - 1. The property shall be developed in substantial conformity with the Zoning Site Plan prepared by Falcon Design stamped received June 24, 2019 and attached as Exhibit B. Any determination as to "substantial conformity" and deviation from the site plan shall be approved by Department of Community Development staff. The site plan is conceptual only and must meet or exceed the requirements of the City's regulations prior to the approval of a Land Disturbance Permit.



2. Property maintenance shall be accomplished through a homeowner's association in which membership shall be mandatory. Such maintenance shall encompass all individual lots and all common areas that are not contained within the boundaries of individual lots. Such association by-laws shall be subject to approval by the City Administrator and shall be recorded with covenants that shall be subject to approval by the City Administrator.

C. To the owner's agreement to the following site development considerations:

1. Building setbacks as follows:

- a. Front: 45 feet
- b. Side: 10 feet
- c. Rear: 30 feet

2. Amenity package to include a pocket park with greenspace, playground, pavilion and mail kiosk. (CBU).

3. Facades of the homes shall be constructed with a combination of two or more of the following materials: fiber-cement siding, wood shake, clapboard, brick and/or stone. The use of vinyl or EIFS (synthetic stucco) is strictly prohibited.

4. Two car garages shall be provided for each single-family house.

5. Sidewalks on all street frontages shall be a minimum of five feet and shall be constructed to comply with the requirements of the Americans with Disabilities Act (ADA) standards and City of Fairburn development standards. Five-foot sidewalks shall be provided along both sides of internal streets throughout the development and shall be designed to provide inter-connectivity to amenities areas.

6. Pedestrian-scale street lighting shall be provided along both sides of internal streets throughout the development.

7. All utilities shall be installed underground throughout the project area.

8. Turning lanes shall be required to meet projected traffic demand and/or safe operations, as determined by the City Engineer. When provided, turning lanes shall meet the following criteria:

- a. Provide not less than 150 feet of storage length for arterial roadways. Provide not less than 100 feet of storage length for collector roadways.
- b. Provide taper lengths of not less than 100 feet.
- c. Longer storage and taper lengths may be required when traffic projections indicate they are justified.

9. The Developer shall construct roadway improvements (pavement, signing, striping, curb and gutter and drainage) along the existing road across the entire property frontage where required, at no cost to the city.

10. The Developer shall install a canopy or understory tree in the front yard of each single-family lot. Both front and rear yards shall be sodded.

**Section 2.** That the property shall be developed in compliance with the conditions of approval as stated in this Ordinance. Any conditions hereby approved do not authorize the violation of any district regulations; and

**Section 3.** That the official maps referred to, on file in the Office of the City Clerk, be changed to conform with the terms of this Ordinance; and

**Section 4.** In the event any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions of the other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part thereof. The City Council declares that it would have passed the remaining parts of this Ordinance or retained the previously existing Ordinance if it had known that such part of parts hereof would be declared or adjudicated invalid or unconstitutional.

**Section 5.** Pursuant to the requirements of the Zoning Procedures Act and the City Zoning Ordinance, a properly advertised public hearing was held not less than 15 nor more than 45 days from the date of publication of notice, and which public hearing was held on the 12<sup>th</sup> day of August, 2019.

**Section 6.** This Ordinance shall become effective on August 12, 2019.

**Section 7.** All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed.

APPROVED this 12<sup>th</sup> day of August, by the Mayor and Council of the City of Fairburn, Georgia.

---

Elizabeth Carr-Hurst, Mayor

ATTEST:

---

Shana T. Moss, Interim City Clerk



APPROVED AS TO FORM:

---

William R. (Randy) Turner, City Attorney



## CITY OF FAIRBURN

### CITY COUNCIL AGENDA ITEM

**SUBJECT:** Approval of the Mayor and Councils Ethics Board Appointees

☐ AGREEMENT                      ☐ POLICY / DISCUSSION                      ☐ CONTRACT  
☐ ORDINANCE                      ☐ RESOLUTION                      ☒ OTHER

**Submitted:** 08-01-2019   **Work Session:** 08-01-2019   **Council Meeting:** 08-12-2019

**DEPARTMENT:** City Clerk

**BUDGET IMPACT:** None

**PUBLIC HEARING?** ☐ Yes                      ☒ No

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**PURPOSE:** For Mayor and Council to approve individual appointees to the City of Fairburn's Ethics Board.

**HISTORY:** It is essential to the proper administration and operations of the City of Fairburn ("city") that the members of its governing authority, as well as members of city boards, authorities and commissions (collectively "city officials"), be, and give the appearance of being, independent and impartial; that public office not be used for private gain; that there be public confidence in the integrity of such city officials; that such city officials at all times adhere to the highest standards of professionalism; and that conduct unbecoming of a member of the governing authority or other city board, authority, or commission and conduct by such a member that tends to damage the reputation of the city or its governing authority and/or conduct which otherwise interferes with and negatively impacts city operations and/or which places the city in a poor public light not be tolerated.

**FACTS AND ISSUES:** The governing authority finds that the public interest requires that it protect against such conflicts of interest and acts or unprofessional and unbecoming conduct by establishing an appropriate ethical standard.

**RECOMMENDED ACTION:** Staff recommends approval of appointees.



Elizabeth Carr-Hurst, Mayor





### Ethics Board Appointee's

- |                                     |                               |
|-------------------------------------|-------------------------------|
| 1. Mayor Hurst                      | Ms. Brenda Cooper             |
| 2. Mayor Pro-Tem Davis              | Ms. Janine Johnson Edmonds    |
| 3. Councilman Alex Heath            | Ms. Debbie Mullis             |
| 4. Councilwoman Hattie Portis-Jones | Mr. Tony Smith                |
| 5. Councilman Pat Pallend           | Mr. Will Strawn               |
| 6. Councilman Ulysses J. Smallwood  | Ms. Tangelia Barrett-Robinson |
| 7. Councilman James Whitmore        | Mr. Rodney Anderson           |



## CITY OF FAIRBURN

### CITY COUNCIL AGENDA ITEM

**SUBJECT:** Approval of Ordinance authorizing Fulton County Election and Registration to conduct the General Election.

☐ AGREEMENT                      ☐ POLICY / DISCUSSION                      ☐ CONTRACT  
☒ ORDINANCE                      ☐ RESOLUTION                      ☐ OTHER

Submitted: 08-01-2019    Work Session: 08-01-2019    Council Meeting: 08-12-2019

**DEPARTMENT:** City Clerk

**BUDGET IMPACT:** None (approved on July 22, 2019)

**PUBLIC HEARING?** ☐ Yes                      ☒ No

---

**PURPOSE:** For Mayor and Council to approve an Ordinance authorizing Fulton County Election and Registration to conduct the General Election for three council seats in the City of Fairburn.

**HISTORY:** Under Georgia Election Code Section 21-2-45 (c) this code provides for a municipality to authorize a county in which the city lies to conduct its election.

**FACTS AND ISSUES:** Fulton County will conduct the General Election at a cost of \$33,350.00 that was approved by Mayor and Council on July 22, 2019.

**RECOMMENDED ACTION:** Approval of this ordinance.

A handwritten signature in blue ink that reads "Elizabeth Carr-Hurst". The signature is written in a cursive style and is positioned above a horizontal line.

*Elizabeth Carr-Hurst, Mayor*



STATE OF GEORGIA  
COUNTY OF FULTON

AN ORDINANCE

AN ORDINANCE BY THE MAYOR AND COUNCIL OF THE CITY OF FAIRBURN, GEORGIA, TO ADOPT AND ENTER INTO WITH FULTON COUNTY TO CONDUCT THE 2019 GENERAL ELECTION FOR (3) THREE COUNCIL SEATS.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF FAIRBURN AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE SAME THAT.

**Whereas**, Under Georgia Election Code Section 21-2-45(c) it provides for a municipality to authorize any county which that municipality wholly or partially lies to conduct any or all elections held pursuant to this chapter.

**Whereas**, Fulton County has presented a contract to the City of Fairburn for the 2019 General Election with a projected cost of \$33,350.00 for the regular election.

**Now therefore**, the governing authority of the City of Fairburn hereby authorizes Fairburn County to conduct the 2019 General Election. The Mayor is authorized to sign the contract presented on behalf of the City of Fairburn and the City Clerk is authorized to attest the signature and to affix the seal of the City of Fairburn.

This ordinance shall become effective upon approval of the Mayor and Council

This ordinance having been properly considered and adopted by the Mayor and Council of the City of Fairburn this 12<sup>th</sup> day of August 2019.

CITY OF FAIRBURN, GEORGIA

\_\_\_\_\_  
Elizabeth Carr-Hurst, Mayor

Attest:

\_\_\_\_\_  
Shana T. Moss, Interim City Clerk

\_\_\_\_\_  
William R. Turner, City Attorney



**CITY OF FAIRBURN  
MAYOR & CITY COUNCIL  
AGENDA ITEM**

**SUBJECT: Boundary Line Agreement**

( ☒ ) AGREEMENT      ( ☐ ) POLICY / DISCUSSION      ( ☐ ) CONTRACT  
( ☐ ) ORDINANCE      ( ☐ ) RESOLUTION      ( ☐ ) OTHER

**Mayor and City Council Meeting: 08.12.19**

**DEPARTMENT:** Community Development/Planning and Zoning

**BUDGET IMPACT:** None

**PUBLIC HEARING:** ( ☐ ) Yes      ( ☒ ) No

---

**PURPOSE:** For the Mayor and Council to approve a boundary line agreement for city owned property on Cemetery Street and Washington Street.

**HISTORY:** Wendover Housing Partners submitted a rezoning application in February 2019, requesting to rezone 6.499 acres with frontage on Brooks Drive, Cemetery Street and Washington Street from O&I (Office Institutional) to RM-36 (Multi-family Residential). The proposed multi-family development consists of a 4 story building with 78 apartment units, amenity area to include a splash pad and gazebo. During the review of the rezoning application, staff noticed that the land survey did not meet the City's standards. Therefore, the rezoning petition was placed on hold until the applicant can produce an acceptable survey.

During the land surveying process, the surveyor could not adequately verify property lines to produce the survey of the 6.499 acres. Consequently, Wendover Housing Partners has requested a boundary line agreement between all abutting property owners [City of Fairburn, Maryland G. Cantrell and Judy T. Hight]. The boundary line agreement will establish the property lines and will allow the surveyor to proceed with creating the survey of the property. Once the survey has been created, Wendover Housing Partners would be allowed to proceed with the rezoning petition.

The boundary agreement has been reviewed and approved by the City Attorney. Therefore, staff's recommendation is **APPROVAL**.

**ATTACHMENTS**

Boundary Line Agreement with Exhibits A-E

  
Elizabeth Carr-Hurst, Mayor



THIS INSTRUMENT WAS PREPARED BY  
AND SHOULD BE RETURNED TO:  
N. DWAYNE GRAY, JR., ESQUIRE  
ZIMMERMAN, KISER  
& SUTCLIFFE, P.A.  
Post Office Box 3000  
Orlando, Florida 32802

### BOUNDARY LINE AGREEMENT

THIS BOUNDARY LINE AGREEMENT (this "Agreement") is made and executed as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between MARYLAND G. CANTRELL, an individual, whose address is 845 Spring Street, #220, Atlanta, GA 30308, the "First Party," THE CITY OF FAIRBURN, a Georgia municipal corporation, successor by name change from the Town of Fairburn, whose address is 56 Malone Street, Fairburn, GA 30213, the "Second Party," and JUDY T. HIGHT, an individual, whose address is 123 Manor Way, Carrollton, GA 30117, the "Third Party."

WHEREAS, the First Party is the owner of certain real property that is assigned Fulton County Board of Assessors' Parcel Identification Number 09F090400510471, and which is more particularly described in Exhibit A attached hereto (hereinafter "Parcel A"); and

WHEREAS, the Second Party is the owner of certain real property that is assigned Fulton County Board of Assessors' Parcel Identification Number 09F090400510281, and which is more particularly described in Exhibit B attached hereto (hereinafter "Parcel B"); and

WHEREAS, the Third Party is the owner of certain real property that is assigned Fulton County Board of Assessors' Parcel Identification Number 09F090400511263, and which is more particularly described in Exhibit C attached hereto (hereinafter "Parcel C"); and

WHEREAS, Parcels A and B adjoin Parcel C; and

WHEREAS, due to absent or insufficient surveys of Parcel A, Parcel B, and Parcel C, the parties are uncertain as to the true boundaries among Parcels A, B, and C; and

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public for Georgia  
My Commission Expires: \_\_\_\_\_

[AFFIX NOTARIAL SEAL]

THE CITY OF FAIRBURN, a Georgia  
municipal corporation, successor by name  
change from the Town of Fairburn

By:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name:

Its:

\_\_\_\_\_  
\_\_\_\_\_

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public for Georgia  
My Commission Expires: \_\_\_\_\_

[AFFIX NOTARIAL SEAL]

By:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

JUDY T. HIGHT, an individual



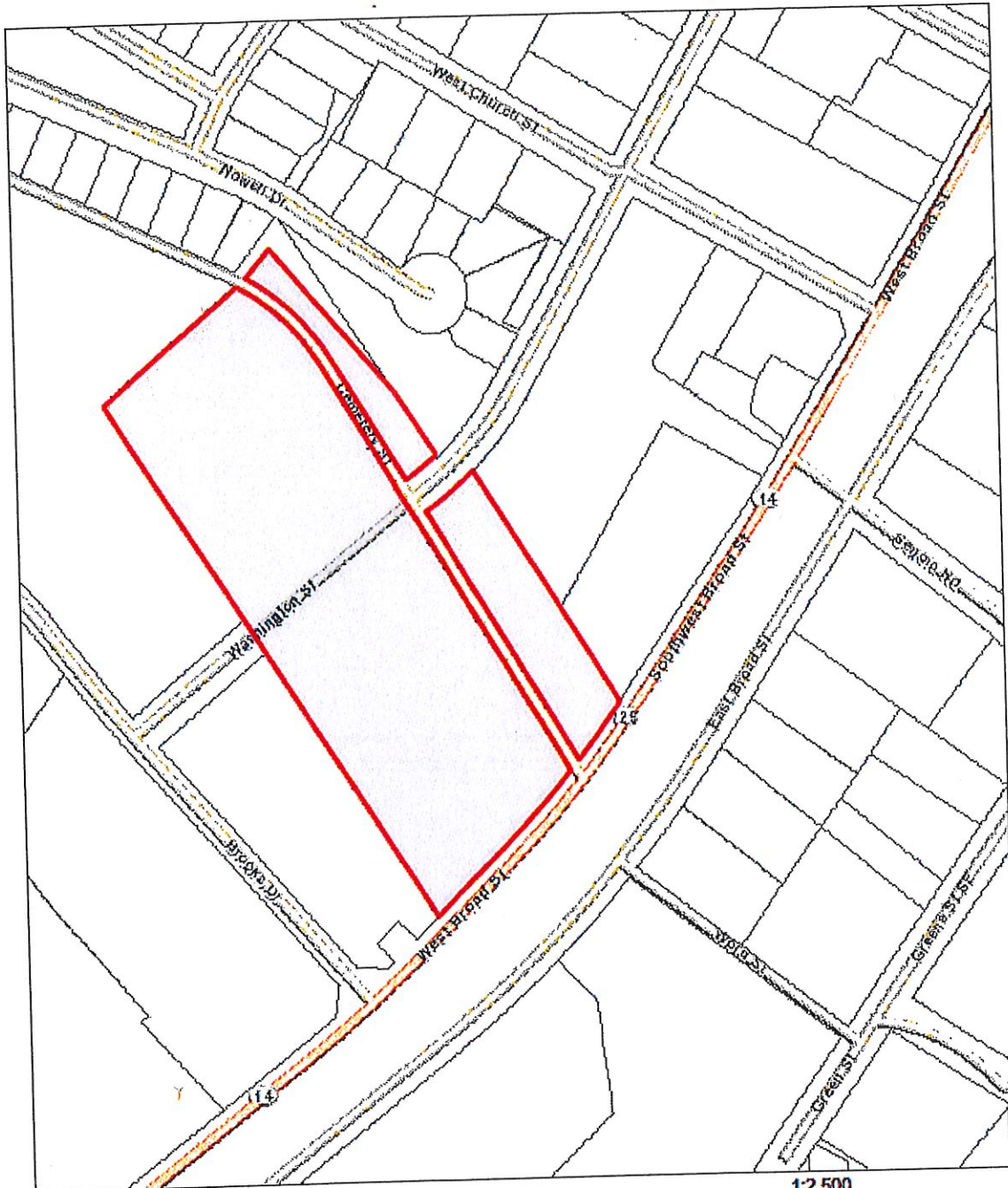
## **Exhibit A**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 51 OF THE 9TH DISTRICT OF FULTON COUNTY, GEORGIA, CONTAINING ONE (1) ACRE, MORE OR LESS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

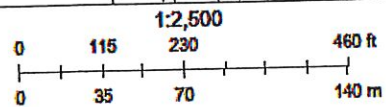
BEGINNING AT AN OAK STAKE ON THE NORTHERLY RIGHT-OF-WAY LINE OF A 20 FOOT STREET (NOW KNOWN AS BROOKS DRIVE) 247 FEET SOUTH FROM WHAT IS KNOWN AS THE GRAVEYARD BRANCH; RUN THENCE NORTHERLY 247 FEET TO SAID BRANCH; RUN THENCE NORTHWESTERLY TO A STAKE CORNER; RUN THENCE SOUTHERLY 330 FEET TO A SAID 20 FOOT STREET; RUN THENCE EASTERLY, ALONG SAID 20 FOOT STREET, 152 FEET TO THE POINT OF BEGINNING, BEING LOT NO. 3 OF THE SUBDIVISION OF THE L. R. GOLIGHTLY PROPERTY MADE BY J. F. STEED, SURVEYOR, ON NOVEMBER 19, 1894.

## Exhibit B

THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 51 OF THE 9TH DISTRICT OF FULTON COUNTY, GEORGIA, UNDER MAP REFERENCE NO. 09F 0904 0051 028 1, COMMONLY KNOWN AS FAIRBURN CEMETERY, CONTAINING 8.74 ACRES, MORE OR LESS, AS DEPICTED BY THE PROPERTY APPRAISER AS FOLLOWS:



July 25, 2019





ALSO BEING DESCRIBED AS:

TWO ACRES OF LAND SITUATED LYING AND BEING IN THE 9<sup>TH</sup> DISTRICT OF ORIGINALLY FAYETTE THEN CAMPBELL, NOW FULTON COUNTY, KNOWN AND DISTINGUISHED ON THE PLAN OF SAID DISTRICT BY BEING A PART OF LOT 51, THE SAID TWO ACRES TO BE BOUNDED ON THE SOUTH SIDE BY JOINING THE ROAD RUNNING FROM ATLANTA TO NEWNAN GEORGIA BE SHAPED IN A SQUARE AND AS TO INCLUDE THE ELEVATED PART OF THE HILL OF WHERE HENRIETTA MAYFIELD HOUSE FORMERLY STOOD AND WILLIAM MCBRIDE BEING THE PROPERTY CONVEYED BY THAT CERTAIN DEED FROM WILLIAM MCBRIDE TO THE DEACONS OF THE DEEP CREEK CHURCH DATED AUGUST 3<sup>RD</sup>, 1848 AND RECORDED IN DEED BOOK E, PAGE 154, RECORDS OF CAMPBELL COUNTY, GEORGIA

AND

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE 9<sup>TH</sup> DISTRICT ORIGINALLY FAYETTE THEN CAMPBELL NOW FULTON COUNTY AND BEING MORE PARTICULARLY DESCRIBED IN THAT CERTAIN DEED DATED MARCH 11, 1853 AND RECORDED IN DEED BOOK E, PAGE 487, RECORDS OF CAMPBELL COUNTY, GEORGIA.

LESS AND EXCEPT FROM THE ABOVE DESCRIBED TRACTS OF LAND ALL THAT TRACT OR PARCEL OF LAND CONVEYED BY THAT CERTAIN WARRANTY DEED FROM CITY OF FAIRBURN TO MUNICIPAL ELECTRIC AUTHORITY OF GEORGIA DATED MARCH 14, 1995, FILED FOR RECORD MARCH 21, 1995 AND RECORDED IN DEED BOOK 19391, PAGE 227, RECORDS OF FULTON COUNTY, GEORGIA.

FURTHER LESS AND EXCEPT FROM THE ABOVE DESCRIBED TRACTS OF LAND ALL THAT TRACT OR PARCEL OF LAND CONVEYED BY THAT CERTAIN QUITCLAIM DEED FROM CITY OF FAIRBURN TO THE DEPARTMENT OF TRANSPORTATION DATED MAY 29, 1990, FILED FOR RECORD JUNE 12, 1990 AND RECORDED IN DEED BOOK 13476, PAGE 218, RECORDS OF FULTON COUNTY, GEORGIA.

FURTHER LESS AND EXCEPT FROM THE ABOVE DESCRIBED TRACTS OF LAND ALL THAT TRACT OR PARCEL OF LAND CONVEYED BY THAT CERTAIN QUITCLAIM DEED FROM CITY OF FAIRBURN TO THE DEPARTMENT OF TRANSPORTATION DATED MAY 31, 1989, FILED FOR RECORD JUNE 19, 1989 AND RECORDED IN DEED BOOK 12595, PAGE 339, RECORDS OF FULTON COUNTY, GEORGIA.

### Exhibit C

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 51 OF THE 9TH DISTRICT OF FULTON COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FORMED BY THE NORTHWESTERLY RIGHT-OF-WAY LINE OF ROOSEVELT HIGHWAY (ALSO KNOWN AS BROAD STREET) WITH THE NORTHEASTERLY RIGHT-OF-WAY LINE OF BROOKS DRIVE; THENCE RUNNING IN A NORTHWESTERLY DIRECTION AND FOLLOWING THE CURVATURE OF SAID NORTHEASTERLY RIGHT-OF-WAY LINE OF BROOKS DRIVE, A DISTANCE OF 1,110.0 FEET, MORE OR LESS, TO A POINT; THENCE RUNNING IN A NORTHERLY DIRECTION A DISTANCE OF 535 FEET, MORE OR LESS, TO A POINT LOCATED ON THE SOUTHERLY RIGHT-OF-WAY LINE OF CEMETARY STREET; THENCE RUNNING IN A SOUTHEASTERLY DIRECTION AND FOLLOWING THE CURVATURE OF SAID SOUTHERLY RIGHT-OF-WAY LINE OF CEMETARY STREET A DISTANCE OF 610 FEET, MORE OR LESS, TO A POINT, SAID POINT BEING THE NORTHERLY CORNER OF A PARCEL OF LAND KNOWN AS A CEMETARY; THEN RUNNING ALONG THE NORTHWESTERLY PROPERTY LINE OF SAID CEMETARY IN A SOUTHWESTERLY DIRECTION A DISTANCE OF 168 FEET, MORE OR LESS, TO A POINT; THENCE RUNNING ALONG THE SOUTHWESTERLY PROPERTY LINE OF SAID CEMETARY IN A SOUTHEASTERLY DIRECTION A DISTANCE OF 970 FEET, MORE OR LESS, TO A POINT LOCATED ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF ROOSEVELT HIGHWAY; THENCE RUNNING IN A SOUTHWESTERLY DIRECTION, ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF ROOSEVELT HIGHWAY, A DISTANCE OF 140 FEET TO THE POINT OF BEGINNING, CONTAINING 9 ACRES.

LESS AND EXCEPT FROM THE ABOVE DESCRIBED PROPERTY THAT PORTION OF LAND EMBRACED WITHIN THE BOUNDS OF THE RIGHT-OF-WAY OF SOUTH WASHINGTON STREET, AND LESS AND EXCEPT ALL THAT PROPERTY DEEDED TO THE FAIRBURN MASONIC LODGE 180 F & A. M. LYING WITHIN THE BOUNDS OF ROOSEVELT HIGHWAY, BROOKS DRIVE, SOUTH WASHINGTON STREET AND THE OLD FAIRBURN CEMETERY WHICH CONTAINS SOME 3 ACRES, MORE OR LESS.



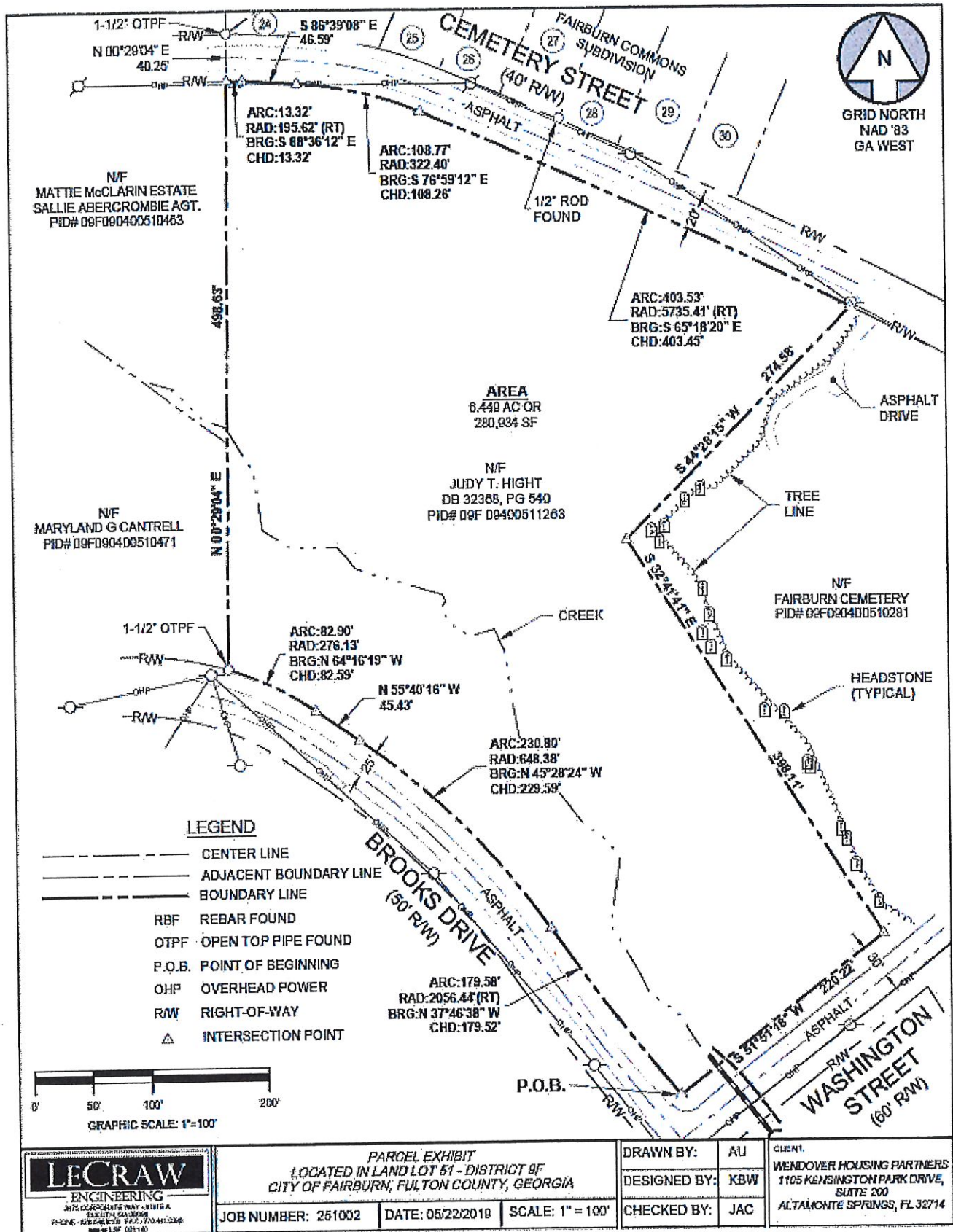
## Exhibit D

ALL THAT PARCEL OF LAND LYING IN LAND LOT 51, DISTRICT 9F IN THE CITY OF FAIRBURN, FULTON COUNTY, GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WASHINGTON STREET (60-FOOT RIGHT-OF-WAY) AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF BROOKS DRIVE (50-FOOT RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE OF BROOKS DRIVE THE FOLLOWING 4 COURSES AND DISTANCES: FOLLOWING THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 179.58 FEET (SAID ARC HAVING A RADIUS OF 2056.44 FEET AND BEING SUBTENDED BY A CHORD OF NORTH 37°46'38" WEST A DISTANCE OF 179.52 FEET) TO A POINT, FOLLOWING THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 230.80 FEET (SAID ARC HAVING A RADIUS OF 648.38 FEET AND BEING SUBTENDED BY A CHORD OF NORTH 45°28'24" WEST A DISTANCE OF 229.59 FEET) TO A POINT, NORTH 55°40'16" WEST A DISTANCE OF 45.43 FEET TO A POINT AND FOLLOWING THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 82.90 FEET (SAID ARC HAVING A RADIUS OF 276.13 FEET AND BEING SUBTENDED BY A CHORD OF NORTH 64°16'19" WEST A DISTANCE OF 82.59 FEET) TO A 1-1/2-INCH OPEN TOP PIPE FOUND; THENCE LEAVING SAID RIGHT-OF-WAY LINE, NORTH 00°29'04" EAST A DISTANCE OF 498.63 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF CEMETERY STREET (40-FOOT RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING 4 COURSES AND DISTANCES: FOLLOWING THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 13.32 FEET (SAID ARC HAVING A RADIUS OF 195.62 FEET AND BEING SUBTENDED BY A CHORD OF SOUTH 88°36'12" EAST A DISTANCE OF 13.32 FEET) TO A POINT, SOUTH 86°39'08" EAST A DISTANCE OF 46.59 FEET TO A POINT, FOLLOWING THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 108.77 FEET (SAID ARC HAVING A RADIUS OF 322.40 FEET AND BEING SUBTENDED BY A CHORD OF SOUTH 76°59'12" EAST A DISTANCE OF 108.26 FEET) TO A POINT AND FOLLOWING THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 403.53 FEET (SAID ARC HAVING A RADIUS OF 5735.41 FEET AND BEING SUBTENDED BY A CHORD OF SOUTH 65°18'20" EAST A DISTANCE OF 403.45 FEET) TO A POINT; THENCE LEAVING SAID RIGHT-OF-WAY LINE, SOUTH 44°28'15" WEST A DISTANCE OF 274.58 FEET TO A POINT; THENCE SOUTH 32°41'41" EAST A DISTANCE OF 398.11 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WASHINGTON STREET (60-FOOT RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 51°51'18" WEST A DISTANCE OF 220.22 FEET BACK TO THE POINT OF BEGINNING.

CONTAINING 280,934 SQUARE FEET OR 6.449 ACRES.

# Exhibit E







**CITY OF FAIRBURN**  
**CITY COUNCIL AGENDA ITEM**

**SUBJECT: APPROVAL OF TASK ORDER #1 WITH POND & COMPANY FOR PROFESSIONAL ENGINEERING & LANDSCAPE ARCHITECTURAL SERVICES**

( ) AGREEMENT                      ( ) POLICY / DISCUSSION                      ( ) CONTRACT  
( ) ORDINANCE                      ( ) RESOLUTION                      ( X ) OTHER

**Submitted: 08/02/2019                      Work Session: 08/12/2019                      Council Meeting: 08/12/2019**

**DEPARTMENT:** Community Development

**BUDGET IMPACT:** The budget impact of this task order will be \$20,000. The proposed expenditures will come out of the Public Works Administration Professional Account (100-4100-54-1200).

**PUBLIC HEARING?** ( ) Yes                      ( X ) No

---

**PURPOSE:** For Mayor and Council to approve Task Order #1 with Pond & Company for Professional Engineering & Landscape Architectural Services.

**HISTORY:** The City of Fairburn entered into a Master Services Agreement with Pond & Company on July 22<sup>nd</sup>, 2019 for On-Call Professional Engineering and Landscape Architectural Services.

**FACTS AND ISSUES:** The agreement with Pond & Company was approved with the understanding that task orders associated with Professional Engineering and Landscape Architectural Services would be issued on an as need basis. As such, the task order #1 for said services has been submitted for review and approval.

**RECOMMENDED ACTION:** Staff recommends that the City Council approve Task Order #1 with Pond & Company for Professional Engineering & Landscape Architectural Services and authorize the Mayor to sign the Task Order for an amount not to exceed \$20,000.

  
Elizabeth Carr-Hurst, Mayor



## City of Fairburn

July 26, 2019

Mr. Bob Williams, PE  
Vice President  
Pond & Company  
3500 Parkway Lane, Suite 500  
Peachtree Corners, GA 30092

Re: Notice of Award - RFP# 19-004 - On-Call Professional Engineering & Landscape Architectural Services

The City has considered the proposal submitted by your firm for the above described work in response to its Request for Proposal (RFP) dated June 14, 2019.

You are hereby notified that your proposal has been accepted for services outlined in the Scope of Services provided and will be further detailed and outlined in each task order developed for work assigned.

Attached is a copy of a proposed agreement for consideration. It is imperative that this agreement be finalized for approval within the next two weeks. So, please expedite any legal review and approvals necessary.

You are required to return acknowledged copies of this Notice of Award to the Owner within five (5) days of receipt of these documents.

Sincerely,

  
Lester Thompson, Deputy Director Community Development/Public Works

### ACCEPTANCE OF NOTICE

Receipt of the Notice of Award is hereby acknowledged by:

Pond & Company

  
Bob Williams, PE

Vice President

7.31.2019  
Date

56 Malone St., SW Fairburn, GA 30213  
(770) 964-2244 (770) 969-3484 FAX



## AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and entered into this 22<sup>nd</sup> day of July 2019 by and between POND & COMPANY, a Georgia corporation ("Contractor") and THE CITY OF FAIRBURN, a municipality incorporated in the State of Georgia ("City").

### Recitals:

A. The City desires to secure professional service associated with the management of the construction of several improvement projects (the "Project").

B. The City has selected Contractor to perform certain Professional Services in connection with the Project, as more specifically set forth below.

C. The City and Contractor desire to enter into this Agreement to set forth the terms and conditions of the services to be provided by Contractor.

D. The City has established the necessary funding for the project through a combination of local, state, and federal funds.

NOW, THEREFORE, in consideration of the matters recited above, the mutual covenants set forth herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated herein.

2. Services by Contractor. Contractor shall perform the following services as directed by the City, or its designee, and in compliance with requirements of the proposal dated June 14, 2019, and approved by City Council on July 22, 2019:

(a) Perform the Professional Services as indicated on the Request for Proposal dated June 14, 2019 (Attachment 1);

(b) Compile or provide the necessary database of information to complete the scope of work;

(c) Keep the City, or its appointee, informed and apprised as to the status of progress by way of regular status reports;

(d) Coordinate with the City staff and any stakeholders in the performance of all of Contractor's services;

(e) Prepare and maintain files and records in compliance with requirements of the City and Georgia Open Records Act.

3. Contractor's Compensation. For the services to be performed by Contractor described in Section 2 hereof, Contractor will be compensated by the City as outlined on Attachment 2 – Fee Proposal. Payments will be due as follows:

(a) Payment for services rendered will be invoiced monthly and due 30 days after receipt by the City;

(b) Payment for reimbursable and hourly expenses may be invoiced on demand and will be due 30 days after receipt by the City;

No expenses of Contractor shall be reimbursable by the City unless approved in advance in writing by the City. Any additional services, not enumerated in this Agreement or its attachments, which might be required will be outside the scope of this agreement unless mutually agreed by City and Contractor.

4. Contractor's Duties. Contractor shall perform all services required hereunder in a professional manner, adhering to the requirements of Georgia law and standard policies and procedures. Contractor shall be solely responsible for obtaining and maintaining all licenses, if any, required under applicable laws, rules and ordinances necessary for the performance of its services described herein. Contractor shall keep the City and its project manager informed (on at least a weekly basis through informal meetings and correspondence) as to the status of the Project.

4.1 Contractor Personnel. Contractor acknowledges that the City selected Contractor for the Project because of the knowledge and experience of certain of Contractor's personnel. Contractor agrees that it shall use experienced and qualified individuals for the performance of each of Contractor's duties and obligations hereunder.

5. City's Responsibilities. The City and its agents shall endeavor to perform the following in a timely manner in order to facilitate Contractor's performance of its services required hereunder:

(a) Furnish plans, surveys, and/or plats of the parcels of property or studies in its possession needed for the Project;

(b) Coordinate with the Contractor in establishing a working relationship with the local government agencies and stakeholders;

(c) Establish procedures and guidelines for responding quickly to requests for information and documentation;

(d) Coordinate with the Contractor in establishing a management and coordination process to facilitate effective communication and coordination among the City, its agents and professionals, and the Contractor.

6. Duration and Termination. This Agreement shall remain in effect until July 22, 2021, unless terminated earlier in accordance herewith. The City may terminate this Agreement for any reason whatsoever upon ten (10) days advance notice to Contractor. In the event of such



termination by the City, the City shall compensate Contractor for all services performed up to the date of termination, and the City shall have no further liability to Contractor, including without limitation, no liability for lost profits. Contractor shall deliver to the City all "work in progress" including, but not limited to, drafts of documents, contact information and status of negotiations. Notwithstanding the foregoing, the City may terminate this Agreement immediately, with or without notice, in the event that Contractor defaults with respect to any of its obligations hereunder.

7. Status. Contractor is, as to the City, an independent contractor and is not nor shall Contractor be deemed to be an employee or agent (except as set forth below) of the City for any purpose whatsoever and nothing contained herein shall be deemed to constitute a contract of employment. In furtherance of the foregoing, Contractor acknowledges that: (a) it is not an employee of the City, (b) it will be working for the City on a temporary basis, (c) the City is not responsible for paying to Contractor or on Contractor's behalf any income tax withholding, unemployment taxes or compensation, workers' compensation premiums or benefits, health insurance premiums or benefits, or any other employment benefits, (d) it is ineligible to participate in, or receive anything from, any City benefit program. Notwithstanding the foregoing, Contractor shall act in the City's behalf for the specific land acquisition activities related herein and Contractor shall only act on the specific instructions and agreements with the City.

8. Insurance and Indemnity. Contractor shall maintain a policy of comprehensive general liability insurance in the combined single limit of at least \$1,000,000 to cover any claims arising out of the performance of the services under this Agreement. Contractor shall indemnify, hold harmless and defend the City from any and all claims, charges, lawsuits and liabilities arising out of or relating to any act or omission of Contractor or its agents.

9. Assignability. The City is entering into this Agreement in reliance upon the particular qualifications of Contractor to perform the services herein described. This Agreement may not be delegated or assigned by Contractor and any purported delegation or assignment by Contractor of this Agreement (or rights hereunder) is void unless Contractor has first obtained the prior written consent of the City which consent may be withheld for any reason or no reason. The City may assign this Agreement, in its discretion, to other local government(s) or state agencies with authority for public right of way issues within its jurisdiction.

10. Confidentiality. Except as required by law or by court order, Contractor shall not disclose any information related to the negotiations or agreements with Landowners or related to the performance of its services for the City without the prior written consent of the City.

11. Notices. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth opposite their signatures below. Any such notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, (b) sent by facsimile, with written confirmation by a nationally recognized overnight courier sent the same day as the facsimile, in which case notice shall be deemed delivered upon receipt of confirmation transmission of such facsimile notice, or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt. Any notice sent by facsimile or

personal delivery and delivered after 5:00 p.m. eastern standard time shall be deemed received on the next business day. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address or facsimile number shall be effective until actual receipt of such notice. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

12. Miscellaneous. This Agreement shall not be modified or amended except by written instrument signed by each of the parties hereto. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Georgia. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which counterparts together shall constitute but one and the same instrument. Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision of this Agreement be for any reason unenforceable, the balance shall nonetheless remain in and be of full force and effect, but without giving effect to such unenforceable provision. Time is of the essence hereof. The section headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

[Signature page follows]



IN WITNESS WHEREOF, City and Contractor have set their hands and seals hereto as of the day and year indicated next to their signatures.

**CONTRACTOR:**

Address:

POND & COMPANY, a Georgia corporation.

Pond & Company (Pond)  
3500 Parkway Lane, Suite 500  
Peachtree Corners, GA 30092

By:   
President

Date signed by Contractor:

[CORPORATE SEAL]

July 31<sup>st</sup>, 2019

**CITY:**

Address:

**THE CITY OF FAIRBURN**, a municipality  
incorporated in the State of Georgia

City of Fairburn  
56 Malone St., SW  
Fairburn, GA 30213

By:   
Mayor: Elizabeth Carr-Hurst

Date signed by City:

July 22nd, 2019

Attest:   
Interim City Clerk: Shana T. Moss

Approved as to form:



City Attorney: William Randy Turner

[SEAL]



3500 Parkway Lane, Suite 500  
Peachtree Corners, Georgia 30092

T: 678.336.7740 | F: 678.336.7744  
www.pondco.com

## TASK ORDER 1: ON-CALL LANDSCAPE ARCHITECTURE AND ENGINEERING SERVICES (2019)

---

**To:** City of Fairburn  
PO Box 145  
Fairburn, GA 30213

**Attn:** Mr. Lester Thompson

**Date:** August 1, 2019

**From:** Andrew Kohr (Pond)                      Copy to: Bob Williams

---

### Scope of Work

**Description:** Provide On-Call Professional Engineering & Landscape Architectural Services as identified in the Request for Proposal dated May 15, 2019 and subsequent contract dated July 31, 2019.

### Background:

Pond has prepared this Task Order (TO) in accordance with our Master Services Agreement dated July 31, 2019. This TO has been prepared to assist the City of Fairburn with Professional Engineering and Landscape Architecture Services. Pond will support existing staff in executing plan reviews and providing engineering assistance as needed.

### Specific Tasks:

- Provide plan review services for projects submitted to the city for development permits
- Provide engineering and landscape architecture services as requested.
- Provide development site inspection services as requested.

### Budget

The total not to exceed budget is \$20,000 includes staff review time and reimbursable expenses to perform the scope of work. The city will be billed using the billing rates and expense table included in our proposal.

Architects  
Engineers  
Planners  
Constructors



### **Additional Work**

Pond can provide the city additional planning, design, and engineering services on an as-needed basis. A scope of work for future services would be provided under subsequent task orders.

### **Authorization**

As our authorization to proceed with the scope of work, schedule, and fee structure outlined herein, please sign in the space provided below and return one copy (digital is acceptable) to Pond (c/o Andrew Kohr) for our records.

Authorized by: \_\_\_\_\_

Name: Elizabeth Carr-Hurst

Title: Mayor

Date: \_\_\_\_\_



## CITY OF FAIRBURN

### CITY COUNCIL AGENDA ITEM

**SUBJECT: APPROVAL OF CONDEMNATION OF PARCEL 7 ON HOWELL AVENUE  
EXTENSION PROJECT**

( ) AGREEMENT                      ( ) POLICY / DISCUSSION                      ( ) CONTRACT  
( ) ORDINANCE                      ( ) RESOLUTION                      ( X ) OTHER

**Submitted: 08/02/2019**

**Work Session: 08/12/2019**

**Council Meeting: 08/12/2019**

**DEPARTMENT:** Engineering

**BUDGET IMPACT:** The budget impact has yet to be determined, however potential condemnations have been accounted for in the project's right-of-way acquisition funding.

**PUBLIC HEARING?** ( ) Yes      ( X ) No

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**PURPOSE:** For Mayor and Council to approve condemnation of Parcel 7 Greenland (Georgia), Inc. on the Howell Avenue Extension Project.

**HISTORY:** Howell Avenue Extension is T-SPLOST Roadway Project designed to provide connectivity between Bohannon Road and SR74/Senoia Road, an alternative route for motorists (trucks), and to open up parcels for future development. This effort will also improve freight connectivity to SR 74 and I-85 with regard to the CSX intermodal terminal.

The South Fulton CID is funding the design. The City of Fairburn has approximately \$740,000 in anticipated T-SPLOST funds allocated to the project.

A grant application to the Georgia Transportation Infrastructure Bank (GTIB) was submitted by Southeastern Engineering, Inc. (SEI) on behalf of the South Fulton CID and the City of Fairburn in an effort to secure supplemental funding to cover anticipated construction costs. Governor Nathan Deal announced the grant award of \$1.5 Million for the project on June 19<sup>th</sup>, 2018.

**FACTS AND ISSUES:** In July of 2018, in accordance with the Uniform Act and based on Fair Market Value (FMV) an initial offer of \$187,000 for approximately 2 acres of property located on Parcel 7, Greenland (Georgia), Inc. was made to the property owner, Mr. Suresh Jatia. The offer was subsequently rejected by the Owner. His counter-offer was \$1,000,000. A counter-offer of \$230,000 was presented to the Owner's Representative on January 23<sup>rd</sup>, 2019.



On April 11<sup>th</sup>, 2019, Attorney Kenneth Stroud of Carter-Pilgrim-Stroud indicated that they had been "retain by the Owner to represent them in the proposed condemnation and they are in the process of engaging an appraiser and engineer to evaluate the taking and its impact to the remainder of the property and will be in touch when we have finished that process". The project's right-of-way acquisition consultant has attempted to follow-up on a couple of different occasions, however since the email was sent back in April there has been no communication from Mr. Stroud.

**RECOMMENDED ACTION:** Staff recommends that Mayor and Council approve the pursuit of condemnation.

  
Elizabeth Carr-Hurst, Mayor



July 30, 2018

Greenland (Georgia), Inc.  
c/o Suresh Jatia, CEO  
4020 Charrwood Trace  
Marietta, GA 30062

**RE: PROJECT:** Howell Avenue Extension  
**COUNTY:** Fulton  
**PARCEL:** 7 **P.I.#** 1517166

Dear Mr. Jatia:

As per our email exchanges on July 25<sup>th</sup> and my meeting with your Broker David Nixon, please find enclosed the Offer Package on the above referenced parcel and project. I have included right of way plans with the required right of way (shaded yellow) and permanent construction & maintenance easement (shaded orange).

The Offer Package consists of the following:

- Incidental Payments Letter
- Offer Letter with Statement of Estimated Values (attached)
- Agreement to Purchase Real Estate (2 copies)
- Owners Acknowledgement and Receipt of Plans (2 copies)
- Expansion of CID Consent Form (2 copies)

Please sign and return one copy of the Owners Acknowledgement and Receipt and Expansion of CID Consent forms for our records. Also, if you are in agreement with the City of Fairburn's offer, sign one copy of the Option where indicated and it will promptly be submitted for closing.

We look forward to meeting with you at your convenience when you have had a chance to look over all of these documents. Please feel free to give me a call (678) 735-5208 or send an email [jestes@thcinc.net](mailto:jestes@thcinc.net) with any additional comments or questions you may have.

Yours very truly,

A handwritten signature in blue ink, appearing to read "Jared Estes", is written over the typed name and title.

Jared Estes  
Right of Way Acquisition Consultant  
THC, Inc.

JKE:jke  
Attachment(s)

Rev 08-01-2010

JE  
7/30/18



**City of Fairburn  
Owner's Receipt of Plans & Explanation  
Acknowledgement**

DATE: 7/30/18

PROJECT NO.: Howell Avenue Extension

COUNTY: Fulton

P.I. NUMBER: 1517166

PARCEL NO.: 7

OWNER(S): Greenland (Georgia), Inc. c/o Suresh Jatia, CEO

I have this date received the following full-sized and / or half-sized (to scale):

Right of Way plans, dated April 23, 2018;

Roadway cross-section plans dated June 15, 2018;

(Negotiator to initial and date bottom right corner of plans on date given to property owner.)

Also, I acknowledge that the Right of Way Consultant Jared Estes  
representing the City of Fairburn has explained the above stated plans to me (us) and the effects  
of the proposed project on my (our) property as of this date.

Owner's Name \_\_\_\_\_ Signature \_\_\_\_\_  
(Print Name)

Owner's Name \_\_\_\_\_ Signature \_\_\_\_\_  
(Print Name)

Negotiator's Name Jared Estes Signature [Signature]  
(Print Name)

JE  
7/30/18

**LOCAL GOVERNMENT: City of Fairburn**  
**AVAILABILITY OF INCIDENTAL PAYMENTS: CLAIM FORM**

P.I. # 1517166 PROJECT NO.: Howell Avenue Extension COUNTY: Fulton PARCEL: 7

NAME: Greenland (Georgia), Inc. c/o Suresh Jatia PHONE#: 770-435-1100

DATE: 7/30/18

SOCIAL SECURITY# or FEI#

(include SS# for each property owner)

PROPERTY ADDRESS: Fairburn Industrial Drive, Fairburn, GA 30213

MAILING ADDRESS: 4020 Charrwood Trace, Marietta, GA 30062

This is to advise you that due to the acquisition of the above project and parcel, you are eligible for reimbursement for expenses you may have incurred due to the Local Government's purchasing your property. These expenses may include: 1. Pro-rata portion of taxes, and 2. Survey work. Pro-rata tax deductions are normally handled at closing on a total acquisition situation. However, if they are not, or in the event of condemnation, it will be **your** responsibility to provide to the Local Government copies of your paid receipt(s) as described in Property Tax Payments section below.

**1. Property Tax Payments are handled as follows:**

**A. For Total Acquisition of your property,** a deduction for your pro-rata share of the taxes will be withheld at closing. Upon receipt of your property tax bill for the current year, you should immediately forward the property tax bill to the Local Government's Designated Representative with this letter for payment (see address immediately below).

**B. For Partial Acquisition of your property,** the Local Government will reimburse you for the pro-rata share of taxes on the portion of property acquired by the Local Government upon receiving a copy of your paid tax bill receipt. Paid property tax receipt(s) must be mailed with this letter to:

Local Government's Designated Representative: Donna M. Gayden, City Administrator

Local Government: The City of Fairburn

Address: 56 Malone Street S.W., Fairburn, GA 30213

City: Fairburn, Georgia Zip Code: 30213

**2. Survey Work Reimbursements are handled as follows:**

You may also be eligible for reimbursement for **reasonable** survey fees to re-establish **existing** property corner pins that were removed as a result of construction of the project. Your assigned Local Government Representative for survey incidental benefits is: Jared Estes at Phone: 678-735-5208

(1) Contact your Local Government Representative before proceeding with survey; send estimate and obtain pre-approval.

(2) Your Local Government Representative will need this completed claim form, survey estimate, and paid receipt in order to process your claim.

**Survey Pre-Approval: For Local Government Use Only**

Survey Estimate Amt: \$ \_\_\_\_\_ Date of Estimate: \_\_\_\_\_ Survey Reimbursement Amt Approved: \_\_\_\_\_

Pre-approved Signature (for Reimbursement): \_\_\_\_\_, Local Government Representative

In order to file claim for payment of the above expenses, you must have paid receipt(s) to support your claim and you must file within eighteen (18) months of the date your property was acquired, except survey fees, which must be filed within six (6) months after construction on the project is completed.

Sincerely,

Donna M. Gayden  
City Administrator

Local Government's Designated Representative





July 30, 2018

Greenland (Georgia), Inc.  
c/o Suresh Jatia, CEO  
4020 Charrwood Trace  
Marietta, GA 30062

**RE: PROJECT:** Howell Avenue Extension  
**COUNTY:** Fulton  
**PARCEL:** 7 **P.I.#** 1517166

Dear Mr. Jatia:

The City of Fairburn is in the process of purchasing property to construct the roadway designated above. To make this project possible, 2.003 acres of your property in fee and 11,050.87 square feet of permanent construction and maintenance easement will be needed. This is more particularly shown on the plat attached to the option provided with this letter.

Your property has been valued by a qualified appraiser who, after careful consideration, have found the Fair Market Value of the property and/or rights to be purchased and damages to the remainder, if any, to be \$187,100.00. The attached form entitled "Statement of Estimated Values" separates certain elements comprising the above listed value.

Right of Way Acquisition Consultant Jared Estes representing the City of Fairburn is authorized to explain this and discuss the full effect of the purchase and your rights as provided by law.

If you will agree to the terms expressed herein by signing the "Agreement to Purchase Real Estate" and returning it to the Right of Way Consultant, it will be promptly submitted for closing and payment.

Yours very truly,

Donna M. Gayden  
City Administrator  
City of Fairburn

BY:

A handwritten signature in blue ink, appearing to read "Jared Estes", is written over the printed name and title of the signatory.

Jared Estes  
Right of Way Acquisition Consultant  
THC, Inc.

JKE:jke  
Attachment(s)

Rev 08-01-2010

JE  
7/30/18

## STATEMENT OF ESTIMATED VALUES

1. Project No.: Howell Avenue Extension (PI# 151766) County: Fulton Parcel: 7

2. Owner(s): Greenland (Georgia), Inc. c/o Suresh Jaita, CEO  
Address: 4020 Charrwood Trace, Marietta, GA

3. Property Location: Fairburn Industrial Boulevard, Fairburn, GA 30213

	<u>FAIR MARKET VALUE REQUIRED</u>	<u>FAIR MARKET VALUE INCLUDING CERTAIN REMNANTS</u>
--	---------------------------------------	---

4. Estimated Value of Land and  
Improvements and/or Easement if  
applicable:

<b>FEE:</b> 87,264.42 SF * \$1.99/SF	\$173,866.00	
<b>PCE:</b> 11,050.87 SF * \$2.38/SF * 50%	\$ 13,135.00	\$00

5. Estimated Value of all  
consequential or severance damages: \$ 00 \$ 00

6. Estimated Value of Certain Remnant(s): \$ 00

7. Total Estimated Fair Market Value: **\$187,100.00** **\$ 00**

(This value is the amount approved by the State for the purchase of the required property and does not contain conjectural decreases or increases in value caused by this project).

8. Division of Interests

<u>NAME</u>	<u>KIND OF INTEREST</u>	<u>ESTIMATED VALUE</u>
<b>Greenland (Georgia), Inc.</b>	<b>FEE</b>	<b>\$ 187,100.00</b>

Total Estimated Fair Market Value: **\$ 187,100.00**

9. If you wish to retain and remove, at your own expense, improvements owned by you, we will:

(a) Deduct at Closing \$ N/A (Salvage Value) and/or

(b) Require a Performance Bond of

Total Withheld at Closing \$ N/A

10. You may be entitled to certain benefits under our Relocation Assistance Program. As these benefits are of a special nature, they will be explained separately.

DATE: 7/30/18 PREPARED BY: [Signature]  
Staff Negotiator

JE  
7/30/18



## AGREEMENT TO PURCHASE REAL ESTATE

RE: PROJECT No.: PI # 151766  
PROJECT NAME: Howell Avenue Extension  
PARCEL NO: 7

STATE OF GEORGIA, FULTON COUNTY

For and in consideration of the sum of One Dollar (\$1.00), receipt whereof being acknowledged, the undersigned grants to the City of Fairburn, GA an option to acquire the following described real estate:

Right of Way and/or Easement rights through that tract or parcel of land located in Land Lot 48 of the 9-F District of Fulton County, Georgia, and being more particularly described on Exhibit "A" attached hereto and made a part hereof by reference.

For the sum of \$187,100, the undersigned agrees to execute and deliver to the City of Fairburn, GA fee simple title and easements to the lands owned by the undersigned as reflected on the attached Exhibit "A".

\* \* \* \* \*

The following conditions are imposed upon the grant of this option:

- 1) This option shall extend for 90 days from this date.
- 2) The consideration recited is full payment for the rights conveyed.  

87,264.42 Square Feet of Right of Way  
N/A Linear Feet of Limited Access  
11,050.87 Square Feet of Construction and Maintenance Easement  
N/A Square Feet of Construction Easement
- 3) All Temporary Easements will terminate upon completion and acceptance of the same by the Department of Public Works for the City of Fairburn
- 4) The undersigned shall obtain all quit claim deeds or releases from any tenant now in possession and any other parties having a claim or interest in the property described above.
- 5) Special Provisions, if any, are listed on Exhibit "B", which is attached hereto and incorporated herein by reference.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signed, Sealed and Delivered  
in the presence of:

**GREENLAND (GEORGIA), INC.**

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

DOT-663-A-LG / Rev. 08-01-2010

JE  
7/30/18

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7/30/18



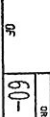


4  
RUTILE RETIREMENT  
BENEFIT SCHEME



STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION	RIGHT OF WAY MAP	PROJECT NO: COUNTY: LAND LOT NO: LAND DISTRICT: CWD DATE	CS 05
<div style="border: 1px solid black; padding: 5px;">         CHAINAGE  <div style="text-align: right; font-size: 2em;">50-</div> </div>			

JE  
7/30/16





[illegible]

## PRELIMINARY PLANS

STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP		PROJECT NO.	DATE	REVISIONS	DATE	REVISIONS
		COUNTY				
		ROUTE NO.				
		LAND DISTRICT				
		SECTION				
		SW	OF			
		DATE				
DRAWING NO.		60-0009				

7/3/18

WRITTEN CONSENT OF OWNER

STATE OF: \_\_\_\_\_  
COUNTY OF: \_\_\_\_\_

Personally appeared before the undersigned attesting officer, duly authorized by law to administer oaths, came \_\_\_\_\_, who, after first having been duly sworn, upon oath deposes and says:

1. The undersigned is/are the owner/owners, or the authorized representative of the owner, and has authority to bind the owner of the following described realty:

All that tract or parcel of land identified as Tax Parcel(s):

- 09F090100480751

of the tax maps of Fulton County, Georgia, herein referred to as the "realty".

2. GREENLAND GEORGIA INC is/are the owner/owners of the real property described above.
3. The owner of the following property does designate \_\_\_\_\_ as the representative of the owner in the taking of all action, including, but not limited to, serving as elector, voting for board members, and voting otherwise, as may be allowed or required under the Fulton County Community Improvement Districts Act.
4. This affidavit may be relied upon by the Fulton County Tax Commissioner for the purpose of certifying that subparagraphs (b) (1) and (2) of Section 7 of the above referenced Act have been satisfied, and by the **South Fulton Community Improvement District**, also known as The Boulevard Improvement District, ("CID") and the Fulton County Board of Commissioners with respect to the expansion of the CID.
5. The undersigned acknowledges that if the CID is expanded to include the realty described in paragraph 1, it will be subject to taxes, fees and assessments levied by the CID Board.
6. The owner/owners consent to the expansion of the CID to include the owner's realty for the purpose of the provision of such governmental services and facilities as may be allowed under the Fulton County Community Improvement Districts Act.

IN WITNESS WHEREOF, the undersigned has set his/her hand and seal the day and year set forth below.

\_\_\_\_\_(SEAL)

Sworn to and subscribed before  
me, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public

JE  
7/30/18

7/30



## NEGOTIATION RECORD

PROJECT 1015-17-166 COUNTY Fulton P.I.# 151766 PARCEL 7  
OWNER-TENANT Greenland (Georgia), Inc. c/o Suresh Jaita FEMALE ☐ YES ☒ NO  
MINORITY ☒ YES ☐ NO  
ADDRESS 4020 Charrwood Trace, Marietta, GA 30062 PHONE \_\_\_\_\_

AGENT David Nixon (Broker – CBRE) 3280 Peachtree Road NE, Suite 1400, Atlanta, GA PHONE 404-923-1463  
(NAME) (ADDRESS)

ATTORNEY Kenneth W. Stroud 3725 Lawrenceville-Suwanee Road, Suite A-4 Suwanee, GA 30024 PHONE 770-945-2320  
(NAME) (Address)

The undersigned hereby acknowledges that the subject PARCEL is to be secured for use in connection with the aforesaid HIGHWAY PROJECT, and I (WE) have no direct or indirect, past or present, or contemplated future personal interest in parcel or in any benefit from the acquisition of such property. This record is complete and I have thoroughly explained to the owner or owner's representative any/all construction features including but not limited to existing and required R/W boundaries; construction fill or cut limit bank slopes; roadway shoulder slopes; road grade levels; drainage; utilities; edges of paving/curbing/gutter; driveway profiles; etc., as applicable for this parcel. I have explained all documents, forms, and letters in their entirety and answered any/all questions and addressed any/all concerns as stated and explained in below record.

Staff or Consultant NEGOTIATOR: Jared Estes DATE 7/26/18

Monetary offer for the above named interest: \$ 187,100.00

*The following is to be answered prior to and following first contact:*

### TITLE INFORMATION

Preliminary title report in: YES ☐ NO ☒ Copy of deed attached to report: YES ☐ NO ☒  
Date of Deed: 4/7/2005 Indicated Purchase Price: \$ N/A  
Names and Addresses of all parties secured during contact including Tenants: YES ☐ NO ☒

### CONSTRUCTION DETAILS

New Location ☒ Widening ☐ Existing typical section: N/A - New Location  
Plan typical section: 2 12' travel lanes with a 14' center turn lane (5' sidewalks with 2' buffer strip)  
Curb and Gutter: YES ☒ NO ☐ Access Rights Required: YES ☐ NO ☒

Date Assigned: 7/23/18 Date First Offer Made: 7/30/18 See Attached Record for details.

I (WE), the undersigned, do certify that: (1) the written agreement secured embodies all of the considerations agreed upon between the Department and the property owner (2) the agreement was reached without coercion or threats of any kind whatsoever by or to either party (3) this negotiation record and parcel file is complete and contains all required documentation.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NEGOTIATOR \_\_\_\_\_ DATE \_\_\_\_\_

TEAM LEADER \_\_\_\_\_ DATE \_\_\_\_\_

APPEALS OFFICER OR CONSULTANT COORDINATOR \_\_\_\_\_ DATE \_\_\_\_\_

**July 23, 2018** – Appraisal released by fee reviewer Steve Crawford. Offer package assembled and sent to Scott Jordan (Southeastern Engineering Transportation Director) for approval. Jared Estes

**July 24, 2018** – Received formal approval from City of Fairburn via Scott Jordan to make initial offer to Greenland (Georgia) Inc. Scott asked THC to obtain a signed "Expansion Consent Form" from the property owner for the South Fulton CID.

Reached out to owner's representative David Nixon via phone. David and I spoke about the project (he advised he had spoken with representatives of Southeastern Engineering a few times). David advised his client Suresh Jatia (CEO of Greenland Georgia Inc.) was out of the country in India. Advised I would contact Mr. Jatia to see how he preferred this meeting to take place. David and I set a tentative meeting date for 7/30/18 at 10:30 AM. Sent email to Suresh Jatia noting our firm was hired by the City of Fairburn to handle the land acquisition for the Howell Avenue Extension project. Advised an offer was ready for the needed land for the construction of the Extension project and I would like to meet with him or his broker. Jared Estes

**July 25, 2018** – Mr. Jatia responded with the below email:  
Jared

We are still unclear as to which portion of our land and how many acres is required for the proposed Howell Avenue Extension project, without which we cannot take any decision if we want to sell or not. We need to clearly understand what will be the dimensions of the balance land that will be left with us before we can come to any conclusion.

Please send the copies for our review.

I am traveling at present and have not yet firmed up my travel dates to come back to Atlanta. In the meantime please discuss with David Nixon.

Suresh Jatia

Responded to Mr. Jatia and advised I would meet initially with Mr. Nixon. Also noted I would email him PDF copies of the plans and offer documents for his review. Also I would sent hard copies of the offer documents to his 4020 Charrwood Trace address in Marietta, GA. Jared Estes

Confirmed with Mr. Nixon that we could meet on 7/30/18 at 10:30 AM in his office. Jared Estes

**July 30, 2018** – Met with Mr. Jatia's authorized representative David Nixon (Listing Broker with CBRE) at his office (3280 Peachtree Road Atlanta, GA). David advised he was familiar with the project as he had spoken with Southeastern Engineering representatives a few times. We discussed the project scope and went over the plan sheets. Noted the required right of way area and the permanent construction & maintenance easement areas and discussed the need for each respective area. David immediately asked about the City purchasing the permanent easement areas in required right of way also. Advised this would be something I would need to ask the City of Fairburn. We discussed the discrepancy from the data table and the plan sheet (David noticed one showed permanent easement and another showed temporary easement). David asked if the possibility of purchasing all in right of way is not feasible then could we consider switching easement areas from permanent to temporary. We discussed the proposed typical section for the Howell Avenue Extension (one 12' travel lane in each direction with 14' flush middle turn lane --- 10' shoulder (5' sidewalks & 2' grass strip). David asked if there was a planned traffic signal at



the intersection of Howell Avenue Extension and Fairburn Industrial Boulevard. Advised that I did not know and would need to check with the City of Fairburn to see.

David brought up his main point regarding access in the after. He mentioned the possibility of having one between the proposed permanent pond from approximately station 34+00 to 36+00 and Fairburn Industrial Boulevard. Advised I would pass this on to the City of Fairburn and they would have the final call. Noted that since it abutted a State Route that they would most likely follow GDOT standards but would confirm with the City before giving a final answer.

We discussed the appraisal process and David asked if they would be able to get a copy of the appraisal. Advised I would be permitted to share all public information with him and would send that in my email with the rest of the answers to his questions. We discussed the City's offer for the permanent construction easement & required right of way (went over the offer letter and the breakdown on the statement of estimated values) and discussed the valuation approached with the encumbered land versus unencumbered land. Noted the appraiser estimated the encumbered area to the stream buffer designation to be approximately 4.88 acres and the unencumbered remainder to be approximately 12.09 acres. David again reiterated the desire for the City to purchase the PCE areas in required right of way. Went over the Agreement to Purchase Real Estate with David and then discussed the remaining documents (availability of incidental payments form and the CID Consent Form).

Before we left David reiterated his questions to me that he and his client would like to know regarding the switch to all required right of way or temporary construction easements, whether a traffic signal would be put in at Fairburn Industrial & Howell Avenue Extension, the construction timeline & acquisition duration, sales comparables (since the City was not releasing appraisals), and the potential for a curb cut nearest the Fairburn Industrial intersection and the new Howell Avenue Extension. Advised David I would present his questions to the City of Fairburn. Jared Estes

Presented questions from meeting with David Nixon to Scott Jordan (Transportation Director --- Southeastern Engineering). Jared Estes

**August 8, 2018** – David Nixon followed up with the questions he presented at our initial meeting along with a few additional questions. Passed questions on to Scott Jordan with Southeastern Engineering. They were:

- What is City's acquisition timetable?
- What is construction time table?
- Will there be a stop light at interchange?
- How many curb cuts would we be granted?
- We would require at least 1 on front of property. My calculations shows +/-166' from the main road to edge of retention pond. Without that, site is useless for retail.
- Would county purchase proposed easement areas (orange on site plan)
- Could you share appraisal? Sale comparables?
- Will the City survey entire site so we can see what we would have left after potential acquisition?

**August 10, 2018** – Received comments to questions from Scott Jordan of Southeastern Engineering. Jared Estes

**August 13, 2018** – Sent answers to David Nixon & Suresh Jatia via email. Spoke with David via telephone about the answers. Spoke regarding the potential for a curb cut and noted the City of Fairburn was following GDOT standards and there were certain distance requirements for curb cuts from edge of pavement on State Routes. David advised he understood and we discussed continuing to show good faith in working together to reach an amicable settlement. Jared Estes



Sent David Nixon comments to his questions submitted on August 8<sup>th</sup>, 2018. David responded and asked for more information on the comparable sales. Sent him detailed information that is all public record.  
Jared Estes

**August 16, 2018** – Sent David Nixon the over layed plan of the acquisition areas he requested. Jared Estes

**August 28, 2018** – Followed up with David Nixon to see if he had all the information he originally requested. David responded and advised his client Suresh Jatia (the property owner) was traveling extensively and indicated he planned to visit the US soon to discuss. David advised he has yet to hear direction or Mr. Jatia's schedule.

Responded and told David I would wait to hear from him. Jared Estes

**September 18, 2018** – Followed up with David Nixon to see if Mr. Jatia had arranged his travel schedule to the US. David responded and advised he was planning to visit in October and would let me know when he confirmed his schedule. Jared Estes

**October 12, 2018** – Received email from Scott Jordan (Transportation Director for Southeastern Engineering) requesting an update on the early acquisition. Followed up with Scott and let him know the property owner has not confirmed his travel schedule yet. Jared Estes

Followed up with David Nixon regarding Mr. Jatia's travel schedule. David responded and advised Mr. Jatia was scheduled to come in the following week and he was waiting on a time to sit down and discuss with him. Jared Estes

**October 23, 2018** – Missed a phone call from David Nixon. Tried to call back but did not get a response. David and I spoke later this afternoon and arranged a time to meet with he and Mr. Jatia at Greenland Georgia's office in Roswell. Jared Estes

David sent a scheduler for October 24<sup>th</sup> at 3:30 PM (1905 Woodstock Road Roswell, GA). Jared Estes

**October 24, 2018** – My colleague Michael Woodall and I met with Mr. Suresh Jatia and David Nixon this afternoon at Greenland Georgia's office in Roswell (1905 Woodstock Road, Roswell, GA). David initiated the conversation and noted they were still of the opinion the acquisition was taking the "heart of site" and would be leaving them with a useless remainder. Mr. Jatia discussed the history of the property and advised if he would be willing to settle then he would need to be heavily compensated more than the original FMV offer of \$187,100. Advised he had the right to submit a counteroffer but it would need to be justifiable. Both Mr. Jatia and Mr. Nixon thought the City would be making another offer. Mr. Jatia asked if the project was moving forward and what would happen if one property did not want to sell their land to the City (we discussed the eminent domain process) but the City strongly wanted amicable settlements with all property owners.

We discussed the appraisal again and noted that it came in extremely close to their asking price. David advised he understood but his opinion is the damage in the after to the property. He asked if the City would buy the entire tract to which I responded no. He asked if the City would pay their asking price or close to it and let them keep the remainder to which I responded no. David again reiterated their opinion was the heart of the site was being taken and they would not be able to utilize the remainder in the after more or less sell the property. We discussed again the fact they have the ability to submit a justifiable



counteroffer to the City for consideration. They also asked I discuss their concerns with the City again and I advised I would. We left our meeting with the understanding I would get back in touch regarding the City's comments to their concerns. Jared Estes

Discussed their concerns with Scott Jordan of Southeastern Engineering. Scott said to this point they have answered everything they can and provided what was requested. Advised I would continue discussing a potential counteroffer with them. Jared Estes

**November 7, 2018** – David responded and asked about next steps. Replied and advised I discussed their concerns with the appropriate parties and if Mr. Jatia wanted to submit a justifiable counteroffer then he had that ability. Jared Estes

**November 12, 2018** – David Nixon sent an email and advised Mr. Suresh Jatia authorized him to submit a counteroffer of \$1,000,000 "with appropriate curb cuts" in response to the City's FMV offer of \$187,100. Responded to David's email and let him know I would pass on to the City for their review and comment. Discussed the counteroffer with Scott Jordan via telephone. Scott asked me to send to him and he would discuss with the City. Jared Estes

**November 14, 2018** - Forwarded Scott the counteroffer from David Nixon on behalf of Mr. Jatia. Jared Estes

**December 12, 2018** – David Nixon sent an email asking if there was any feedback from the City. Responded to David and advised the City was still considering their counteroffer would respond as soon possible. Jared Estes

Lester Thompson with the City of Fairburn advised he would be discussing their options with the City and would get back with Southeastern Engineering. Jared Estes

**January 15, 2019** – (Michael Woodall) Called and left message for Lester Thompson to introduce myself and ask if there was any additional info I may need.

**January 16, 2019** – (Michael Woodall) Mr. Thompson called back and said we are on the same page and he would like to see some progress on the project soon.

**January 23, 2019** – (Michael Woodall) David Nixon sent an email to Jared (forwarded to me) stating the following:

Jared – just letting you know I anticipate receiving another offer on entire site. Let me know if the city has decided on anything

I followed that email up with an email of my own stating to following:

Good afternoon Mr. Nixon,

I wanted to let you know that Jared is no longer with the organization and I will be jumping in to help with some of the projects he has been working on. We met on the day he presented the initial offer and I am familiar with the ongoing project as well. I have been in contact with the city and would like to speak with you at your earliest convenience. Please let me know if you are available to continue the discussion or feel free to give me a call on my cell at 256-328-4235 whenever you like.

Thanks and have a great afternoon,

David followed my email with a phone call. I asked where they were on a decision as far as the property and in lieu of a counter-offer, he said Mr. Jatia was firm at their original counteroffer of \$1,000,000 "with

appropriate curb cuts” and asked if there was any room. I countered with \$230,000 which he said was simply too low in their estimation but he would speak with Mr. Jaita and if it was something they would like to pursue he said he would let me know. I thanked him for his time and we agreed to keep in touch and ended the call.

I followed our call up with an email recap that stated the following:

Good afternoon David,

Thanks for getting back to me. Per our conversation, the updated counteroffer is \$230,000.

Please let me know when you get an opportunity to find out Mr. Jaita's thoughts are so we see where we are.

I look forward to hearing from you soon.

**February 7, 2019** – (Michael Woodall) I sent an email inquiry to David Nixon about the status of the current offer that said the following:

Good afternoon David,

I'm just checking in to see if you've had an opportunity to discuss the counter offer with Mr. Jaita and see if you had any additional thoughts or ideas.

Please let me know at your earliest convenience.

Thanks!

**February 8, 2019** – (Michael Woodall) David Nixon replied with an email stating the following:

He is coming back to ATL in March and wanted to discuss then

**April 6, 2019** – (Michael Woodall) Sent the following email to David Nixon:

Good morning David,

I just wanted to reach out again to see if you had an opportunity to meet with Mr. Jaita in March about the \$230,000 counteroffer from February.

Thanks,

**April 11, 2019** – (Michael Woodall) I received the following email from attorney Kenneth Stroud of Carter-Pilgrim-Stroud:

Mr. Woodall,

We've been retained to represent Greenland (Georgia), Inc. in regards to the proposed condemnation of approximately 2 acres of its property in connection with the Howell Avenue Extension project. We are in the process of engaging an appraiser and engineer to evaluate the taking and its impact to the remainder property and will be in touch when we have finished that process. Feel free to reach out to me directly should you wish to discuss.

Regards,

**June 17, 2019** – (Michael Woodall) I sent a follow up email the Kenneth Stroud about the status of the appraisal and engineering work they said they were going to request.

**July 17, 2019** – (Michael Woodall) As there has been no communication from Kenneth Stroud, I sent an additional follow up email that stated:

Good morning,

I was following up again to get an update and see if your appraiser and engineer had completed their evaluations.  
Thank you,



Project Number: Howell Avenue Extension	County: Fulton (City of Fairburn)	P. I. Number: 1517166	Parcel Number: 7
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## Howell Avenue Extension Project

**R/W 532-FR**

### Fee Review Appraisers Report

388C <input checked="" type="checkbox"/> 388N <input type="checkbox"/>		Physical Address: South side of Fairburn Industrial Blvd across from Howell Ave. Fairburn GA
Owner: Greenland Georgia Inc.		
Address: 4020 Charrwood Trace Marietta GA 30062		
Telephone Number(s) 404-923-1463 Owner's Representative David Nixon/ 770-435-1100 Suresh Jatia, owner		
<b>Appraisal # 1-</b>		
Appraisal Amount: \$187,100.00	Date of Appraisal: 7/9/2018	Appraiser: Matthew J. Rahn
I have visually inspected the property and comparable sales selected, and analyzed and described <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If no, explain		
The attached appraisal report has been reviewed by the undersigned. In accordance with 49CFR 24.104, the attached appraisal meets one of the following categories.		
<input type="checkbox"/> Appraisal Recommended	<input type="checkbox"/> Accept Appraisal, as complying with all requirements	<input type="checkbox"/> Not Accepted-Include reasoning as an addendum
<b>Appraisal # 2-N/A</b>		
Appraisal Amount: N/A	Date of Appraisal: N/A	Appraiser: N/A
I have visually inspected the property and comparable sales selected, and analyzed and described <input type="checkbox"/> YES <input type="checkbox"/> NO If no, explain		
The attached appraisal report has been reviewed by the undersigned. In accordance with 49CFR 24.104, the attached appraisal meets one of the following categories.		
<input type="checkbox"/> Appraisal Recommended	<input checked="" type="checkbox"/> Accept Appraisal, as complying with all requirements	<input type="checkbox"/> Not Accepted-Include reasoning as an addendum

**Market Value Determination: \$187,100.00**

Project Number: Howell Avenue Extension	County: Fulton (City of Fairburn)	P. I. Number: 1517166	Parcel Number: 7
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### Acquisition Area

Acquisition Area	2 AC	87,264.42 SF	Permanent Easement	.25 AC	11,050.87SF
Temporary Easement	N/A AC	N/A SF	Demolition Easement	N/A AC	N/A SF
Uneconomic Remnant	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		N/A AC		N/A SF
Access Rights	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		Retabulation <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
UST's in RW	N/A	UST's outside R/W	N/A	Relocation <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Consequential <input type="checkbox"/> YES <input type="checkbox"/> NO
Economic Rent	N/A		Amount Withheld from Cost to Cure		\$N/A

1. Is the data in the appraisal report factual and accurate? ☒ YES ☐ NO
2. Is the estimated site/land value before the acquisition reasonable for the Subject? ☒ YES ☐ NO
3. Is the estimated value of the improvements reasonable of the effective date of the appraisal under review? ☒ YES ☐ NO ☐ N/A
4. Is the estimate of total compensation reasonable as of the effective date of the appraisal under review? ☒ YES ☐ NO

### Property Overview: The subject property:

The subject property under review is identified as Parcel 7, identified as tax ID Parcel 09F 0901 0048 075 1, in the City of Fairburn, Fulton County. The subject property is specifically located on the south side of Fairburn Industrial Boulevard, across from Howell Avenue, just east of US 29 Roosevelt Highway and northeast of I-85, within the City of Fairburn and a Heavy Industrial development zone. The property is presently vacant and is described in the appraisal report as follows: 16.97 acres/ 739,213.20 sf in total area (based on tax and deed records rather than strictly R/W plan area), irregular in shape, on grade to below grade of Fairburn Industrial Blvd. with 607 LF of frontage on and potential access from Fairburn Industrial Blvd., generally rolling topography, no official floodplain encumbrances, however, stream buffer designations crisscross the property, and encumber approximately 4.88 acres (29%) of the total 16.97 acres leaving 12.09 acres (71%) of upland useable land area. The subject property is served by all available public utilities (electric, water, gas and public sewer). The subject property is zoned M-2 Heavy Industrial District by the City of Fairburn Zoning Office. The appraiser has estimated the Highest and Best Use as I industrial development. Based on the appraiser's due diligence in making this determination as well as observation of nearby development patterns, his conclusion of Highest and Best Use seems reasonable and adequately documented.

As previously discussed above, the subject land consists of approximately 12.09 acres of useable unencumbered land and approximately 4.88 acres of land area encumbered by stream buffer areas. The appraiser approached the valuation of the subject tract in a two-fold manner. He valued the subject land as if unencumbered by stream buffer restrictions in order to arrive at an industrial use land value of useable land. He then applied a discount to this unencumbered land value estimate to arrive at a specific estimate of land value of steam buffer encumbered land area. This discount percentage was based on an extensive study by the appraiser, of the sale of flood plain or otherwise encumbered properties compared to unencumbered land values. On this basis he applied a reasonable percentage factor to estimate the encumbered land value of the subject. The valuation of the subject land is based on the Vacant Land Market Comparison Approach to value in which the appraiser researched the local market and located several vacant land sales generally similar to the physical and economic



Project Number: Howell Avenue Extension	County: Fulton (City of Fairburn)	P. I. Number: 1517166	Parcel Number: 7
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characteristics of the subject property. These land sales were then compared to the subject, appropriate adjustments for differences were made and a final correlated land value range was estimated, resulting in a final determination of unit value of \$2.50 sf. for the value of the 12.09 -acre useable land and \$.50 sf for the 4.88-acre land area encumbered by the steam buffer restrictions. The total final Before Value of the property is estimated at \$1,422,729.00 as a result of this valuation analysis. Mr. Rahn's conclusion of value appears reasonable and well supported.

The Howell Avenue Extension Project will require the acquisition of both fee simple rights (87,264.42 sf) and permanent easement rights for the construction of necessary slopes (11,050.87 sf) from the subject property. The property is vacant so no improvements (site improvements or major improvements) will be affected by the acquisition requirements. It is the opinion of the appraiser that the remainder land will not be adversely affected by the acquisition of these property rights and will therefore retain the capacity for potential development in accordance with the Highest and Best Use as estimated in the before situation. Therefore, no consequential damages to the remainder have been determined. As can be seen in the report, ratios of useable land and encumbered land will exist in the after situation similar to those ratios in the before situation.

**Appraisal Assignment:** The appraisal assignment was to estimate the market value of the unencumbered fee simple interest and any other interest in the subject property for the proposed right of way acquisition required for the proposed Howell Avenue Extension Project. The intended users are THC Inc. Southeastern Engineering Inc. and the South Fulton Community Improvement District, and their authorized representatives procured the services of Mr. Matthew J. Rahn for this appraisal assignment. Mr. Rahn's appraisal report date of valuation is July 9, 2018 and his estimated market value compensation is \$187,100.00

**Scope of the Assignment:** The scope of the assignment included a field and desk review of the appraisal reports. The subject property and comparable land sales were personally inspected, most recently on July 17, 2018, which is the effective date of this review. The appraisal report was read and reviewed in its entirety. The data, information and methodology used to arrive at the conclusion were analyzed for accuracy and for reasonableness.

#### **SUMMARY AND CONCLUSIONS:**

##### **1. Adequacy and Relevance of Data**

Mr. Rahn employed several vacant land sale comparisons within the general market area of the subject property, each of which is very competitive in both physical and economic characteristics (after appropriate analysis is adjustments by the appraiser).

##### **Proper Adjustments:**

The adjustments made to the comparable sales, when in direct comparison to the subject, were considered appropriate by the review appraiser.

##### **2. Appropriate Appraisal Methods:**

The total value of the property as vacant was based on a Vacant Land Market Comparison Analysis Approach (Improved Market Comparison, Cost Approach or Income Approach not applicable); the acquisition will require the purchase of fee simple rights and permanent easement rights in the subject tract under appraisal. No damages to the remainder property were estimated nor were they justified.

Project Number: Howell Avenue Extension	County: Fulton (City of Fairburn)	P. I. Number: 1517166	Parcel Number: 7
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### 3.Appropriate Techniques:

The techniques used by Mr. Rahn were conventional and properly applied.

Is the Consideration Appropriate and Reasonable?

The opinion and judgments of the appraisers are within acceptable appraisal standards and guidelines. The recommended report reflects an acceptable conclusion that falls within the range of market evidence.

The recommended compensation by this reviewer for this subject property is based on Mr. Rahn's appraisal report. See Calculations Below:

Land -Fee Simple	\$ 173,866.00
Permanent Easement (Slope Construction & Maintenance)	\$ <u>13,135.00</u>

Total Compensation	\$187,100.00 rounded
--------------------	----------------------

See Compensation Summary Page 35 of Appraisal Report for specific calculations of compensation for Fee and Permanent Easement Rights to be acquired



Project Number: Howell Avenue Extension	County: Fulton (City of Fairburn)	P. I. Number: 1517166	Parcel Number: 7
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#### Intended Client/ Intended User

THC Inc., Southeastern Engineering Inc. and the South Fulton Community Improvement District, and their approved representatives are the intended clients and the intended users of this report.

#### Limiting Conditions

1. The review appraiser is not responsible for matters of a legal nature that affect either the property that is the subject of the appraisal review or the title to it. The review appraiser assumes that the title is good and marketable and, therefore, will not render an opinion about the title. The property is reviewed on the basis of it being under responsible ownership.
2. The review appraiser has noted in the appraisal review any adverse conditions observed during the inspection of the property or that the appraiser became aware of during normal research involved with performing the appraisal review. Unless otherwise stated in the appraisal review report, the review appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions that would make the property more or less valuable and has assumed that there are no such conditions and makes no guarantees or warranties, expressed or implied, regarding the condition of the property. The review appraiser will not be responsible for any such conditions that do exist for any engineering or testing that might be required to discover whether such conditions exist. Because the review appraiser is not an expert in the field of environmental hazards, the appraisal review report must not be considered as an environmental assessment of the property.
3. The review appraiser obtained information, estimates and opinions that were expressed in the appraisal review report from sources that he or she considers to be reliable and believes them to be true and correct. The review appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

#### Reviewer's Certification

I certify that, to the best of my knowledge and belief:

-The statements of fact contained in this report are true and correct.

-The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, conclusions, and recommendations.

-I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest with respect to the parties involved.

-I have no bias with respect to any property that is the subject of this report or to the parties involved with this assignment.

-My engagement in this assignment was not contingent upon developing or reporting predetermined results.

-My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favor the cause of the client, the amount of the value opinion, the attainment of a stipulated result, of the occurrence of a subsequent event directly related to the intended use of this appraisal consulting assignment.

-My analyses, opinions, conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.

-I have made a personal inspection of the property that is subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the property).

-No one provided significant real property appraisal or appraisal consulting assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal or appraisal consulting assistance must be stated.)

It is my understanding that the Market Value listed herein is to be used in the acquisition of right of way for a Federal-Aid Highway. The determination of value has been reached independently based on the appraisal and other factual data of record without collaboration or direction.

*Steven M. Crawford*

Fee Reviewing Appraiser Steven M. Crawford  
Certified Real Estate Appraiser No. CG 2594

DATE: 7/23/2018

**PARCEL 7**

**P.I. #:1517166**

**HOWELL AVENUE EXTENSION**

**FAIRBURN, FULTON COUNTY, GEORGIA**

**JULY 2018**

**JOB # 11046.07R**

**CARR, RAHN & ASSOCIATES, INC.**

PHONE: 404-836-7921

FAX: 678-686-5595

[www.carratlanta.com](http://www.carratlanta.com)

**PREPARED BY**

**MATTHEW J. RAHN, MAI**

State of Georgia Certified General Real Property Appraiser (CG303999)



**CARR, RAHN & ASSOCIATES, INC.**  
**Real Estate Appraisers and Consultants**

DENNIS H. CARR, MAI  
MATTHEW J. RAHN, MAI

1770 THE EXCHANGE SE  
SUITE 230  
ATLANTA, GEORGIA 30339

ASSOCIATES  
JOHN F. PINNER  
J. SAMUEL HAIR  
ALONZO E. BRYANT

PHONE: (678) 686-5575  
FAX: (678) 686-5595

July 11, 2018

Mr. Wesley Brock  
THC Georgia Office  
3300 Breckinridge Blvd, Suite 200  
Duluth, Georgia, 30043

RE: **Parcel 7; Project PI # 1517166**  
Howell Avenue Extension;  
Fairburn, Fulton County, Georgia  
Tax ID: 09F 0901 0048 075 1  
Owner: Greenland Georgia, Inc.

Dear Mr. Brock:

As you requested, we have inspected the referenced property, reviewed right of way and construction plans, and analyzed the economics of the area for the purpose of estimating the market value of the unencumbered fee simple interest, easements, and any other interests in the part taken, plus any consequential damages less any special benefits to the remainder in accordance with Georgia State Law.

The effective date of this analysis and valuation is July 9, 2018, the most recent date of inspection.

**CARR, RAHN & ASSOCIATES, INC.**  
**Real Estate Appraisers and Consultants**

Mr. Wesley Brock  
Parcel 7

July 11, 2018  
Page 2

Submitted herewith is our appraisal report containing the pertinent facts and data gathered in our investigation. Reference is made to the "Limiting Conditions and Assumptions" and "Certification" of the appraisers, which are included within the report.

This appraisal report has been prepared in conformance with and is subject to the Code of Ethics of the Appraisal Institute. It also complies with our interpretation of the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation and the rules and regulations of the Georgia Real Estate Appraiser Board.

It has been a pleasure to serve you in this matter.

Respectfully,

**CARR, RAHN & ASSOCIATES, INC.**



---

Matthew J. Rahn, MAI  
State of Georgia Certified General Real Property Appraiser (CG303999)



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### **ATTACHMENTS**

ATTACHMENT	I	CERTIFICATION
ATTACHMENT	II	CERTIFICATION (GENERAL)
ATTACHMENT	III	AERIAL PHOTOGRAPH / TAX PLAT
ATTACHMENT	IV	SUBJECT PHOTOGRAPHS
ATTACHMENT	V	FLOOD PLAIN MAP
ATTACHMENT	VI	RIGHT OF WAY PLANS
ATTACHMENT	VII	TITLE CERTIFICATE / DEED
ATTACHMENT	VIII	COMPARABLE LAND SALES
ATTACHMENT	IX	CROSS SECTIONS



## **APPRAISAL REPORT (RW-388C)**

### **SECTION 1 – PROJECT IDENTIFICATION**

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<b>Project Name:</b>	Howell Avenue Extension
<b>County:</b>	Fulton
<b>P.I. #:</b>	1517166

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### **SECTION 2 – PARCEL IDENTIFICATION**

The subject property is a vacant land tract. The right of way plans indicate the subject property consists of 16.003 acres; however, the subject is currently listed for sale and marketed as a 16.97-acre tract. Tax records and deed records support the 16.97-acre size. Based on this information, we have utilized the subject size of 16.97 acres for the purposes of this analysis and valuation. The subject is identified as follows:

---

<b>Parcel Number:</b>	Parcel 7
<b>Tax Parcel ID:</b>	09F 0901 0048 075 1
<b>Street Address:</b>	Fairburn Industrial Boulevard
<b>City/County:</b>	Fairburn / Fulton
<b>Size (Acres):</b>	16.9700
<b>Size (SF):</b>	739,213.20
<b>Owner:</b>	
Name:	Greenland Georgia, Inc.
Address:	4020 Charrwood Trce Marietta, GA 30062
Contact:	404-923-1463 (office)      David Nixon, rep 404-307-0467 (cell) <a href="mailto:david.nixon@cbre.com">david.nixon@cbre.com</a>
	770-435-1100      Suresh Jatia, owner <a href="mailto:suresh@greenlandamerica.com">suresh@greenlandamerica.com</a>

---

Unincorporated:	No
Incorporated City:	Fairburn

The subject property is identified on the aerial photograph which follows:







### **SECTION 3 - OWNER CONTACT/OWNERSHIP INTERESTS**

#### **Contact**

Owner Contacted:	Yes
Date Contacted:	June 28, 2018
Method of Contact:	Letter, email
Owner Agreed to On-Site Inspection:	Yes
Unable to Contact Owner as of:	N/A
Attempts to Contact Owner:	See remarks
Methods of Attempted Contact:	See remarks
Dates of Attempted Contact:	See remarks

#### **Inspection**

Original Date of Inspection:	July 9, 2018
Date of Most Recent Inspection:	July 9, 2018
Owner/Representative on Inspection:	Yes
Appraiser/Associate on Inspection:	Matthew J. Rahn, MAI
Date of Meeting with Owner:	July 9, 2018
Location of Meeting with Owner:	Subject Property

#### **Underground Items**

Underground Storage Tanks:	No
Septic Systems/Wells:	No / No
Underground Sprinklers:	No
Other:	N/A

#### **Occupancy**

Occupant of Improvements:	N/A
Relationship to Owner:	N/A

#### **Rent**

Actual Rent:	N/A
Actual Rent Type:	N/A
Actual Rent Terms:	N/A
Economic Rent:	N/A
Economic Rent Type:	N/A
Support for Economic Rent:	N/A

### Remarks

We were unable to locate a phone number for the subject property owner; therefore, we mailed a contact letter to the owner on June 19, 2018. We received an email from Mr. Suresh Jatia, who identified himself as the owner, on June 28, 2018. Mr. Jatia indicated that he was out of the country and referred us to Mr. David Nixon, the listing agent and representative for the subject property. We communicated via email with Mr. Nixon several times and met him on-site on July 9, 2018. During the inspection, Mr. Nixon expressed concern that the acquisition would, in his opinion, leave the subject property with little useable land area. We provided a hard copy of the plans in the contact letter to Mr. Jatia and to Mr. Nixon at the inspection. We most recently inspected the subject property on July 9, 2018, the effective date of this analysis and valuation.

### Title History

No Preliminary Title Certificate was provided for the subject property. Fulton County tax records indicate the subject is owned by the Greenland Georgia, Inc. There have been no recorded transfers in the last five years. The subject is currently listed for sale for \$1,440,000. The property has reportedly been listed for eight months and has had three offers. We asked, but the property representative did not provide details of the offers.

The property is marketed as 16.97 acres, which equates to an asking price of \$84,856 per acre, or \$1.95 per square foot.

### Physical History

Current Use:	Vacant land
# of Years of Use:	10 + years
Previous Use (if current use less than 5 years):	N/A
Anticipated Use (if change anticipated):	N/A

### Other Property Interests

	<u>Name</u>	<u>Address</u>	<u>Telephone</u>
Lessee	N/A		
Sub-lessee	N/A		
Trade Fixtures	N/A		
Easements	N/A		
Life Estate	N/A		



#### **SECTION 4 – REPORTING DISCLOSURE**

**This appraisal is being submitted in a Georgia Department of Transportation 388-C report format and is intended for use by the client only. A General Data Book was not prepared.**

##### **Purpose and Intended Use of the Appraisal**

The purpose of this appraisal is to estimate the market value of the unencumbered fee simple interest, easements, and any other interests in the part taken, plus any consequential damages less any special benefits to the remainder in accordance with Georgia State Law.

The intended use of this report is to assist in acquiring a right of way in fee simple and/or easements for the proposed project.

##### **Intended Client/Intended User**

THC, Inc., Southeastern Engineering, Inc., and the South Fulton Community Improvement District are the intended clients and the intended users of this appraisal.

##### **Property Rights Being Appraised/Proposed for Acquisition**

###### **Fee Simple Estate**

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.<sup>1</sup>

###### **Market Value**

Market value is defined as the most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

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<sup>1</sup> The Dictionary of Real Estate Appraisal, 6<sup>th</sup> Edition; 2015, Published by the Appraisal Institute.

- A. Buyer and seller are typically motivated;
- B. Both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest;
- C. A reasonable time is allowed for exposure in the open market;
- D. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- E. The price represents the normal consideration for the property sold unaffected by special or creative financing or sale concessions granted by anyone associated with the sale.<sup>2</sup>

### **Exposure Time**

Exposure time is assumed adequate, sufficient, and reasonable. Effort for exposure is assumed adequate, sufficient and reasonable. Both items are assumed to precede the effective date of value. The time frame is an integral part of the appraisal analysis and is based on one or more of the following:

- ◆ Statistical information about days on the market,
- ◆ Information gathered through sales verification; and,
- ◆ Interviews of market participants.

The exposure/marketing period for the subject at my concluded value is estimated at 6 to 12 months. The estimated marketing period is based on sales trends for similar properties and discussions with local brokers who are actively involved in the sale of this property type.

### **Easements**

#### **Temporary Easement**

A temporary easement involves the purchase of construction rights for the duration of the project. Inherent in the temporary easement is the presumption that affected site improvements (curbing, paving, etc.) will be either replaced by the client or client's contractor upon completion of construction or will be acquired.

---

<sup>2</sup> The Appraisal of Real Estate, 14<sup>th</sup> Edition, 2013, Published by the Appraisal Institute.

### Permanent Easement

In this analysis and valuation, permanent easements are assumed to include the acquisition of defined property rights, with some defined rights remaining with the owner. Inherent in the definition of permanent easements is the right to use the defined area during construction; therefore, the permanent easement includes both the temporary (construction) rights as well as perpetual maintenance rights.

### Appraisal Type

#### Total Acquisition

N/A Vacant Land (All Types)

#### Partial Acquisition

X Land (All Types) – No Impact on Remainder  
With N/A Without X Site Improvements

### SCOPE OF WORK

The term "Scope of Work" means the type and extent of research and analyses in an appraisal or appraisal review assignment.

This appraisal assignment involves the valuation of a vacant land tract. The parcel is located in an area immediately characterized by industrial development with sporadic commercial development. In this analysis, project right of way and cross sections were utilized, along with Fulton County tax plats, aerial photographs, flood plain maps, and recorded deeds to properly identify the subject property and the rights being acquired. An on-site inspection was performed, along with an inspection of the surrounding area.

The land valuation program involved the gathering and analysis of land sales, listings, contracts, and offers in the subject's competitive market area, with the sales period spanning approximately three years. Other analyses related to general demographic and economic trends were noted utilizing various reporting services. Our valuation procedure is discussed in detail in a following section of this report.

This appraisal is being submitted in a Georgia Department of Transportation 388-C report format. The acquisition described herein is partial and does not include site improvements.



**Special Limitations****General**

Reference is made to the "Limiting Conditions and Assumptions" presented at the end of this document.

**Special**

N/A.

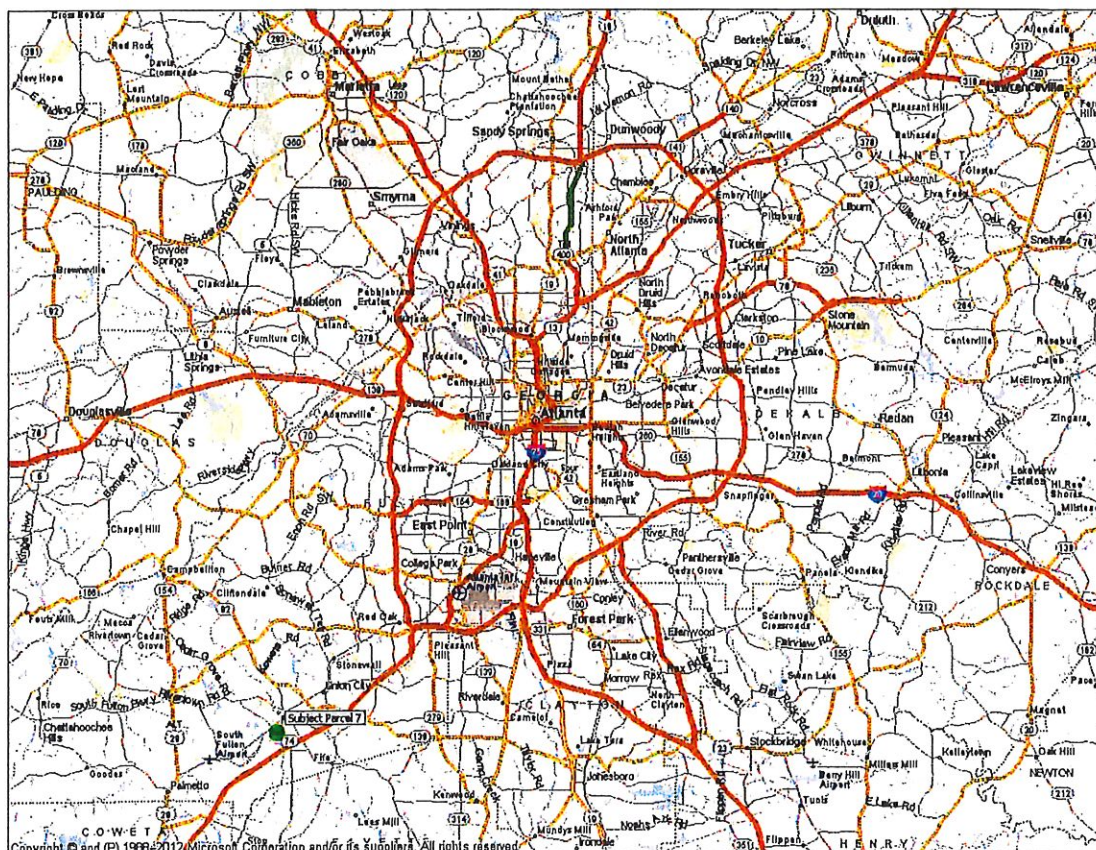
**Independence of the Appraiser**

I hereby acknowledge that I have had no prior involvement with the subject property within the preceding three years.

## SECTION 5 – LOCAL GOVERNMENT REQUIREMENTS

### Area Data

#### Metropolitan Atlanta

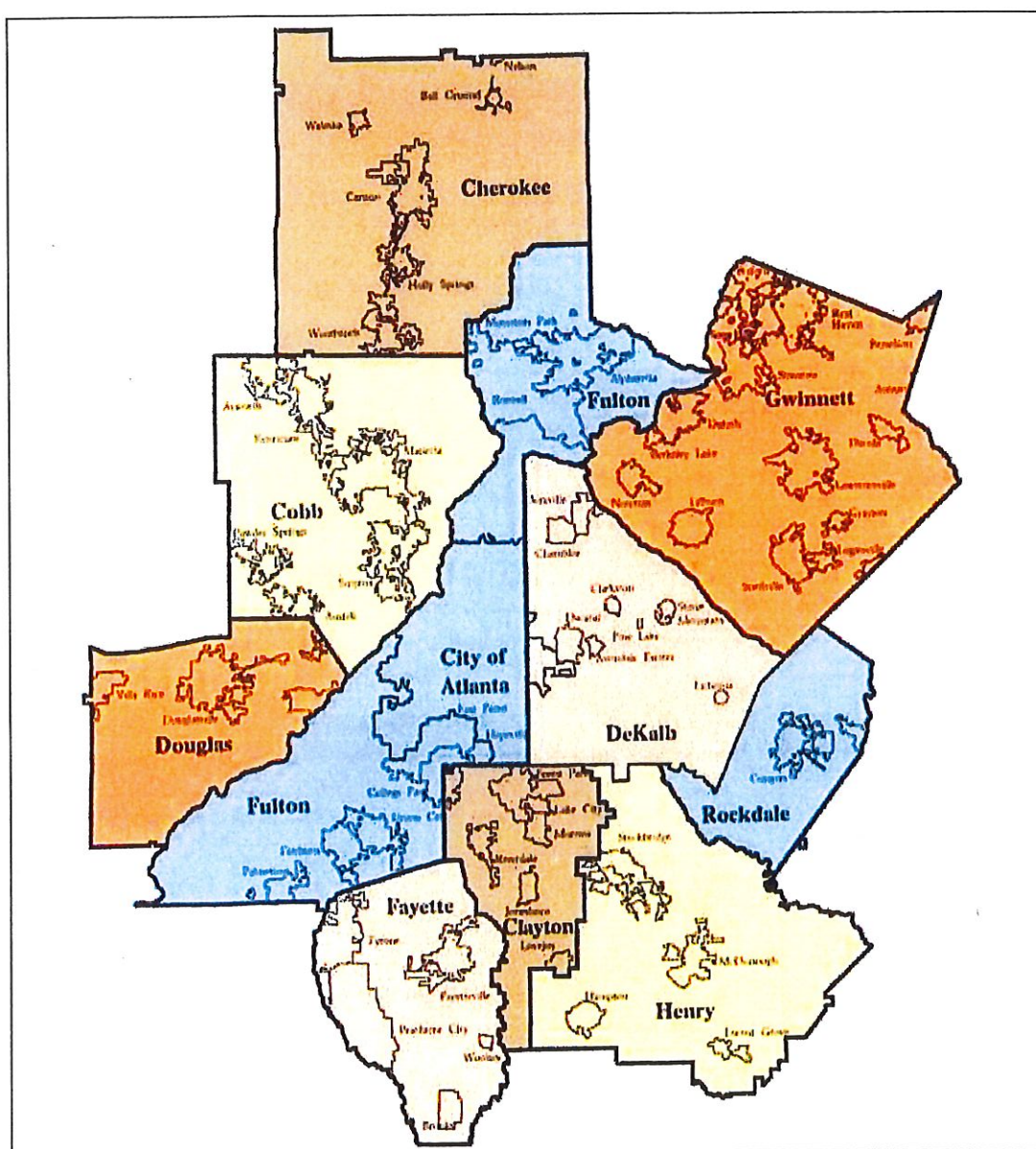


Metropolitan Atlanta is nationally recognized as the transportation, financial, governmental, and marketing center of the southeastern United States. Atlanta's development and rapid growth have been enhanced by its location near the geographic center of the southeast region. Atlanta is situated approximately 150 miles east of Birmingham; 330 miles southeast of Memphis; 235 miles southeast of Nashville; 220 miles southwest of Charlotte; 310 miles northwest of Jacksonville; and 480 miles northeast of New Orleans. This central location has spurred Atlanta's emergence as the transportation hub of the Southeast, while the absence of natural barriers has allowed growth in all directions.

Originally consisting of Clayton, Cobb, DeKalb, Douglas, Fulton, Gwinnett, and Rockdale counties, the Standard Metropolitan Statistical Area (SMSA) was expanded in 1983 to include Butts, Cherokee, Fayette, Forsyth, Henry, Newton, Paulding, and Walton



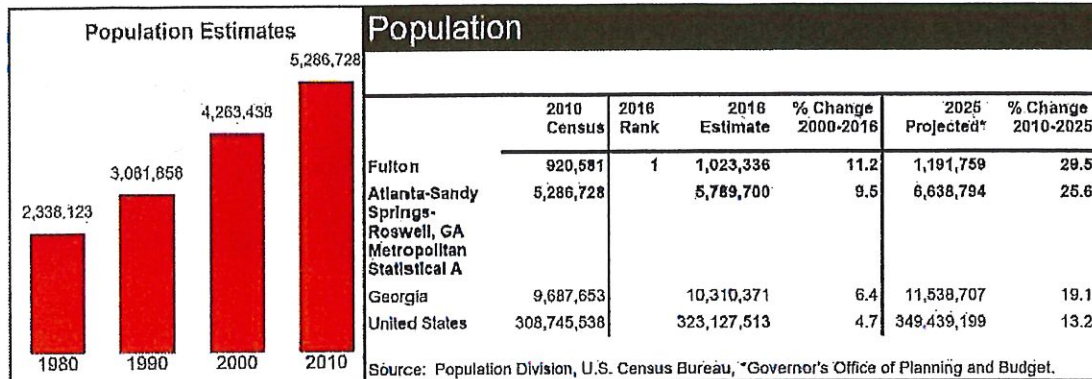
Ten core counties have captured the preponderance of historical population growth. These counties, which include the City of Atlanta, are members of the Atlanta Regional Commission (ARC). The ARC serves as the regional planning agency. A map of the Atlanta Region follows:





Historical demographic, economic, and real estate market statistics for the region are summarized:

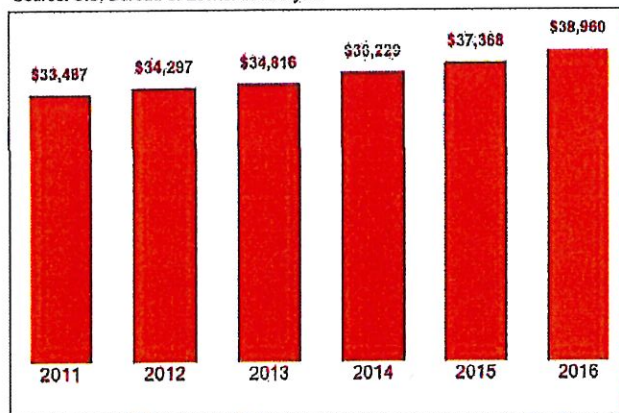
### Historical Population Statistics for the Atlanta Region



### Historical Income Statistics for the Atlanta Region

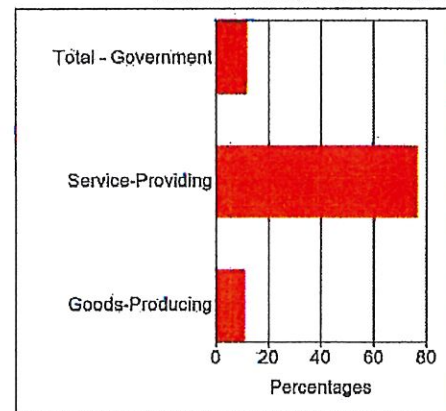
#### Atlanta-Sandy Springs-Roswell, GA Metropolitan Statistical Area Per Capita Income

Source: U.S. Bureau of Economic Analysis



#### Atlanta-Sandy Springs-Roswell, GA Industry Mix 2017

Source: See Industry Mix data on Page 2.



## Historical Residential Building Permits for the Atlanta Region

CBSA Totals											
Housing Unit Building Permits for: Atlanta-Sandy Springs-Roswell, GA											
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Total Units	68,495	44,943	19,362	6,567	7,608	8,668	14,395	24,337	26,683	30,342	36,357
Units in Single-Family Structures	54,156	31,262	12,057	5,455	6,417	6,248	9,182	14,864	16,984	19,995	23,100
Units in All Multi-Family Structures	14,339	13,681	7,305	1,112	1,191	2,420	5,213	9,473	9,699	10,347	13,257
Units in 2-unit Multi-Family Structures	226	188	44	8	10	26	20	50	40	30	48
Units in 3- and 4-unit Multi-Family Structures	484	481	175	110	80	37	174	157	217	167	102
Units in 5+ Unit Multi-Family Structures	13,629	13,012	7,086	994	1,101	2,357	5,019	9,266	9,442	10,150	13,107

## Labor Statistics for the Atlanta Region

Labor Force Activity											
ANNUAL AVERAGES											
	Labor Force			Employed			Unemployed			Rate	
	2015	2016	% Change	2015	2016	% Change	2015	2016	% Change	2015	% Change
Barrow	36,111	37,322	3.4%	34,215	35,554	3.9%	1,896	1,768	-6.8%	5.3%	4.7%
Bartow	46,843	48,309	3.1%	44,092	45,836	4.0%	2,751	2,473	-10.1%	5.9%	5.1%
Butts	10,123	10,413	2.9%	9,452	9,826	4.0%	671	587	-12.5%	6.6%	5.6%
Carroll	51,775	53,418	3.2%	48,302	50,217	4.0%	3,473	3,201	-7.8%	6.7%	6.0%
Cherokee	120,323	124,452	3.4%	114,707	119,163	3.9%	5,616	5,289	-5.8%	4.7%	4.2%
Clayton	126,350	129,852	2.8%	116,736	121,278	3.9%	9,614	8,574	-10.8%	7.6%	6.6%
Cobb	398,206	411,452	3.3%	378,044	392,697	3.9%	20,162	18,755	-7.0%	5.1%	4.6%
Coweta	67,839	70,241	3.5%	64,241	66,762	3.9%	3,598	3,489	-3.0%	5.3%	5.0%
Dawson	10,942	11,332	3.6%	10,384	10,802	4.0%	558	530	-5.0%	5.1%	4.7%
DeKalb	373,032	384,723	3.1%	350,532	364,065	3.9%	22,500	20,658	-8.2%	6.0%	5.4%
Douglas	68,318	70,359	3.0%	63,998	66,472	3.9%	4,320	3,887	-10.0%	6.3%	5.5%
Fayette	54,148	55,982	3.4%	51,345	53,336	3.9%	2,803	2,646	-5.6%	5.2%	4.7%
Forsyth	104,387	108,078	3.5%	99,663	103,661	3.9%	4,724	4,517	-4.4%	4.5%	4.2%
Fulton	514,581	531,176	3.2%	483,850	502,655	3.9%	30,731	28,521	-7.2%	6.0%	5.4%
Gwinnett	452,302	467,706	3.4%	428,919	445,565	3.9%	23,383	22,141	-5.3%	5.2%	4.7%
Haralson	11,866	12,238	3.1%	11,091	11,525	3.9%	775	713	-8.0%	6.5%	5.8%
Heard	4,910	5,080	3.5%	4,596	4,782	4.0%	314	298	-5.1%	6.4%	5.9%
Henry	105,015	108,313	3.1%	98,549	102,363	3.9%	6,466	5,950	-8.0%	6.2%	5.5%
Jasper	6,440	6,654	3.3%	6,085	6,336	4.1%	355	318	-10.4%	5.5%	4.8%
Lamar	7,679	7,880	2.6%	7,090	7,366	3.9%	589	514	-12.7%	7.7%	6.5%
Meriwether	8,669	8,912	2.8%	7,975	8,303	4.1%	694	609	-12.2%	8.0%	6.8%
Morgan	8,420	8,741	3.8%	7,958	8,302	4.3%	462	439	-5.0%	5.5%	5.0%
Newton	48,421	49,904	3.1%	45,154	46,930	3.9%	3,267	2,974	-9.0%	6.7%	6.0%
Paulding	76,315	78,820	3.3%	72,352	75,178	3.9%	3,963	3,642	-8.1%	5.2%	4.6%
Pickens	13,872	14,344	3.4%	13,134	13,644	3.9%	738	700	-5.1%	5.3%	4.9%
Pike	8,226	8,597	3.4%	7,756	8,067	4.0%	470	440	-6.4%	5.7%	5.2%
Rockdale	42,257	43,537	3.0%	39,506	41,038	3.9%	2,751	2,499	-9.2%	6.5%	5.7%
Spalding	27,104	27,810	2.6%	24,927	25,908	3.9%	2,177	1,902	-12.6%	8.0%	6.8%
Walton	41,662	43,061	3.4%	39,414	40,957	3.9%	2,248	2,104	-6.4%	5.4%	4.9%
Atlanta-Sandy Springs-Roswell, GA Metropolitan Statistical Area	2,846,136	2,938,616	3.2%	2,684,067	2,788,478	3.9%	162,069	150,138	-7.4%	5.7%	5.1%
Georgia	4,787,364	4,920,464	2.8%	4,502,021	4,656,255	3.4%	285,343	264,209	-7.4%	6.0%	5.4%
United States	157,130,000	159,187,000	1.3%	148,834,000	151,436,000	1.7%	8,296,000	7,751,000	-6.6%	5.3%	4.9%

Note: This series reflects the latest information available. Labor Force includes residents of the county who are employed or actively seeking employment.

Source: Georgia Department of Labor; U.S. Bureau of Labor Statistics.



## Metro Atlanta Retail Market Statistics from Costar – Year End 2017

### Total Retail Market Statistics

Year-End 2017

Market	Existing Inventory		Vacancy			YTD Net Absorption	YTD Deliveries	Under Const SF	Quoted Rates
	# Bids	Total GLA	Direct SF	Total SF	Vac %				
Buckhead Ret	691	13,349,004	530,401	553,193	4.1%	176,349	82,000	34,061	\$29.08
Central Atl Ret	1,270	13,747,996	537,564	537,764	3.9%	215,144	60,349	182,386	\$24.41
Central Perimeter Ret	513	10,964,850	513,985	516,123	4.7%	123,180	53,324	16,146	\$25.88
Coweta County Ret	645	7,624,951	230,703	230,703	3.0%	614	10,671	0	\$14.75
Dekalb Ret	2,564	29,024,325	1,795,385	1,923,742	6.4%	634,151	464,186	108,445	\$14.18
Georgia 400 Ret	2,195	37,373,402	1,882,682	1,946,044	5.2%	582,627	424,534	184,038	\$16.33
Gwinnett Ret	4,112	65,372,531	3,751,928	3,780,163	5.8%	634,763	117,942	381,389	\$13.44
NE Atlanta Outlying Ret	1,292	14,207,806	643,979	660,504	4.6%	85,293	126,964	37,747	\$14.44
North Cobb Ret	3,251	45,821,509	2,333,521	2,342,308	5.1%	589,519	378,609	19,792	\$12.65
South Atlanta Ret	3,542	38,215,116	2,278,646	2,327,324	6.1%	229,702	20,190	108,022	\$12.64
South Cobb Ret	1,551	21,627,303	850,858	974,147	4.5%	695,778	530,876	103,740	\$13.79
South Metropolitan Ret	3,007	36,981,665	2,024,070	2,036,403	5.5%	121,835	133,918	42,332	\$13.16
West Metropolitan Ret	2,353	29,382,923	1,622,586	1,622,586	5.5%	76,634	36,927	42,372	\$10.53
<b>Totals</b>	<b>26,086</b>	<b>364,593,387</b>	<b>18,996,308</b>	<b>19,451,004</b>	<b>5.3%</b>	<b>4,185,619</b>	<b>2,410,490</b>	<b>1,260,470</b>	<b>\$13.91</b>

Source: CoStar Property®

## Metro Atlanta Office Market Statistics from Costar – Year End 2017

### Total Office Market Statistics

Year-End 2017

Market	Existing Inventory		Vacancy			YTD Net Absorption	YTD Deliveries	Under Const SF	Quoted Rates
	# Bids	Total RBA	Direct SF	Total SF	Vac %				
Buckhead	418	23,656,839	3,001,444	3,164,357	13.4%	75,776	755,605	129,099	\$32.13
Central Perimeter	681	33,885,845	4,232,624	4,545,718	13.4%	(174,626)	15,402	1,250,250	\$26.50
Downtown Atlanta	390	36,321,071	3,904,756	4,030,208	11.1%	283,164	0	131,300	\$25.14
Midtown Atlanta	439	25,448,501	1,932,888	2,130,567	8.4%	231,448	144,000	2,154,358	\$32.31
North Fulton	1,890	37,281,334	3,702,437	3,939,484	10.6%	371,743	395,420	697,295	\$22.02
Northeast Atlanta	3,400	40,485,219	5,644,429	5,869,633	14.5%	302,205	104,497	53,944	\$17.19
Northlake	2,322	30,189,391	2,642,538	2,685,002	8.9%	192,596	231,255	123,000	\$19.38
Northwest Atlanta	3,219	51,129,609	5,948,117	6,234,011	12.2%	444,721	890,039	258,000	\$21.78
South Atlanta	2,569	24,943,288	2,488,647	2,622,107	10.5%	129,014	115,526	103,600	\$17.30
West Atlanta	857	6,056,211	748,052	748,052	12.4%	34,620	16,890	0	\$19.33
<b>Totals</b>	<b>10,185</b>	<b>309,397,308</b>	<b>34,245,932</b>	<b>35,969,139</b>	<b>11.6%</b>	<b>1,890,661</b>	<b>2,668,631</b>	<b>4,900,848</b>	<b>\$23.22</b>

Source: CoStar Property®



## Metro Atlanta Industrial Market Statistics from Costar – Year End 2017

### Total Industrial Market Statistics

Year-End 2017

Market	Existing Inventory		Vacancy		YTD Net Absorption	YTD Deliveries	Under Const SF	Quoted Rates
	# Bldgs	Total RBA	Direct SF	Total SF				
Central Atlanta Ind	640	15,946,827	733,703	733,703	4.6%	145,290	20,000	\$8.81
Chattahoochee Ind	671	22,638,082	429,294	471,613	2.1%	637,318	173,707	\$8.45
I-20 W/Fulton Ind	1,802	105,628,300	7,189,251	7,449,388	7.1%	2,459,460	2,889,967	\$3.85
North Central Atlanta Ind	1,198	32,753,759	1,553,095	1,629,531	5.0%	474,492	196,707	\$8.71
Northeast Atlanta Ind	4,330	180,739,646	9,575,389	9,820,408	5.4%	3,460,913	2,057,414	\$5.66
Northwest Atlanta Ind	2,496	81,027,213	3,551,196	3,695,280	4.6%	2,297,471	1,100,561	\$5.40
Snapfinger/I-20 East Ind	1,295	49,751,402	1,111,366	1,111,366	2.2%	199,421	0	\$4.32
South Atlanta Ind	2,976	189,122,257	16,363,938	16,896,223	8.9%	10,477,342	8,619,319	\$3.60
Stone Mountain Ind	1,035	29,656,066	1,611,571	1,611,571	5.4%	402,182	0	\$5.27
<b>Totals</b>	<b>16,443</b>	<b>707,263,552</b>	<b>42,118,803</b>	<b>43,410,083</b>	<b>6.1%</b>	<b>20,553,889</b>	<b>15,057,672</b>	<b>\$4.78</b>

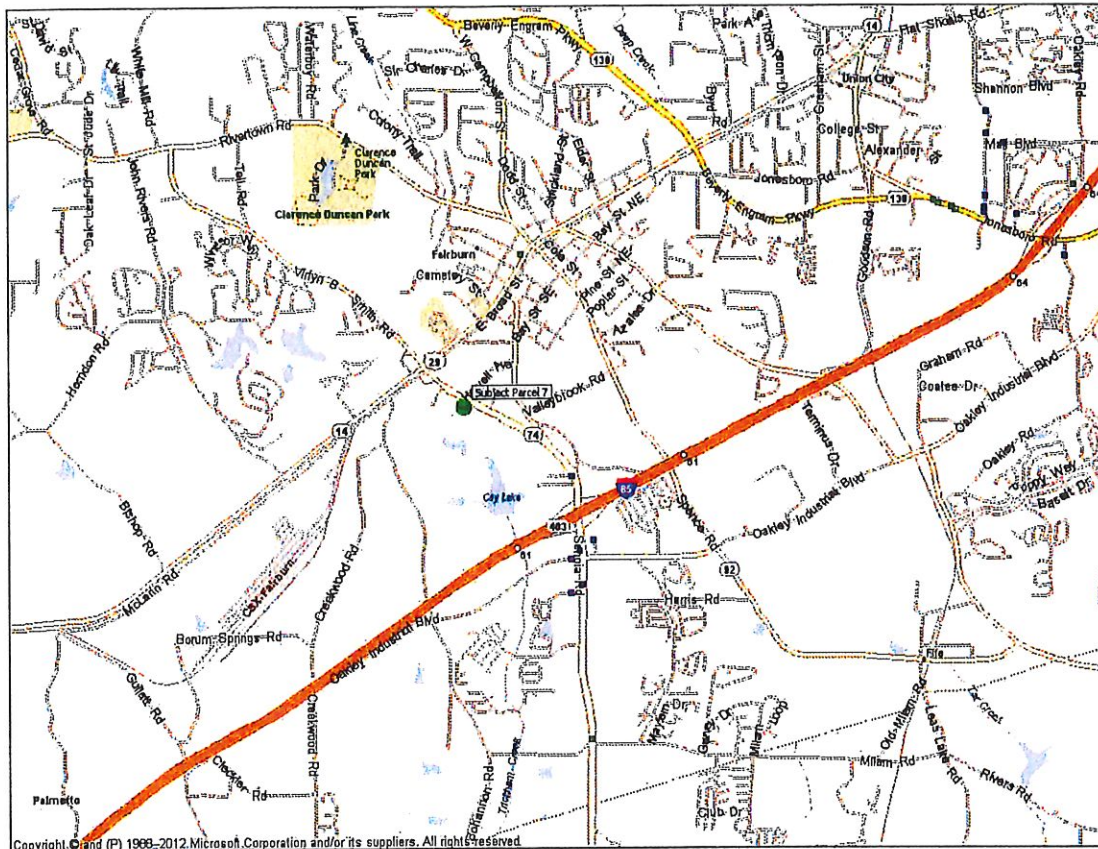
Source: CoStar Property®

Metropolitan Atlanta's position as the economic and population center of the southeastern United States is attributable to a central geographic location, an extensive transportation infrastructure including the nation's busiest airport, extensive telecommunications infrastructure, and a perceived high quality of life. The international exposure associated with Atlanta's sponsorship of the 1996 Olympic Games has advanced the city's position as a recognized commercial gateway for overseas trade. A lack of natural boundaries surrounding the city has contributed to extensive urban sprawl.

The historical residential building permit data reflects Atlanta's overall market conditions in recent years. Atlanta was in a robust, overheated economy from 2001 to 2007. In the Summer of 2007, however, the economic downturn began with the collapse of the sub-prime mortgage market. Followed by the collapse of the financial markets in the Fall of 2008, Atlanta dipped into recessionary conditions which extended from 2007 through most of 2011. Most of the counties forming the MSA began to experience recovery during 2011, and steady recovery has characterized the general market since. Some counties have recovered in a dynamic fashion, but other counties still show only gradual recovery.

Over the long term, however, Atlanta's diversity should insulate the region from long lasting economic downturns, with steady increases in all market sectors anticipated for the next several years.

### Neighborhood



The subject property is located within the Fairburn city limits, approximately 0.4 mile southeast of the intersection of Highway 29 and Fairburn Industrial Boulevard. This location is about 18 radial miles southwest of the Atlanta Central Business District and less than a half mile south of the City of Fairburn business and governmental district. Although geographic boundaries are not exact, the subject's neighborhood is generally defined as the area of heavy and light industrial uses proximate to Interstate 85 and the southwestern periphery of the Fairburn city limits.

Access to the neighborhood is considered good. Senoia Road connects to the subject properties approximately 300 feet to the east. Senoia Road provides access to Interstate 85 via a full diamond interchange about one mile to the south. Senoia Road is also the primary corridor providing access from Peachtree City to the interstate system and the major employment centers in the Atlanta area.

The general area is characterized by multiple uses. High-volume commercial development has occurred surrounding the Senoia Road/Oakley Industrial Boulevard intersection. Uses include convenience store/gas stations, fast food restaurants, and other



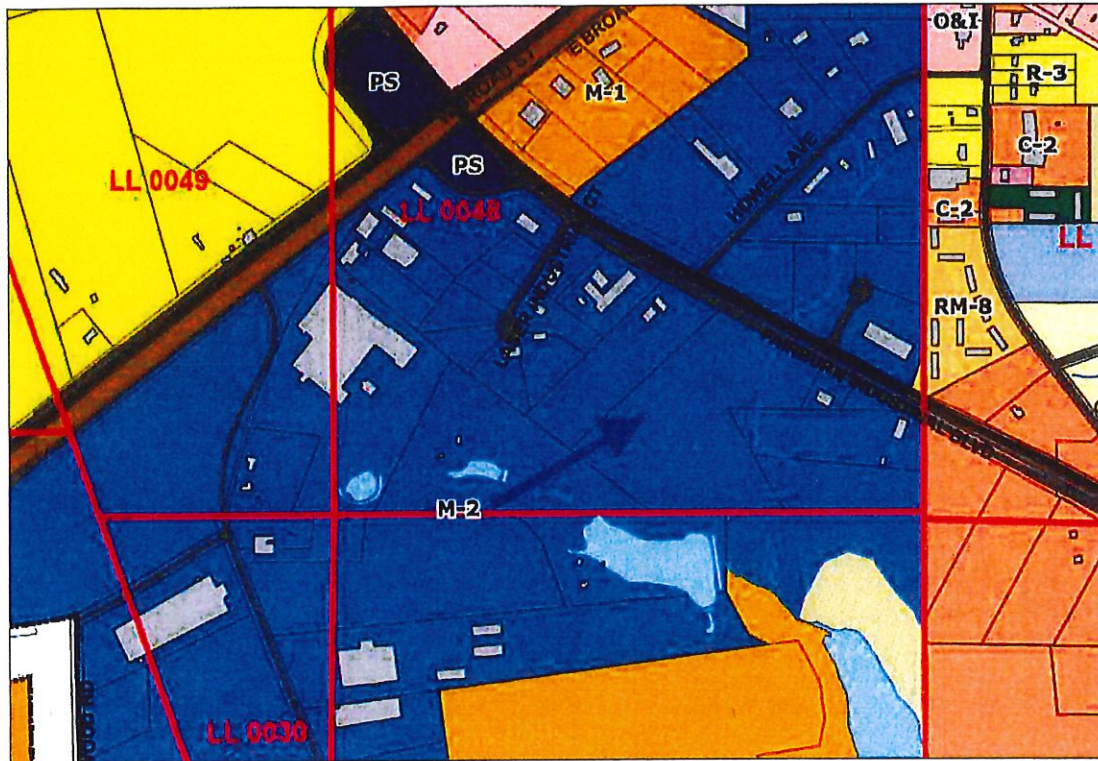
high-traffic oriented uses. Oakley Industrial Boulevard, situated approximately 1.3 miles southeast of the subject, was constructed to access the Southpark Industrial Park which is located east of Spence Road (State Route 92). Numerous large industrial users have established facilities in the area, providing an employment base for the neighborhood.

Development at the commercial node along Senoia Road includes several hotels, various fast food restaurants, multiple inline strip retail establishments, multiple freestanding retail, and a mix of convenience stores.

Long term, the overall outlook for the neighborhood is one of guarded optimism with real estate values consistent with many areas in south Metro Atlanta.



### Zoning



The subject property is zoned "M-2", Heavy Industrial District, by the City of Fairburn. According to the City of Fairburn code of ordinances:

"The M-2 district is intended to provide suitable areas for major manufacturing and storage and large amounts of land. Typical heavy industrial uses include manufacturing, chemical manufacturing and storage, petrochemical refining and storage, mining and other land uses which may affect the environment. These districts should have access to major streets and utilities and discourage uses which are incompatible."

Allowable uses include a variety of heavy industrial uses.

Restrictions of this zoning classification follows:

*Development standards.*

- (1) Height regulations: no building shall exceed 48 feet in, unless approved by the fire marshal.
- (2) Minimum front yard setback: 40 feet.
- (3) Minimum side yard setback: 20 feet.
  - a. All M-2 uses abutting a residential district must maintain a side and rear yard of 75 feet.
- (4) Minimum rear yard setback: 30 feet.
- (5) Minimum lot area: per conditions specified.
- (6) Minimum width of lot frontage or width at building line: 30 feet.
- (7) Minimum heated floor area per unit: per conditions specified.
- (8) *Minimum accessory structure requirements.* Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

The subject property could be developed in accordance with the zoning ordinance in both the before and after situations.

**Taxes**

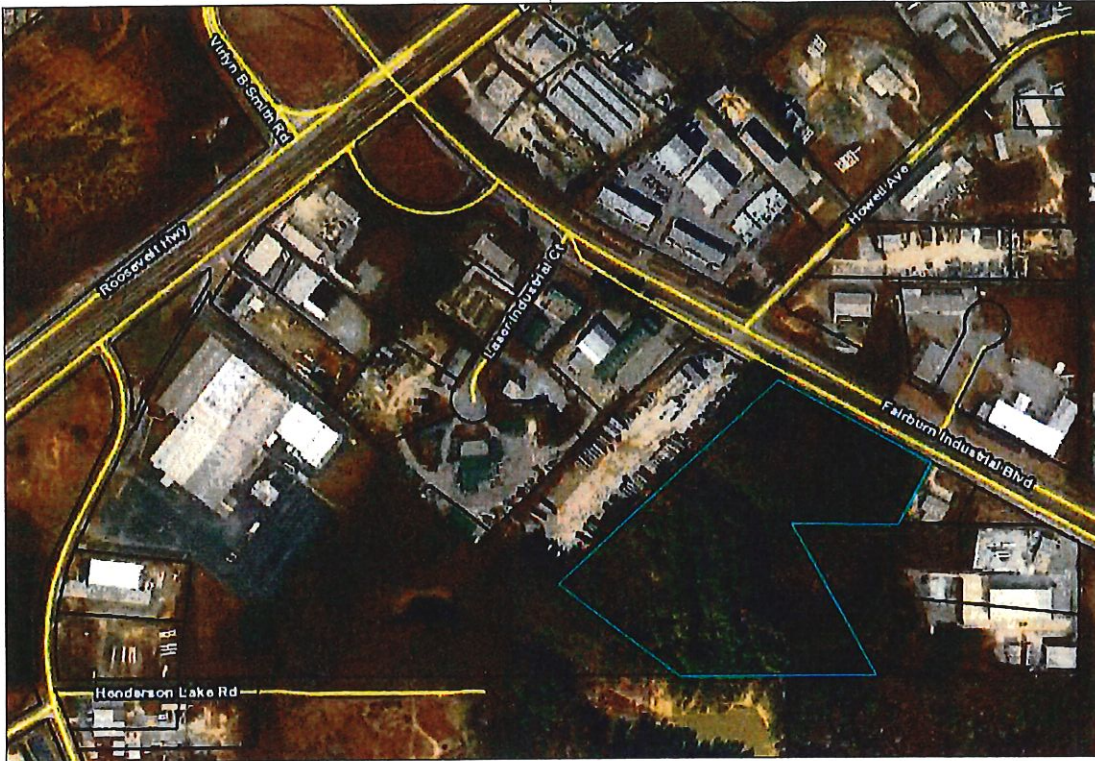
The subject property is assessed for taxes by the City of Fairburn and Fulton County at 40% of the tax appraised value. The combined millage rate is \$38.906 per \$1,000 of assessed value (\$9.73 for Fairburn and \$29.176 for Fulton County). The most recent tax expense is calculated:

Year of Tax Valuation:	2017
Total Assessor Market Value Estimate:	\$367,500
Assessment Factor:	<u>0.40</u>
Assessed Value:	\$147,000
Millage Rate (2016):	<u>0.038906</u>
Annual Taxes:	\$5,719.18



## SECTION 6 – PROPERTY DESCRIPTION BEFORE ACQUISITION

### Property Location



The subject property is located on the southwest side of Fairburn Industrial Boulevard about 200 feet southeast of Howell Avenue. The subject lies within the City of Fairburn and is located in Land Lot 48 of District 9F. Reference is made to the "Aerial Photograph/Tax Plat" and "Subject Photographs" included as Attachments III and IV, respectively.

### Land

#### On Site

Size:	739,213.20 square feet (16.97 acres).
Shape:	Irregular.
Frontage:	607 feet +/- along Fairburn Industrial Boulevard.



Depth:	Up to 951 feet from Fairburn Industrial Boulevard.
Grade:	At to below grade.
Ground Cover:	Heavily wooded with mature hardwoods and undergrowth.
Topography:	Gently rolling to rolling.
Soil/Subsoil Conditions:	No detrimental conditions observed or reported.
Drainage:	Appears adequate.
Flood Plain:	None of the subject property is located within flood plain; however, a portion of the subject is situated within a designated stream buffer area.
Easements:	According to the survey provided by the subject property representative, there is a sanitary sewer easement that bisects the subject property and lies generally within the stream buffer area.

#### Off Site

Private Utilities:	None.
Public Utilities:	All public available, including public sewer.
Access/Driveways:	Average.
Exposure:	Average.
Adjoining Streets:	Fairburn Industrial Boulevard.
Adjoining Uses:	Industrial use and vacant land surrounding.
On-Site Considerations:	N/A
Off Site Considerations:	N/A

### Conclusions

The subject has adequate size, suitable topography and exposure, and all available utilities. The subject is considered suitable for a variety of development options.

A portion of the subject property, however, is encumbered by stream buffer area. According to estimates utilizing the Fulton County GIS website, approximately 212,652 square feet of the subject is encumbered, or 4.88 acres. The following aerial photograph illustrates the area encumbered by stream buffer:



### Major Improvements (Not Affected by the Acquisition)

N/A

## **SECTION 7 – DESCRIPTION OF THE PART TO BE ACQUIRED**

### **Rights to be Acquired**

Right of way in fee simple and permanent easement rights are being acquired for the project.

### **Land**

	<b><u>Fee Simple</u></b>	<b><u>Permanent Easement</u></b>	<b><u>Temporary Easement</u></b>
Size (Square Feet):	87,264.42	11,050.87	0.00
Size (Acres):	2.003	0.254	0.000
Shape:	Irregular	Irregular	N/A
Frontage:	125 feet +/- along Fairburn Industrial Boulevard	No direct frontage	N/A
Depth:	Varies from 70 to 182 feet +/-	Varies from 10 to 40 feet +/-	N/A
Topography:	Gently rolling to rolling	Gently rolling to rolling	N/A
Grade:	Above and below grade	Above and below grade	N/A
Flood Plain/ Wetlands:	Yes	Yes	N/A
Utilities:	All, including sewer	All, including sewer	N/A
Access:	Average	Average	N/A
On-Site Considerations:	N/A	N/A	N/A
Off-Site Considerations:	N/A	N/A	N/A
Remarks/Conclusions:	N/A	N/A	N/A

Portions of the proposed acquisition areas lie within the stream buffer area previously identified. The areas are allocated as follows:

	<b><u>Before</u></b>	<b><u>Fee Taking</u></b>	<b><u>Permanent Easement</u></b>	<b><u>Remainder</u></b>
Uncumbered (Non-Stream Buffer)	526,561.20	65,116.91	10,392.48	461,444.29
(Acres)	12.09	1.49	0.24	10.59
Stream Buffer Area	212,652.00	22,147.51	658.39	190,504.49
(Acres)	4.88	0.51	0.02	4.37
Total	739,213.20	87,264.42	11,050.87	651,948.78
(Acres)	16.970	2.00	0.25	14.97

The appraisers were provided right of way plans identifying the area of the subject property; however, the plans did not allocate the subject's land area or acquisition area



between stream buffer encumbered and unencumbered areas. The appraisers utilized the provided right of way plans as well as estimates from the Fulton County GIS website to allocate the stream buffer and non-stream buffer encumbered areas. Should these allocations differ significantly from a subsequent survey, we reserve the right to amend this appraisal, an extraordinary assumption.

### Site Improvements

N/A.

### SECTION 8 – IMPACT OF THE ACQUISITION ON THE REMAINING PROPERTY

	<u>Remainder Left</u>	<u>Remainder Right</u>	<u>Total Remainder</u>
Size (SF):	0.00	651,948.78	651,948.78
Shape:	N/A	Changed	Changed
Topography:	N/A	Generally unchanged	Generally unchanged
Grade:	N/A	Unchanged	Unchanged
Access:	N/A	Changed	Changed
Exposure:	N/A	Changed	Changed
From Main Structure, Distance to New R/W:	N/A	N/A	N/A
From Main Structure, Distance to New Pavement:	N/A	N/A	N/A
Parking:	N/A	N/A	N/A
Describe cross sections:	N/A	See remarks	See remarks
Other:	N/A	N/A	N/A

### Remarks

The cross sections (included in the Attachments) indicate the new Howell Avenue Extension will lie both above and below the elevation of the subject property. Over the first 400 feet +/- of the acquisition, the subject will lie approximately up to 10 feet above grade. At station 32+50, the topography changes to relatively at grade and over the next 250 feet +/-, the subject will be up to 15 feet below grade. This below grade area, however, is situated within the stream buffer area. As the acquisition gets closer to Fairburn Industrial Drive, the subject lies approximately at the grade of the new road.

In our opinion, the slopes from the subject to the new Howell Avenue Extension are not considered detrimental to potential development. As the acquisition area is minor, the subject's size, shape, access, and exposure are not adversely impacted. Therefore, it is our opinion that the proposed acquisition does not adversely impact the functional utility or economic desirability of the subject property. Therefore, there will be no impact on the subject beyond the value loss of the part acquired.

As there are no consequential damages to the subject's remainder, we have not calculated specific benefits. The subject's remainder, however, will have an additional 950 linear feet of road frontage along Howell Avenue Extension. The additional road frontage could enhance the subject's access and exposure characteristics, while also creating the potential for other use alternatives on the subject.

#### **SECTION 9 – HIGHEST AND BEST USE**

The "Highest and Best Use" of a property is defined as that logical, legal, and most probable use which will yield the greatest net income to the land over a sustained period of time. It is also that available use or program of probable future utilization, which produces the highest present land value.

The highest and best use analysis involves a consideration of four separate tests. The four primary considerations are the property's (1) physical constraints, (2) legally permitted uses, (3) financially feasible uses, and (4) the maximally productive use. Of the concluded possible uses, tests of feasibility are conducted, when necessary, and of the feasible uses, the one that produces the highest net return today is then concluded to be the highest and best use. A discussion of these issues follows.

#### **Prior To Acquisition, If Vacant**

##### **Physically Possible**

The subject property contains ample area, a suitable shape, suitable topographic features, adequate exposure and access, and all available utilities, including sewer, for a variety of development options. However, a portion of the subject is encumbered by stream buffer and easement area, estimated at approximately 4.88 acres, which reduces the developable land area.

##### **Legally Permitted Uses**

Zoning is the most important factor in determining what type of development is legally permissible; however, it is not the only criteria. Other important factors can include

restrictive building codes, deed restrictions or covenants, long-term leases, environmental regulations, land use plans, and reaction to development by local residents. While these factors have very little effect on the highest and best use of an existing development, they can substantially affect the highest and best use of vacant land.

The subject is zoned M-2, Heavy Industrial District, by the City of Fairburn. This zoning district allows for a variety of industrial uses.

#### **Financially Feasible/Maximally Productive Use**

Location is considered the most important factor with regard to these two criteria. The subject is located in an area characterized by industrial uses.

#### **Conclusion**

After considering all factors, it is our opinion that the highest and best use of the subject, if vacant, is for development with some form of industrial use consistent with the zoning and the surrounding land uses in the area.

#### **Prior To Acquisition, As Improved**

N/A.

#### **Remainder, As Vacant**

It is our opinion that the remainder's highest and best use will be unchanged from the before situation, which is industrial development.

#### **Remainder, As Improved**

N/A.

#### **Acquisition Area As An Independent Economic Unit**

Due to its irregular shape, the acquisition area cannot function as an independent economic unit apart from the parent tract.



## **SECTION 10 – VALUATION BEFORE ACQUISITION**

### **Appraisal Procedure**

The valuation process is employed to develop a supportable estimate of the market value of the property appraised. It involves analyses of the property by utilizing specific appraisal procedures, which typically include the application of one or more of the traditional appraisal approaches--the sales comparison, income capitalization (income), and cost analyses (cost); or in some cases, the development approach which is a combination of the three primary methods. One or more of these approaches is used in all estimations of value, depending on the type of property, the function of the appraisal, and the quality and quantity of data available for analysis.

The cost approach is based on the premise that the value of a property can be indicated by estimating the current cost to construct a reproduction or replacement of the improvements, including entrepreneurial profit, less the amount of depreciation evident in the improvements, plus the value of the underlying land. This approach to value is particularly useful when applied to new or nearly new improvements reflecting little measurable depreciation and as a test of the feasibility of constructing proposed improvements. Current costs for constructing improvements are obtained from professional cost estimators, cost estimating publications, builders, and contractors. Depreciation is measured by physical observation and market comparison. Land value is estimated separately utilizing a sales comparison analysis.

The income capitalization (income) approach measures the present value of the future benefits from property ownership (cash flow plus reversion). The indication of value by this approach results from analyses of historical operating data for the subject (when available) and of data for similar properties. Based on analysis of this data, future income and expense estimates are established for the subject property. The forecast net operating income (NOI) is converted into a present value estimate by the process of capitalization. The appropriate rates or factors used for capitalization are based on an investigation of acceptable rates of return reflected by recent transfers of comparable properties and of competing returns on alternative investments.

The sales comparison approach is properly utilized when an adequate number of similar properties have been recently sold, or are currently available for sale in the subject market. The indication of value by this approach results from comparison of these transactions, after adjustments for various dissimilar elements or features, which in my opinion would influence the value of the comparable properties.

Since the subject property is unimproved, this analysis and valuation addresses the value of the land as vacant and available for development to its highest and best use. The cost and income approaches do not typically apply to vacant land and have not been employed in this analysis.

### Land Valuation (Sales Comparison Approach)

In estimating the market value of the subject property, a comparison is made with recent sales located in the general area or in similar sub-markets. The sales analyzed for direct comparison purposes are mapped and summarized on the following pages and detailed in the Attachments.

We have estimated the market value for the area unencumbered by stream buffer (12.09 acres) and the area encumbered by stream buffer / easements (4.88 acres). The subject's encumbered land area is subsequently valued through the use of flood plain case studies.

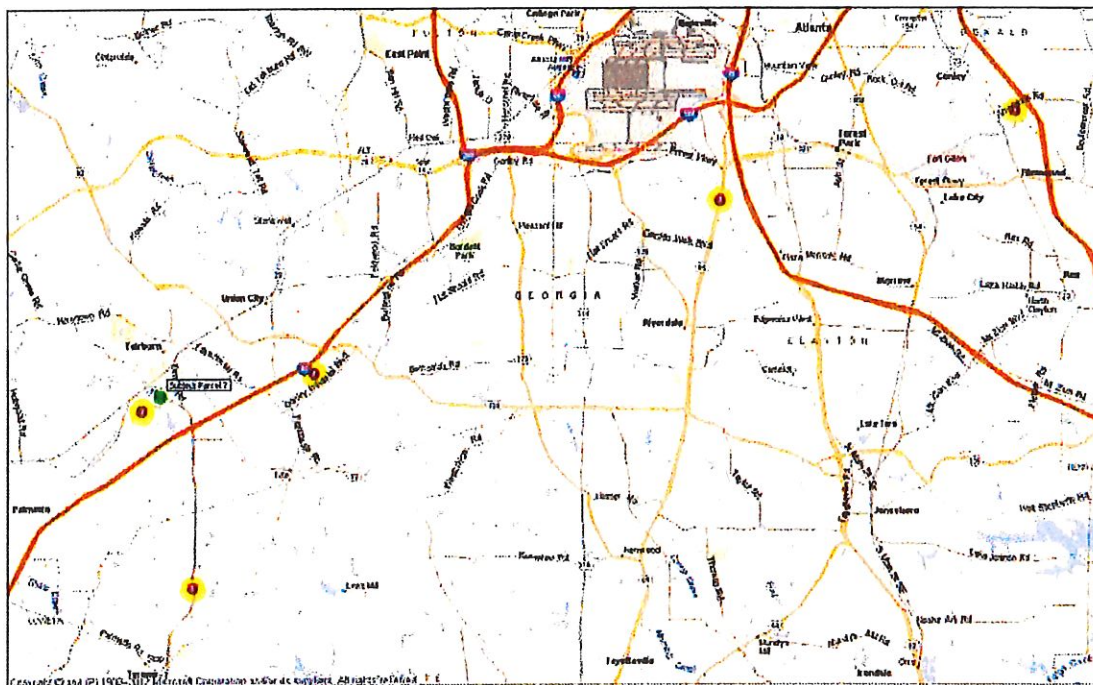
### Valuation Assuming No Stream Buffer Encumbrance

The sales analyzed are summarized in the following "Market Comparison Grid":

Item	Subject	Sale 1	Sale 2	Sale 3
Address/Location	Parcel 7	2510 Old Anvil Block Road	East side of Bohannon Road	447 Lees Mill Road
Proximity to Subject		16.8 miles NE	Adjacent SW	11.0 miles NE
Sale Date		Oct-16	Jun-17	Oct-17
Price		\$2,100,000	\$450,000	\$200,000
Size (SF)	739,213	618,116	1,367,784	88,427
Price / SF		\$3.40	\$0.33	\$2.26
<b>Intangible Adjustments</b>				
Rights Conveyed		Fee Simple	Fee Simple	Fee Simple
Financing		Cash to seller	Cash to seller	Cash to seller
Conditions of Sale		Arm's Length	Arm's Length	Arm's Length
Market Conditions (Time)		Inferior/Upward	Similar	Similar
Total Intangible Adjustment		Upward	None	None
<b>Tangible Adjustments</b>				
Location	Fairburn Industrial Blvd	Superior / Downward	Inferior / Upward	Inferior / Upward
Size	739,213	Similar	Larger/Upward	Smaller/Downward
Topography	Rolling	Similar	Similar	Similar
Functional Utility	Average	Similar	Inferior / Upward	Similar
Other		-	-	-
Total Tangible Adjustment		Downward	Upward	Upward
Total Adjustment		Downward	Upward	Upward



Item	Subject	Sale 4	Sale 5
Address/Location	Parcel 7	Northeast side of Graham Road	West side of Joel Cowan Parkway (Hwy 74)
Proximity to Subject		2.9 miles NE	3.6 miles S
Sale Date		Oct-17	Mar-18
Price		\$1,200,000	\$5,200,000
Size (SF)	739,213	1,119,579	3,731,870
Price / SF		\$1.07	\$1.39
<b>Intangible Adjustments</b>			
Rights Conveyed		Fee Simple	Fee Simple
Financing		Cash to seller	Cash to seller
Conditions of Sale		Arm's Length	Arm's Length
Market Conditions (Time)		Similar	Similar
Total Intangible Adjustment		None	None
<b>Tangible Adjustments</b>			
Location	Fairburn Industrial Blvd	Similar	Inferior / Upward
Size	739,213	Larger/Upward	Larger/Upward
Topography	Rolling	Superior / Downward	Similar
Functional Utility	Average	Similar	Similar
Other		Light Industrial/Upward	-
Total Tangible Adjustment		Upward	Upward
Total Adjustment		Upward	Upward



The transactions are transfers at cash or cash equivalent prices, and no adjustments are required for rights conveyed or financing. All of these transactions involve arm's length transfers, requiring no adjustments for conditions of sale. Adjustments for market conditions (time), location, as well as physical differences among the comparables are applied when warranted.



The appropriate unit of comparison is the price per square foot of land.

Land Sale 1 is located to the subject's northeast. Situated along Old Anvil Block Road proximate to Interstate 675, the locational characteristics of this comparable are considered superior to those of the subject; therefore, downward adjustment is warranted. The sale occurred during a time of inferior market conditions and an upward adjustment is necessary. The net adjustment is downward, indicating a value for the subject less than \$3.40 per square foot.

Land Sale 2 is located along Bohannon Road to the subject's immediate west. While the general locational characteristics are similar, Bohannon Road is considered a more secondary artery than Fairburn Industrial Boulevard. As such, an upward location adjustment is warranted. The larger size of this comparable necessitates an upward adjustment. Further upward adjustment is warranted for the large percentage of unusable land on this comparable. This comparable indicates a value for the subject significantly higher than \$0.33 per square foot.

Land Sale 3 is located along Lees Mill Road. Situated to the subject's northeast, an upward adjustment is warranted for this comparable's more secondary location. A downward adjustment is required for the smaller size of this comparable. Overall, the net adjustment is upward, indicating a value for the subject greater than \$2.26 per square foot.

Land Sale 4 is located northeast of the subject and is situated along Graham Road. While the access to this comparable is considered more secondary compared to that of the subject, this comparable does benefit from its superior exposure to Interstate 85. Overall, no location adjustment is necessary. An upward adjustment is warranted for size while a downward adjustment is warranted for the superior topography of this comparable. This comparable was zoned with a light industrial classification, a characteristic considered inferior to the subject's heavy industrial zoning; therefore, upward adjustment is required. The adjustments indicate the subject's value should be greater than \$1.07 per square foot.

Land Sale 5 is located south of the subject in Tyrone, Fayette County. The location of this comparable is considered inferior to that of the subject with regard to access; therefore, upward adjustment is required. Further upward adjustment is necessary for the significantly larger size of this comparable. The net adjustment is upward to the \$1.39 per square foot sales price of this comparable.

Based on this analysis, we conclude a value for the subject property's non-stream buffer encumbered land of **\$2.50 per square foot.**

### Stream Buffer Adjustment

As previously discussed, approximately 4.88 acres of the subject property is encumbered by wetlands or stream buffer.

To estimate an appropriate diminution factor for the subject's encumbered area, we have analyzed case studies involving flood plain. The case studies have been retained in our files and are available upon request. The results of these case studies follow:

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#### SUMMARY OF FLOOD PLAIN CASE STUDIES

<u>Case Study</u>	<u>Zoning</u>	Percentage Diminution for Flood Impacted <u>Parcels:</u>
1	Non-Residential	89.1%
2	Residential	100.0%
3	Non-Residential	92.7%
4	Residential	83.1%
5	Residential	81.1%
6	Non-Residential	70.5%
7	Non-Residential	67.6%
8	Non-Residential	92.0%
9	Non-Residential	92.0%

---

As indicated, the diminution in value for the flood plain land ranges from 67.6% to 100.0%.

Based on the case studies presented, we conclude a diminution in value for the subject's inutility of 80.0%. This equates to a contribution of 20.0% ( $1.0 - 0.80$ ).

**Final Value Estimate, Before Acquisition**

The subject's land value is calculated:

**Encumbered**

$$212,652.00 \text{ SF @ } \$2.50 \text{ Per SF} \times 0.20 = \$106,326$$

**Unencumbered**

$$526,561.20 \text{ SF @ } \$2.50 \text{ Per SF} = \$1,316,403$$

$$\text{Total: } 739,213.20 \quad \$1,422,729$$

As previously mentioned, the subject is listed for sale for \$1,440,000, or \$1.95 per square foot. The concluded value equates to an average unit value of \$1.92 per square foot. Based on the sales and analyzed, the listing appears reasonable and supportive of our value conclusion.

**SECTION 11 – ESTIMATE OF VALUE, PART TO BE ACQUIRED**

Compensation for the fee acquisition and easement is based on the unit value derived in the sales comparison approach. Driveway easements are non-compensable. Compensation for the improvements acquired, if any, is based on the estimated contributory value.

**Land****Fee Acquisition:****Encumbered**

$$22,147.51 \text{ SF @ } \$2.50 \text{ Per Sq. Ft.} \times 0.20 = \$11,074$$

**Unencumbered**

$$65,116.91 \text{ SF @ } \$2.50 \text{ Per Sq. Ft.} = \$162,792$$

$$\text{Total: } \$173,866$$



**Permanent Easements:**Encumbered

658.39	SF @	\$2.50	Per Sq. Ft.	x	0.20	=	\$329
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Unencumbered

10,392.48	SF @	\$2.50	Per Sq. Ft.	x		=	\$25,981
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Subtotal:							\$26,310
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% of Fee:					x		50%
-----------	--	--	--	--	---	--	-----

Total:							\$13,155
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**Site Improvements**

N/A.

**Total Value of Part to be Acquired**

Fee Acquisition:	\$173,866
Permanent Easement:	\$13,155
Site Improvements:	\$0
<b>Total:</b>	<b>\$187,021</b>

**SECTION 12 – COST TO CURE**

N/A.

**SECTION 13 – OTHER COMPENSATION****Damages to Trade Fixtures**

Fee Owned:	N/A
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Tenant Owned:	N/A
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**Temporary Easement Valuation**

Not applicable


**SECTION 14 - COMPENSATION SUMMARY**


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Total Before:		\$1,422,729
Less Part Acquired:		
Fee Acquisition	\$173,866	
Permanent Easement	<u>\$13,155</u>	
Total Part Acquired		<u>\$187,021</u>
Remainder Before:		\$1,235,708
Remainder After:		<u>\$1,235,708</u>
Consequential Damages / Benefits:		\$0
Add Part Acquired:		
Fee Acquisition		\$173,866
Permanent Easement		\$13,155
Site Improvements		\$0
Temporary Easement		<u>\$0</u>
Total Award:		\$187,021
<b>Total Award (Rounded To):</b>		<b><u>\$187,100</u></b>

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### Compensation Summary – 388-C

Project : Howell Avenue Extension Parcel: Parcel 7  
 County: Fulton P.I. #: 1517166  
 Date Signed: July 11, 2018  Date of Value: July 9, 2018  
 Appraiser/Signature: \_\_\_\_\_ Certification #: CG303999  
 Appraiser Name: Matthew J. Rahn, MAI Address: 1770 The Exchange SE  
 Suite 230  
 Atlanta, Georgia 30339  
 Telephone: (404) 836-7921 Facsimile: (678) 686-5595

Total Value Before Acquisition (Land):				\$1,422,729
Value of Land Acquired, Fee Simple:				
	87,264.42	\$1.99		\$173,866
	Land Area	Price/Unit		
Value of Permanent Easement(s):				
	11,050.87	\$2.38	50.0%	\$13,155
	Land Area	Price/Unit	% of Fee Value	
Value of Site Improvements to be Acquired:				\$0
Market Value of Acquisition:				\$187,021
Consequential Damages/Benefits				\$0
Damages/Acquisition of Signage:				\$0
Damages/Acquisition of Trade Fixtures:				\$0
Temporary Easement:				\$0
Recommended Compensation, As Rounded:				\$187,100

#### SUMMARY OF COMPENSATION FOR OWNERSHIP INTERESTS

	Name	Compensation	Items Included
Owner/Leased Fee	Greenland Georgia, Inc.	\$187,100	Fee acquisition and permanent easement
Leasehold	N/A	\$0	N/A
Subleasehold	N/A	\$0	N/A
Trade Fixtures	N/A	\$0	N/A
Easement Owners	N/A	\$0	N/A
Life Estate	N/A	\$0	N/A



### **SECTION 15 - LIMITING CONDITIONS AND ASSUMPTIONS**

The analysis and the attached report are made subject to the following conditions and assumptions:

1. Any legal description or plats reported herein are assumed to be accurate. Any sketches, plats, or drawings included herein are included to assist the reader in visualizing the property. We have made no survey of the property and assume no responsibility in connection with such matters.
2. No responsibility is assumed for matters legal in nature. Title is assumed to be good and marketable and in fee simple unless discussed otherwise in the report. The property is considered free and clear of existing liens, assessments, and encumbrances, except as noted.
3. The analyst assumes no liability for structural features not visible on an ordinary careful inspection, nor any responsibility for sub-surface conditions.
4. Unless otherwise noted herein, it is assumed that there are no encroachments or zoning violations of any regulations affecting the subject property.
5. The property is assumed to be under competent and aggressive management unless otherwise stated.
6. Certain information used in the report was provided by sources which are considered reliable but cannot be guaranteed.
7. Any value estimates reported herein apply to the entire property, and any proration or division of the total into fractional interests will invalidate the value estimate, unless such proration or division of interest is set forth in the report.
8. Any division of the land and improvement values estimated herein is applicable only under the program of utilization shown. These separate valuations are invalidated by any other application.
9. We are not required to give testimony or attendance in court by reason of this analysis or report, with reference to the property in question, unless arrangements have previously been made.
10. Neither all nor any part of the contents of this report shall be conveyed to the public through advertising, public relations, news, sales, or other media, without the prior written consent and approval of the author; this limitation pertains to any valuation conclusions, the identity of the analyst or the firm, and any reference to the Appraisal Institute or to the designations.

11. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation or other potentially hazardous materials may have an effect on the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field if desired.
12. Any forecasts or projections included in this report are utilized to assist in the valuation process and are based upon current market conditions, anticipated short-term supply and demand factors, as well as a stable economy. These forecasts are therefore subject to changes in future conditions, which cannot be accurately be predicted by the appraisers and could affect the future income and/or value forecasts.
13. The appraisers were provided right of way plans identifying the area of the subject property; however, the plans did not allocate the subject's land area or acquisition area between stream buffer encumbered and unencumbered areas. The appraisers utilized the provided right of way plans as well as estimates from the Fulton County GIS website to allocate the stream buffer and non-stream buffer encumbered areas. Should these allocations differ significantly from a subsequent survey, we reserve the right to amend this appraisal, an extraordinary assumption

**SECTION 16 - QUALIFICATIONS OF MATTHEW J. RAHN, MAI**

Currently vice president of Carr, Rahn & Associates, Inc., a real estate appraisal and consulting firm with offices in Atlanta and Conyers, Georgia. Exclusively engaged in real estate valuation and consulting since 2005.

**Type of Work Performed:**

Experience includes market research and appraisal analyses for a diverse array of property types including: commercial, industrial, and residential sites; large acreage tracts; retail and general commercial buildings; office buildings; places of worship; flood plain and green space; residential subdivisions; and multi-family properties. Additional consultation / appraisal experience includes highest and best use analysis, feasibility, and Department of Transportation acquisition analyses. Valuations performed include current, prospective, and retrospective market valuation. Interests appraised include fee simple, leasehold, and leased fee. Have also provided litigation support and qualified as an expert witness in federal and state superior courts.

**Education:**

Bachelor of Science in Management, Georgia Institute of Technology (2003).

Successfully completed and received credit for numerous courses conducted by the Appraisal Institute.

**Clients:**

Lending institutions, various agencies of federal, state, and local governments, law firms, institutions, and private corporations and individuals.

**State Licensing / Certifications:**

Designated Member of the Appraisal Institute (MAI)  
Level 3 Appraiser for Georgia Department of Transportation  
State of Georgia Certified General Real Property Appraiser (303999) [Renews Annually]



# ATTACHMENTS

**CERTIFICATION OF APPRAISER****STATE OF GEORGIA  
COUNTY OF COBB****PROJECT NO. 1517166  
PARCEL 7**

I Hereby Certify:

That I have personally inspected the property appraised herein and that I have also made a personal field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented in said appraisal or in the data book or report which supplements said appraisal. No one provided significant professional assistance to the appraiser in completion of this report.

That to the best of my knowledge and belief, the statements contained in the appraisal herein set forth are true and correct, the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions. That my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice. The appraiser is currently certified under the continuing education program of the State of Georgia through the date **July 31, 2018**. The appraiser is also currently certified under the voluntary continuing education program of The Appraisal Institute.

That I understand that such appraisal may be used in connection with the acquisition of right-of-way for a project to be constructed by the State of Georgia with the assistance of Federal-Aid highway funds, and other Federal funds.

That such appraisal has been made in conformity with the appropriate State laws, regulations, and policies and procedures applicable to appraisal of right-of-way for such purposes; and that to the best of my knowledge, no portion of the value assigned to such property consists of items that are non-compensable under the established law of said State.


That my compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event. That I have no personal interest in or bias with respect to the parties involved, and that I have no present or prospective interest in the property that is the subject of this report.

That I have not revealed the findings and results of such appraisal to anyone other than the property officials of the acquiring agency of said State or officials of the Federal Highway Administration, and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That my opinion of just compensation for the acquisition as of the 9<sup>th</sup> day of **July, 2018**, is **\$187,100**, based upon my independent appraisal and the exercise of my professional judgment.

Name: Matthew J. Rahn, MAI  
CG#303999

Date: July 11, 2018

Telephone Number: 404-836-7921 Appraiser's Signature: 

Address: 1770 The Exchange SE  
Suite 230  
Atlanta, Georgia 30339

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
4. I hereby acknowledge that I have had no prior involvement with the subject property within the preceding three years.
5. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
6. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
7. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
8. My analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice, as well as the Georgia Real Estate Appraiser Classification and Regulation Act and the Rules and Regulations of the Georgia Real Estate Appraisers Board.
9. I have made a personal inspection of the property that is the subject of this report from the public road fronting the property.
10. No one provided significant real property appraisal assistance other than the people signing certifications within this report.
11. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
12. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
13. As of the date of this report, I have completed the continuing education program for Designated Members of the Appraisal Institute.

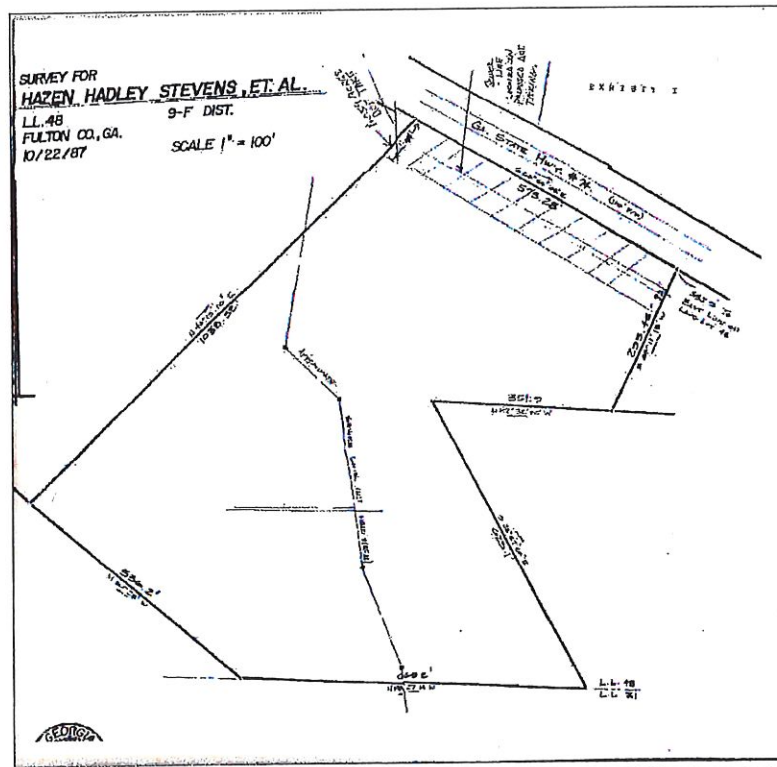


Matthew J. Rahn, MAI  
State of Georgia Certified General Real Property Appraiser (CG303999)





The following survey was provided by the subject property representative.





1.



2.

Project/Parcel Number: Project PI # 1517166; Parcel 7  
 County: Fulton  
 Subject of Photos: 1. View of the subject facing southeast along Fairburn Industrial Boulevard.  
 2. View of the subject facing northwest along Fairburn Industrial Boulevard.  
 Photos Taken By/Date Taken: Matthew Rahn, MAI / July 9, 2018





3.



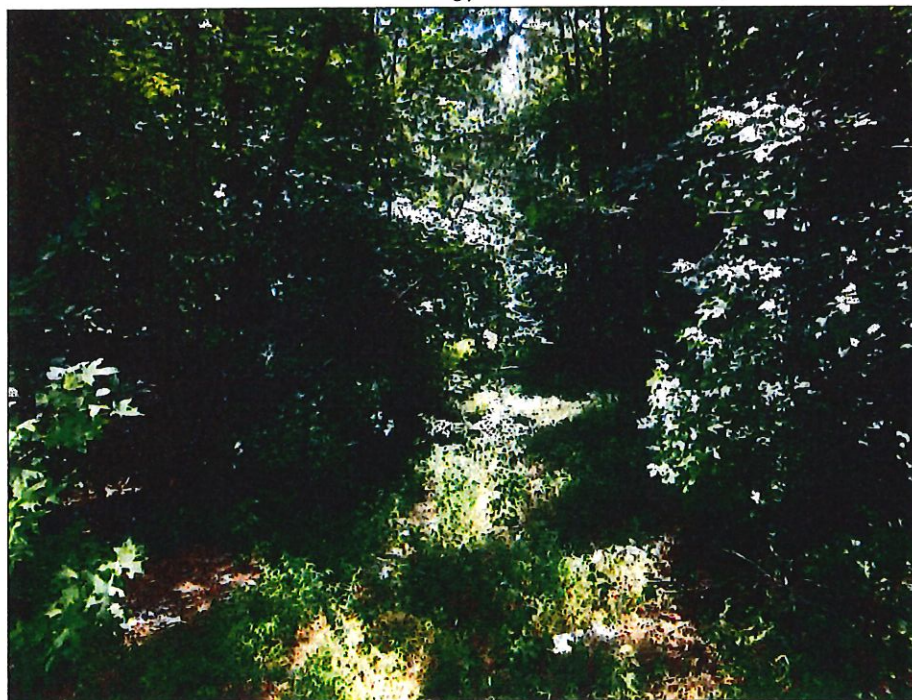
4.

Project/Parcel Number: Project PI # 1517166; Parcel 7  
County: Fulton  
Subject of Photos: 3. View of the subject facing southwest from Fairburn Industrial Boulevard.  
4. View of the northwestern border of the subject facing southwest.  
Photos Taken By/Date Taken: Matthew Rahn, MAI / July 9, 2018





5.



6.

Project/Parcel Number: Project PI # 1517166; Parcel 7  
County: Fulton  
Subject of Photos: 5. Typical view of the subject property.  
6. Typical view of the subject property.  
Photos Taken By/Date Taken: Matthew Rahn, MAI / July 9, 2018

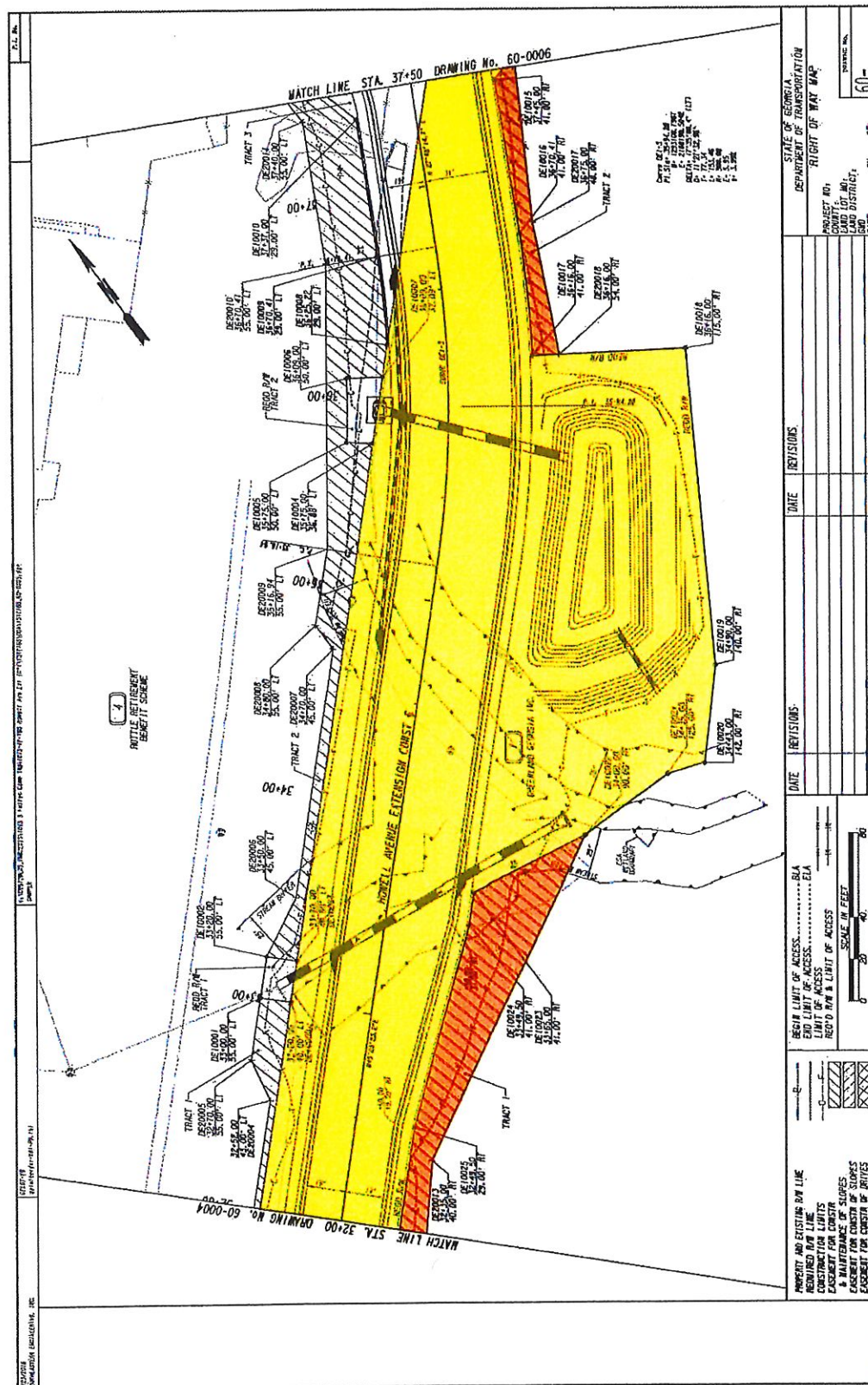


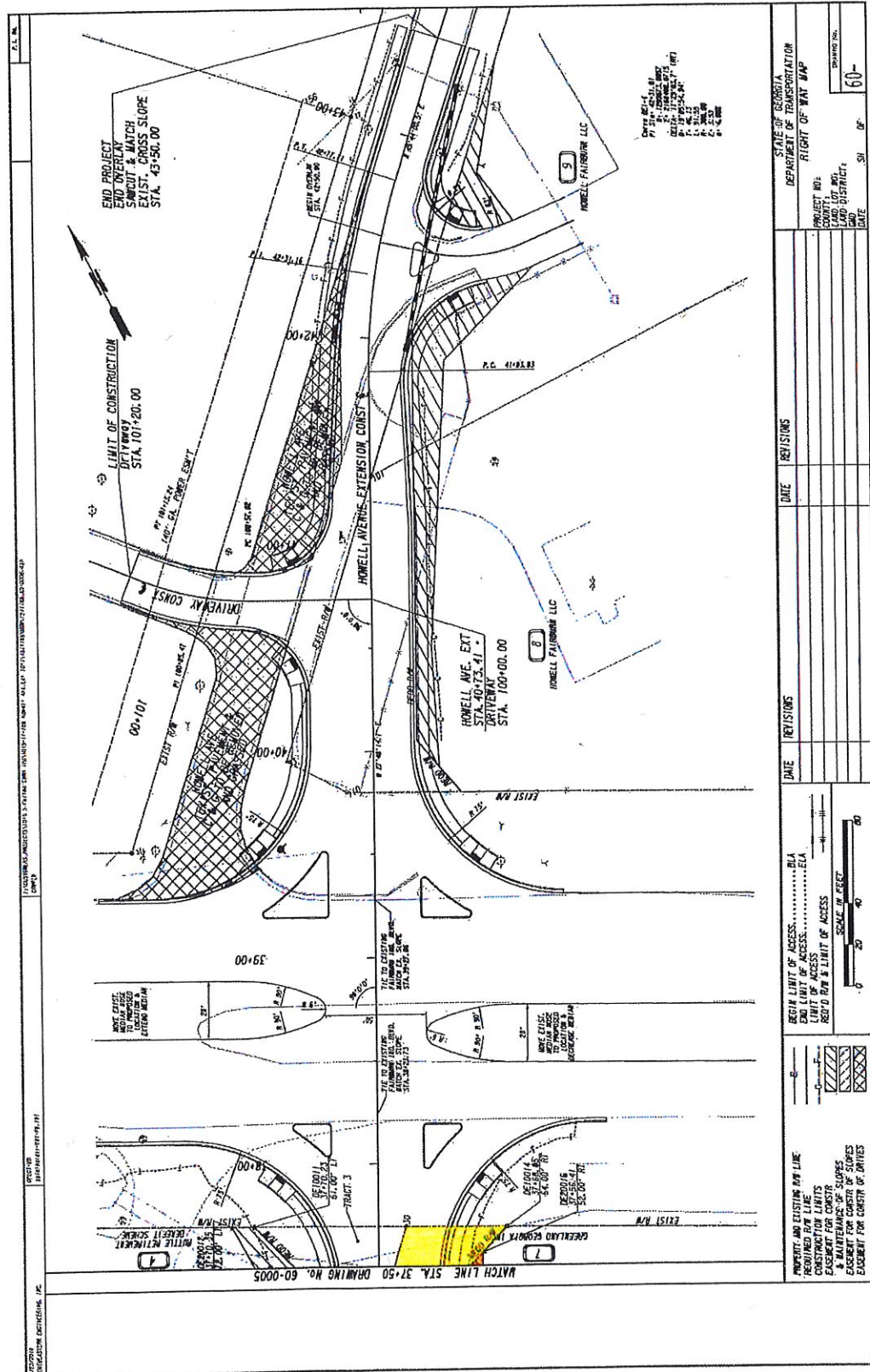


## ATTACHMENT VI











## PAR 7 GREENLAND GEORGIA (TRACT 1) RECD'D TEMP. EASMT. DE20007-1

PNT	OFFSET/	STATION/	ALIGNMENT
DE10013	29.00 R	28+22.04	HOWELL AVE
DE10025	29.00 R	32+49.50	HOWELL AVE
DE10024	41.00 R	33+49.50	HOWELL AVE
DE10023	41.00 R	33+65.00	HOWELL AVE
DE10022	90.00 R	34+00.00	HOWELL AVE
DE20013	40.00 R	32+35.00	HOWELL AVE
DE20014	50.00 R	31+00.00	HOWELL AVE
DE20015	35.00 R	28+22.75	HOWELL AVE
DE10013	23.00 R	28+22.04	HOWELL AVE
RECD EASMT AREA = 9781.52 SF			

## PAR 7 GREENLAND GEORGIA (TRACT 2) RECD'D TEMP. EASMT. DE20007-2

PNT	OFFSET/	STATION/	ALIGNMENT
DE10017	41.00 R	36+16.00	HOWELL AVE
ARC LENGTH = 58.86			
CHORD BEAR = N 30°55'16.2" E			
LNTH CHORD = 58.84			
RADIUS = 541.00			
DEGREE = 10°35'26.6"			
DE10016	41.00 R	36+70.41	HOWELL AVE
DE10015	41.00 R	37+45.00	HOWELL AVE
DE20016	52.00 R	37+56.41	HOWELL AVE
DE20017	48.00 R	36+75.00	HOWELL AVE
DE20018	54.00 R	36+16.00	HOWELL AVE
DE10017	41.00 R	36+16.00	HOWELL AVE
RECD EASMT AREA = 1269.35 SF			

## PAR 7 GREENLAND GEORGIA RECD'D R/W DE10007

PNT	OFFSET/	STATION/	BEARING	ALIGNMENT
32	40.00 L	28+13.90		HOWELL AVE
	952.70	N 45°23'23.2" E		
30	13.93 R	37+69.42		HOWELL AVE
	50.07	S 61°32'38.2" E		
DE10014	64.00 R	37+68.85		HOWELL AVE
	33.13	S 71°46'01.4" W		
DE10015	41.00 R	37+45.00		HOWELL AVE
	74.59	S 27°48'14.7" W		
DE10016	41.00 R	36+70.41		HOWELL AVE
ARC LENGTH = 58.86				
CHORD BEAR = S 30°55'16.2" W				
LNTH CHORD = 58.84				
RADIUS = 541.00				
DEGREE = 10°35'26.6"				
DE10017	41.00 R	36+16.00		HOWELL AVE
	74.00	S 55°57'42.3" E		
DE10018	115.00 R	36+16.00		HOWELL AVE
	152.56	S 31°20'30.1" W		
DE10019	140.00 R	34+90.00		HOWELL AVE
	47.04	S 42°57'11.2" W		
DE10020	142.00 R	34+43.00		HOWELL AVE
	18.79	N 69°48'40.9" W		
DE10021	125.00 R	34+35.00		HOWELL AVE
	49.50	N 89°36'36.8" W		
DE10022	90.00 R	34+00.00		HOWELL AVE
	60.22	N 80°08'52.5" W		
DE10023	41.00 R	33+65.00		HOWELL AVE
	15.50	S 45°23'23.2" W		
DE10024	41.00 R	33+49.50		HOWELL AVE
	100.72	S 52°13'57.1" W		
DE10025	29.00 R	32+49.50		HOWELL AVE
	427.46	S 45°23'23.2" W		
DE10013	29.00 R	28+22.04		HOWELL AVE
	69.48	N 51°20'17.3" W		
32	40.00 L	28+13.90		HOWELL AVE
RECD R/W = 87284.42 SF				
RECD R/W = 2.003 ACRES				
REMAINDER = +/- 14 ACRES				



No title certificate was provided. The most recent vesting deed follows:

Deed Book 39746 Pg 321  
Filed and Recorded Apr-07-2005 03:21pm  
2005-0136956  
Real Estate Transfer Tax 10.00  
Juanita Hicks  
Clerk of Superior Court  
Fulton County, Georgia

Return To:

Ronald W. Rogers  
Stack & Rogers  
Suite 920, One Buckhead Plaza  
3060 Peachtree Rd., N.W.  
Atlanta, GA 30305

STATE OF GEORGIA  
COUNTY OF FULTON

QUITCLAIM DEED

THIS INDENTURE made the 4<sup>th</sup> day of April, in the year two thousand five, by and between NORTHBROOK CORPORATION (hereinafter called "Grantor"), and GREENLAND (GEORGIA), INC., (hereinafter called "Grantee") (the words "Grantor" and "Grantee" to include their respective successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby remise, convey and forever QUITCLAIM unto the said Grantee the following described property to-wit:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 48 of the 9-F District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the southwesterly right-of-way of Georgia State Highway No. 74 (a 100-ft. right-of-way), which point is located 582.9 feet northwesterly from the intersection of the southwesterly side of Georgia State Highway No. 74 and the line dividing Land Lots 47 and 48; running thence south 24 degrees 11 minutes 13 seconds west 293.48 feet to a point; running thence north 87 degrees 32 minutes 52 seconds west 351.9 feet to a point; running thence south 28 degrees 57 minutes 58 seconds east 623.1 feet to a point located on the line dividing Land Lots 31 and 48; running thence north 88 degrees 27 minutes 13 seconds west along said land lot line 669.2 feet to an iron pin found; running thence north 50 degrees 28 minutes west 536.2 feet to a point; running thence north 46 degrees 15 minutes 10 seconds east

Deed Book 39746 Pg 322

Juanita Hicks  
Clerk of Superior Court  
Fulton County, Georgia

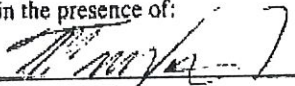
1038.52 feet to a point located on the southwesterly right-of-way of said Georgia State Highway No. 74; running thence south 60 degrees 54 minutes 48 seconds east along said right-of-way 575.28 feet to a point and the POINT OF BEGINNING, said property consisting of 16.97 acres as depicted on Plat for Greenland (Georgia), Inc., dated October 22, 1987 by Steed & Boyd Land Surveyors.

The sole and express purpose of this quitclaim deed is to release the above described property from the lien of that certain Deed to Secure Debt by and between Greenland (Georgia), Inc. (as "Borrower") and Northbrook Corporation (as "Lender") dated December 10, 1987 and recorded at Deed Book 11226, page 298, Fulton County Records.

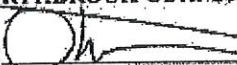
TO HAVE AND TO HOLD the said described premises to Grantee, so that neither Grantor nor any person or persons claiming under Grantor shall at any time, by any means or ways, have, claim or demand any right or title to said premises or appurtenances, or any rights therein.

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

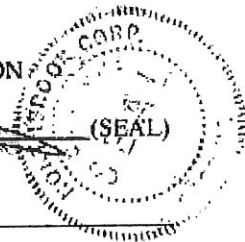
Signed, sealed and delivered  
in the presence of:

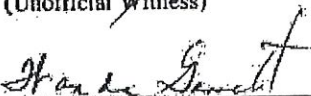
  
(Unofficial Witness)

NORTHBROOK CORPORATION

By:   
Olivia Lee Van Houten

Its: President



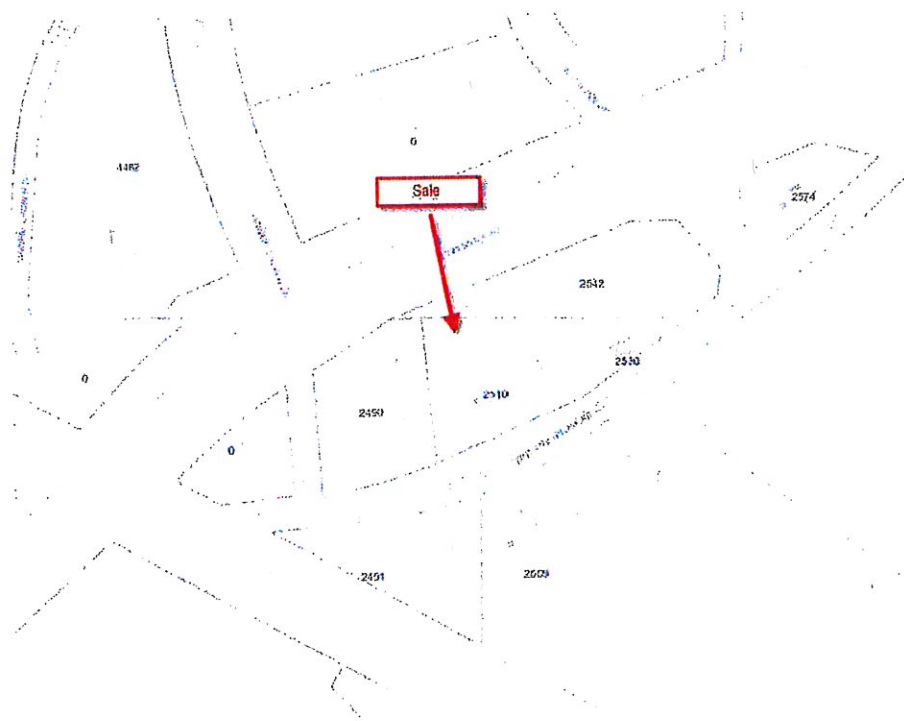
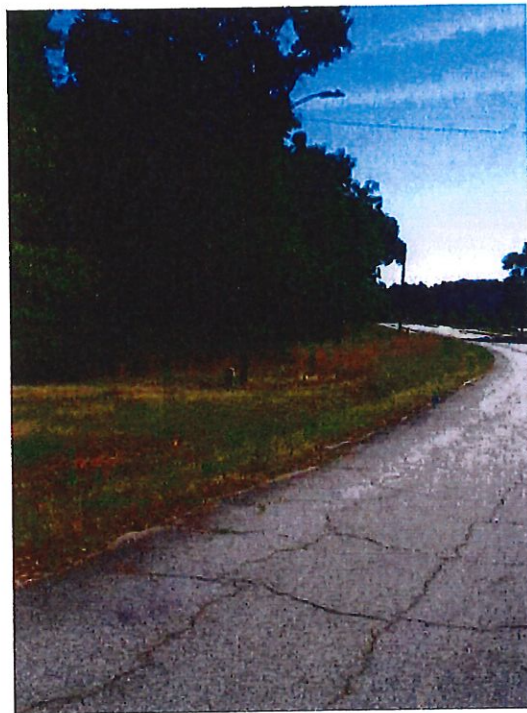


Notary Public:

My Commission Expires: June 6, 2008



LAND SALE NO. 1





To be filed in **CLAYTON COUNTY** PT-61 031-2016-009023

SECTION A - SELLER'S INFORMATION (Do not use agent's information)				SECTION C - TAX COMPUTATION	
SELLER'S BUSINESS / ORGANIZATION / OTHER NAME Duke Realty Land, LLC				Exempt Code If no exempt code enter NONE	NONE
MAILING ADDRESS (STREET & NUMBER) 3715 Davinci Court Suite 300				1. Actual Value of consideration received by seller Complete Line 1A if actual value unknown	\$2,100,000.00
CITY, STATE / PROVINCE / REGION, ZIP CODE, COUNTRY Rosetree Corners, GA 30092 USA		DATE OF SALE 12/1/2016		1A. Estimated fair market value of Real and Personal property	\$0.00
SECTION B - BUYER'S INFORMATION (Do not use agent's information)				2. Fair market value of Personal Property only	\$0.00
BUYER'S BUSINESS / ORGANIZATION / OTHER NAME Prime Auto Resources, Inc.				3. Amount of liens and encumbrances not removed by transfer	\$0.00
MAILING ADDRESS (Must use buyer's address for tax billing & notice purposes) 200 NW 1st Avenue 14th Floor				4. Net Taxable Value (Line 1 or 1A less Lines 2 and 3)	\$2,100,000.00
CITY, STATE / PROVINCE / REGION, ZIP CODE, COUNTRY Fort Lauderdale, FL 33301 USA		Check Buyers Intended Use ( ) Residential ( ) Commercial ( ) Agricultural (X) Industrial		5. TAX DUE at 10 per \$100 or fraction thereof (Minimum \$1.00)	\$2,100.00
SECTION D - PROPERTY INFORMATION (Location of Property (Street, Route, Hwy, etc))					
HOUSE NUMBER & EXTENSION (ex 385A) Anvil Block Road		PRE-DIRECTION, STREET NAME AND TYPE, POST DIRECTION			SUITE NUMBER
COUNTY CLAYTON	CITY (if APPLICABLE)		MAP & PARCEL NUMBER 12213B A001		ACCOUNT NUMBER
TAX DISTRICT GMD	LAND DISTRICT 12	ACRES 14.185	LAND LOT 213	SUB LOT & BLOCK	
SECTION E - RECORDING INFORMATION (Official Use Only)					
DATE	DEED BOOK 11006	DEED PAGE 543	PLAT BOOK	PLAT PAGE	

ADDITIONAL BUYERS  
None

### Property Identification

Property ID	19231
Property Type	Industrial Land
Address	2510 Old Anvil Block Road
City, State Zip	Ellenwood, Georgia 30294
County	DeKalb
Tax ID	12213B A001
Geographic Location	The site is located 1/4 mile west of I-75 on the south side of Anvil Block Road

### Sale Data

Seller	Duke Realty Land, LLC
Buyer	Prime Auto Resources, Inc.
Sale Date	12-01-2016
Sale Status	Closed
Deed Book/Page	11006-543
Property Rights	Fee Simple
Financing	All Cash to Seller Cash to seller
Conditions of Sale	Arm's Length
Verification	Grantor
Verification Date	05-17-2017

<b>Sales Price</b>	\$2,100,000
<b>Adjustments (\$)</b>	\$0
<b>Adjusted Price</b>	\$2,100,000

**Land Data**

<b>Land Size</b>	14.19000 acres or 618,116 SF
<b>Usable Site (Acres)</b>	14.19000
<b>Usable Site (% of Total)</b>	100.0%
<b>Utilities</b>	All available, including sewer
<b>Topography</b>	Generally level
<b>Shape</b>	Irregular
<b>Grade</b>	At and below road grades
<b>Drainage</b>	Adequate
<b>Visibility</b>	Good
<b>Access</b>	Good
<b>Zoning</b>	HI; Heavy Industrial
<b>Existing Site</b>	The site is wooded undeveloped raw land.
<b>Improvements</b>	

**Indicators**

<b>Sale Price/Gross Acre</b>	\$147,992
<b>Sale Price/Gross SF</b>	\$3.40
<b>Sale Price/ Usable Acre</b>	\$147,992
<b>Sale Price/ Usable SF</b>	\$3.40

**Remarks**

The site is a large secondary commercial land tract located with good access to I-75. The area is a developing commercial corridor. The site was purchased for future development.

LAND SALE NO. 2





PT-61 (Rev. 11/04) To be filed in **FULTON COUNTY** PT-61 060-2017-022423

SECTION A - SELLER'S INFORMATION (Do not use agent's information)		SECTION C - TAX COMPUTATION	
SELLER'S BUSINESS / ORGANIZATION / OTHER NAME PRX Holdings Corp.		Exempt Code If no exempt code enter NONE	NONE
MAILING ADDRESS (STREET & NUMBER) c/o WebMD Health Corp. 395 Hudson Street, 3rd Floor		1. Actual Value of consideration received by seller Complete Line 1A if actual value unknown	\$450,000.00
CITY, STATE / PROVINCE / REGION, ZIP CODE, COUNTRY New York, NY 10014 USA	DATE OF SALE 6/15/2017	1A. Estimated fair market value of Real and Personal property	\$0.00
SECTION B - BUYER'S INFORMATION (Do not use agent's information)		2. Fair market value of Personal Property only	\$0.00
BUYER'S BUSINESS / ORGANIZATION / OTHER NAME Strack Family, L.L.C.		3. Amount of liens and encumbrances not removed by transfer	\$0.00
MAILING ADDRESS (Must use buyer's address for tax billing & notice purposes) 200 East Guard Farm Road		4. Net Taxable Value (Line 1 or 1A less Lines 2 and 3)	\$450,000.00
CITY, STATE / PROVINCE / REGION, ZIP CODE, COUNTRY Newman, GA 30263 USA	Check Buyers Intended Use ( ) Residential ( ) Commercial ( ) Agricultural ( ) Industrial	5. TAX DUE at .10 per \$100 or fraction thereof (Minimum \$1.00)	\$450.00
SECTION D - PROPERTY INFORMATION (Location of Property (Street, Route, Hwy, etc))			
HOUSE NUMBER & EXTENSION (ex 265A)	PRE-DIRECTION, STREET NAME AND TYPE, POST DIRECTION		SUITE NUMBER
COUNTY FULTON	CITY (IF APPLICABLE) Fairburn	MAP & PARCEL NUMBER 09F080000310588; 09F080000310596	ACCOUNT NUMBER
TAX DISTRICT	GMD	LAND DISTRICT	ACRES
		LAND LOT	SUB LOT & BLOCK
SECTION E - RECORDING INFORMATION (Official Use Only)			
DATE	DEED BOOK 57639	DEED PAGE 8	PLAT PAGE

ADDITIONAL BUYERS  
None

### Property Identification

Property ID 19577  
 Property Type Industrial Land  
 Address East side of Bohannon Road about 150 feet south of  
 Henderson Lake Road  
 City, State Zip Fairburn, Georgia 30213  
 County Fulton  
 Tax ID 09F 080000310588, 09F 80000310596, 09F 090100480306

### Sale Data

Seller PRX Holdings Corp  
 Buyer Strack Family, LLC  
 Sale Date 06-15-2017  
 Sale Status Closed  
 Deed Book/Page 57639-8  
 Property Rights Fee Simple  
 Financing Cash to Seller  
 Conditions of Sale Arm's Length  
 Verification James Clark, selling broker  
 Verification Phone 770-652-1844  
 Verification Date 07-11-2018  
 Confirmed By Matt Rahn

<b>Sales Price</b>	\$450,000
<b>Adjustments (\$)</b>	\$0
<b>Adjusted Price</b>	\$450,000

**Land Data**

<b>Land Size</b>	31.40000 acres or 1,367,784 SF
<b>Usable Site (Acres)</b>	12.00000
<b>Usable Site (% of Total)</b>	38.2%
<b>Primary Frontage (FT)</b>	313.00
<b>Utilities</b>	All available including sewer
<b>Topography</b>	Gently rolling to rolling
<b>Shape</b>	Irregular
<b>Grade</b>	At and below road grades
<b>Drainage</b>	Appears adequate
<b>Visibility</b>	Average
<b>Access</b>	Average
<b>Flood Plain</b>	Yes
<b>Zoning</b>	M2, Heavy Industrial, City of Fairburn;

**Indicators**

<b>Sale Price/Gross Acre</b>	\$14,331
<b>Sale Price/Gross SF</b>	\$.33
<b>Sale Price/ Usable Acre</b>	\$37,500
<b>Sale Price/ Usable SF</b>	\$.86
<b>Sale Price/ FF</b>	\$1,437.70

**Remarks**

This is the sale of an assemblage of three vacant land tracts in the Fairburn city limits. The property has significant stream buffer/wetlands area. The grantee owns several other industrial properties in the area and purchased the property for holding purposes.

## LAND SALE NO. 3



To be filed in <b>CLAYTON COUNTY</b>				PT-61 031-2017-00	
<b>SECTION A - SELLER'S INFORMATION</b> (Do not use agent's information)				<b>SECTION C - TAX COMPUTATION</b>	
SELLER'S BUSINESS / ORGANIZATION / OTHER NAME Lees Mill 85, LLC				Exempt Code If no exempt code enter NONE	
MAILING ADDRESS (STREET & NUMBER) 2870 Peachtree Road, Suite 122				1. Actual Value of consideration received by seller Complete Line 1A if actual value unknown	\$200,
CITY, STATE / PROVINCE / REGION, ZIP CODE, COUNTRY Atlanta, GA 30305 USA		DATE OF SALE 10/2/2017		1A. Estimated fair market value of Real and Personal property	
<b>SECTION B - BUYER'S INFORMATION</b> (Do not use agent's information)				2. Fair market value of Personal Property only	
BUYER'S BUSINESS / ORGANIZATION / OTHER NAME Stephens Industries, LP				3. Amount of liens and encumbrances not removed by transfer	
MAILING ADDRESS (Must use buyer's address for tax billing & notice purposes) 5173 Pelican Dr.				4. Net Taxable Value (Line 1 or 1A less Lines 2 and 3)	\$200,
CITY, STATE / PROVINCE / REGION, ZIP CODE, COUNTRY College Park, GA 30349 USA		Check Buyer's Intended Use ( ) Residential (X) Commercial ( ) Agricultural ( ) Industrial		5. TAX DUE at .10 per \$100 or fraction thereof (Minimum \$1.00)	\$
<b>SECTION D - PROPERTY INFORMATION</b> (Location of Property (Street, Route, Hwy, etc))					
HOUSE NUMBER & EXTENSION (ex 205A) 447		PRE-DIRECTION, STREET NAME AND TYPE, POST DIRECTION Lees Mill Road			SUITE NUMBER
COUNTY CLAYTON		CITY (IF APPLICABLE)		MAP & PARCEL NUMBER 13086A B001	ACCOUNT NUMBER
TAX DISTRICT 13	GRID	LAND DISTRICT 13	ACRES 2.03	LAND LOT 86	SUB LOT & BLOCK
<b>SECTION E - RECORDING INFORMATION</b> (Official Use Only)					
DATE		DEED BOOK 11174	DEED PAGE 512	PLAT BOOK	PLAT PAGE



**Property Identification**

<b>Property ID</b>	19421
<b>Property Type</b>	Industrial Land
<b>Address</b>	447 Lees Mill Road
<b>City, State Zip</b>	Atlanta, Georgia 30349
<b>County</b>	Clayton
<b>Tax ID</b>	13086A B001
<b>Geographic Location</b>	Located along the northwestern corner of Lees Mill Road and Ga Hwy 85

**Sale Data**

<b>Seller</b>	Lees Mill 85 LLC
<b>Sale Date</b>	10-02-2017
<b>Sale Status</b>	Closed
<b>Deed Book/Page</b>	11174/512
<b>Property Rights</b>	Fee Simple
<b>Financing</b>	All Cash to Seller
<b>Conditions of Sale</b>	Arm's Length
<b>Verification</b>	Broker, Deed, County Records
<b>Verification Date</b>	11-30-2017
<b>Confirmed By</b>	A.J. Bryant

<b>Sales Price</b>	\$200,000
<b>Adjustments (\$)</b>	\$0
<b>Adjusted Price</b>	\$200,000

**Land Data**

<b>Land Size</b>	2.03000 acres or 88,427 SF
<b>Usable Site (Acres)</b>	2.03000
<b>Usable Site (% of Total)</b>	100.0%
<b>Number of Lots</b>	1
<b>Primary Frontage (FT)</b>	370.00
<b>Secondary Frontage (FT)</b>	482.00
<b>Utilities</b>	All available, including sanitary sewer.
<b>Topography</b>	Gently Sloping
<b>Shape</b>	Irregular, but Functional
<b>Drainage</b>	Appears adequate
<b>Visibility</b>	Average
<b>Access</b>	Average
<b>Flood Plain</b>	No
<b>Zoning</b>	HI, Heavy Industrial;

**Indicators**

<b>Sale Price/Gross Acre</b>	<b>\$98,522</b>
<b>Sale Price/Gross SF</b>	<b>\$2.26</b>
<b>Sale Price/ Usable Acre</b>	<b>\$98,522</b>
<b>Sale Price/ Usable SF</b>	<b>\$2.26</b>
<b>Sale Price /Lot</b>	<b>\$200,000</b>
<b>Sale Price/ FF</b>	<b>\$540.54</b>

**Remarks**

This is the sale of an approximate 2 acre industrial tract along the northwestern corner of Lees Mill Road and Ga Hwy 85. The site was purchased by Stephens Industries, a waste disposal and recycling company. Exposure, access and topography are considered average.

LAND SALE NO. 4





To be filed in <b>FULTON COUNTY</b>		PT-61 060-2017-041077	
<b>SECTION A - SELLER'S INFORMATION (Do not use agent's information)</b>		<b>SECTION C - TAX COMPUTATION</b>	
SELLER'S BUSINESS / ORGANIZATION / OTHER NAME BY REAL ESTATE DEVELOPMENT, LLC		Exempt Code If no exempt code enter NONE	NONE
MAILING ADDRESS (STREET & NUMBER) 7401 Graham Road Attn: Scott Seymour		1. Actual Value of consideration received by seller Complete Line 1A if actual value unknown	\$1,200,000.00
CITY, STATE / PROVINCE / REGION, ZIP CODE, COUNTRY Fairburn, GA 30213 USA	DATE OF SALE 10/24/2017	1A. Estimated fair market value of Real and Personal property	\$0.00
<b>SECTION B - BUYER'S INFORMATION (Do not use agent's information)</b>		2. Fair market value of Personal Property only	\$0.00
BUYER'S BUSINESS / ORGANIZATION / OTHER NAME SRPF A/GRAHAM ROAD INDUSTRIAL, L.L.C.		3. Amount of liens and encumbrances not removed by transfer	\$0.00
MAILING ADDRESS (Must use buyer's address for tax billing & notice purposes) 1180 West Peachtree Street Attn: Ben Haultt		4. Net Taxable Value (Line 1 or 1A less Lines 2 and 3)	\$1,200,000.00
CITY, STATE / PROVINCE / REGION, ZIP CODE, COUNTRY Atlanta, GA 30309 USA	Check Buyers Intended Use ( ) Residential ( ) Commercial ( ) Agricultural ( ) Industrial	5. TAX DUE at .10 per \$100 or fraction thereof (Minimum \$1.00)	\$1,200.00
<b>SECTION D - PROPERTY INFORMATION (Location of Property (Street, Route, Hwy, etc))</b>			
HOUSE NUMBER & EXTENSION (ex 265A)	PRE-DIRECTION, STREET NAME AND TYPE, POST DIRECTION		SUITE NUMBER
COUNTY FULTON	CITY (IF APPLICABLE)	MAP & PARCEL NUMBER 9F-1201-0056-046-6, 9F-1201-...	ACCOUNT NUMBER
TAX DISTRICT	GMD	LAND DISTRICT	ACRES
		LAND LOT	SUB LOT & BLOCK
<b>SECTION E - RECORDING INFORMATION (Official Use Only)</b>			
DATE	DEED BOOK 58070	DEED PAGE 48	PLAT BOOK PLAT PAGE

ADDITIONAL BUYERS  
None

...\* This symbol signifies that the data was too big for the field. The original values are shown below.  
MAP & PARCEL NUMBER: 9F-1201-0056-046-6, 9F-1201-0056-029-2

### Property Identification

Property ID	19578
Property Type	Industrial Land
Address	Northeast side of Graham Road about 1,000 feet north of Oakley Industrial Boulevard
City, State Zip	Fairburn, Georgia 30213
County	Fulton
Tax ID	09F120100560466, 09F120100560292

### Sale Data

Seller	By Real Estate Development, LLC
Buyer	SRPF A/Graham Road Industrial, LLC
Sale Date	10-24-2017
Sale Status	Closed
Deed Book/Page	58070-48
Property Rights	Fee Simple
Financing	Cash to Seller
Conditions of Sale	Arm's Length
Verification	Scott Seymour, seller
Verification Phone	678-76-3465
Verification Date	07-11-2018
Confirmed By	Matt Rahn

<b>Sales Price</b>	\$1,200,000
<b>Adjustments (\$)</b>	\$0
<b>Adjusted Price</b>	\$1,200,000

**Land Data**

<b>Land Size</b>	25.70200 acres or 1,119,579 SF
<b>Floor to Area Ratio</b>	0.25
<b>Primary Frontage (FT)</b>	510.00
<b>Secondary Frontage (FT)</b>	860.00
<b>Utilities</b>	All available including sewer
<b>Topography</b>	Gently Rolling
<b>Shape</b>	Irregular
<b>Grade</b>	At and below road grades
<b>Drainage</b>	Appears adequate
<b>Visibility</b>	Average
<b>Access</b>	Average
<b>Flood Plain</b>	No
<b>Zoning</b>	M1A, Light Industrial, City of Fairburn;

<b>Proposed GBA</b>	281,025
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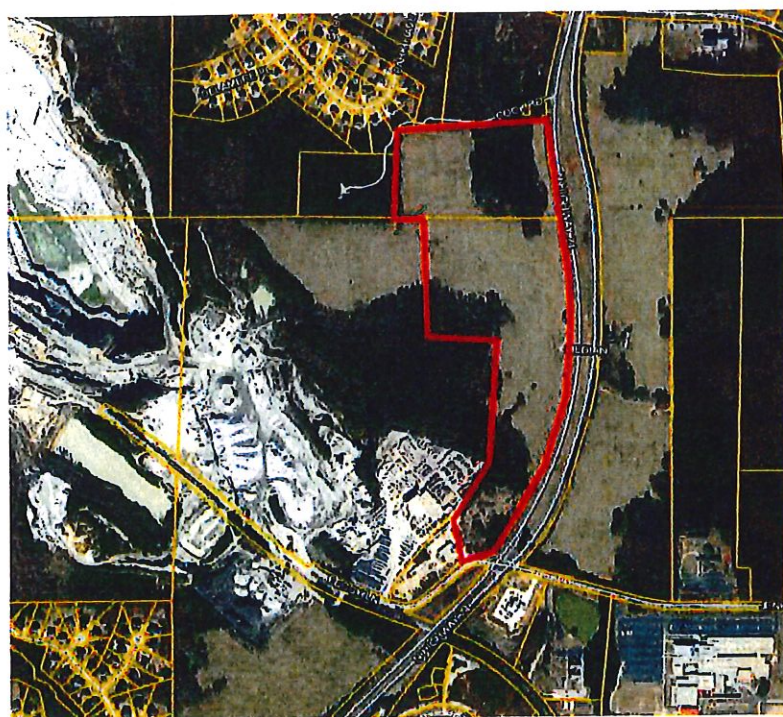
**Indicators**

<b>Sale Price/Gross Acre</b>	\$46,689
<b>Sale Price/Gross SF</b>	\$1.07
<b>Sale Price/ Proposed GBA</b>	\$4.27
<b>Sale Price/ FF</b>	\$2,352.94

**Remarks**

This is the sale of a vacant land tract purchased for development with a large industrial building. Zoned light industrial at the time of sale, this property has interstate exposure and the area is characterized by light industrial uses. Distribution uses are typical.

LAND SALE NO. 5





PT-61 (Rev. 2/18) To be filed in **FAYETTE COUNTY** **PT-61 056-2018-000885**

<b>SECTION A - SELLER'S INFORMATION (Do not use agent's information)</b>		<b>SECTION C - TAX COMPUTATION</b>	
SELLER'S BUSINESS / ORGANIZATION / OTHER NAME Hobgood Family, L.P., a Georgia limited partnership		Exempt Code If no exempt code enter NONE	NONE
MAILING ADDRESS (STREET & NUMBER) 41 Dodd Street		1. Actual Value of consideration received by seller Complete Line 1A if actual value unknown	\$5,200,000.00
CITY, STATE / PROVINCE / REGION, ZIP CODE, COUNTRY Atlanta, GA 30213 USA	DATE OF SALE 3/9/2018	1A. Estimated fair market value of Real and Personal property	\$0.00
<b>SECTION B - BUYER'S INFORMATION (Do not use agent's information)</b>		2. Fair market value of Personal Property only	\$0.00
BUYER'S BUSINESS / ORGANIZATION / OTHER NAME Hanson Aggregates Southeast LLC, a Delaware limited liabi ... *		3. Amount of liens and encumbrances not removed by transfer	\$0.00
MAILING ADDRESS (Must use buyer's address for tax billing & notice purposes) 3237 Satellite Boulevard Building 300, Suite 210		4. Net Taxable Value (Line 1 or 1A less Lines 2 and 3)	\$5,200,000.00
CITY, STATE / PROVINCE / REGION, ZIP CODE, COUNTRY Duluth, GA 30096 USA	Check Buyers Intended Use ( ) Residential ( ) Commercial ( ) Agricultural ( ) Industrial	5. TAX DUE at .10 per \$100 or fraction thereof (Minimum \$1.00)	\$5,200.00
<b>SECTION D - PROPERTY INFORMATION (Location of Property (Street, Route, Hwy, etc))</b>			
HOUSE NUMBER & EXTENSION (ex 265A)	PRE-DIRECTION, STREET NAME AND TYPE, POST DIRECTION		SUITE NUMBER
COUNTY FAYETTE	CITY (IF APPLICABLE) Tyrone	MAP & PARCEL NUMBER p/o Parcel 0726 001 and 0725 001	ACCOUNT NUMBER
TAX DISTRICT GMD	LAND DISTRICT 7	ACRES 85.672	LAND LOT 110 & 114
<b>SECTION E - RECORDING INFORMATION (Official Use Only)</b>			
DATE	DEED BOOK 4717	DEED PAGE 656	PLAT PAGE

**ADDITIONAL BUYERS**  
None

**Property Identification**

**Property ID** 19579  
**Property Type** Industrial Land  
**Address** West side of Joel Cowan Parkway (Hwy 74) between  
 Cooks Road and Peggy Lane  
**City, State Zip** Tyrone, Georgia 30290  
**County** Fayette  
**Tax ID** 0726 001 (por) & 0725 001

**Sale Data**

**Seller** Hobgood Family, LP  
**Buyer** Hanson Aggregates Southeast, LLC  
**Sale Date** 03-09-2018  
**Sale Status** Closed  
**Deed Book/Page** 4717-656  
**Property Rights** Fee Simple  
**Financing** Cash to Seller  
**Conditions of Sale** Arm's Length  
**Verification** Rick Sewell, seller rep  
**Verification Phone** 770-463-4667  
**Verification Date** 07-11-2018  
**Confirmed By** Matt Rahn

<b>Sales Price</b>	\$5,200,000
<b>Adjustments (\$)</b>	\$0
<b>Adjusted Price</b>	\$5,200,000

**Land Data**

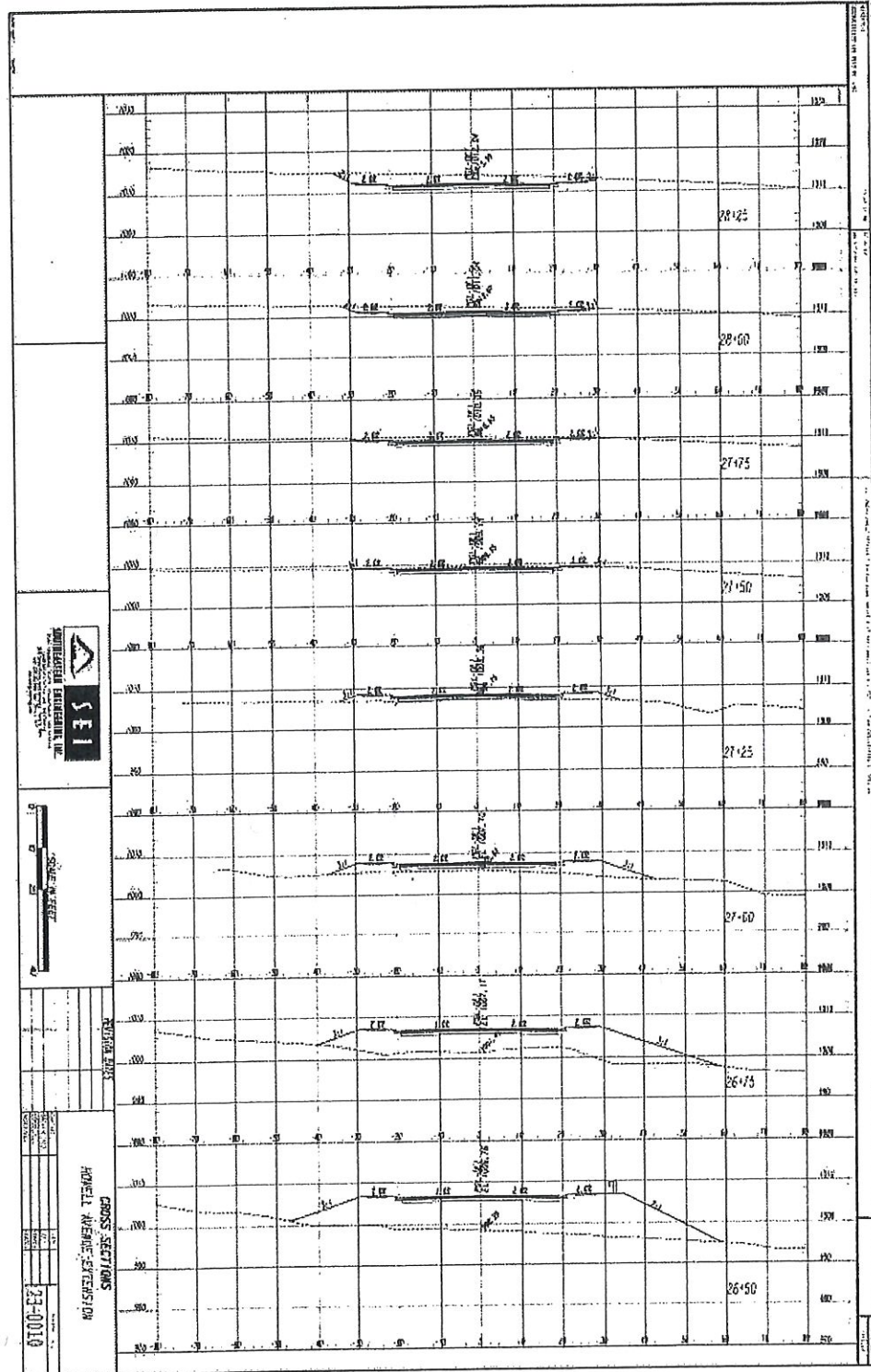
<b>Land Size</b>	85.67195 acres or 3,731,870 SF
<b>Primary Frontage (FT)</b>	3,500.00
<b>Utilities</b>	All available including sewer
<b>Topography</b>	Rolling
<b>Shape</b>	Irregular
<b>Grade</b>	At and below road grades
<b>Drainage</b>	Appears adequate
<b>Visibility</b>	Average
<b>Access</b>	Average
<b>Flood Plain</b>	Yes
<b>Zoning</b>	Heavy Industrial, City of Tyrone;

**Indicators**

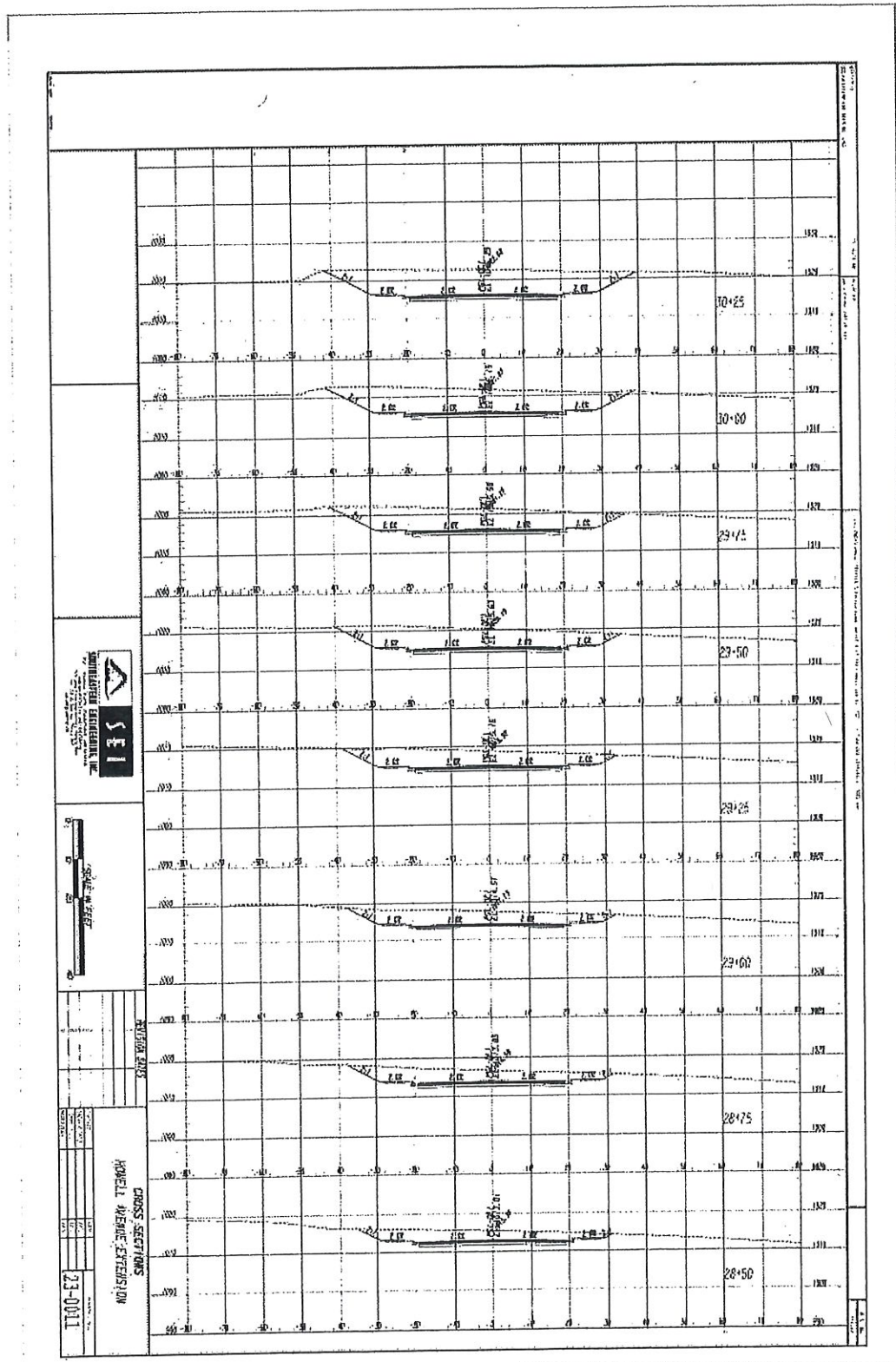
<b>Sale Price/Gross Acre</b>	\$60,697
<b>Sale Price/Gross SF</b>	\$1.39
<b>Sale Price/ FF</b>	\$1,485.71

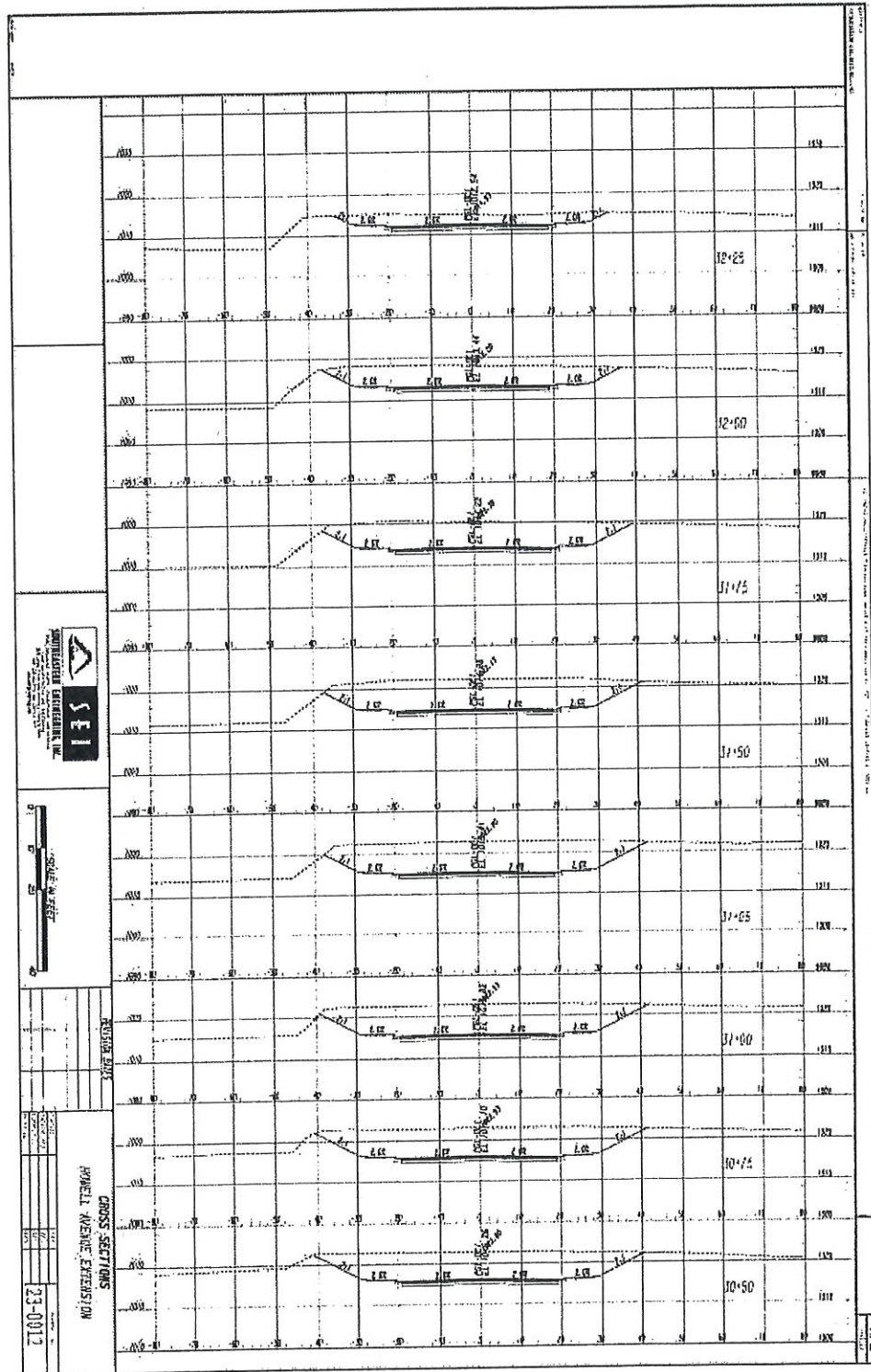
**Remarks**

This is the sale of a vacant land tract in the city limits of Tyrone in Fayette County. The property was zoned heavy industrial and was preliminary approved in 2013 for development with an industrial/business park. The property lies adjacent to the Hanson Quarry, related to the buyer.

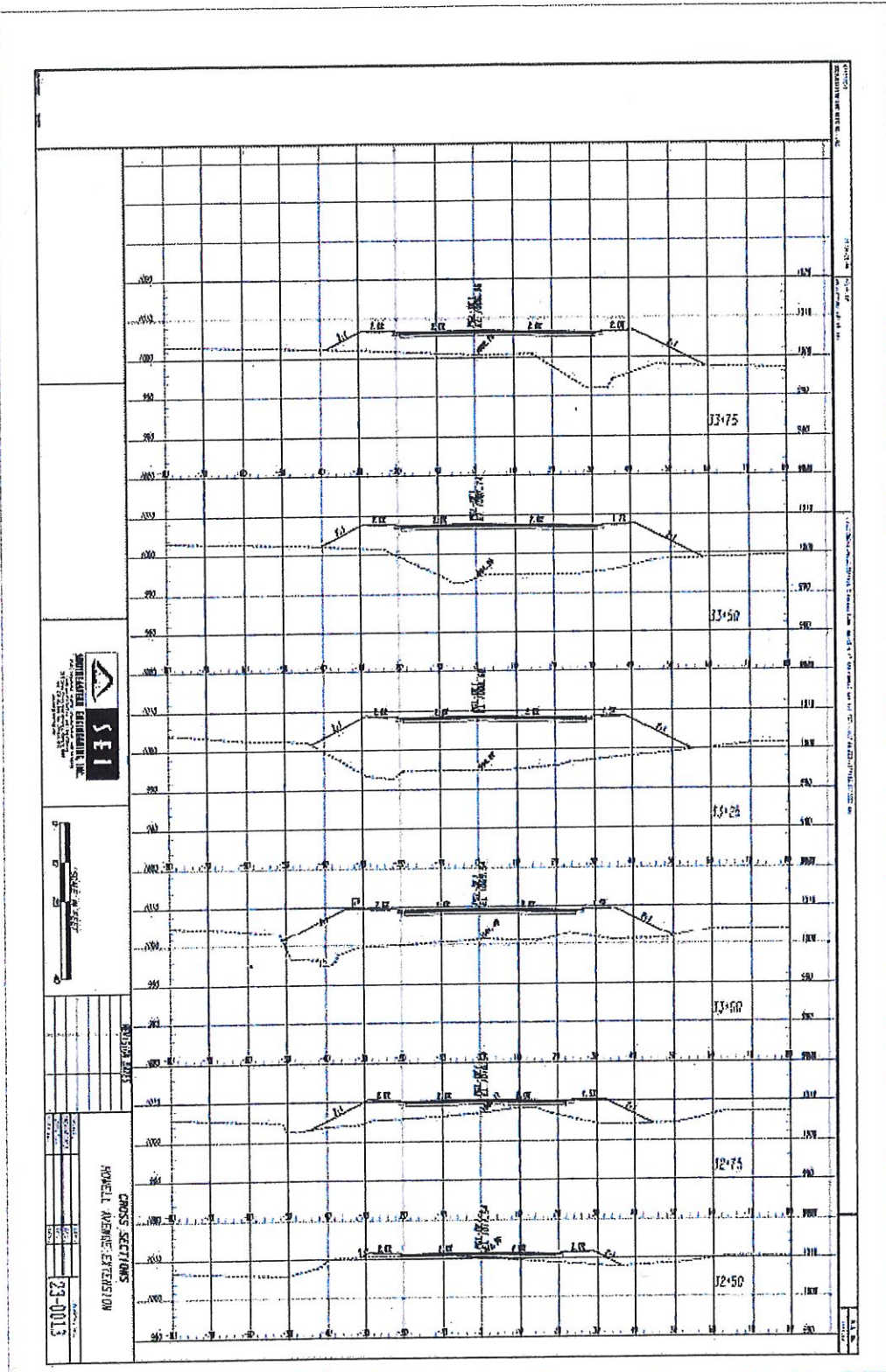




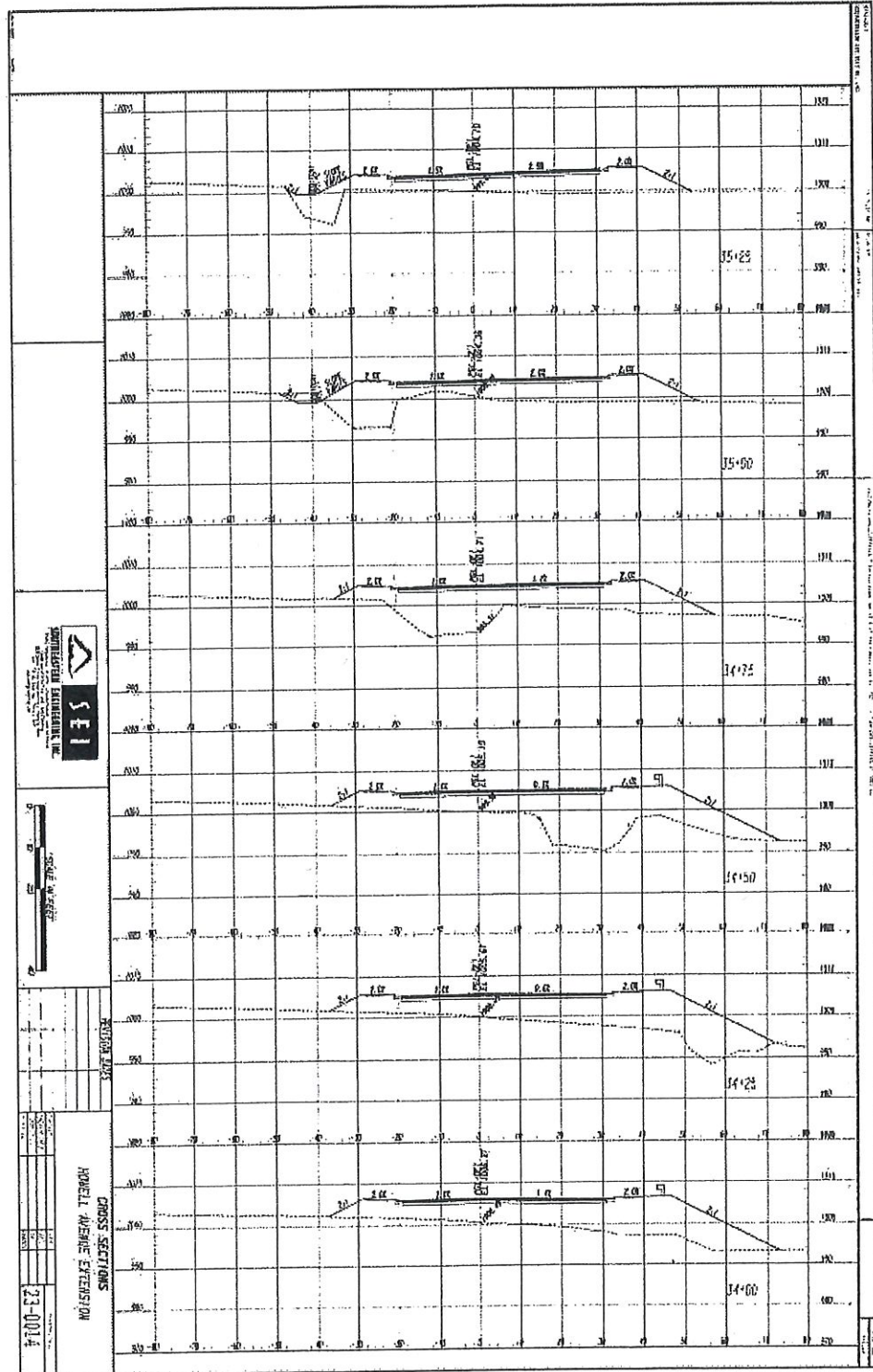


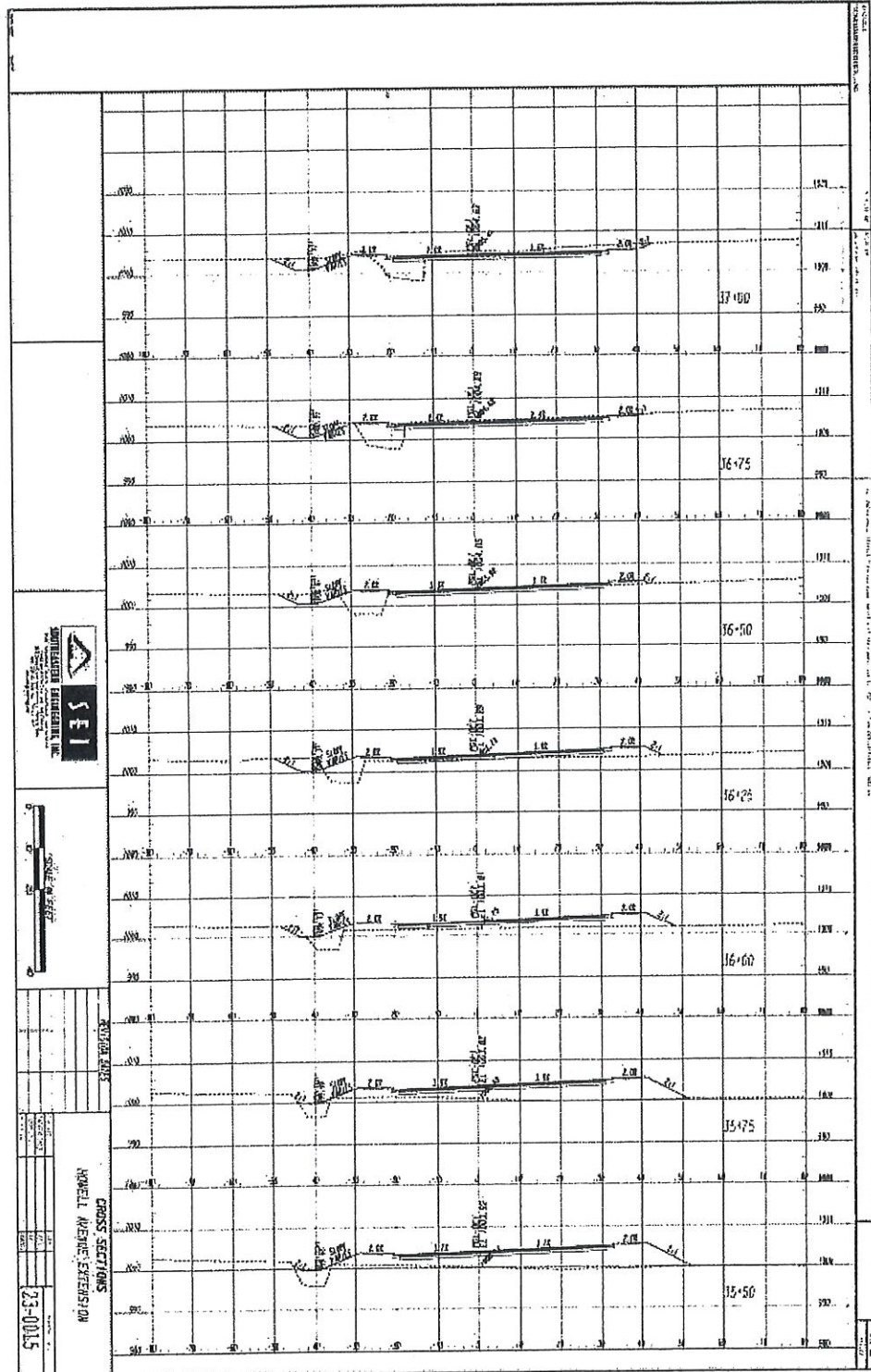


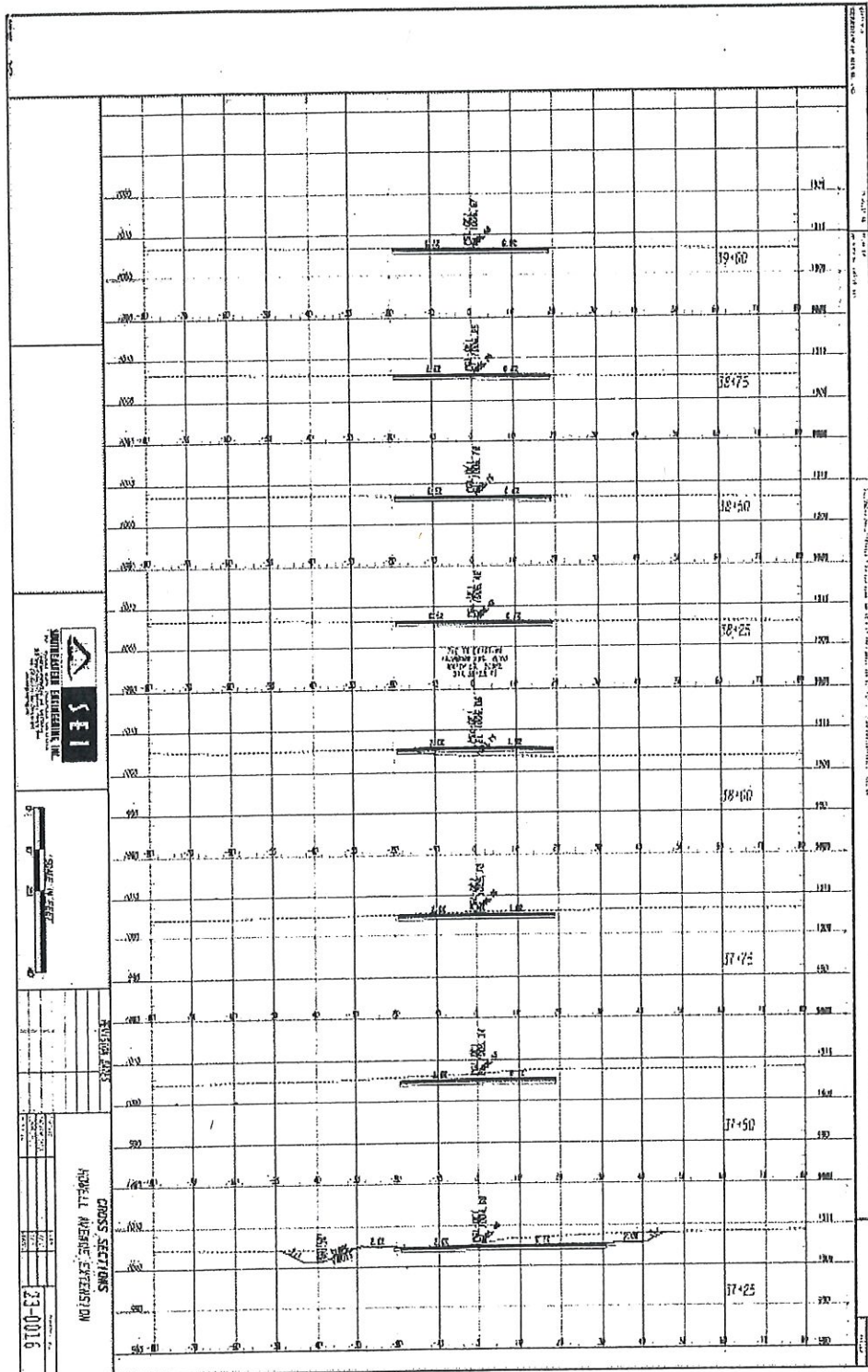
















## CITY OF FAIRBURN

### CITY COUNCIL AGENDA ITEM

**SUBJECT: APPROVAL OF TASK ORDER #136 WITH INTEGRATED SCIENCE & ENGINEERING FOR 2019 – 2020 NPDES PHASE I COMPLIANCE ACTIVITIES**

( ) AGREEMENT                      ( ) POLICY / DISCUSSION                      ( ) CONTRACT  
( ) ORDINANCE                      ( ) RESOLUTION                      ( X ) OTHER

Submitted: 08/02/2019                      Work Session: 08/12/2019                      Council Meeting: 08/12/2019

**DEPARTMENT:** Utility (Water & Sewer)

**BUDGET IMPACT:** The budget impact of this task order will be \$19,870. The proposed expenditures will come out of the Water & Sewer Account (505-0000-52-1300).

**PUBLIC HEARING?** ( ) Yes                      ( X ) No

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**PURPOSE:** For Mayor and Council to approve Task Order #136 with Integrated Science & Engineering, Inc. (ISE) for 2019 – 2020 NPDES Phase I Compliance Activities.

**HISTORY:** The City of Fairburn entered into a Master Services Agreement with Integrated Science & Engineering, Inc. (ISE) on August 14<sup>th</sup>, 2017 for professional engineering and consulting services.

**FACTS AND ISSUES:** The agreement with ISE was approved with the understanding that task orders associated with civil engineering, water and wastewater, and water resources engineering would be issued on an as need basis. As such, the task order #136 for the 2019 – 2020 NPDES Phase I Compliance Activities has been submitted for review and approval.

**RECOMMENDED ACTION:** Staff recommends that the City Council approve the Task Order #136 with ISE for 2019 – 2020 NPDES Phase I Compliance Activities and authorize the Mayor to sign the Task Order for an amount not to exceed \$19,870.

  
Elizabeth Carr-Hurst, Mayor



To: Lee Hauesler, Utility Director  
Company: City of Fairburn  
Address: 56 Malone Street  
Fairburn, Georgia

Date: July 22, 2019  
From: Jason Ray, GISP  
Copy to:

Project: 2019-2020 NPDES Phase I Compliance Activities TOF #: 136

## BACKGROUND

Integrated Science & Engineering, Inc. (ISE) has prepared this Task Order Form (TOF) in accordance with the terms and conditions in our Master Services Agreement dated August 14, 2017. This TOF has been prepared to assist the City of Fairburn (City) with City's annual NPDES Phase I compliance efforts.

## SCOPE OF SERVICES

### *Task 1 – Phase I MS4 Inspections*

Based on the City's approved Stormwater Management Plan referenced in the National Pollutant Discharge Elimination System (NPDES) Phase I MS4 permit, the City is required to inspect all catch basins, storm pipes, and ditches in the 2019-2020 sector. All information will be recorded in a GIS database and then processed in the office to produce the required inspection forms. Please note that all work will be performed digitally and no hard copies are proposed as part of this effort. The data will be produced in a PDF format document and provided to the City for inclusion in the City's annual report due on June 15, 2020.

### Deliverables

- GIS geodatabase of structures and inspection data
- PDF map illustrating the inspections performed
- PDF document inspection forms for each structure inspected

### *Task 2 – Dry Weather Screening*

In accordance with the City's approved SWMP, the City is required to complete Dry Weather Screening on 20% of the total number of outfalls within the city limits that outfall to Waters of the State annually. ISE will conduct Dry Weather Screening of the defined outfalls for the City during the 2019-2020 reporting period.

Dry weather screening will be performed according to the City's dry weather screening procedures approved by the EPD. The EPD approved dry weather screening checklist will also be filled out for each outfall visited and inspected. The checklists will be delivered in a format that can be easily inserted into the City's NPDES Phase I 2019-2020 Annual Report. Additionally, this task will include preparation of a map for insertion into the annual report outlining the outfalls screened as part of this effort. This effort will constitute Level 1 visual screening.



# Task Order Form

If a dry weather discharge is present, the discharge will be tested per EPD requirements for pH level and specific conductivity utilizing an in-situ water quality meter and field observations noted. Additionally, a sample will be collected and analyzed for fluoride, surfactants, and fecal coliform (under certain circumstances) by a laboratory (Analytical Environmental Services). This effort will constitute Level 2 in-situ water quality screening.

## *Source Tracing*

Source tracing activities will need to be undertaken if the dry weather screening data indicates that there is a potential water quality impairment present (see parameters above). Collaborative Infrastructure Services will be notified immediately if the in-situ parameters or visual observations indicated that there is a potential illicit discharge prior to beginning any source tracing activities. ISE will not initiate source tracing activities without prior authorization of the City.

Source tracing will involve following the MS4 system “upstream” in an attempt to identify the source of the non-stormwater discharge. Please note that the NPDES Phase I permit requires that the City source trace 100% of the identified illicit discharges and notify the illicit discharger to cease the activity, if the source tracing clearly documents the source. In the event that the source cannot be definitively identified, the City is only required to document the activities undertaken and the findings. A checklist will be filled out for each source tracing exercise. The checklist will be in a format that can be easily inserted in the City’s 2017-2018 NPDES Phase I Annual Report.

In the event that ISE performs a source tracing work effort. The estimated cost for ISE to conduct the work will be based on a “per source tracing exercise”, not to exceed three hours of field time by the ISE staff person. If the illicit discharge source cannot be clearly identified within a three hour time frame, the work will be documented and provided to the City for possible further investigation.

## *Task 3 – HVPS Inspections*

As required by the City’s approved Stormwater Management Plan (SWMP), the City shall annually review and add any new businesses to the HVPS inventory. Additionally, the City shall annually inspect 20% of the total number of HVPS facilities identified on the inventory. At this time, the City has 7 sites that would need to be inspected during the 2019-2020 period.

The standard facility inspection checklist (included as part of the City’s SWMP) will be used during all inspections. If any violations are documented during the inspection process, ISE will notify the City, as well as the property owner, of the violation and provide recommendations on fixing the violation.

## *Task 4 – Industrial Inspections*

As required by the City’s approved Stormwater Management Plan (SWMP), the City shall annually review and add any new businesses to the Industrial inventory. Additionally, the City shall annually inspect 20% of the total number of Industrial facilities identified on the inventory. At this time, the City has 6 sites that would need to be inspected during the 2019-2020 period.

The standard facility inspection checklist (included as part of the City’s SWMP) will be used during all inspections. If any violations are documented during the inspection process, ISE will notify the City, as well as the property owner, of the violation and provide recommendations on fixing the violation.



# Task Order Form

## Task 5 – Phase I Annual Report

ISE will work with City staff to collect information on programs implemented during the 2019 – 2020 reporting period. ISE will then develop the Annual report for submittal to the EPD. The Annual Report will be submitted to the EPD by the due date of June 15, 2020. EPD comments on the Annual Report will be addressed hourly.

### Deliverables

- 1 Copy of Annual Report Delivered to the Georgia Environmental Protection Division
- 1 Copy of Annual Report Delivered to the City of Fairburn

### **SCHEDULE**

Task 1 and Task 2 will be completed by April 30<sup>th</sup>, 2020. Task 3 will be completed and submitted to EPD no later than June 15<sup>th</sup>, 2020.

### **FEE ESTIMATE**

Task	Contract Amount
Task 1 – Phase I MS4 Inspections	\$10,000 (Lump Sum)
Task 2 – Dry Weather Screening	\$1,200 (Lump Sum)
In-Situ Screening (\$110/Outfall)	(If Required)
Source Tracing (Hourly)	(If Required)
Task 3 – HVPS Inspections	\$1,330
Task 4 – Industrial Inspections	\$1,140
Task 5 – Phase I Annual Report	\$4,900 (Lump Sum)
Task 3.1 – EPD Comments	\$1,300 (Hourly, NTE)
<b>Total Contract Amount</b>	<b>\$19,870</b>

### **AUTHORIZATION**

The Scope of Services outlined herein will be performed in accordance with ISE's Master Services Agreement with \_\_\_ City of Fairburn \_\_\_ dated August 14, 2017. As our authorization, please sign in the space provided below.

City of Fairburn

Integrated Science & Engineering, Inc.

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Jason Ray, GISP

Title: \_\_\_\_\_

Title: Project Manager

Date: \_\_\_\_\_

Date: July 22, 2019

# Task Order Form

**MASTER SERVICES AGREEMENT  
CITY OF FAIRBURN**

**THIS IS AN AGREEMENT** made as of 8/14, 2017, between the City of Fairburn, Georgia ("CLIENT") and Integrated Science & Engineering, Inc. ("ENGINEER"). The CLIENT wishes to engage ENGINEER to provide professional engineering and consulting services. The services provided under this agreement shall encompass primarily the areas of civil engineering, water and wastewater engineering, and water resources engineering. In general, the services provided by the ENGINEER will include, but not necessarily be limited to, the following services:

- Project Management
- Project Planning
- Feasibility Studies
- Engineering Analysis
- Provision of Construction Cost Opinions and Data
- Technical Reports
- Engineering Design and Surveying
- Permitting and Regulatory Agency Coordination
- Construction Management and Oversight
- Easement and Right-of-Way Acquisition
- Other engineering services may be added at the discretion of the CLIENT, under the terms of this AGREEMENT

The ENGINEER will work with the CLIENT to coordinate and integrate the overall management, planning, analysis, engineering design, consulting, and construction review for each project. In general, the ENGINEER will oversee project management and planning, scope of work development, work progress monitoring, project schedule maintenance, engineering design, construction review, and project cost control, as well as address additional design related tasks specifically requested by the CLIENT.

The ENGINEER will prepare and submit a TASK ORDER FORM (TOF) to be executed between the CLIENT and the ENGINEER for each specific work element, project, report, study, task, etc. (unless directed otherwise by the CLIENT), which will specify the scope of services, schedule, and fee arrangement. Each TOF will reference this AGREEMENT and be an amendment to this AGREEMENT. The CLIENT has the option to direct the ENGINEER to utilize an alternative method to the TOF (as warranted by the work task requested) including memo, email or other similar and acceptable documentation method.

CLIENT and ENGINEER, in consideration of their mutual covenants herein, agree in respect of the performance of professional engineering and management services by ENGINEER and the payment for those services by CLIENT as set forth below.



**1.0 SECTION 1 – GENERAL PROJECT MANAGEMENT AND CONSULTING ENGINEERING SERVICES**

- 1.1 **Description.** ENGINEER shall provide professional services to the CLIENT in the form of project management and consulting engineering services, from time to time, as requested by CLIENT. These services will be provided on a formal (written) or informal (verbal) basis as determined by the circumstances and the wishes of the CLIENT. Examples of General Project Management and Consulting Engineering Services would include, but not be limited to, the following:
- 1.1.1 Review of existing system data and providing of advice pertaining to CLIENT operations, planning, expansion, repair or other matters that may be of concern to CLIENT.
  - 1.1.2 Serve as consulting engineer on behalf of the CLIENT to various subconsultants as it relates to project planning, scope of work development, work progress oversight, project QA/QC, budget review/management, schedule and construction oversight.
  - 1.1.3 Prepare engineering studies, alternative evaluations, surveys, reports, cost estimates, financial analysis, or other engineering documents specifically requested by CLIENT.
  - 1.1.4 Serve as engineering liaison for the CLIENT to various local, state and federal agencies that may have jurisdiction over certain aspects of CLIENT's operations.
  - 1.1.5 Provide other engineering related services as may be requested and authorized by the CLIENT.

**2.0 SECTION 2 – BASIC ENGINEERING SERVICES**

- 2.1 **Basic Engineering Services.** Include those services normally associated with project management, engineering analysis and engineering design for civil engineering, water and wastewater engineering, and water resources engineering related projects, or other projects stipulated by the CLIENT. Engineering services will typically include, but not be limited, to the following.
- 2.2 **Preliminary Design and Planning Phase.** The ENGINEER shall:
- 2.2.1 In consultation with CLIENT, and on the basis of the available Preliminary Study information, define the project specific objectives, scope of work, schedule, and preliminary budget for projects requested by the CLIENT.
  - 2.2.2 Advise CLIENT if additional data or supplemental professional services of the types described in this AGREEMENT are necessary, and procure the necessary services, subject to the approval of CLIENT.

- 2.2.3 Prepare preliminary design documents consisting of the following: design criteria, cost estimate information, preliminary drawings, project scope of work development, design schedule and written description of the project.
- 2.2.4 Provide coordination, permitting, and managerial assistance to the CLIENT regarding utility relocation, easements, right-of-way acquisition, etc. as specifically requested by the CLIENT.
- 2.3 **Comprehensive Design Phase.** The ENGINEER shall:
  - 2.3.1 Perform engineering surveys of the construction site to determine horizontal and vertical site data including topography, relevant site elevation data, locations and measurements of existing site conditions that could affect the project.
  - 2.3.2 Represent the CLIENT at public hearings and meetings with applicable regulatory agencies and/or Authority Staff.
  - 2.3.3 Prepare detailed design plans, specifications, documents (a.k.a. Contract Documents/Bidding Documents) and engineering cost estimates for the project.
  - 2.3.4 Oversee the work efforts of the subconsultants as it relates to the overall project objectives, schedule and budget. Technical accuracy and design quality will be the responsibility of the subconsultant unless otherwise stipulated in their contract with the ENGINEER.
  - 2.3.5 Advise CLIENT of potential adjustments as it relates to total project costs resulting from changes in project scope, extent, character, or design requirements of the project or construction costs.
  - 2.3.6 Furnish copies of design plans, specifications and documents for approval by the CLIENT, his representatives, and applicable regulatory authorities.
- 2.4 **Pre-Construction Phase.** The ENGINEER shall:
  - 2.4.1 Pre-qualify, when possible, contractors for bidding the various projects.
  - 2.4.2 Assist CLIENT in advertising for and obtaining bids or negotiating contracts for each construction project, and maintain a record of prospective bidders to whom Construction Documents/Bidding Documents have been issued, attend pre-bid conferences and issue Construction Documents/Bidding Documents.
  - 2.4.3 Issue addenda appropriate to interpret, clarify or expand the Construction Documents/Bidding Documents.



- 2.4.4 Consult with CLIENT concerning, and determine, the acceptability of substitute materials and equipment proposed by CONTRACTOR(s) when substitution prior to the award of contracts is allowed by the Construction Documents/Bidding Documents.
- 2.4.5 Attend pre-bid meeting with prospective contractors, attend the bid opening, prepare bid tabulation sheets and assist CLIENT in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services. ENGINEER will verify that the CONTRACTOR's insurance and bonding capabilities meet the CLIENT's requirements.
- 2.5 **Construction Phase Services.** The ENGINEER shall:
- 2.5.1 Arrange a pre-construction conference with the successful bidder to discuss administrative issues associated with the project; establish site safety procedures (where applicable); address project logistics; establish lines of communication; and address other applicable issues as necessary in the interest of construction QA/QC and safety.
- 2.5.2 Review the CONTRACTOR's work schedule to ensure general conformance with preliminary schedules developed by the CLIENT and ENGINEER. Appropriate modifications will be recommended to CONTRACTOR in an effort to ensure efficiency in the construction process. ENGINEER will notify the CLIENT if significant discrepancies exist in the CONTRACTOR's schedule as compared to the agreed upon construction schedule with the applicable parties.
- 2.5.3 Serve as the CLIENT's representative with duties and limitations of responsibility and authority as stated in the construction Contract Documents.
- 2.5.4 Visit the site at regular intervals appropriate to the various stages of construction to observe progress and quality of the CONTRACTOR's work, and shall keep CLIENT informed of same.
- 2.6 **Interpretations and Clarifications.** ENGINEER shall issue necessary interpretations and clarifications of the Contract Documents/Bidding Documents and in connection therewith prepare work change directives and process CONTRACTOR's change orders as required.
- 2.7 **Shop Drawings.** ENGINEER shall review cut sheets, submittals, shop drawings and other relevant data. ENGINEER shall review shop drawings and other data that CONTRACTOR(s) are required to submit, but only for conformance with the design concept of the project and compliance with the information given in the design plans, specifications and documents. ENGINEER will review and approve CONTRACTOR's shop drawings and provide approved copy of drawing to the CLIENT prior to CONTRACTOR notification.



- 2.8 **Schedule Monitoring.** ENGINEER will review and update CONTRACTOR(s) schedule(s) to monitor construction progress and to assist the CONTRACTOR in identifying potential "work arounds" to make up for work delays, change orders, etc. Updated schedules will be provided to the CLIENT as necessary unless agreed otherwise.
- 2.9 **Applications for Payment.** ENGINEER will review CONTRACTOR's applications for periodic payment to verify that amounts requested by the CONTRACTOR agree with actual progress of the work. Approved applications will be submitted to the CLIENT for payment.
- 2.10 **Correspondence.** ENGINEER will distribute and maintain project correspondence and documents throughout the construction phase. Schedules for project deliverables will be established and adhered to in order to maintain the overall project schedule(s).
- 2.11 **Contract Closeout.** ENGINEER shall conduct a review of each project phase to determine if the work is substantially complete and a final review of each project phase will be performed to determine if the completed work is acceptable so that ENGINEER may recommend, in writing, final payment to CONTRACTOR and may give written notice to CLIENT and the CONTRACTOR that the work is acceptable (subject to any conditions therein expressed).
- 3.0 **SECTION 3 – SUPPLEMENTAL SERVICES**
- 3.1 The services listed in this section will be provided to supplement the services outlined in the previous sections. If authorized by the CLIENT, ENGINEER will furnish (or utilize the services of subconsultants/subcontractors as necessary) these services under the terms of this AGREEMENT.
- 3.2 Examples of Supplemental Services include, but are not necessarily limited to, the following:
- a) Geotechnical Engineering and Related Services.
  - b) Surveying (i.e. construction staking, property boundary, topographic surveys, easement plats, etc.).
  - c) Environmental Engineering and Assessment Services. (i.e. environmental impact studies, Phase I and Phase II Assessments, etc.).
  - d) Hydrogeology and Geology.
  - e) Geographical Positioning Systems (GPS) Mapping and Geographical Information Systems (GIS).
  - f) Supplemental or Extended Services, made necessary by: (1) work damaged by fire or other cause during construction; (2) prolongation of the construction contract period; and (3) default by the CONTRACTOR.
  - g) Services resulting from significant changes in extent of the project or revision of previously accepted concepts, reports, design plans, specifications or documents when such revisions are due to causes beyond control of ENGINEER.

- h) Transportation Engineering (i.e. road design, easement and right-of-way acquisition, traffic analysis, etc.)
- i) Resident Inspection for Construction.
- j) Preparation of As-built Drawings, unless required by a specific project TOF.

#### **4.0 SECTION 4 – FEES AND PAYMENTS TO ENGINEER**

- 4.1 For general consulting engineering services as outlined in this AGREEMENT, CLIENT shall pay ENGINEER the fee documented in the project specific Task Order Forms (TOFs). It is anticipated that professional services will be performed and reimbursed on payment terms agreeable to both parties (i.e. lump sum, hourly, etc.). The proposed unit rates identified for this AGREEMENT are broken out by labor category and are included as ATTACHMENT "A". Any unique unit rates or costs related to outside subconsultants contracted to the ENGINEER to provide specialized services for specific work tasks will be included in the project specific TOFs. It will be the responsibility of the ENGINEER to periodically update the CLIENT regarding incurred fees for the various projects executed under this AGREEMENT as it relates to an estimated project budget in the event that a budget revision is warranted by the work effort undertaken, or anticipated, by the ENGINEER and as agreed to by the CLIENT. ENGINEER and CLIENT will also periodically review project progress and schedules to ensure timely completion of work.
- 4.2 The labor category unit rates are included in ATTACHMENT "A" and apply to those employees of the ENGINEER who are engaged in providing professional services under this AGREEMENT. In addition to the customary overhead items, the following costs are specifically defined as an overhead charge and there shall be no additional charge for these costs: telephone charges, computer expenses, use of company vehicles (mileage), in-house reproduction, photocopying, and routine expendable/office supplies. Direct expenses (including subconsultants hired by the ENGINEER) will be invoiced at cost plus 15% to the CLIENT.
- 4.3 ENGINEER shall submit monthly invoices to CLIENT in a format acceptable by the CLIENT. CLIENT shall endeavor to make payment to ENGINEER within thirty days from receipt of invoice.
- 4.4 For the term of this AGREEMENT or any extension thereof, the ENGINEER may petition to revise labor category billing rates effective January 1 of each year (the "Rate Modification Date") to account for salary adjustments. The CLIENT reserves the right to review the proposed annual billing rate adjustments for approval prior to implementation by the ENGINEER.



## **5.0 SECTION 5 – CLIENT’S RESPONSIBILITIES**

### **5.1 CLIENT shall:**

- 5.1.1 Provide all criteria and full information as to OWNER’s requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the drawings and specifications.
- 5.1.2 Allow the ENGINEER to have reasonable access to the site for activities necessary for the performance of the services. If reasonable access is not provided and consequently the ENGINEER is denied or delayed in performing their services, the associated fees and costs may be viewed in their entirety as a reimbursable expense.
- 5.1.3 Promptly furnish to ENGINEER the information requested by ENGINEER needed for rendering of services hereunder. The CLIENT shall provide to the ENGINEER all such information as is available to the CLIENT and the CLIENT’s consultants and contractors, and the ENGINEER shall be entitled to rely upon the accuracy and completeness thereof. The CLIENT recognizes that it is impossible for the ENGINEER to assure the accuracy, completeness and sufficiency of information provided to ENGINEER by CLIENT or third parties. Accordingly, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the ENGINEER and the ENGINEER’s subconsultants harmless from any claim, liability or cost (including reasonable attorneys’ fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the CLIENT to the ENGINEER.
- 5.1.4 Assist ENGINEER by placing at his disposal all available information pertinent to the project including previous reports and any other data relative to design or construction of the project.
- 5.1.5 Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform his services.
- 5.1.6 Designate a person (or persons) to act as CLIENT’s representative(s) with respect to the services to be rendered under this AGREEMENT. Such person(s) shall have complete authority to transmit instructions, receive information, interpret and define CLIENT’s policies and decisions with respect to materials, equipment, elements and systems pertinent to ENGINEER’s services.

## **6.0 SECTION 6 – ENGINEER’S RESPONSIBILITIES**

- 6.1 **Project Management and Design.** The ENGINEER shall manage and design the work in strict compliance with all applicable laws and in strict compliance with all applicable codes. All plans and specifications shall bear the signature and seal of the ENGINEER,



which shall be prima facie evidence that the ENGINEER has exercised the degree of skill and professional competence required of professional engineers licensed in the State of Georgia and that the ENGINEER has not practiced beyond the limits of his field of specialty or expertise.

- 6.2 **Standard Professional Services.** The ENGINEER by the execution of this AGREEMENT contracts that he is possessed of that degree of care, learning, skill and ability which is ordinarily possessed by other members of his profession and further contracts that in the performance of the duties herein set forth he will exercise such degree of care, learning, skill and ability as is ordinarily employed by professional engineers licensed to practice in the State of Georgia under similar conditions and like circumstances and shall perform such duties without neglect, and shall not be liable except for failure to exercise such degree of care, learning, skill and ability. Any other provision of this AGREEMENT to the contrary notwithstanding, the ENGINEER shall not receive any fee on account of increases in cost resulting from change orders necessitated by errors or oversights of the ENGINEER.
- 6.3 **Professional Liability Insurance.** Simultaneous with the execution of this AGREEMENT, and prior to the provision of any professional services by the ENGINEER, and during the entire term of this AGREEMENT, including future renewals thereof, the ENGINEER shall maintain in full force and effect a policy of professional liability insurance from a company authorized to do business in the State of Georgia in limits of \$1,000,000 each claim, \$2,000,000/year aggregate, with \$100,000 per claim deductible, \$200,000/year aggregate deductible. The ENGINEER represents, warrants and covenants that in the event a claim is filed against such policy, the ENGINEER has sufficient unencumbered assets and financial standing to pay in full the maximum deductible per claim. If requested, the ENGINEER shall furnish evidence of said coverage to CLIENT in the form of a certificate from the issuing insurance company that the policy is in good standing. If two or more claims are made by ENGINEER against said coverage, at any time relevant to this AGREEMENT, notice of such fact shall be furnished to CLIENT in writing, which event shall furnish CLIENT the option to terminate this AGREEMENT. As further condition, said policy shall not be canceled, changed, allowed to lapse or allowed to expire until ten (10) days after written notice is given by ENGINEER to CLIENT, via certified mail, return receipt requested. ENGINEER shall at all times during the terms of this AGREEMENT, including for four (4) years after the expiration or termination of the AGREEMENT for any reason, maintain continuity of coverage described herein against any liability directly or indirectly resulting from ENGINEER or its employees or its subconsultant's duties in connection with this AGREEMENT, or other acts or omissions of ENGINEER or its respective employees or agents occurring in whole or in part during the term of this AGREEMENT. ENGINEER shall procure continuity coverage by obtaining subsequent policies which have a retroactive date of coverage equal to the effective date of this AGREEMENT or by obtaining an extended recording endorsement with coverages consistent with those described herein.

- 6.4 **Personal Services.** In contemplation that engineering services are personal, the ENGINEER agrees that no change in the business organization of the ENGINEER under which the firm shall perform shall be made during the AGREEMENT term, unless prompt written notice to the CLIENT is given, which event shall afford the CLIENT the option to terminate this AGREEMENT.
- 6.5 **Approval of Bonds by Bidders.** Inasmuch as the ENGINEER will provide assistance to the CLIENT in the bidding and negotiating of water and sewer, and public works contracts, for which the successful contractor must present payment and performance bonds as a condition of the award of such contracts, it shall be the duty of the ENGINEER to verify that the Surety for CONTRACTOR's Bonds meets the criteria contained in the General Conditions of the Contract Documents (listed on Federal Register Circular 570) and is licensed and in good standing with the Insurance Commission of the State of Georgia.
- 6.6 **Compliance with Equal Employment Opportunity Laws and Americans with Disabilities Act.** As a condition for entry of this AGREEMENT, the ENGINEER represents, warrants and covenants that at the time of entry of this AGREEMENT, and during the term thereof, the ENGINEER shall observe and comply with all applicable laws governing equal employment opportunities, including the employment of persons with disabilities, as defined by the Americans with Disabilities Act of 1991. Furthermore, the ENGINEER shall maintain a drug free workplace as required by Georgia law during the term of this AGREEMENT.
- 7.0 **SECTION 7 – GENERAL CONSIDERATIONS**
- 7.1 **Commencement.** This AGREEMENT will take effect upon delivery of executed AGREEMENT to both parties.
- 7.2 **Term of AGREEMENT.** The initial term of this AGREEMENT shall be 12 months from the date of execution by all parties. Thereafter, unless either party provides at least 30 days prior written notice to the contrary, the AGREEMENT shall automatically renew for increments of one year beginning on January 1 and ending on December 31 of each such year. Either party, upon giving 30 days written notice, may terminate this AGREEMENT at any time without cause. Termination of this AGREEMENT by either party shall not impair or affect whatever rights, including payment for services performed prior to termination either party may have under this AGREEMENT.
- 7.3 **Authorized Representative.** ENGINEER shall designate a person (or persons) to act as ENGINEER's representative(s) with respect to the services to be rendered under this AGREEMENT. Such person(s) shall have complete authority to transmit instructions, receive information, interpret and define ENGINEER's policies and decisions with respect to materials, equipment, elements and systems pertinent to this AGREEMENT.



**7.4 Successors and Assigns.**

7.4.1 CLIENT and ENGINEER each is hereby bound and the partners, successors, executors, administrators, assigns and legal representatives of each are bound, to the other party to this AGREEMENT and to the partners, successors, executors, administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements and obligations of this AGREEMENT.

7.4.2 Neither CLIENT nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this AGREEMENT without the written consent of the other.

7.4.3 Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CLIENT and ENGINEER.

7.5 **Limitations of Responsibility.** Nothing herein shall be construed as making the ENGINEER responsible for supervising or directing the work of the CLIENT, CONTRACTORS or others furnishing work related to the project. Nor shall ENGINEER have authority over means, methods, techniques or procedures of construction, or for safety precautions incident to the work of the CLIENT, CONTRACTORS or others, or for any failure of same to comply with laws, rules or regulations. ENGINEER cannot guarantee the performance of work by CONTRACTORS nor assume responsibility for CONTRACTOR's failure to perform in accordance with Contract Documents.

7.6 **Indemnification.** The CLIENT shall indemnify and hold harmless the ENGINEER and all of its personnel from and against any claims, damages, loss and expenses (including attorney's fees) arising out of or resulting from the performance of the services under this AGREEMENT, provided that any such claim, damage, loss or expense is solely caused by the negligent act or omission of the CLIENT, its employees or agents (except ENGINEER).

7.7 **Re-use of Documents.** All documents including design plans, specifications and documents prepared by ENGINEER pursuant to this AGREEMENT are instruments of service with respect to the specific project and/or this AGREEMENT. They are not intended or represented to be suitable for re-use by CLIENT or others on extensions of the project or on any other project. Therefore, any other use or distribution of said documents without the written consent of ENGINEER is prohibited.

7.8 **Controlling Law.** This AGREEMENT is to be governed by the laws of the State of Georgia. The parties hereby agree and stipulate this AGREEMENT was made and entered into in Coweta County, Georgia, which shall be appropriate venue for any action brought relating thereto.

7.9 **Severability and Reformation.** Any provision or part thereof of this AGREEMENT held to be void or unenforceable under any law shall be deemed stricken, and all remaining



provisions shall continue to be valid and binding upon the parties. The parties agree that this AGREEMENT shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

- 7.10 **Risk Allocation.** In recognition of the relative risks, rewards and benefits of the project to both the CLIENT and ENGINEER, the risks have been allocated such that the ENGINEER and the CLIENT agree that, to the fullest extent permitted by the law, each parties' total aggregate liability to the one another and their respective contractors, subcontractors, consultants and other parties with legal standing to file claims resulting from any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this AGREEMENT from any cause or causes, shall not exceed \$50,000 or the total fee for services contemplated under this AGREEMENT, whichever is less. Such causes include, but are not limited to, ENGINEER's or CLIENT's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.
- 7.11 **Ownership of Documents.** All documents produced by ENGINEER under this agreement shall remain the property of ENGINEER and may not be used by the CLIENT for any other endeavor without the written consent of ENGINEER. Any unauthorized use or distribution shall be at CLIENT's and Recipient's sole risk and without liability to ENGINEER. CLIENT further agrees that documents produced by ENGINEER pursuant to this agreement will not be used at any location or for any project not expressly provided for in this AGREEMENT without ENGINEER's written approval.
- 7.12 **Discovery of Hazardous Materials.** Hazardous materials may exist on the site on which work will be performed by the ENGINEER under this agreement. The CLIENT acknowledges that the ENGINEER's scope of services for this project does not include any services related to the identification, removal or abatement of hazardous wastes. The ENGINEER and the CLIENT agree that the discovery of hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. The ENGINEER and the CLIENT also agree that the discovery of hazardous materials may make it necessary for the ENGINEER to take immediate measures to protect human health and safety, and/or the environment. The ENGINEER agrees to notify the CLIENT as soon as practically possible should hazardous materials or suspected hazardous materials be encountered. The CLIENT authorizes the ENGINEER to take any and all emergency measures that in the ENGINEER's professional opinion are justified to preserve and protect the health and safety of the ENGINEER's personnel and the public, and/or the environment, and the CLIENT agrees to compensate the ENGINEER for the additional cost of such work.
- 7.13 **Site Operations.** The ENGINEER's field personnel will avoid hazards or utilities that are visible to them at the site. If the ENGINEER is given data in writing that reveals the presence or potential presence of underground or overground obstructions, such as utilities, the ENGINEER will give special instructions to their field personnel. The ENGINEER will conduct the research that in its professional opinion is necessary to

locate utility lines and other objects that may exist beneath the site's surface. The CLIENT recognizes that the ENGINEER's research may not identify all subsurface utility lines and manmade objects, and that the information upon which the ENGINEER relies may contain errors or may not be complete. The ENGINEER is not responsible for any damage or loss due to undisclosed or unknown surface or subsurface conditions. For example, evaluations of existing buildings require that certain assumptions be made regarding existing conditions, many of which cannot be viewed by reasonable visual observation. The CLIENT understands that actual field conditions may subsequently be found to vary from design assumptions which in turn may alter or increase the scope of the design and/or construction services.

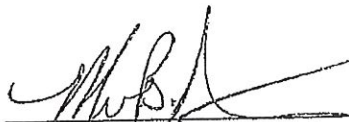
- 7.14 **Dispute Resolution.** The CLIENT and ENGINEER agree to use their best efforts to resolve amicably any dispute, including the use of alternative dispute resolution options. However, neither party is obligated to use alternative dispute resolution absent its written agreement.

This AGREEMENT (consisting of thirteen (13) pages) constitutes the entire AGREEMENT between CLIENT and ENGINEER and supersedes all prior written or oral understandings between them in respect of the subject matter covered hereby. The attached documents and those incorporated herein constitute the entire AGREEMENT between the parties and cannot be changed except by a written instrument signed by an authorized agent of both parties.

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT as of the day and year first above written.

**CLIENT:**

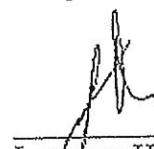
City of Fairburn

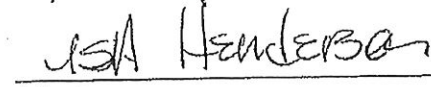
  
(Name) MARIO B. AVERY  
(Title) MAYOR

  
Attest: TOM RIDGWAY

**ENGINEER:**

Integrated Science & Engineering, Inc.

  
Lawrence H. Davis, Jr., P.E.  
President

  
Attest:

## ATTACHMENT A

### UNIT RATES

Integrated Science & Engineering, Inc.

	Rate/Hour
Principal	\$185
Senior Engineering Manager / Project Manager	\$160
Project Engineer III	\$145
Project Engineer II	\$130
Project Engineer I	\$115
Engineer II	\$105
Engineer I	90
GIS Professional III	\$115
GIS Professional II	\$90
GIS Professional I	\$80
Senior Planner	\$90
Senior Surveying Manager / Registered Land Surveyor	\$130
Survey Crew (2-Person)	\$135
Survey Crew (1-Person)	\$115
Engineer / Survey Technician III	\$115
Engineer / Survey Technician II	\$85
Engineer / Survey Technician I	\$65
Administration / Clerical	\$60
Subcontractor / Subconsultant	Cost + 15%
Reimbursables	Cost + 15%





## CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

**SUBJECT: APPROVAL OF TASK ORDER #137 WITH INTEGRATED SCIENCE & ENGINEERING FOR IMPAIRED WATERS SAMPLING 2019 - 2020**

( ) AGREEMENT      ( ) POLICY / DISCUSSION      ( ) CONTRACT  
( ) ORDINANCE      ( ) RESOLUTION      ( X ) OTHER

Submitted: 08/02/2019      Work Session: 08/12/2019      Council Meeting: 08/12/2019

**DEPARTMENT:** Utility (Water & Sewer)

**BUDGET IMPACT:** The budget impact of this task order will be \$12,500. The proposed expenditures will come out of the Water & Sewer Account (505-0000-52-1300).

**PUBLIC HEARING?** ( ) Yes      ( X ) No

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**PURPOSE:** For Mayor and Council to approve Task Order #137 with Integrated Science & Engineering, Inc. (ISE) for Impaired Waters Sampling 2019 - 2020.

**HISTORY:** The City of Fairburn entered into a Master Services Agreement with Integrated Science & Engineering, Inc. (ISE) on August 14<sup>th</sup>, 2017 for professional engineering and consulting services.

**FACTS AND ISSUES:** The agreement with ISE was approved with the understanding that task orders associated with civil engineering, water and wastewater, and water resources engineering would be issued on an as need basis. As such, the task order #137 for the Impaired Waters Sampling 2019 - 2020 has been submitted for review and approval.

**RECOMMENDED ACTION:** Staff recommends that the City Council approve the Task Order #137 with ISE for Impaired Waters Sampling 2019 – 2020 and authorize the Mayor to sign the Task Order for an amount not to exceed \$12,500.

  
Elizabeth Carr-Hurst, Mayor



To: Lee Hauesler, Utility Director  
Company: City of Fairburn  
Address: 56 Malone Street  
Fairburn, Georgia

Date: July 22, 2019  
From: Jason Ray, GISP  
Copy to:

Project: Impaired Waters Sampling 2019-2020

TOF #: 137

## BACKGROUND

This TOF has been prepared to assist the City of Fairburn (City) with water quality sampling in Whitewater Creek and Trickum Creek. The City's NPDES Phase I MS4 Stormwater Permit (#GAS000115) and the Metropolitan North Georgia Water Planning District requires Fairburn to perform water quality monitoring on 305(b)/303(d) listed waterways within the City. Whitewater Creek is listed for a Biota impairment and Fecal Coliform Bacteria. Additionally, Trickum creek is listed for a Biota impairment.

## SCOPE OF SERVICES

### *Task 1 – Water Quality Monitoring Program and Training*

#### Monitoring Locations

ISE will monitor Whitewater Creek at Milam Road per the approved Impaired Waters Monitoring Plan. Additionally, Trickum Creek will be monitored at Landrum Road per the approved Impaired Waters Monitoring Plan.

#### Physical and Chemical Parameters

Sampling and analysis or in place (*in situ*) measurements will be performed for the water quality parameters listed below as well as Total Suspended Solids and Fecal Coliform Bacteria.

Parameter	Analysis	Rationale
Water Temperature	<i>In situ</i> <sup>(1)</sup>	Water temperature will vary naturally with seasonal changes in air temperature but can be altered by human activity
Dissolved Oxygen (DO)	<i>In situ</i> <sup>(1)</sup>	Measures oxygen content of water which is essential for respiration of aquatic organisms. Oxygen in water can be depleted by pollutants especially those associated with wastewater.
Turbidity	<i>In situ</i> <sup>(1)</sup>	Measures the clarity of water which is often associated with the amount of suspended sediments.
Conductivity	<i>In situ</i> <sup>(1)</sup>	Measure of the ability of water to pass an electrical current which is affected by the concentration of inorganic dissolved solids
pH	<i>In situ</i> <sup>(1)</sup>	pH directly influences the amount of chemical constituents that can be dissolved in water (solubility).

(1) *In situ* measurements will be measured directly from the stream with a Horiba U-52 Multi Water Quality Checker



# Task Order Form

## Whitewater Creek Sampling Schedule

### *Fecal Coliform Bacteria*

Per new requirements set for the in the permit issued June 11, 2019, sampling will be performed to calculate four geometric means per year requiring a total of 16 sampling events. Each geometric mean requires 4 samples to be collected over a 30 day period. ISE will conduct 2 geomeans during the winter period (November through April) and 2 geomeans during the summer period (May through October) each year. Sampling will be performed without regard to weather conditions (dry or wet weather) and ideally will be performed once per week on the same day for four consecutive weeks per geometric mean.

### *Total Suspended Solids (TSS)*

Water quality monitoring will be conducted during six (6) wet weather events and two (2) dry events per year. Three (3) wet events and one (1) dry event will be monitored during the summer period from (May – October) and three (3) wet and one (1) dry event during the winter period from (November – April). This sampling frequency is in accordance with the Long-term Ambient Trend Monitoring procedures described in the Metropolitan North Georgia Water Planning District's Standards and Methodologies for Surface Water Monitoring.

## Trickum Creek Sampling Schedule

### *Total Suspended Solids (TSS)*

Water quality monitoring will be conducted during six (6) wet weather events and two (2) dry events per year. Three (3) wet events and one (1) dry event will be monitored during the summer period from (May – October) and three (3) wet and one (1) dry event during the winter period from (November – April). This sampling frequency is in accordance with the Long-term Ambient Trend Monitoring procedures described in the Metropolitan North Georgia Water Planning District's Standards and Methodologies for Surface Water Monitoring.

### ***Task 2 – Stream Walk***

ISE will conduct a stream walk of Whitewater Creek during the 2019-2020 period. The purpose of the stream walk will be to attempt to identify potential sources of fecal coliform and erosion and sedimentation within the impaired segment of Whitewater Creek. Any illicit discharges discovered as part of this effort will be reported to the City for enforcement under the City's illicit discharge prohibition ordinance. A brief report will be compiled following the completion of the work including on field documentation.

### ***Task 3 – Water Quality Report***

The monitoring results will be evaluated and compared to any baseline and previous data. A summary of the monitoring results and water quality evaluation will be provided in an Annual Water Quality Monitoring Report and included in the City's 2019-2020 Phase I NPDES MS4 Annual Report.



# Task Order Form

## SCHEDULE

ISE will begin work immediately after receiving authorization from the City of Fairburn. Task 1 and Task 2 will be completed by April 30, 2020. Task 3 will be completed by June 15, 2020.

## FEE ESTIMATE

Task	Contract Amount
Task 1 – Water Quality Monitoring Program	\$8,500 (Lump Sum)
Task 2 – Stream Walk	\$2,000 (Lump Sum)
Task 3 – Water Quality Report	\$2,000 (Lump Sum)
<b>Total Contract Amount</b>	<b>\$12,500</b>

## AUTHORIZATION

The Scope of Services outlined herein will be performed in accordance with ISE's Master Services Agreement with \_\_\_City of Fairburn\_\_\_ dated August 14, 2017. As our authorization, please sign in the space provided below.

City of Fairburn

Integrated Science & Engineering, Inc.

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Jason Ray, GISP

Title: \_\_\_\_\_

Title: Project Manager

Date: \_\_\_\_\_

Date: July 22, 2019

**MASTER SERVICES AGREEMENT  
CITY OF FAIRBURN**

**THIS IS AN AGREEMENT** made as of 8/14, 2017, between the City of Fairburn, Georgia ("CLIENT") and Integrated Science & Engineering, Inc. ("ENGINEER"). The CLIENT wishes to engage ENGINEER to provide professional engineering and consulting services. The services provided under this agreement shall encompass primarily the areas of civil engineering, water and wastewater engineering, and water resources engineering. In general, the services provided by the ENGINEER will include, but not necessarily be limited to, the following services:

- Project Management
- Project Planning
- Feasibility Studies
- Engineering Analysis
- Provision of Construction Cost Opinions and Data
- Technical Reports
- Engineering Design and Surveying
- Permitting and Regulatory Agency Coordination
- Construction Management and Oversight
- Easement and Right-of-Way Acquisition
- Other engineering services may be added at the discretion of the CLIENT, under the terms of this AGREEMENT

The ENGINEER will work with the CLIENT to coordinate and integrate the overall management, planning, analysis, engineering design, consulting, and construction review for each project. In general, the ENGINEER will oversee project management and planning, scope of work development, work progress monitoring, project schedule maintenance, engineering design, construction review, and project cost control, as well as address additional design related tasks specifically requested by the CLIENT.

The ENGINEER will prepare and submit a TASK ORDER FORM (TOF) to be executed between the CLIENT and the ENGINEER for each specific work element, project, report, study, task, etc. (unless directed otherwise by the CLIENT), which will specify the scope of services, schedule, and fee arrangement. Each TOF will reference this AGREEMENT and be an amendment to this AGREEMENT. The CLIENT has the option to direct the ENGINEER to utilize an alternative method to the TOF (as warranted by the work task requested) including memo, email or other similar and acceptable documentation method.

CLIENT and ENGINEER, in consideration of their mutual covenants herein, agree in respect of the performance of professional engineering and management services by ENGINEER and the payment for those services by CLIENT as set forth below.

## **1.0 SECTION 1 – GENERAL PROJECT MANAGEMENT AND CONSULTING ENGINEERING SERVICES**

- 1.1 **Description.** ENGINEER shall provide professional services to the CLIENT in the form of project management and consulting engineering services, from time to time, as requested by CLIENT. These services will be provided on a formal (written) or informal (verbal) basis as determined by the circumstances and the wishes of the CLIENT. Examples of General Project Management and Consulting Engineering Services would include, but not be limited to, the following:
- 1.1.1 Review of existing system data and providing of advice pertaining to CLIENT operations, planning, expansion, repair or other matters that may be of concern to CLIENT.
  - 1.1.2 Serve as consulting engineer on behalf of the CLIENT to various subconsultants as it relates to project planning, scope of work development, work progress oversight, project QA/QC, budget review/management, schedule and construction oversight.
  - 1.1.3 Prepare engineering studies, alternative evaluations, surveys, reports, cost estimates, financial analysis, or other engineering documents specifically requested by CLIENT.
  - 1.1.4 Serve as engineering liaison for the CLIENT to various local, state and federal agencies that may have jurisdiction over certain aspects of CLIENT's operations.
  - 1.1.5 Provide other engineering related services as may be requested and authorized by the CLIENT.

## **2.0 SECTION 2 – BASIC ENGINEERING SERVICES**

- 2.1 **Basic Engineering Services.** Include those services normally associated with project management, engineering analysis and engineering design for civil engineering, water and wastewater engineering, and water resources engineering related projects, or other projects stipulated by the CLIENT. Engineering services will typically include, but not be limited, to the following.
- 2.2 **Preliminary Design and Planning Phase.** The ENGINEER shall:
- 2.2.1 In consultation with CLIENT, and on the basis of the available Preliminary Study information, define the project specific objectives, scope of work, schedule, and preliminary budget for projects requested by the CLIENT.
  - 2.2.2 Advise CLIENT if additional data or supplemental professional services of the types described in this AGREEMENT are necessary, and procure the necessary services, subject to the approval of CLIENT.



2.2.3 Prepare preliminary design documents consisting of the following: design criteria, cost estimate information, preliminary drawings, project scope of work development, design schedule and written description of the project.

2.2.4 Provide coordination, permitting, and managerial assistance to the CLIENT regarding utility relocation, easements, right-of-way acquisition, etc. as specifically requested by the CLIENT.

**2.3 Comprehensive Design Phase.** The ENGINEER shall:

2.3.1 Perform engineering surveys of the construction site to determine horizontal and vertical site data including topography, relevant site elevation data, locations and measurements of existing site conditions that could affect the project.

2.3.2 Represent the CLIENT at public hearings and meetings with applicable regulatory agencies and/or Authority Staff.

2.3.3 Prepare detailed design plans, specifications, documents (a.k.a. Contract Documents/Bidding Documents) and engineering cost estimates for the project.

2.3.4 Oversee the work efforts of the subconsultants as it relates to the overall project objectives, schedule and budget. Technical accuracy and design quality will be the responsibility of the subconsultant unless otherwise stipulated in their contract with the ENGINEER.

2.3.5 Advise CLIENT of potential adjustments as it relates to total project costs resulting from changes in project scope, extent, character, or design requirements of the project or construction costs.

2.3.6 Furnish copies of design plans, specifications and documents for approval by the CLIENT, his representatives, and applicable regulatory authorities.

**2.4 Pre-Construction Phase.** The ENGINEER shall:

2.4.1 Pre-qualify, when possible, contractors for bidding the various projects.

2.4.2 Assist CLIENT in advertising for and obtaining bids or negotiating contracts for each construction project, and maintain a record of prospective bidders to whom Construction Documents/Bidding Documents have been issued, attend pre-bid conferences and issue Construction Documents/Bidding Documents.

2.4.3 Issue addenda appropriate to interpret, clarify or expand the Construction Documents/Bidding Documents.

- 2.4.4 Consult with CLIENT concerning, and determine, the acceptability of substitute materials and equipment proposed by CONTRACTOR(s) when substitution prior to the award of contracts is allowed by the Construction Documents/Bidding Documents.
- 2.4.5 Attend pre-bid meeting with prospective contractors, attend the bid opening, prepare bid tabulation sheets and assist CLIENT in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services. ENGINEER will verify that the CONTRACTOR's insurance and bonding capabilities meet the CLIENT's requirements.
- 2.5 **Construction Phase Services.** The ENGINEER shall:
- 2.5.1 Arrange a pre-construction conference with the successful bidder to discuss administrative issues associated with the project; establish site safety procedures (where applicable); address project logistics; establish lines of communication; and address other applicable issues as necessary in the interest of construction QA/QC and safety.
- 2.5.2 Review the CONTRACTOR's work schedule to ensure general conformance with preliminary schedules developed by the CLIENT and ENGINEER. Appropriate modifications will be recommended to CONTRACTOR in an effort to ensure efficiency in the construction process. ENGINEER will notify the CLIENT if significant discrepancies exist in the CONTRACTOR's schedule as compared to the agreed upon construction schedule with the applicable parties.
- 2.5.3 Serve as the CLIENT's representative with duties and limitations of responsibility and authority as stated in the construction Contract Documents.
- 2.5.4 Visit the site at regular intervals appropriate to the various stages of construction to observe progress and quality of the CONTRACTOR's work, and shall keep CLIENT informed of same.
- 2.6 **Interpretations and Clarifications.** ENGINEER shall issue necessary interpretations and clarifications of the Contract Documents/Bidding Documents and in connection therewith prepare work change directives and process CONTRACTOR's change orders as required.
- 2.7 **Shop Drawings.** ENGINEER shall review cut sheets, submittals, shop drawings and other relevant data. ENGINEER shall review shop drawings and other data that CONTRACTOR(s) are required to submit, but only for conformance with the design concept of the project and compliance with the information given in the design plans, specifications and documents. ENGINEER will review and approve CONTRACTOR's shop drawings and provide approved copy of drawing to the CLIENT prior to CONTRACTOR notification.



- 2.8 **Schedule Monitoring.** ENGINEER will review and update CONTRACTOR(s) schedule(s) to monitor construction progress and to assist the CONTRACTOR in identifying potential "work arounds" to make up for work delays, change orders, etc. Updated schedules will be provided to the CLIENT as necessary unless agreed otherwise.
- 2.9 **Applications for Payment.** ENGINEER will review CONTRACTOR's applications for periodic payment to verify that amounts requested by the CONTRACTOR agree with actual progress of the work. Approved applications will be submitted to the CLIENT for payment.
- 2.10 **Correspondence.** ENGINEER will distribute and maintain project correspondence and documents throughout the construction phase. Schedules for project deliverables will be established and adhered to in order to maintain the overall project schedule(s).
- 2.11 **Contract Closeout.** ENGINEER shall conduct a review of each project phase to determine if the work is substantially complete and a final review of each project phase will be performed to determine if the completed work is acceptable so that ENGINEER may recommend, in writing, final payment to CONTRACTOR and may give written notice to CLIENT and the CONTRACTOR that the work is acceptable (subject to any conditions therein expressed).
- 3.0 **SECTION 3 – SUPPLEMENTAL SERVICES**
- 3.1 The services listed in this section will be provided to supplement the services outlined in the previous sections. If authorized by the CLIENT, ENGINEER will furnish (or utilize the services of subconsultants/subcontractors as necessary) these services under the terms of this AGREEMENT.
- 3.2 Examples of Supplemental Services include, but are not necessarily limited to, the following:
- a) Geotechnical Engineering and Related Services.
  - b) Surveying (i.e. construction staking, property boundary, topographic surveys, easement plats, etc.).
  - c) Environmental Engineering and Assessment Services. (i.e. environmental impact studies, Phase I and Phase II Assessments, etc.).
  - d) Hydrogeology and Geology.
  - e) Geographical Positioning Systems (GPS) Mapping and Geographical Information Systems (GIS).
  - f) Supplemental or Extended Services, made necessary by: (1) work damaged by fire or other cause during construction; (2) prolongation of the construction contract period; and (3) default by the CONTRACTOR.
  - g) Services resulting from significant changes in extent of the project or revision of previously accepted concepts, reports, design plans, specifications or documents when such revisions are due to causes beyond control of ENGINEER.



- h) Transportation Engineering (i.e. road design, easement and right-of-way acquisition, traffic analysis, etc.)
- i) Resident Inspection for Construction.
- j) Preparation of As-built Drawings, unless required by a specific project TOF.

#### 4.0 SECTION 4 – FEES AND PAYMENTS TO ENGINEER

- 4.1 For general consulting engineering services as outlined in this AGREEMENT, CLIENT shall pay ENGINEER the fee documented in the project specific Task Order Forms (TOFs). It is anticipated that professional services will be performed and reimbursed on payment terms agreeable to both parties (i.e. lump sum, hourly, etc.). The proposed unit rates identified for this AGREEMENT are broken out by labor category and are included as ATTACHMENT "A". Any unique unit rates or costs related to outside subconsultants contracted to the ENGINEER to provide specialized services for specific work tasks will be included in the project specific TOFs. It will be the responsibility of the ENGINEER to periodically update the CLIENT regarding incurred fees for the various projects executed under this AGREEMENT as it relates to an estimated project budget in the event that a budget revision is warranted by the work effort undertaken, or anticipated, by the ENGINEER and as agreed to by the CLIENT. ENGINEER and CLIENT will also periodically review project progress and schedules to ensure timely completion of work.
- 4.2 The labor category unit rates are included in ATTACHMENT "A" and apply to those employees of the ENGINEER who are engaged in providing professional services under this AGREEMENT. In addition to the customary overhead items, the following costs are specifically defined as an overhead charge and there shall be no additional charge for these costs: telephone charges, computer expenses, use of company vehicles (mileage), in-house reproduction, photocopying, and routine expendable/office supplies. Direct expenses (including subconsultants hired by the ENGINEER) will be invoiced at cost plus 15% to the CLIENT.
- 4.3 ENGINEER shall submit monthly invoices to CLIENT in a format acceptable by the CLIENT. CLIENT shall endeavor to make payment to ENGINEER within thirty days from receipt of invoice.
- 4.4 For the term of this AGREEMENT or any extension thereof, the ENGINEER may petition to revise labor category billing rates effective January 1 of each year (the "Rate Modification Date") to account for salary adjustments. The CLIENT reserves the right to review the proposed annual billing rate adjustments for approval prior to implementation by the ENGINEER.

## **5.0 SECTION 5 – CLIENT’S RESPONSIBILITIES**

### **5.1 CLIENT shall:**

- 5.1.1 Provide all criteria and full information as to OWNER’s requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the drawings and specifications.
- 5.1.2 Allow the ENGINEER to have reasonable access to the site for activities necessary for the performance of the services. If reasonable access is not provided and consequently the ENGINEER is denied or delayed in performing their services, the associated fees and costs may be viewed in their entirety as a reimbursable expense.
- 5.1.3 Promptly furnish to ENGINEER the information requested by ENGINEER needed for rendering of services hereunder. The CLIENT shall provide to the ENGINEER all such information as is available to the CLIENT and the CLIENT’s consultants and contractors, and the ENGINEER shall be entitled to rely upon the accuracy and completeness thereof. The CLIENT recognizes that it is impossible for the ENGINEER to assure the accuracy, completeness and sufficiency of information provided to ENGINEER by CLIENT or third parties. Accordingly, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the ENGINEER and the ENGINEER’s subconsultants harmless from any claim, liability or cost (including reasonable attorneys’ fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the CLIENT to the ENGINEER.
- 5.1.4 Assist ENGINEER by placing at his disposal all available information pertinent to the project including previous reports and any other data relative to design or construction of the project.
- 5.1.5 Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform his services.
- 5.1.6 Designate a person (or persons) to act as CLIENT’s representative(s) with respect to the services to be rendered under this AGREEMENT. Such person(s) shall have complete authority to transmit instructions, receive information, interpret and define CLIENT’s policies and decisions with respect to materials, equipment, elements and systems pertinent to ENGINEER’s services.

## **6.0 SECTION 6 – ENGINEER’S RESPONSIBILITIES**

- 6.1 **Project Management and Design.** The ENGINEER shall manage and design the work in strict compliance with all applicable laws and in strict compliance with all applicable codes. All plans and specifications shall bear the signature and seal of the ENGINEER,



which shall be prima facie evidence that the ENGINEER has exercised the degree of skill and professional competence required of professional engineers licensed in the State of Georgia and that the ENGINEER has not practiced beyond the limits of his field of specialty or expertise.

- 6.2 **Standard Professional Services.** The ENGINEER by the execution of this AGREEMENT contracts that he is possessed of that degree of care, learning, skill and ability which is ordinarily possessed by other members of his profession and further contracts that in the performance of the duties herein set forth he will exercise such degree of care, learning, skill and ability as is ordinarily employed by professional engineers licensed to practice in the State of Georgia under similar conditions and like circumstances and shall perform such duties without neglect, and shall not be liable except for failure to exercise such degree of care, learning, skill and ability. Any other provision of this AGREEMENT to the contrary notwithstanding, the ENGINEER shall not receive any fee on account of increases in cost resulting from change orders necessitated by errors or oversights of the ENGINEER.
- 6.3 **Professional Liability Insurance.** Simultaneous with the execution of this AGREEMENT, and prior to the provision of any professional services by the ENGINEER, and during the entire term of this AGREEMENT, including future renewals thereof, the ENGINEER shall maintain in full force and effect a policy of professional liability insurance from a company authorized to do business in the State of Georgia in limits of \$1,000,000 each claim, \$2,000,000/year aggregate, with \$100,000 per claim deductible, \$200,000/year aggregate deductible. The ENGINEER represents, warrants and covenants that in the event a claim is filed against such policy, the ENGINEER has sufficient unencumbered assets and financial standing to pay in full the maximum deductible per claim. If requested, the ENGINEER shall furnish evidence of said coverage to CLIENT in the form of a certificate from the issuing insurance company that the policy is in good standing. If two or more claims are made by ENGINEER against said coverage, at any time relevant to this AGREEMENT, notice of such fact shall be furnished to CLIENT in writing, which event shall furnish CLIENT the option to terminate this AGREEMENT. As further condition, said policy shall not be canceled, changed, allowed to lapse or allowed to expire until ten (10) days after written notice is given by ENGINEER to CLIENT, via certified mail, return receipt requested. ENGINEER shall at all times during the terms of this AGREEMENT, including for four (4) years after the expiration or termination of the AGREEMENT for any reason, maintain continuity of coverage described herein against any liability directly or indirectly resulting from ENGINEER or its employees or its subconsultant's duties in connection with this AGREEMENT, or other acts or omissions of ENGINEER or its respective employees or agents occurring in whole or in part during the term of this AGREEMENT. ENGINEER shall procure continuity coverage by obtaining subsequent policies which have a retroactive date of coverage equal to the effective date of this AGREEMENT or by obtaining an extended recording endorsement with coverages consistent with those described herein.



- 6.4 **Personal Services.** In contemplation that engineering services are personal, the ENGINEER agrees that no change in the business organization of the ENGINEER under which the firm shall perform shall be made during the AGREEMENT term, unless prompt written notice to the CLIENT is given, which event shall afford the CLIENT the option to terminate this AGREEMENT.
- 6.5 **Approval of Bonds by Bidders.** Inasmuch as the ENGINEER will provide assistance to the CLIENT in the bidding and negotiating of water and sewer, and public works contracts, for which the successful contractor must present payment and performance bonds as a condition of the award of such contracts, it shall be the duty of the ENGINEER to verify that the Surety for CONTRACTOR's Bonds meets the criteria contained in the General Conditions of the Contract Documents (listed on Federal Register Circular 570) and is licensed and in good standing with the Insurance Commission of the State of Georgia.
- 6.6 **Compliance with Equal Employment Opportunity Laws and Americans with Disabilities Act.** As a condition for entry of this AGREEMENT, the ENGINEER represents, warrants and covenants that at the time of entry of this AGREEMENT, and during the term thereof, the ENGINEER shall observe and comply with all applicable laws governing equal employment opportunities, including the employment of persons with disabilities, as defined by the Americans with Disabilities Act of 1991. Furthermore, the ENGINEER shall maintain a drug free workplace as required by Georgia law during the term of this AGREEMENT.
- 7.0 **SECTION 7 – GENERAL CONSIDERATIONS**
- 7.1 **Commencement.** This AGREEMENT will take effect upon delivery of executed AGREEMENT to both parties.
- 7.2 **Term of AGREEMENT.** The initial term of this AGREEMENT shall be 12 months from the date of execution by all parties. Thereafter, unless either party provides at least 30 days prior written notice to the contrary, the AGREEMENT shall automatically renew for increments of one year beginning on January 1 and ending on December 31 of each such year. Either party, upon giving 30 days written notice, may terminate this AGREEMENT at any time without cause. Termination of this AGREEMENT by either party shall not impair or affect whatever rights, including payment for services performed prior to termination either party may have under this AGREEMENT.
- 7.3 **Authorized Representative.** ENGINEER shall designate a person (or persons) to act as ENGINEER's representative(s) with respect to the services to be rendered under this AGREEMENT. Such person(s) shall have complete authority to transmit instructions, receive information, interpret and define ENGINEER's policies and decisions with respect to materials, equipment, elements and systems pertinent to this AGREEMENT.

**7.4 Successors and Assigns.**

7.4.1 CLIENT and ENGINEER each is hereby bound and the partners, successors, executors, administrators, assigns and legal representatives of each are bound, to the other party to this AGREEMENT and to the partners, successors, executors, administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements and obligations of this AGREEMENT.

7.4.2 Neither CLIENT nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this AGREEMENT without the written consent of the other.

7.4.3 Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CLIENT and ENGINEER.

7.5 **Limitations of Responsibility.** Nothing herein shall be construed as making the ENGINEER responsible for supervising or directing the work of the CLIENT, CONTRACTORS or others furnishing work related to the project. Nor shall ENGINEER have authority over means, methods, techniques or procedures of construction, or for safety precautions incident to the work of the CLIENT, CONTRACTORS or others, or for any failure of same to comply with laws, rules or regulations. ENGINEER cannot guarantee the performance of work by CONTRACTORS nor assume responsibility for CONTRACTOR's failure to perform in accordance with Contract Documents.

7.6 **Indemnification.** The CLIENT shall indemnify and hold harmless the ENGINEER and all of its personnel from and against any claims, damages, loss and expenses (including attorney's fees) arising out of or resulting from the performance of the services under this AGREEMENT, provided that any such claim, damage, loss or expense is solely caused by the negligent act or omission of the CLIENT, its employees or agents (except ENGINEER).

7.7 **Re-use of Documents.** All documents including design plans, specifications and documents prepared by ENGINEER pursuant to this AGREEMENT are instruments of service with respect to the specific project and/or this AGREEMENT. They are not intended or represented to be suitable for re-use by CLIENT or others on extensions of the project or on any other project. Therefore, any other use or distribution of said documents without the written consent of ENGINEER is prohibited.

7.8 **Controlling Law.** This AGREEMENT is to be governed by the laws of the State of Georgia. The parties hereby agree and stipulate this AGREEMENT was made and entered into in Coweta County, Georgia, which shall be appropriate venue for any action brought relating thereto.

7.9 **Severability and Reformation.** Any provision or part thereof of this AGREEMENT held to be void or unenforceable under any law shall be deemed stricken, and all remaining



provisions shall continue to be valid and binding upon the parties. The parties agree that this AGREEMENT shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

- 7.10 **Risk Allocation.** In recognition of the relative risks, rewards and benefits of the project to both the CLIENT and ENGINEER, the risks have been allocated such that the ENGINEER and the CLIENT agree that, to the fullest extent permitted by the law, each parties' total aggregate liability to the one another and their respective contractors, subcontractors, consultants and other parties with legal standing to file claims resulting from any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this AGREEMENT from any cause or causes, shall not exceed \$50,000 or the total fee for services contemplated under this AGREEMENT, whichever is less. Such causes include, but are not limited to, ENGINEER's or CLIENT's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.
- 7.11 **Ownership of Documents.** All documents produced by ENGINEER under this agreement shall remain the property of ENGINEER and may not be used by the CLIENT for any other endeavor without the written consent of ENGINEER. Any unauthorized use or distribution shall be at CLIENT's and Recipient's sole risk and without liability to ENGINEER. CLIENT further agrees that documents produced by ENGINEER pursuant to this agreement will not be used at any location or for any project not expressly provided for in this AGREEMENT without ENGINEER's written approval.
- 7.12 **Discovery of Hazardous Materials.** Hazardous materials may exist on the site on which work will be performed by the ENGINEER under this agreement. The CLIENT acknowledges that the ENGINEER's scope of services for this project does not include any services related to the identification, removal or abatement of hazardous wastes. The ENGINEER and the CLIENT agree that the discovery of hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. The ENGINEER and the CLIENT also agree that the discovery of hazardous materials may make it necessary for the ENGINEER to take immediate measures to protect human health and safety, and/or the environment. The ENGINEER agrees to notify the CLIENT as soon as practically possible should hazardous materials or suspected hazardous materials be encountered. The CLIENT authorizes the ENGINEER to take any and all emergency measures that in the ENGINEER's professional opinion are justified to preserve and protect the health and safety of the ENGINEER's personnel and the public, and/or the environment, and the CLIENT agrees to compensate the ENGINEER for the additional cost of such work.
- 7.13 **Site Operations.** The ENGINEER's field personnel will avoid hazards or utilities that are visible to them at the site. If the ENGINEER is given data in writing that reveals the presence or potential presence of underground or overground obstructions, such as utilities, the ENGINEER will give special instructions to their field personnel. The ENGINEER will conduct the research that in its professional opinion is necessary to

locate utility lines and other objects that may exist beneath the site's surface. The CLIENT recognizes that the ENGINEER's research may not identify all subsurface utility lines and manmade objects, and that the information upon which the ENGINEER relies may contain errors or may not be complete. The ENGINEER is not responsible for any damage or loss due to undisclosed or unknown surface or subsurface conditions. For example, evaluations of existing buildings require that certain assumptions be made regarding existing conditions, many of which cannot be viewed by reasonable visual observation. The CLIENT understands that actual field conditions may subsequently be found to vary from design assumptions which in turn may alter or increase the scope of the design and/or construction services.

- 7.14 **Dispute Resolution.** The CLIENT and ENGINEER agree to use their best efforts to resolve amicably any dispute, including the use of alternative dispute resolution options. However, neither party is obligated to use alternative dispute resolution absent its written agreement.

This AGREEMENT (consisting of thirteen (13) pages) constitutes the entire AGREEMENT between CLIENT and ENGINEER and supersedes all prior written or oral understandings between them in respect of the subject matter covered hereby. The attached documents and those incorporated herein constitute the entire AGREEMENT between the parties and cannot be changed except by a written instrument signed by an authorized agent of both parties.

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT as of the day and year first above written.

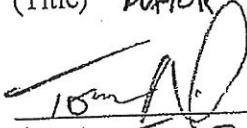
**CLIENT:**

City of Fairburn



(Name) MARIO B. AVERY

(Title) MAJOR



Attest: TOM RIDEWAY

**ENGINEER:**

Integrated Science & Engineering, Inc.



Lawrence H. Davis, Jr., P.E.  
President



Attest:



## ATTACHMENT A

### UNIT RATES

Integrated Science & Engineering, Inc.

	Rate/Hour
Principal	\$185
Senior Engineering Manager / Project Manager	\$160
Project Engineer III	\$145
Project Engineer II	\$130
Project Engineer I	\$115
Engineer II	\$105
Engineer I	90
GIS Professional III	\$115
GIS Professional II	\$90
GIS Professional I	\$80
Senior Planner	\$90
Senior Surveying Manager / Registered Land Surveyor	\$130
Survey Crew (2-Person)	\$135
Survey Crew (1-Person)	\$115
Engineer / Survey Technician III	\$115
Engineer / Survey Technician II	\$85
Engineer / Survey Technician I	\$65
Administration / Clerical	\$60
Subcontractor / Subconsultant	Cost + 15%
Reimbursables	Cost + 15%



**CITY OF FAIRBURN**  
**CITY COUNCIL AGENDA ITEM**

**SUBJECT: APPROVAL OF TASK ORDER #138 WITH INTEGRATED SCIENCE & ENGINEERING FOR NPDES PHASE 1 – SWMP DEVELOPMENT**

( ) AGREEMENT                      ( ) POLICY / DISCUSSION                      ( ) CONTRACT  
( ) ORDINANCE                      ( ) RESOLUTION                      ( X ) OTHER

**Submitted: 08/02/2019                      Work Session: 08/12/2019                      Council Meeting: 08/12/2019**

**DEPARTMENT:** Utility (Water & Sewer)

**BUDGET IMPACT:** The budget impact of this task order will be \$7,000. The proposed expenditures will come out of the Water & Sewer Account (505-0000-52-1300).

**PUBLIC HEARING?** ( ) Yes                      ( X ) No

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**PURPOSE:** For Mayor and Council to approve Task Order #138 with Integrated Science & Engineering, Inc. (ISE) for NPDES Phase I – SWMP Development

**HISTORY:** The City of Fairburn entered into a Master Services Agreement with Integrated Science & Engineering, Inc. (ISE) on August 14<sup>th</sup>, 2017 for professional engineering and consulting services.

**FACTS AND ISSUES:** The agreement with ISE was approved with the understanding that task orders associated with civil engineering, water and wastewater, and water resources engineering would be issued on an as need basis. As such, the task order #138 for NPDES Phase I – SWMP Development has been submitted for review and approval.

**RECOMMENDED ACTION:** Staff recommends that the City Council approve the Task Order #138 with ISE for NPDES Phase I – SWMP Development and authorize the Mayor to sign the Task Order for an amount not to exceed \$7,000.

  
Elizabeth Carr-Hurst, Mayor





**INTEGRATED**  
Science &  
Engineering

Atlanta / Savannah / Mobile

## Task Order Form

1039 Sullivan Road, Suite 200, Newnan, GA 30265  
(p) 678.552.2106 (f) 678.552.2107

To: Lee Hauesler, Utility Director  
Company: City of Fairburn  
Address: 56 Malone Street  
Fairburn, Georgia

Date: July 22, 2019  
From: Jason Ray, GISP  
Copy to:

Project: NPDES Phase I - SWMP Development

TOF #: 138

### BACKGROUND

In June of 2019, the Environmental Protection Division (EPD) of the Georgia Department of Natural Resources (DNR) reissued the National Pollutant Discharge Elimination System (NPDES) Phase I MS4 permit. As a result, the City of Fairburn (City) must develop updates to its Stormwater Management Plan (SWMP) necessary to remain in compliance with the recently reissued General NPDES Stormwater Permit for Stormwater Discharges from the City of Fairburn Municipal Separate Storm Sewer System (MS4) effective June 11, 2019. As per the permit, the City has 180 days to submit a new SWMP from the effective date of the permit, which means that a SWMP must be submitted no later than December 11, 2019.

Integrated Science & Engineering (ISE) has significant experience providing stormwater consultant services for numerous communities throughout Georgia in meeting the requirements of both the Phase I and Phase II NPDES Stormwater Permits including having prepared and obtained EPD approval for the City's current SWMP. ISE's experience assisting NPDES Phase I & II communities includes:

- Preparing and obtaining EPD approval for compliance plans for meeting the requirements of the State's NPDES Phase I & II MS4 permits
- Stormwater ordinance development and adoption
- Stormwater management program implementation including:
  - o Dry weather screening
  - o Outfall and stormwater structure inventory, mapping and assessment
  - o Annual report development and approval
  - o Stormwater training of municipal employees
  - o TMDL Implementation
  - o GI / LID Review
  - o Industrial / HVPS inspections

ISE has developed an excellent working relationship with EPD staff through our work with various Phase I and Phase II clients. Our efforts have encompassed work associated with the NPDES Phase I and Phase II Stormwater Permits, the NPDES Industrial Stormwater Permit and the Watershed Assessment / Protection permitting. It has been our policy to coordinate with EPD staff prior to submittal of compliance documents to ensure that we are meeting EPD expectations thereby reducing costly revisions and re-submittals by our clients.

# Task Order Form

## SCOPE OF SERVICES

The following scope of work has been developed to assist the City with the development of a new SWMP which will serve as the City's compliance plan for the next 5 years of the current permit.

### Task 1 - Stormwater Management Plan Development

ISE will develop a new SWMP in accordance with the requirements outlined in the NPDES permit:

#### Structural & Source Control Measures

1. MS4 Control Structure Inventory & Map
2. MS4 Inspection & Maintenance Program
3. Planning Procedures
4. Street Maintenance
5. Flood Management Projects
6. Municipal Facilities Excluding Any Facilities Addressed in Section 3.3.3
7. Pesticide, Fertilizer & Herbicide Application

#### Illicit Discharge Detection & Elimination (IDDE)

1. Legal Authority
2. Outfall Inventory & Map
3. IDDE Plan
4. Spill Response Procedures
5. Public Reporting Procedures
6. Proper Management & Disposal of used Oil & Toxic Materials
7. Sanitary Sewer Infiltration Controls

#### Industrial Facility Stormwater Discharge Control

1. Industrial Facility Inventory
2. Inspection Program
3. Enforcement Procedures
4. Educational Activities

#### Construction Site Management

1. Legal Authority
2. Site Plan Review Procedures
3. Inspection Program
4. Enforcement Procedures
5. Certification

#### Highly Visible Pollutant Sources (HVPS)

1. HVPS Facility Inventory
2. Inspection Program
3. Enforcement Procedures
4. Educational Activities

#### Impaired Waters

#### Municipal Employee Training



# Task Order Form

**Public Education Program**

**Public Involvement Program**

**Post-Construction**

## **GI/LID Program**

1. Legal Authority
2. GI/LID Program
3. GI/LID Structure Inventory
4. Inspection and Maintenance Program

ISE anticipates conducting a meeting with City staff to discuss specifics of the permit as well as desired staff modifications to the current program prior to writing the new SWMP. At that time, ISE will also develop a list of any materials that may be required for completion of the SWMP such as ordinances, GIS data, etc. Following the meeting, ISE staff will draft a preliminary SWMP for review by City staff. After City staff has completed their review of the document, ISE will finalize the document and submit the SWMP to EPD for their review. As part of the deliverable for this task, ISE will provide a hard and digital copy of the document.

As part of our fee for Task 1, ISE will include addressing the first round of comments from EPD and make any required modifications and resubmit the document to EPD.

## **Task 2 - Address EPD Comments**

Should the EPD submit comments beyond the initial submittal and comments outlined in Task 1, ISE will address additional requests on an hourly basis. Please note that this task will be implemented on an as requested basis as directed by City staff.

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## **SCHEDULE**

ISE will submit the draft SWMP to EPD by November 30, 2019.

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## **FEE ESTIMATE**

<b>Task</b>	<b>Contract Amount</b>
Task 1 – SWMP Development	\$5,500 (Lump Sum)
Task 2 – Address EPD Comments	\$1,500 (Lump Sum)
<b>Total Contract Amount</b>	<b>\$7,000</b>

# Task Order Form

## AUTHORIZATION

The Scope of Services outlined herein will be performed in accordance with ISE's Master Services Agreement with \_\_\_City of Fairburn\_\_\_ dated August 14, 2017. As our authorization, please sign in the space provided below.

City of Fairburn

Integrated Science & Engineering, Inc.

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Jason Ray, GISP

Title: \_\_\_\_\_

Title: Project Manager

Date: \_\_\_\_\_

Date: July 22, 2019



**MASTER SERVICES AGREEMENT  
CITY OF FAIRBURN**

THIS IS AN AGREEMENT made as of 8/14, 2017, between the City of Fairburn, Georgia ("CLIENT") and Integrated Science & Engineering, Inc. ("ENGINEER"). The CLIENT wishes to engage ENGINEER to provide professional engineering and consulting services. The services provided under this agreement shall encompass primarily the areas of civil engineering, water and wastewater engineering, and water resources engineering. In general, the services provided by the ENGINEER will include, but not necessarily be limited to, the following services:

- Project Management
- Project Planning
- Feasibility Studies
- Engineering Analysis
- Provision of Construction Cost Opinions and Data
- Technical Reports
- Engineering Design and Surveying
- Permitting and Regulatory Agency Coordination
- Construction Management and Oversight
- Easement and Right-of-Way Acquisition
- Other engineering services may be added at the discretion of the CLIENT, under the terms of this AGREEMENT

The ENGINEER will work with the CLIENT to coordinate and integrate the overall management, planning, analysis, engineering design, consulting, and construction review for each project. In general, the ENGINEER will oversee project management and planning, scope of work development, work progress monitoring, project schedule maintenance, engineering design, construction review, and project cost control, as well as address additional design related tasks specifically requested by the CLIENT.

The ENGINEER will prepare and submit a TASK ORDER FORM (TOF) to be executed between the CLIENT and the ENGINEER for each specific work element, project, report, study, task, etc. (unless directed otherwise by the CLIENT), which will specify the scope of services, schedule, and fee arrangement. Each TOF will reference this AGREEMENT and be an amendment to this AGREEMENT. The CLIENT has the option to direct the ENGINEER to utilize an alternative method to the TOF (as warranted by the work task requested) including memo, email or other similar and acceptable documentation method.

CLIENT and ENGINEER, in consideration of their mutual covenants herein, agree in respect of the performance of professional engineering and management services by ENGINEER and the payment for those services by CLIENT as set forth below.

**1.0 SECTION 1 – GENERAL PROJECT MANAGEMENT AND CONSULTING ENGINEERING SERVICES**

1.1 **Description.** ENGINEER shall provide professional services to the CLIENT in the form of project management and consulting engineering services, from time to time, as requested by CLIENT. These services will be provided on a formal (written) or informal (verbal) basis as determined by the circumstances and the wishes of the CLIENT. Examples of General Project Management and Consulting Engineering Services would include, but not be limited to, the following:

- 1.1.1 Review of existing system data and providing of advice pertaining to CLIENT operations, planning, expansion, repair or other matters that may be of concern to CLIENT.
- 1.1.2 Serve as consulting engineer on behalf of the CLIENT to various subconsultants as it relates to project planning, scope of work development, work progress oversight, project QA/QC, budget review/management, schedule and construction oversight.
- 1.1.3 Prepare engineering studies, alternative evaluations, surveys, reports, cost estimates, financial analysis, or other engineering documents specifically requested by CLIENT.
- 1.1.4 Serve as engineering liaison for the CLIENT to various local, state and federal agencies that may have jurisdiction over certain aspects of CLIENT's operations.
- 1.1.5 Provide other engineering related services as may be requested and authorized by the CLIENT.

**2.0 SECTION 2 – BASIC ENGINEERING SERVICES**

2.1 **Basic Engineering Services.** Include those services normally associated with project management, engineering analysis and engineering design for civil engineering, water and wastewater engineering, and water resources engineering related projects, or other projects stipulated by the CLIENT. Engineering services will typically include, but not be limited, to the following.

2.2 **Preliminary Design and Planning Phase.** The ENGINEER shall:

- 2.2.1 In consultation with CLIENT, and on the basis of the available Preliminary Study information, define the project specific objectives, scope of work, schedule, and preliminary budget for projects requested by the CLIENT.
- 2.2.2 Advise CLIENT if additional data or supplemental professional services of the types described in this AGREEMENT are necessary, and procure the necessary services, subject to the approval of CLIENT.



- 2.2.3 Prepare preliminary design documents consisting of the following: design criteria, cost estimate information, preliminary drawings, project scope of work development, design schedule and written description of the project.
- 2.2.4 Provide coordination, permitting, and managerial assistance to the CLIENT regarding utility relocation, easements, right-of-way acquisition, etc. as specifically requested by the CLIENT.
- 2.3 **Comprehensive Design Phase.** The ENGINEER shall:
  - 2.3.1 Perform engineering surveys of the construction site to determine horizontal and vertical site data including topography, relevant site elevation data, locations and measurements of existing site conditions that could affect the project.
  - 2.3.2 Represent the CLIENT at public hearings and meetings with applicable regulatory agencies and/or Authority Staff.
  - 2.3.3 Prepare detailed design plans, specifications, documents (a.k.a. Contract Documents/Bidding Documents) and engineering cost estimates for the project.
  - 2.3.4 Oversee the work efforts of the subconsultants as it relates to the overall project objectives, schedule and budget. Technical accuracy and design quality will be the responsibility of the subconsultant unless otherwise stipulated in their contract with the ENGINEER.
  - 2.3.5 Advise CLIENT of potential adjustments as it relates to total project costs resulting from changes in project scope, extent, character, or design requirements of the project or construction costs.
  - 2.3.6 Furnish copies of design plans, specifications and documents for approval by the CLIENT, his representatives, and applicable regulatory authorities.
- 2.4 **Pre-Construction Phase.** The ENGINEER shall:
  - 2.4.1 Pre-qualify, when possible, contractors for bidding the various projects.
  - 2.4.2 Assist CLIENT in advertising for and obtaining bids or negotiating contracts for each construction project, and maintain a record of prospective bidders to whom Construction Documents/Bidding Documents have been issued, attend pre-bid conferences and issue Construction Documents/Bidding Documents.
  - 2.4.3 Issue addenda appropriate to interpret, clarify or expand the Construction Documents/Bidding Documents.



- 2.4.4 Consult with CLIENT concerning, and determine, the acceptability of substitute materials and equipment proposed by CONTRACTOR(s) when substitution prior to the award of contracts is allowed by the Construction Documents/Bidding Documents.
- 2.4.5 Attend pre-bid meeting with prospective contractors, attend the bid opening, prepare bid tabulation sheets and assist CLIENT in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services. ENGINEER will verify that the CONTRACTOR's insurance and bonding capabilities meet the CLIENT's requirements.
- 2.5 **Construction Phase Services.** The ENGINEER shall:
- 2.5.1 Arrange a pre-construction conference with the successful bidder to discuss administrative issues associated with the project; establish site safety procedures (where applicable); address project logistics; establish lines of communication; and address other applicable issues as necessary in the interest of construction QA/QC and safety.
- 2.5.2 Review the CONTRACTOR's work schedule to ensure general conformance with preliminary schedules developed by the CLIENT and ENGINEER. Appropriate modifications will be recommended to CONTRACTOR in an effort to ensure efficiency in the construction process. ENGINEER will notify the CLIENT if significant discrepancies exist in the CONTRACTOR's schedule as compared to the agreed upon construction schedule with the applicable parties.
- 2.5.3 Serve as the CLIENT's representative with duties and limitations of responsibility and authority as stated in the construction Contract Documents.
- 2.5.4 Visit the site at regular intervals appropriate to the various stages of construction to observe progress and quality of the CONTRACTOR's work, and shall keep CLIENT informed of same.
- 2.6 **Interpretations and Clarifications.** ENGINEER shall issue necessary interpretations and clarifications of the Contract Documents/Bidding Documents and in connection therewith prepare work change directives and process CONTRACTOR's change orders as required.
- 2.7 **Shop Drawings.** ENGINEER shall review cut sheets, submittals, shop drawings and other relevant data. ENGINEER shall review shop drawings and other data that CONTRACTOR(s) are required to submit, but only for conformance with the design concept of the project and compliance with the information given in the design plans, specifications and documents. ENGINEER will review and approve CONTRACTOR's shop drawings and provide approved copy of drawing to the CLIENT prior to CONTRACTOR notification.

- 2.8 **Schedule Monitoring.** ENGINEER will review and update CONTRACTOR(s) schedule(s) to monitor construction progress and to assist the CONTRACTOR in identifying potential "work arounds" to make up for work delays, change orders, etc. Updated schedules will be provided to the CLIENT as necessary unless agreed otherwise.
- 2.9 **Applications for Payment.** ENGINEER will review CONTRACTOR's applications for periodic payment to verify that amounts requested by the CONTRACTOR agree with actual progress of the work. Approved applications will be submitted to the CLIENT for payment.
- 2.10 **Correspondence.** ENGINEER will distribute and maintain project correspondence and documents throughout the construction phase. Schedules for project deliverables will be established and adhered to in order to maintain the overall project schedule(s).
- 2.11 **Contract Closeout.** ENGINEER shall conduct a review of each project phase to determine if the work is substantially complete and a final review of each project phase will be performed to determine if the completed work is acceptable so that ENGINEER may recommend, in writing, final payment to CONTRACTOR and may give written notice to CLIENT and the CONTRACTOR that the work is acceptable (subject to any conditions therein expressed).
- 3.0 **SECTION 3 – SUPPLEMENTAL SERVICES**
- 3.1 The services listed in this section will be provided to supplement the services outlined in the previous sections. If authorized by the CLIENT, ENGINEER will furnish (or utilize the services of subconsultants/subcontractors as necessary) these services under the terms of this AGREEMENT.
- 3.2 Examples of Supplemental Services include, but are not necessarily limited to, the following:
- a) Geotechnical Engineering and Related Services.
  - b) Surveying (i.e. construction staking, property boundary, topographic surveys, easement plats, etc.).
  - c) Environmental Engineering and Assessment Services. (i.e. environmental impact studies, Phase I and Phase II Assessments, etc.).
  - d) Hydrogeology and Geology.
  - e) Geographical Positioning Systems (GPS) Mapping and Geographical Information Systems (GIS).
  - f) Supplemental or Extended Services, made necessary by: (1) work damaged by fire or other cause during construction; (2) prolongation of the construction contract period; and (3) default by the CONTRACTOR.
  - g) Services resulting from significant changes in extent of the project or revision of previously accepted concepts, reports, design plans, specifications or documents when such revisions are due to causes beyond control of ENGINEER.



- h) Transportation Engineering (i.e. road design, easement and right-of-way acquisition, traffic analysis, etc.)
- i) Resident Inspection for Construction.
- j) Preparation of As-built Drawings, unless required by a specific project TOF.

#### 4.0 SECTION 4 – FEES AND PAYMENTS TO ENGINEER

- 4.1 For general consulting engineering services as outlined in this AGREEMENT, CLIENT shall pay ENGINEER the fee documented in the project specific Task Order Forms (TOFs). It is anticipated that professional services will be performed and reimbursed on payment terms agreeable to both parties (i.e. lump sum, hourly, etc.). The proposed unit rates identified for this AGREEMENT are broken out by labor category and are included as ATTACHMENT "A". Any unique unit rates or costs related to outside subconsultants contracted to the ENGINEER to provide specialized services for specific work tasks will be included in the project specific TOFs. It will be the responsibility of the ENGINEER to periodically update the CLIENT regarding incurred fees for the various projects executed under this AGREEMENT as it relates to an estimated project budget in the event that a budget revision is warranted by the work effort undertaken, or anticipated, by the ENGINEER and as agreed to by the CLIENT. ENGINEER and CLIENT will also periodically review project progress and schedules to ensure timely completion of work.
- 4.2 The labor category unit rates are included in ATTACHMENT "A" and apply to those employees of the ENGINEER who are engaged in providing professional services under this AGREEMENT. In addition to the customary overhead items, the following costs are specifically defined as an overhead charge and there shall be no additional charge for these costs: telephone charges, computer expenses, use of company vehicles (mileage), in-house reproduction, photocopying, and routine expendable/office supplies. Direct expenses (including subconsultants hired by the ENGINEER) will be invoiced at cost plus 15% to the CLIENT.
- 4.3 ENGINEER shall submit monthly invoices to CLIENT in a format acceptable by the CLIENT. CLIENT shall endeavor to make payment to ENGINEER within thirty days from receipt of invoice.
- 4.4 For the term of this AGREEMENT or any extension thereof, the ENGINEER may petition to revise labor category billing rates effective January 1 of each year (the "Rate Modification Date") to account for salary adjustments. The CLIENT reserves the right to review the proposed annual billing rate adjustments for approval prior to implementation by the ENGINEER.



## **5.0 SECTION 5 – CLIENT’S RESPONSIBILITIES**

### **5.1 CLIENT shall:**

- 5.1.1 Provide all criteria and full information as to OWNER’s requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the drawings and specifications.
- 5.1.2 Allow the ENGINEER to have reasonable access to the site for activities necessary for the performance of the services. If reasonable access is not provided and consequently the ENGINEER is denied or delayed in performing their services, the associated fees and costs may be viewed in their entirety as a reimbursable expense.
- 5.1.3 Promptly furnish to ENGINEER the information requested by ENGINEER needed for rendering of services hereunder. The CLIENT shall provide to the ENGINEER all such information as is available to the CLIENT and the CLIENT’s consultants and contractors, and the ENGINEER shall be entitled to rely upon the accuracy and completeness thereof. The CLIENT recognizes that it is impossible for the ENGINEER to assure the accuracy, completeness and sufficiency of information provided to ENGINEER by CLIENT or third parties. Accordingly, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the ENGINEER and the ENGINEER’s subconsultants harmless from any claim, liability or cost (including reasonable attorneys’ fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the CLIENT to the ENGINEER.
- 5.1.4 Assist ENGINEER by placing at his disposal all available information pertinent to the project including previous reports and any other data relative to design or construction of the project.
- 5.1.5 Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform his services.
- 5.1.6 Designate a person (or persons) to act as CLIENT’s representative(s) with respect to the services to be rendered under this AGREEMENT. Such person(s) shall have complete authority to transmit instructions, receive information, interpret and define CLIENT’s policies and decisions with respect to materials, equipment, elements and systems pertinent to ENGINEER’s services.

## **6.0 SECTION 6 – ENGINEER’S RESPONSIBILITIES**

- 6.1 **Project Management and Design.** The ENGINEER shall manage and design the work in strict compliance with all applicable laws and in strict compliance with all applicable codes. All plans and specifications shall bear the signature and seal of the ENGINEER,

which shall be prima facie evidence that the ENGINEER has exercised the degree of skill and professional competence required of professional engineers licensed in the State of Georgia and that the ENGINEER has not practiced beyond the limits of his field of specialty or expertise.

- 6.2 **Standard Professional Services.** The ENGINEER by the execution of this AGREEMENT contracts that he is possessed of that degree of care, learning, skill and ability which is ordinarily possessed by other members of his profession and further contracts that in the performance of the duties herein set forth he will exercise such degree of care, learning, skill and ability as is ordinarily employed by professional engineers licensed to practice in the State of Georgia under similar conditions and like circumstances and shall perform such duties without neglect, and shall not be liable except for failure to exercise such degree of care, learning, skill and ability. Any other provision of this AGREEMENT to the contrary notwithstanding, the ENGINEER shall not receive any fee on account of increases in cost resulting from change orders necessitated by errors or oversights of the ENGINEER.
- 6.3 **Professional Liability Insurance.** Simultaneous with the execution of this AGREEMENT, and prior to the provision of any professional services by the ENGINEER, and during the entire term of this AGREEMENT, including future renewals thereof, the ENGINEER shall maintain in full force and effect a policy of professional liability insurance from a company authorized to do business in the State of Georgia in limits of \$1,000,000 each claim, \$2,000,000/year aggregate, with \$100,000 per claim deductible, \$200,000/year aggregate deductible. The ENGINEER represents, warrants and covenants that in the event a claim is filed against such policy, the ENGINEER has sufficient unencumbered assets and financial standing to pay in full the maximum deductible per claim. If requested, the ENGINEER shall furnish evidence of said coverage to CLIENT in the form of a certificate from the issuing insurance company that the policy is in good standing. If two or more claims are made by ENGINEER against said coverage, at any time relevant to this AGREEMENT, notice of such fact shall be furnished to CLIENT in writing, which event shall furnish CLIENT the option to terminate this AGREEMENT. As further condition, said policy shall not be canceled, changed, allowed to lapse or allowed to expire until ten (10) days after written notice is given by ENGINEER to CLIENT, via certified mail, return receipt requested. ENGINEER shall at all times during the terms of this AGREEMENT, including for four (4) years after the expiration or termination of the AGREEMENT for any reason, maintain continuity of coverage described herein against any liability directly or indirectly resulting from ENGINEER or its employees or its subconsultant's duties in connection with this AGREEMENT, or other acts or omissions of ENGINEER or its respective employees or agents occurring in whole or in part during the term of this AGREEMENT. ENGINEER shall procure continuity coverage by obtaining subsequent policies which have a retroactive date of coverage equal to the effective date of this AGREEMENT or by obtaining an extended recording endorsement with coverages consistent with those described herein.



- 6.4 **Personal Services.** In contemplation that engineering services are personal, the ENGINEER agrees that no change in the business organization of the ENGINEER under which the firm shall perform shall be made during the AGREEMENT term, unless prompt written notice to the CLIENT is given, which event shall afford the CLIENT the option to terminate this AGREEMENT.
- 6.5 **Approval of Bonds by Bidders.** Inasmuch as the ENGINEER will provide assistance to the CLIENT in the bidding and negotiating of water and sewer, and public works contracts, for which the successful contractor must present payment and performance bonds as a condition of the award of such contracts, it shall be the duty of the ENGINEER to verify that the Surety for CONTRACTOR's Bonds meets the criteria contained in the General Conditions of the Contract Documents (listed on Federal Register Circular 570) and is licensed and in good standing with the Insurance Commission of the State of Georgia.
- 6.6 **Compliance with Equal Employment Opportunity Laws and Americans with Disabilities Act.** As a condition for entry of this AGREEMENT, the ENGINEER represents, warrants and covenants that at the time of entry of this AGREEMENT, and during the term thereof, the ENGINEER shall observe and comply with all applicable laws governing equal employment opportunities, including the employment of persons with disabilities, as defined by the Americans with Disabilities Act of 1991. Furthermore, the ENGINEER shall maintain a drug free workplace as required by Georgia law during the term of this AGREEMENT.
- 7.0 **SECTION 7 – GENERAL CONSIDERATIONS**
- 7.1 **Commencement.** This AGREEMENT will take effect upon delivery of executed AGREEMENT to both parties.
- 7.2 **Term of AGREEMENT.** The initial term of this AGREEMENT shall be 12 months from the date of execution by all parties. Thereafter, unless either party provides at least 30 days prior written notice to the contrary, the AGREEMENT shall automatically renew for increments of one year beginning on January 1 and ending on December 31 of each such year. Either party, upon giving 30 days written notice, may terminate this AGREEMENT at any time without cause. Termination of this AGREEMENT by either party shall not impair or affect whatever rights, including payment for services performed prior to termination either party may have under this AGREEMENT.
- 7.3 **Authorized Representative.** ENGINEER shall designate a person (or persons) to act as ENGINEER's representative(s) with respect to the services to be rendered under this AGREEMENT. Such person(s) shall have complete authority to transmit instructions, receive information, interpret and define ENGINEER's policies and decisions with respect to materials, equipment, elements and systems pertinent to this AGREEMENT.



**7.4 Successors and Assigns.**

- 7.4.1 CLIENT and ENGINEER each is hereby bound and the partners, successors, executors, administrators, assigns and legal representatives of each are bound, to the other party to this AGREEMENT and to the partners, successors, executors, administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements and obligations of this AGREEMENT.
- 7.4.2 Neither CLIENT nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this AGREEMENT without the written consent of the other.
- 7.4.3 Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CLIENT and ENGINEER.
- 7.5 **Limitations of Responsibility.** Nothing herein shall be construed as making the ENGINEER responsible for supervising or directing the work of the CLIENT, CONTRACTORS or others furnishing work related to the project. Nor shall ENGINEER have authority over means, methods, techniques or procedures of construction, or for safety precautions incident to the work of the CLIENT, CONTRACTORS or others, or for any failure of same to comply with laws, rules or regulations. ENGINEER cannot guarantee the performance of work by CONTRACTORS nor assume responsibility for CONTRACTOR's failure to perform in accordance with Contract Documents.
- 7.6 **Indemnification.** The CLIENT shall indemnify and hold harmless the ENGINEER and all of its personnel from and against any claims, damages, loss and expenses (including attorney's fees) arising out of or resulting from the performance of the services under this AGREEMENT, provided that any such claim, damage, loss or expense is solely caused by the negligent act or omission of the CLIENT, its employees or agents (except ENGINEER).
- 7.7 **Re-use of Documents.** All documents including design plans, specifications and documents prepared by ENGINEER pursuant to this AGREEMENT are instruments of service with respect to the specific project and/or this AGREEMENT. They are not intended or represented to be suitable for re-use by CLIENT or others on extensions of the project or on any other project. Therefore, any other use or distribution of said documents without the written consent of ENGINEER is prohibited.
- 7.8 **Controlling Law.** This AGREEMENT is to be governed by the laws of the State of Georgia. The parties hereby agree and stipulate this AGREEMENT was made and entered into in Coweta County, Georgia, which shall be appropriate venue for any action brought relating thereto.
- 7.9 **Severability and Reformation.** Any provision or part thereof of this AGREEMENT held to be void or unenforceable under any law shall be deemed stricken, and all remaining

provisions shall continue to be valid and binding upon the parties. The parties agree that this AGREEMENT shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

- 7.10 **Risk Allocation.** In recognition of the relative risks, rewards and benefits of the project to both the CLIENT and ENGINEER, the risks have been allocated such that the ENGINEER and the CLIENT agree that, to the fullest extent permitted by the law, each parties' total aggregate liability to the one another and their respective contractors, subcontractors, consultants and other parties with legal standing to file claims resulting from any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this AGREEMENT from any cause or causes, shall not exceed \$50,000 or the total fee for services contemplated under this AGREEMENT, whichever is less. Such causes include, but are not limited to, ENGINEER's or CLIENT's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.
- 7.11 **Ownership of Documents.** All documents produced by ENGINEER under this agreement shall remain the property of ENGINEER and may not be used by the CLIENT for any other endeavor without the written consent of ENGINEER. Any unauthorized use or distribution shall be at CLIENT's and Recipient's sole risk and without liability to ENGINEER. CLIENT further agrees that documents produced by ENGINEER pursuant to this agreement will not be used at any location or for any project not expressly provided for in this AGREEMENT without ENGINEER's written approval.
- 7.12 **Discovery of Hazardous Materials.** Hazardous materials may exist on the site on which work will be performed by the ENGINEER under this agreement. The CLIENT acknowledges that the ENGINEER's scope of services for this project does not include any services related to the identification, removal or abatement of hazardous wastes. The ENGINEER and the CLIENT agree that the discovery of hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. The ENGINEER and the CLIENT also agree that the discovery of hazardous materials may make it necessary for the ENGINEER to take immediate measures to protect human health and safety, and/or the environment. The ENGINEER agrees to notify the CLIENT as soon as practically possible should hazardous materials or suspected hazardous materials be encountered. The CLIENT authorizes the ENGINEER to take any and all emergency measures that in the ENGINEER's professional opinion are justified to preserve and protect the health and safety of the ENGINEER's personnel and the public, and/or the environment, and the CLIENT agrees to compensate the ENGINEER for the additional cost of such work.
- 7.13 **Site Operations.** The ENGINEER's field personnel will avoid hazards or utilities that are visible to them at the site. If the ENGINEER is given data in writing that reveals the presence or potential presence of underground or overground obstructions, such as utilities, the ENGINEER will give special instructions to their field personnel. The ENGINEER will conduct the research that in its professional opinion is necessary to



locate utility lines and other objects that may exist beneath the site's surface. The CLIENT recognizes that the ENGINEER's research may not identify all subsurface utility lines and manmade objects, and that the information upon which the ENGINEER relies may contain errors or may not be complete. The ENGINEER is not responsible for any damage or loss due to undisclosed or unknown surface or subsurface conditions. For example, evaluations of existing buildings require that certain assumptions be made regarding existing conditions, many of which cannot be viewed by reasonable visual observation. The CLIENT understands that actual field conditions may subsequently be found to vary from design assumptions which in turn may alter or increase the scope of the design and/or construction services.

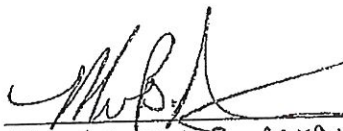
- 7.14 **Dispute Resolution.** The CLIENT and ENGINEER agree to use their best efforts to resolve amicably any dispute, including the use of alternative dispute resolution options. However, neither party is obligated to use alternative dispute resolution absent its written agreement.

This AGREEMENT (consisting of thirteen (13) pages) constitutes the entire AGREEMENT between CLIENT and ENGINEER and supersedes all prior written or oral understandings between them in respect of the subject matter covered hereby. The attached documents and those incorporated herein constitute the entire AGREEMENT between the parties and cannot be changed except by a written instrument signed by an authorized agent of both parties.

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT as of the day and year first above written.

**CLIENT:**

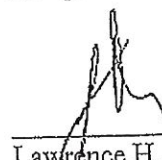
City of Fairburn

  
(Name) MARIO B. AVERY  
(Title) MAYOR

  
Attest: TOM RIDGWAY

**ENGINEER:**

Integrated Science & Engineering, Inc.

  
Lawrence H. Davis, Jr., P.E.  
President

  
Attest:



## ATTACHMENT A

### UNIT RATES

Integrated Science & Engineering, Inc.

	Rate/Hour
Principal	\$185
Senior Engineering Manager / Project Manager	\$160
Project Engineer III	\$145
Project Engineer II	\$130
Project Engineer I	\$115
Engineer II	\$105
Engineer I	90
GIS Professional III	\$115
GIS Professional II	\$90
GIS Professional I	\$80
Senior Planner	\$90
Senior Surveying Manager / Registered Land Surveyor	\$130
Survey Crew (2-Person)	\$135
Survey Crew (1-Person)	\$115
Engineer / Survey Technician III	\$115
Engineer / Survey Technician II	\$85
Engineer / Survey Technician I	\$65
Administration / Clerical	\$60
Subcontractor / Subconsultant	Cost + 15%
Reimbursables	Cost + 15%



**CITY OF FAIRBURN**  
**CITY COUNCIL AGENDA ITEM**

**SUBJECT: Police Department-Speed limit reduction on Gullatt Road.**

( ) AGREEMENT      ( ) POLICY / DISCUSSION      ( ) CONTRACT  
( ) ORDINANCE      ( ) RESOLUTION      ( X ) OTHER

**Submitted: 08/01/2019      Work Session: 08/12/2018      Council Meeting: 08/12/2019**

**DEPARTMENT:** Police

**BUDGET IMPACT:** N/A

**PUBLIC HEARING?** ( ) Yes      ( X ) No

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**PURPOSE:** The Police Department is requesting that the speed limit on Gullatt Road be reduced from 35 mph to a posted speed of 25 mph.

**HISTORY:** Gullatt is a small narrow road that needs some repairs in certain areas. This road is used as a cut through from Cowetta County to Hwy 29. The speed limit is currently 35 mph, I am asking to reduce the speed to 25 mph.

**FACTS AND ISSUES:** The police Department has received complaints from this residential district; we agree that the speed should be reduced for safety reasons. Adhering to Georgia Code 40-14-8 which allows vehicles to travel at least 10 miles per hour over the posted speed limit could cause serious injury to both pedestrians and vehicle occupants if allowed to continue traveling at 45 mph.

**RECOMMENDED ACTION:** Approval to reduce the speed limit on Gullatt Road from 35 mph to a posted speed of 25 mph. Only the 1.2 miles from Cowetta County line to Johnson road.

  
Elizabeth Carr-Hurst, Mayor





## CITY OF FAIRBURN

### CITY COUNCIL AGENDA ITEM

**SUBJECT:** Approval of the Intergovernmental Agreement between Fulton County, Georgia and the City of Fairburn, Georgia for Wastewater Services.

(X ) AGREEMENT                      ( ) POLICY / DISCUSSION                      ( ) CONTRACT  
( ) ORDINANCE                      ( ) RESOLUTION                      ( ) OTHER

**Submitted:** 08-01-2019    **Work Session:** 08-01-2019    **Council Meeting:** 08-12-2019

**DEPARTMENT:** City Attorney

**BUDGET IMPACT:** None

**PUBLIC HEARING?** ( ) Yes                      (X ) No

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**PURPOSE:** For Mayor and Council to approve the Intergovernmental Agreement between Fulton County, Georgia and the City of Fairburn, Georgia for Wastewater Services for the Reclamation Facility at Camp Creek.

**HISTORY:** Camp Creek treats wastewater from all the residential, commercial, and industrial users in the South Fulton County, Union City, Fairburn, Palmetto, East Point areas and portion of the city of Atlanta. The influent flows from the Camp Creek, Cochran Road and Deep Creek Pump Stations to the headworks of the plant. The plant also receives and treats septage from customers located within the Fulton County service area. Septage is currently received at the receiving station and enters the plant with the combined plant influent.

**FACTS AND ISSUES:** Fulton County owns and operates wastewater collection systems and treatment plants that serve customers in north and south Fulton County. The sewerage system consists of three treatment plants in North Fulton and two in South Fulton. More than 2,300 miles of interceptor, trunk and sanitary sewers, force mains, water reuse distribution systems, 45 sewage lift stations and approximately 60,000 manholes.

**RECOMMENDED ACTION:** Approval of this agreement.

  
Elizabeth Carr-Hurst, Mayor

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN FULTON COUNTY, GEORGIA  
AND THE CITY OF FAIRBURN, GEORGIA  
FOR WASTEWATER SERVICES**

**THIS INTERGOVERNMENTAL AGREEMENT** ("IGA") is executed as of \_\_\_\_ day of \_\_\_\_\_, 2019, by and between **THE CITY OF FAIRBURN, GEORGIA** ("Fairburn"), a municipality of the State of Georgia, and **FULTON COUNTY GEORGIA** ("Fulton County"), a political subdivision of the State of Georgia. The term "Party" refers individually to either Fairburn or Fulton County and the term "Parties" refers to both Fairburn and Fulton County.

**WHEREAS**, each of the parties hereto is a governmental entity of the State of Georgia, having the legal authority and obligation to organize, maintain, and operate systems of sewerage in its respective jurisdiction to serve its citizens; and

**WHEREAS**, Fulton owns and operates the Camp Creek Water Reclamation Facility, hereinafter referred to as "Camp Creek"; and

**WHEREAS**, Fulton has replaced, expanded and upgraded Camp Creek up to 24 MGD to improve its operational efficiency and reliability; and

**WHEREAS**, the Georgia Department of Natural Resources, Environmental Protection Division has mandated that watershed assessment and planning be conducted to support environmental regulatory action on wastewater discharges; and

**WHEREAS**, the Constitution of the State of Georgia provides, in Article IX, Section III, Paragraph I, Subparagraph I, Subparagraph (a), that any county or municipality of the State of Georgia may contract for any period not exceeding 50 years, with each other or with any other public agency, public corporation, or public authority for the provision of services, or for the joint or separate use of facilities or equipment when such contracts deal with activities, services, or facilities which the contracting parties are authorized by law to undertake or provide; and

**WHEREAS**, both parties agree that it is in their mutual interests to work cooperatively on wastewater management and watershed management in the Camp Creek service area and agree that the environmental management of the common watershed can be enhanced through regional cooperation; and

**WHEREAS**, the terms of this Agreement are intended to address the long term needs related to wastewater management; and

**WHEREAS**, the parties wish to set terms and conditions and provide procedures for the current and future use of Camp Creek and future capital improvements to the System, and to agree upon methods of determining and sharing current and future costs of capital improvements and operation and maintenance.

**WHEREAS**, this IGA is entered into with the understanding by the Parties that the primary



purpose of this IGA is for the Parties to meet the public purpose of setting terms and conditions and providing procedures for the current and future use of Camp Creek and future capital improvements to the System (as defined herein), and to agree upon methods of determining and sharing current and future costs of capital improvements and operation and maintenance.

**NOW THEREFORE**, incorporating the foregoing recitals, and in consideration of the mutual promises, covenants and undertakings of the parties hereinafter set forth, and for the public purposes herein contained and provided for, the County and the City covenant, agree and bind themselves as follows:

## **ARTICLE 1** **DEFINITIONS**

In the construction of this Agreement, the following terms shall have the following meanings and shall be construed as required by the following provisions, unless inconsistent with the manifest intent of the text:

**1.1 APPLICABLE INTEREST RATE** The interest rate per annum shall be set at the rate of interest being charged on unpaid County taxes (See, Article 8.2).

**1.2 BUSINESS DAY** Each day excluding each Saturday, Sunday and state or federal holiday on which banks in the State of Georgia are authorized to close for purposes of customary banking services.

**1.3 CAPITAL IMPROVEMENTS** Those additions, replacements or improvements to the System, which, under generally accepted accounting principles or practices, are considered capital in nature, and which are made for the purpose of improving the System or expanding the capacity of the System.

**1.4 COLLECTION SYSTEM** A component of the System consisting of the sewer lines, storage, pump stations, and force mains which transport flows to a treatment facility or its influent pumping station.

**1.5 DATE OF EXECUTION** The date on which the last party to this Agreement executes this Agreement.

**1.6 DESIGN CAPACITY** Flow capacity in million gallons per day (MGD) of a particular water pollution control or reclamation facility as described in the most recent design study, or any revision thereto, undertaken by the permit holder of said facility, which must be certified by an engineer licensed to practice in the State of Georgia, expressed as average daily flow, maximum month [average daily] flow, and peak wet weather flow; provided, however, as to any facility for which a permit from a regulatory body as to its maximum flow capacity is required, the "Design Capacity" of such facility shall not exceed such maximum permitted flow capacity.

**1.7 CITY ADMINISTRATOR** The City Administrator of the City of Fairburn, or whoever shall in the future perform those functions relative to this Agreement.

**1.8 DIRECTOR OF PUBLIC WORKS** The Director of Public Works of Fulton, or whoever shall in the future perform those functions relative to this Agreement.

**1.9 GOVERNING AUTHORITY** As applicable, the City Council of the City of Fairburn, Georgia, or the Board of Commissioners of Fulton County, Georgia, or any replacement governmental body vested with the power to govern the respective jurisdiction under the laws of the State of Georgia.

**1.10 NPDES PERMIT** National Pollution Discharge Elimination System Permit.

**1.11 PROJECT** Any project consisting of capital improvements to the System undertaken pursuant to this Agreement.

**1.12 PROJECT COSTS** Any and all costs and expenses of a Project, including, without limitation, the costs of planning, design, engineering, architectural, and construction of the Project, the costs of plans and specifications, the costs necessary or incident to determining the feasibility or practicality of the Project, the costs of acquiring or condemning all lands, properties, rights, and easements acquired for the Project, the costs of all buildings, machinery and equipment included in the Project, the costs of insurance, financing charges and interest as applicable, the costs of compliance with environmental regulations and environmental protection, the costs of re-rating any facility, the costs of project construction management and construction engineering, administrative costs, legal fees and expenses, and such other costs as may be necessary or incident to the construction and equipping of the Project, and the placing of the Project in operation; provided, however, "Project Costs" shall not include any operating cost (as accepted by industry standard), any repair or routine maintenance cost, or any cost stemming from a claim, fine or penalty resulting from the negligent or intentional act or omission of the Constructing Party or such party's agent.

**1.13 RATES** Rates shall be established on the basis of a utility industry standard cost of service study prepared by or on behalf of Fulton. Such study shall serve to establish at least the following three rate categories: (1) retail rates billed to residential/commercial customers, (2) wholesale, inclusive of a capital component and operation and maintenance component based on no contribution to the System ["Capital O&M"]; and (3) wholesale, without a capital component and with operation and maintenance based on a capital contribution to the System ["O&M"]. Whenever Fulton deems it necessary to revise its rates, Fulton shall notify Fairburn in writing of the pending rate increase not less than thirty (30) days prior to submittal of such revised rates to Fulton's Governing Authority for approval. Upon approval of such rates, Fulton shall notify Fairburn in writing by the first to occur: (a) thirty (30) days after such approval by the respective Governing Authority or (b) at least thirty (30) days prior to the effective date of such rates, which notice shall state each rate and the effective date thereof. Nothing herein is intended to be construed as affecting Fulton's sole authority to revise its rates. All documentation used in the cost of service studies shall be available to Fairburn within ten (10) Business Days of written request therefor [Note: Current Fulton Wastewater rates are: (retail) \$6.38 per 1,000 gallons; (capital/O&M) \$4.44 per 1,000 gallons; (O&M) \$1.83 per 1,000 gallons].



**1.14 RESERVED CAPACITY** The quantity of flow expressed as million gallons per day or thousand gallons per day purchased and allocated for use by Fairburn of a particular water pollution control or reclamation facility or Project operated by Fulton as determined by a percentage of total permitted capacity of Camp Creek.

**1.15 REQUIRED FINANCIAL CONTRIBUTION** The dollar amount payable by Fairburn with respect to each Project undertaken pursuant to this Agreement equal to (a) the sum of the Total Project Cost for the Project minus the total amount of all state and federal funds , (b) multiplied by Fairburn's Required Financial Contribution Percent.

**1.16 REQUIRED FINANCIAL CONTRIBUTION PERCENT** The applicable percent specified in Article 2.1 or in an amendment to this Agreement for the applicable Project, or if no percent is so specified for any future capital improvement to an existing facility for which a Reserved Capacity is specified in this Agreement, the percent which such Reserved Capacity is to the Design Capacity of such facility.

**1.17 SEWERAGE SYSTEM or SEWER SYSTEM** The physical system of sewers, pumping stations, force mains, storage and treatment facilities by which Fairburn and Fulton collect, convey, treat and discharge wastewater within the Camp Creek service area.

**1.18 TOTAL PROJECT COST** The aggregate dollar amount of all Project Costs of a Project undertaken pursuant to this Agreement.

## **ARTICLE 2**

### **PAST/CURRENT CAPITAL IMPROVEMENTS OF FULTON**

**2.1 FAIRBURN'S REQUIRED FINANCIAL CONTRIBUTION** The parties agree that Fairburn's Required Financial Contribution Percent for the Project has met its current financial contribution.

### **2.2 METHOD OF PAYMENT BY FAIRBURN FOR ITS REQUIRED FINANCIAL CONTRIBUTION FOR REPLACEMENT OF CAMP CREEK**

The parties agree that Fairburn's has currently met its Required Financial Contribution for Camp Creek which was equal to (a) the sum of the applicable Total Project Cost minus the total of all state and federal funds received or to be received for the respective Project (b) multiplied by the respective Required Financial Contribution Percent set forth in Article 2.1.

## **ARTICLE 3**

### **FUTURE CAPITAL IMPROVEMENTS OF FULTON**

**3.1 DETERMINATION TO MAKE FUTURE CAPITAL IMPROVEMENTS** Fulton may make necessary Capital Improvements to the Sewerage System from time to time, subject to approval by appropriate state or federal regulatory agencies, if excessive water loads or flows are impairing the efficient operation of the System, if additional capacity is required, if such improvements are necessary to comply with the regulations or requirements of agencies of the

State of Georgia, and/or agencies of the federal government, or if improved processes are available and the additions of said processes are necessary or desirable to provide operations which are more efficient and economical. Fairburn agrees that the determination to make capital improvements for any one or more of the reasons aforementioned shall be made by Fulton. For the purpose of long-range planning, the parties, acting by and through the Fairburn Director of Public Works and the Fulton Director of Public Works, shall meet at least annually or more frequently as deemed necessary to determine whether additional capacity to serve both jurisdictions will be required, necessary, or desirable, for any facility which is part of the Sewerage System. The parties agree that any such meeting will be held within thirty (30) days of a written request therefor from either party.

**3.2 NOTICE AND METHOD OF PAYMENT** Upon the determination that Capital Improvements to the Sewerage System are necessary, desirable or appropriate pursuant to Article 3.1, Fulton shall provide written notice to Fairburn of such determination, which notice also shall include Fulton's current estimate of the Total Project Cost of the Project and its calculation of the Required Financial Contribution from Fairburn for such Project. Fairburn shall respond in writing acknowledging such notice within 30 days after the date such notice is received. Also, within at least 90 days prior to scheduled award of any Project contract, Fairburn shall deposit its Required Financial Contribution in lump sum with Fulton County. During the course of the Project's construction and upon completion of the Project, adjustments to the estimated Total Project Cost shall be made in accordance with Articles 4.2 and 4.3.

#### **ARTICLE 4** **PAYMENTS AND OWNERSHIP**

**4.1 FAILURE TO RESPOND** In the event Fairburn fails to comply with Articles 2 and 3 of this Agreement, such failure shall be deemed a material breach of this Agreement and all remedies set forth in this Agreement, including the provisions of Article 4.3 (interest), shall be available to Fulton.

**4.2 ADJUSTMENT OF PAYMENTS** Fairburn and Fulton agree that the calculation of the Total Project Cost for future Capital Improvements and Fairburn's Required Financial Contribution with respect thereto are estimates, and that circumstances may arise that cause a change to such estimates. In such event, Fulton shall notify Fairburn in writing of the change of the estimated Total Project Cost amount and the change of its Required Financial Contribution as a result, and Fairburn shall pay its Required Financial Contribution with respect to any such increase of the estimated Total project Cost within sixty (60) days of receipt of notice of such change by lump sum to Fulton County. After (a) Fulton initiates any capital improvement pursuant to this Agreement has certified that construction of the Project has been completed in accordance with approved plans and specifications, (b) final payment of all federal or state grant money due Fulton, if any, (c) final payment to the construction contractor(s) and resolution of any appropriate construction claims (excluding claims stemming from a negligent or intentional act or omission of Fulton), and (d) Fulton has determined the final Total Project Cost of the Project, then the mathematical adjustment of the total Required Financial Contribution payable by Fairburn shall be made. Any payment required from either party as a result of such adjustment of the total Required



Financial Contribution shall be made by such party within 60 days of receipt of notice of the final Total Project Cost and shall be made in accordance with Article 2.2.

**4.3 FAILURE TO PAY WHEN DUE** In the event of any failure to pay when due any amount due under this Agreement, interest shall automatically accrue on such delinquent amount in accordance with Articles 1.1 and 8.2, from the date such payment is due until full payment of such delinquent amount and accrued interest thereon is made.

**4.4 OWNERSHIP OF SYSTEM** Fairburn agrees that the payment of its Required Financial Contribution for any current or future Project undertaken pursuant to this Agreement and payment of the rates assessed for its flow through Camp Creek constitutes consideration paid for Fairburn's contractual right to use Camp Creek in the amount of its Reserved Capacity therein, and does not constitute consideration paid for any ownership right, ownership interest, indicia of ownership or other property right in Camp Creek. Fairburn's use of Camp Creek in the amount of its Reserved Capacity specified herein shall not constitute and transfer of any ownership rights, ownership interests or other property rights in Camp Creek.

## **ARTICLE 5 USE OF FACILITIES**

### **5.1 FAIRBURN'S RIGHT TO USE OF CAMP CREEK**

5.1.1 EXISTING FACILITY. Subject to Article 2.2 of this Agreement, Fairburn's Reserved Capacity in Camp Creek 1.50 mgd with respect to Camp Creek, rated at 24 mgd.

5.1.2 FUTURE FACILITY. As addressed in Article 2.1 above, Fairburn shall retain the same 1.50 mgd Reserved Capacity. Fairburn's payment of its Required Financial Contribution for the total cost of projects undertaken pursuant to Articles 3 and 4 hereof, and Fairburn's timely payment of applicable treatment rates (currently \$1.83 per 1,000 gallons) for its use of Camp Creek pursuant to this Agreement will entitle Fairburn to discharge in the future no more than the following respective Reserved Capacity of flow to Camp Creek:

<b><u>Camp Creek Facility</u></b>			
	<b><u>Design Capacity (MGD)</u></b>	<b><u>Fairburn's Reserved Capacity Percent</u></b>	<b><u>Fairburn's Reserved Capacity (MGD)</u></b>
<b><u>Maximum Month Daily Flow</u></b>	24	4.167%	1.0
<b><u>Peak Wet Weather Flow</u></b>	60	2.5%	1.0

5.1.3 RE-RATING OF RESERVED CAPACITY. The percentage of reserved capacity allocated to Fairburn for the Camp Creek facility may not be increased or decreased except by amendment of this Agreement. Notwithstanding the provisions of Article 5.1.2, in the event that reserved capacity of the Camp Creek facility is re-rated

through orders; permits or other federal or state regulatory requirements, Fairburn's percentage of reserved capacity will remain unchanged, but the actual reserve capacity will be increased or decreased proportionally. An amendment to this agreement shall be implemented to reflect such re-rating.

**5.2. DETERMINATION AND PAYMENT OF APPLICABLE RATES** Fairburn agrees to pay for its flow usage at an established rate (currently \$1.83 per 1,000 gallons) that reflects the cost of service being provided as established and revised from time to time in accordance with Article 1.14. Said rate for flows exceeding the Reserved Capacity, for future flows only, shall be at the wholesale rate (currently \$4.44 per 1,000 gallons) inclusive of a capital component (based on no previous capital contribution to the system; O&M/capital). Payments shall be due within thirty days of receipt of such billing.

**5.3 DETERMINATION OF FLOWS** The basis for billing shall be metered flow volumes wherever possible, see Exhibit A. Meters shall be calibrated no less often than quarterly, and appropriate calibration records shall be retained. Fairburn shall have the opportunity to observe the calibration process, test the calibration equipment and review the calibration records of Fulton upon written request. Any meter tested and found to be accurate within ten percent shall be considered accurate for billing purposes. Where metering stations are not feasible or a dispute arises with respect to the accuracy or appropriateness of metering results, Fairburn's Director of Public Works and the Fulton's Director of Public Works will attempt to resolve the dispute in good faith, in the first instance, before seeking other options that may be available to the parties.

**5.4 PROVISION OF DATA** Both parties agree to provide flow data, or, if flow is not metered, water consumption within the service area and population data to the other as may be reasonably requested in writing by the other party within ten (10) business days following receipt of each such request.

**5.5 CHANGES IN CAPACITY** Fairburn may request additional Reserved Capacity in Camp Creek. Any increase of Reserved Capacity shall require the adjustment of the Required Financial Contribution Percent for the Total Project Cost of any future capital improvements to such facility. The percentage of Reserved Capacity and the parallel Required Financial Contribution Percent may not, however, be increased or decreased except by formal written amendment of this Agreement.

**5.6 FUTURE EXCESS FLOW** When the average daily flow received from Fairburn to Camp Creek based on a 60 day reporting period reaches 80% of the Reserved Capacity for such facility, Fairburn must prepare and submit to Fulton a written plan which demonstrates how future flows will be maintained within the Reserved Capacity. Should Fairburn's flow received at Camp Creek exceed its then-current Reserved Capacity, Fairburn shall immediately take appropriate measures to reduce its flow to within its Reserved Capacity. Continued discharge in excess of the Reserved Capacity, without prior written approval by Fulton, calculated as a daily average over 60 days time, will be considered a material breach of contract, for which Fulton is entitled to the one or more of the following remedies, none of which shall be an exclusive remedy: (a) immediate payment of the applicable rate set forth in Article 5.2 with respect to the Reserved Capacity flow and the flow in excess of the Reserved Capacity plus a surcharge rate equal to 25% of the then



current rate applicable to the excess flow, (b) payment (or reimbursement) of any and all damages claimed by third parties directly related to such excess flow, (c) immediate payment (or reimbursement) of any and all civil penalties and fines imposed by regulatory agencies or courts of law directly attributed to such excess flow, (d) interest on any aforesaid amount not paid when due pursuant hereto at the Applicable Interest Rate calculated in accordance with Article 8.2, and (e) any and all other remedies available at law or in equity. Any amount payable pursuant to this Article 5.6 shall be paid by Fairburn within fifteen (15) days following written demand therefor. The obligation to pay the applicable rate plus surcharge shall arise in the event that Fairburn's flows to Camp Creek exceed those set forth in Article 5.1.2.

## **ARTICLE 6**

### **COLLECTION SYSTEM**

**6.1 FULTON'S RIGHTS** Fulton shall have the right to make or to permit connections to that portion of the Collection System located within the sewer service boundaries of Fulton.

**6.2 FAIRBURN'S RIGHTS** Fairburn shall have the right to make or to permit connections to that portion of the Collection System located within the sewer service boundaries of Fairburn.

**6.3 CHARGES FOR COLLECTION** Fairburn shall have the right to determine and impose charges for connections permitted or made to the Collection System within its sewer service boundaries. This right shall include the right to contract with other sewer service provider(s) for the use of the Sewerage System within its sewer service boundaries, provided that Fairburn shall not permit by contract the discharge of flow which will result in Fairburn's exceeding its maximum Reserved Capacity flow to Camp Creek as set forth in Article 5 hereof.

**6.4 OPERATION AND MAINTENANCE** Fulton and Fairburn shall be responsible for operations and maintenance of the collection systems located within their respective sewer service boundaries.

## **ARTICLE 7**

### **SEWER USE ORDINANCES AND INDUSTRIAL PRETREATMENT PROGRAMS**

**7.1 RESPONSIBILITIES** Each party will be responsible for implementing, updating, enforcing, monitoring and controlling its sewer use ordinance and industrial pretreatment programs within its jurisdictional limits.

**7.2 REVISIONS** Fairburn will amend and/or revise its sewer use ordinance and industrial pretreatment program to comply with all state and federal requirements and will accept and implement reasonable changes to such ordinance and program requested in writing by Fulton with respect to control of discharges which ultimately will be treated at Camp Creek. When required for compliance with Fulton's NPDES permit, Fairburn will revise its ordinance and industrial pretreatment program in a manner reasonably acceptable to Fulton.

**7.3 ENFORCEMENT AND PERMITTING** Fairburn agrees to diligently enforce its sewer use ordinance and industrial pretreatment program for users of its portion of the Sewerage System. Fairburn will issue permits to all industrial dischargers within its jurisdictional limits as required by the ordinance and pretreatment program and will monitor compliance with the permits. A written report of non-compliant discharges within Fairburn's jurisdiction tributary to Camp Creek will be provided by Fairburn if any such non-compliance occurs.

**7.4 FAILURE TO ENFORCE.** In the event Fairburn fails to take reasonable pretreatment enforcement action on a timely basis, Fulton may take any action authorized by law.

**7.5 OTHER JURISDICTIONS** Before an industrial user located outside the jurisdictional boundaries of Fairburn discharges wastewater into the Fulton sewer system for treatment at Camp Creek, Fairburn will enter into an agreement with the jurisdiction in which such industrial user is located. The terms of such agreement shall be substantially equivalent to the applicable terms of this Agreement, and such agreement must be fully executed agreement must be fully executed by all parties thereto prior to a discharge from any industrial user in the outside jurisdiction.

**7.5 ANNUAL REPORTS** Fairburn will submit a written annual report to Fulton on the compliance status of each significant industrial user and any enforcement response taken or anticipated. Each such report will include the time frames for initial enforcement actions, as well as any subsequent enforcement actions.

**7.6 EMERGENCY ACTION** Fulton, acting as an agent of Fairburn, may take emergency action to stop or prevent any discharge into its sewer system for treatment at Camp Creek that is generated in, or transported through Fairburn, when in the reasonable opinion of Fulton such damage presents, or may present, an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, or contamination to Fulton's System. Fulton agrees to provide such notice as is practicable to the sewer user and Fairburn of its intent to take emergency action prior to taking action; provided, however, it is understood and agreed the opportunity to respond to such action or anticipated action may be limited to a hearing after the emergency powers of the jurisdiction providing wastewater treatment have been exercised.

## **ARTICLE 8**

### **PROVISIONS OF GENERAL APPLICATION**

**8.1 RIGHT TO SEEK SPECIFIC PERFORMANCE** The parties agree that the costs and damages resulting from a breach of the contractual rights to use the Sewerage System facilities up to the specified amounts granted by this Agreement may not be susceptible of monetary calculation, and that damages recoverable at law may not be adequate compensation for nonperformance of the covenants of this Agreement. It is therefore agreed that in each instance where money damages are not an adequate remedy and the provisions of Article 8.8 have been complied with, either party shall be entitled to specific performance or any other equitable remedies provided by law.



**8.2 RATE OF INTEREST** Whenever this Agreement provides for the accrual and payment of interest on sums to be paid by one party to the other, such interest shall be calculated at the Applicable Interest Rate or Rates as defined in Article 1.1 in effect during the period for which interest is due. Interest shall be calculated at the Applicable Interest Rate based upon the total number of calendar days during which the applicable amounts remain unpaid, including the original due date of the delinquent payment and excluding the day on which the amount (including accrued interest) is paid in full.

**8.3 OPERATIONS REVIEW** Both parties agree that, upon receipt by one party of a written request from the other party for an operations review, an operations review to determine the status of the operation, maintenance and personnel needs of any component of the Sewerage System, as well as the efficiency, management and reliability of cost-effectiveness of the operation of any component of the Sewerage System, shall be completed and a written report of such review and the resulting recommendations shall be delivered to the requesting party within ninety (90) days following receipt of the written request. The reasonable out-of-pocket costs of the operations review will be paid by the party requesting same. The recommendations of an operations review will not bind either party.

**8.4 SEVERABILITY** In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein. This Agreement shall be construed to adopt, but not to enlarge upon, all the applicable provisions of the Constitution and general laws of Georgia, and, if any provisions hereof conflict with any applicable provisions of said Constitution or laws, the latter as adopted by the legislature and as interpreted by the courts of this state shall prevail in lieu of any provision hereof in conflict or not in harmony therewith.

**8.5 WAIVER** A failure to initiate action as to any breach shall not be deemed as a waiver of that right of action and all such uninitiated rights of action shall be cumulative.

**8.6 TERM OF AGREEMENT** This Agreement shall be in effect and shall constitute a binding obligation of the parties hereto from and after its execution by the last party to execute same and shall continue in effect for fifty (50) years. The parties may agree to amend this IGA at any time.

**8.7 PERIODIC REVIEW OF PROVISIONS** The parties shall hold periodic reviews of the provisions of this Agreement in order to provide for the changing needs of both parties, and to insure the Sewerage System meets all applicable state and federal requirements, as they may be promulgated or amended. The parties agree to negotiate diligently and in good faith to accommodate each other's needs and proposed amendments and to use all diligent and good faith efforts to enact by appropriate legislation such amendments as are agreed upon by both parties to be appropriate. No such amendments to this Agreement shall become effective unless authorized by the respective Governing Authority of both parties. However, nothing herein shall prevent either party from proposing amendments to the other at any time during the term of this Agreement.

**8.8 NOTICE OF COMPLETION OF PROJECTS AND DETERMINATION OF FINAL COSTS** Within one hundred and eighty (180) days of the completion of a Project and determination of final cost, Fulton will notify Fairburn of the completion and determination of final cost. Any overpayment or underpayment by Fairburn shall be settled in lump sum not more than sixty (60) days after providing such notice. All documents used in the notification of Project completion and determination of final cost shall be available to Fairburn within 10 business days of written request therefore.

**8.9 RESOLUTION OF DISPUTES** Should there arise any issues or disputes related to this Agreement, the parties will in good faith attempt to resolve such issues or disputes promptly and amicably, and may by mutual agreement submit same to non-binding mediation.

**8.10 FIRE AND EXTENDED INSURANCE COVERAGE** Fulton shall obtain and maintain fire and extended coverage, flood, vandalism, and malicious mischief insurance coverage for its capital assets and personally included in the Sewerage System, including boiler or pressure vessel explosion coverage and all other coverage reasonably necessary to adequately cover reasonably foreseeable risks, insuring the buildings' systems, equipment and other improvements and all additions, extensions, alterations and modification thereto in an amount equal to at least seventy-five (75) percent of the full replacement value thereof, as such value shall be determined from periodically by Fulton. The cost of such coverage shall be allocated to the insured facility.

**8.11 DAMAGE OR DESTRUCTION OF FACILITIES** In the event of damage or destruction by fire or other casualty of the Sewerage System, Fulton shall, with reasonable diligence and dispatch, repair, or rebuild, or otherwise make provision for restoring functionality to said facilities so as to restore them as nearly as possible to the condition which existed immediately prior to the damage or destruction, subject to such modifications as may be agreed to by the parties. Any repair or rebuilding required hereunder shall be paid for with the proceeds of the insurance required under Article 8.10 and any remaining costs shall be paid by Fulton as the owner of the Camp Creek Plant.

**8.12 PERSONAL LIABILITY** No elected official, director, officer, or employee of either party shall be charged personally or held contractually liable by or to the other party under any terms or provisions of this Agreement or because of any breach thereof or because of its or their execution or attempted execution thereof.

**8.13 RESPONSIBILITY OF PARTIES FOR SEWERAGE SYSTEM** Fairburn and Fulton shall be responsible for the maintenance, repair and operation of their respective components of the Sewerage System. Neither party nor a signatory to this Agreement shall be beneficiary of the rights and obligations thereunder.

**8.14 TIME OF ESSENCE** Time is of the essence for all terms of this Agreement.

**8.15 HEADINGS** The headings contained herein are for convenience and reference only and are not intended to define or limit the scope of any provisions of this Agreement.



**8.16 ASSISTANCE** Fairburn and Fulton agree to provide each other with assistance in the form of plans and specifications, reports and projections, as may be necessary or appropriate for the efficient operation of the Sewerage System.

**8.17 NUMBER OF ORIGINAL DOCUMENTS** It is agreed between the parties that this Agreement shall be executed in two or more originals, all of which shall constitute one and the same document, and any one of which may be used for any purpose for which an original executed document may be used.

**8.18 ASSIGNMENT OF AGREEMENT** This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Agreement; provided, however, that neither this Agreement nor any interest herein shall be transferred or assigned by any party hereto except with the consent in writing of the other party hereto which consent shall not be unreasonably withheld. No assignment or transfer of this Agreement without consent shall relieve a party hereto of any obligation hereunder.

**8.19 INTERGOVERNMENTAL AGREEMENT** The parties hereto agree that this Agreement is an intergovernmental contract entered into pursuant to Article IX, Section 111, Paragraph I of the Constitution of the State of Georgia of 1983. Fairburn shall pay its financial obligations under this Agreement in accordance with the provisions of this Agreement, whether or not a Project, or any part thereof, has been completed, is operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction by offset and shall not be conditional upon the performance or non-performance by Fulton of any other agreement or any other condition whatever.

**8.20 DEFAULT** Failure of Fairburn to pay Fulton any of the payments required under this Agreement when due or failure of either party to comply with any covenant, term, or obligation of this Agreement shall constitute a material default on the part of such party. In any such event the non-defaulting party may, after complying with the provisions of Article 8.8, bring any suit, action, or proceeding in law or in equity, including but not limited to mandamus, injunction and/or action for specific performance, as may be necessary or appropriate to enforce any provision, covenant, term or obligation of this Agreement against the other party.

**8.21 NOTICE** All notices given pursuant to this Agreement shall be in writing and delivered in person or transmitted by certified mail, postage prepaid, or by registered overnight mail or delivery service, charges prepaid. All notices to Fulton County shall be addressed as follows, unless otherwise directed in writing:

County Manager  
Government Center Tower  
141 Pryor Street, Suite 10061  
Atlanta, Georgia 30303

with a copy to the:

Director  
Fulton County Department of Public Works Water Services Division  
Government Center Tower 141 Pryor Street, Sixth Floor  
Atlanta, Georgia 30303.

All notices to Fairburn shall be addressed as follows, unless otherwise directed in writing:

City Manager  
City of Fairburn  
56 Malone Street  
Fairburn, Georgia 30213

With a copy to the:

Director of Public Works  
City of Fairburn  
56 Malone Street  
Fairburn, Georgia 30213

**8.22. PRIOR AGREEMENTS** This Agreement supersedes any and all previous agreements between Fulton County and Fairburn. Under the existing agreement between the County and the City, said Agreement dated June 7, 2000, the City was authorized to utilize the County's Sewer System to transport and treat up to 250,000 gallons per day from the Town of Tyrone, Georgia, subject to certain conditions. Said authorization contemplated the City constructing and operating its own sewerage treatment facility which would have ultimately treated the wastewater generated from the Town of Tyrone. Paragraph V(C) if the Agreement required the City to obtain a performance bond payable to the County in the amount of \$4,000,000.00, which bond was designated to compensate the County in the event that the City did not build a treatment facility. Pursuant to this Agreement, the County agrees to waive any such requirement and shall release, return, void, and cancel any such bond or obligations growing therefrom on behalf of the City; provided, however, that the City shall be allowed to continue to utilize the County's Sewer System to transport and treat up to 250,000 gallons per day from the Town of Tyrone. Any such amount shall be included in, and not in addition to, the capacity allocated to the City under Paragraph 1 of this Agreement.

**8.23 ADDITIONAL UNDERSTANDINGS** The Parties to this IGA have mutually acknowledged and agreed to the following:

- a) The Parties shall work together in a cooperative and coordinated effort, and in such a manner and fashion to bring about the achievement and fulfillment of the goals and objectives of this IGA.
- b) It is not the intent of this IGA to restrict the Parties to this IGA from their involvement or participation with any other public or private individuals, agencies or organizations.



- c) It is not the intent or purpose of this IGA to create any rights, benefits and/or trust responsibilities by or between the Parties.
- d) This IGA shall in no way hold or obligate either Party to supply or transfer funds to maintain and/or sustain the IGA or keep in place any contract, except as specifically provided in this IGA.

**8.24 TERMINATION** Anything contained herein to the contrary notwithstanding, either Party may terminate the IGA:

1. If the other Party commits a material breach of the IGA and fails to cure said breach to the non-breaching Party's satisfaction after receiving thirty (30) days written notice; or
2. Without cause, if the terminating party gives ninety (90) days prior written notice to the other Party.

**8.25 RESPONSIBILITY FOR CLAIMS AND LIABILITY** It is hereby stipulated and agreed between the parties that, with respect to any claim or action brought by a third party and arising out of the activities described in this IGA or stems from any matter arising out of any actual or alleged infringement of any patent, trademark, copyright, or service mark, or other actual or alleged unfair competition disparagement of product or service, or other tort or any type whatsoever, or any actual or alleged violation of trade regulations, each party shall only be liable for payment of that portion of any and all liability, costs, expenses, demands, settlements, or judgments resulting from the negligence actions or omissions of its own agents, officers, and employees. Either party may self-fund its obligations under this IGA. However, nothing herein shall be construed as a waiver of any party's sovereign immunity or the immunities available to the officials, officers and employees of the parties. Fairburn shall ensure that any contractor retained or selected by Fairburn to provide services related to the work contemplated in this agreement shall agree to indemnify and hold harmless Fulton County as well as Fulton County's commissioners, officers, officials, employees, and agents, from and against any and all loss and/or expense which they or any of them may suffer or pay as a result of claims or suits due to, because of, or arising out of any and all such injuries, deaths and/or damage, irrespective of Fulton County's negligence (except that no party shall be indemnified for their own sole negligence). Any contractor retained by Fairburn if requested, shall assume and defend at the contractor's own expense, any suit, action or other legal proceedings arising there from in which Fulton County, and/or Fulton County's commissioners, officers, officials, employees, and agents, are named as a party, and the contractor hereby agrees to satisfy, pay, and cause to be discharged of record any judgment which may be rendered against Fulton County, and/or Fulton County's commissioners, officers, officials, employees, and agents, arising there from. Fairburn shall ensure that the provisions of this Article are included in all contracts and subcontracts.

**8.25 CONFIDENTIALITY** Fairburn agrees to establish appropriate administrative, technical, and physical safeguards to ensure that it does not provide and make available confidentiality, protected, proprietary or privileged data regarding the System. Fairburn agrees to abide and comply with all applicable laws, rules and regulations relating to privacy and confidentiality of protected information.

**8.26 REPRESENTATIONS REGARDING DATA** Each Party has made its best efforts to ensure the accuracy and completeness of the information and data transferred or made available through the performance of the IGA. Each Party makes no warranties or representations to the public, to the other Party or to third parties regarding data made available through the performance of the IGA. It shall be the responsibility of each Party or any third party to verify the accuracy of data. Each Party to this IGA accepts no liability that may arise from the use of data by any person or any third party. All information is provided "as is" with no warrantee of any kind concerning fitness of use. No Party to this IGA shall be liable for the use of data or any inferences, judgments, or decisions resulting from use of data.

**8.27 REVIEW OF ACTIVITIES** Authorized representatives of Fulton County may at all reasonable times review and inspect the activities and data collected under the terms of this IGA and any amendments thereto, including but not limited to, all reports, drawings, studies, specifications, estimates, maps and computations prepared by or for Fairburn. Fairburn shall keep accurate records in a manner approved by Fulton County with regard to the activities conducted under this IGA and submit to Fulton County upon request, such information as is required in order to ensure compliance with this agreement.

**8.28 MISCELLANEOUS**

- a) **Entire Agreement; Counterparts.** This IGA may be executed by the Parties in counterparts, each of which shall constitute an original. This IGA, including the attached exhibits, sets forth the entire understanding between the Parties pending the execution of the Agreement, and supersedes all previous agreements and understandings between them, oral or written, and may be amended only in a document executed by both Parties. No amendment, modification, termination, or waiver of any provision of this IGA, nor consent to any departure by the Parties, shall in any event be effective unless the same shall be in writing and signed by Fulton County and City, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.
- b) **Governing Law.** This IGA and the Parties' rights and obligations hereunder, shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia, without regard to its conflict of laws rules.
- c) **Limitation on liability.** No rights or limitation of rights shall arise or be assumed between the Parties as a result of the terms of this IGA. Nothing herein shall be construed as a waiver of any Party's sovereign immunity.



- d) **Representations and Warranties of the Parties.** In furtherance of the public purposes of this IGA, Fulton County and Fairburn hereby represent and warrant to each other (which representations and warranties shall be deemed independently material notwithstanding any prior inquiries) the following:
- i. **Authority.** Each Party hereto expressly represents and warrants that (i) it has the power to make, deliver and perform this IGA, and has taken all necessary action to authorize the execution, delivery and performance of this IGA; (ii) this IGA when executed will constitute the valid obligations with respect to it legally binding upon the same and enforceable in accordance with the terms hereof; and (iii) no further consent or approval of any other Party not specifically mentioned herein is required in connection with the execution, delivery, performance, validity and enforcement of this IGA. Without limiting the generality of the foregoing, each Party hereby expressly acknowledges and represents that it has officially adopted and otherwise approved this IGA at a meeting of its governing authority in accordance with the Constitution and laws of the State of Georgia, to include, without limitation, the Georgia Open Meetings Act, O.C.G.A. 50-14-1 et seq.
  - ii. **Public Purpose.** This IGA and the services contemplated herein are for the public welfare and benefit and are undertaken in accordance with the laws and Constitution of the State of Georgia. Without limiting the foregoing, the parties specifically and expressly warrant and represent, and do hereby find, that this IGA (i) pertains to the provision of services and activities which the Parties are by law authorized to undertake and provide; (ii) is otherwise authorized under the Intergovernmental Contracts Clause of the Georgia Constitution of 1983, Art. IX, Sec. III, Par. 1(a); (iii) does not authorize the creation of new debt" as contemplated by Ga. Const. of 1983, Art. IX, Sec. V. Par. 1(a); and (iv) does not violate O.C.G.A. § 36-30-3(a) or otherwise prevent fee legislation by any Party in matters of government, and shall be binding and enforceable against the Parties and their successors during the term hereof in accordance with its terms.
- e) **No Conflicting Agreements.** The execution, delivery and performance of this IGA will not violate or contravene any contract, undertaking, instrument or other agreement to which Fulton County and/or Fairburn are a Party or which purports to be binding upon said parties. Furthermore, the execution, delivery and performance of this IGA does not violate the provisions of any Party's respective charter or Code of Ordinances, or any statutory or decisional laws of the State of Georgia respecting similarly situated municipal corporations or political subdivisions of said State (as the case may be). The representations and warranties contained in this Section D shall be true and correct as of the date hereof and such representations and

warranties, and the obligation of Fulton County and Fairburn to perform their respective obligations under this IGA shall be expressly conditioned upon said representations and warranties being true and correct on the date hereof. Furthermore, each Party hereto specifically acknowledges and agrees that they shall be forever estopped from making any claim, counterclaim, assertion, or other argument of any kind contrary to the representations and warranties set forth hereinabove or otherwise contained in this IGA.

- f) **Assignment; Binding Effect.** The rights and obligations of the Parties under this IGA are personal and may not be assigned without the prior written consent of Fulton County and Fairburn. Subject to the foregoing, this IGA shall be binding upon and enforceable against, and shall inure to the benefit of, the parties hereto and their respective successors and permitted assigns.
- g) **No Third-Party Beneficiaries.** This IGA is made between and limited to Fulton County and Fairburn, and is not intended, and shall in no event be construed to be, for the benefit of any person or entity other than Fulton County and Fairburn, and no other person or entity shall be considered a third-party beneficiary by virtue of this IGA or otherwise entitled to enforce the terms of this IGA for any reason whatsoever.
- h) **Exhibits.** Each and every exhibit referred to or otherwise mentioned in this IGA is attached to this IGA and is and shall be construed to be made a part of this IGA by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.
- i) **Relationship of Parties.** Notwithstanding anything in this IGA to the contrary, neither Party shall have the power to bind nor obligates the other Party except as expressly set forth in this IGA.
- j) **Survival of Representations.** All terms, conditions, covenants, warranties contained in any determination of this IGA shall survive the termination of this IGA until amended by the applicable governing authority.
- k) **Severability Clause.** In the event that any provision of this IGA shall be deemed to be severable or invalid, and if any term, condition, phrase or portion of this IGA shall be determined to be unlawful or otherwise unenforceable, the remainder of the IGA shall remain in full force and effect, so long as the clause severed does not affect the intent of the parties. If a court should find that any provision of this IGA to be invalid or unenforceable, but that by limiting said provision it would become valid and enforceable, then said provision shall be deemed to be written, construed and enforced as so limited.



[SIGNATURES FOLLOW ON NEXT PAGE]

**IN WITNESS WHEREOF**, the Parties, by and through their duly authorized representatives, have executed this IGA to be effective as of the date first set forth above.

**CITY OF FAIRBURN, GEORGIA**

By: \_\_\_\_\_  
Mayor: Elizabeth Carr-Hurst

Attest:

By: \_\_\_\_\_  
Interim City Clerk: Shana T. Moss

Approved as to Form:

By: \_\_\_\_\_  
City Attorney: William Randy Turner

**FULTON COUNTY, GEORGIA**

By: \_\_\_\_\_  
Rob Pitts, Chairman  
Board of Commissioners

Attest:

By: \_\_\_\_\_  
Dr. Jesse A. Harris      Interim Clerk to the Commission

Approved as to Form:

By: \_\_\_\_\_  
County Attorney



# CITY OF FAIRBURN MAYOR AND CITY COUNCIL AGENDA ITEM

**SUBJECT:** Ninety-Day Moratorium on Extended Stay Residential Facilities, or other similar accommodations on Georgia Highway 74

( ) AGREEMENT                      ( ) POLICY / DISCUSSION                      ( ) CONTRACT  
( X ) ORDINANCE                      ( ) RESOLUTION                      ( ) OTHER

**Submitted:** 08.07.19                      **Work Session:** 08.12.19                      **Council Meeting:** 08.12.19

**DEPARTMENT:** Community Development/Planning and Zoning Office

**BUDGET IMPACT:** No

**PUBLIC HEARING:** ( ) Yes                      ( X ) No

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**PURPOSE:** For the Mayor and City Council to consider a 90 day moratorium on the acceptance of rezoning applications, site plans, development plans, permit applications, business license applications and any and all other approvals for extended stay residential facilities or other similar accommodations, located on Georgia Highway 74.

**FACTS AND ISSUES:** The Highway 74 corridor is the southern gateway to the city and is expected to continue experiencing rapid commercial and residential growth. The regulations set forth in the Highway 74 Overlay District are intended to ensure attractive development that will compliment the area and promote a mixture of desirable uses rather than unwanted commercial sprawl. The ultimate goal is to regulate the use of property for the purposes of attracting and maintaining development that will have a positive effect on the health, safety and welfare of Fairburn citizens. The vision of the Highway 74 Overlay District includes design guidelines for appropriate building materials and architectural character, landscaping buffers, parking requirements, underground utilities, open space reservation, and secondary road networks.

Currently, the Highway 74 Overlay District boundary includes any property or portions thereof, located within 500 feet of the Georgia Highway 74 right-of-way, as it presently exists or may exist in the future. With the increase of construction on tracts of land fronting Georgia Highway 74 and Renaissance Parkway, staff has identified a need to reevaluate the boundary of the Georgia Highway 74 Overlay District in order to address the development and location of extended stay residential facilities or other similar accommodations.

Since the city is presently engaged in the review and rewrite of the zoning ordinance, this 90 day moratorium will allow time for the consultant and staff to make recommendations to the Mayor and City Council regarding an appropriate extension of the Georgia Highway 74 Overlay District boundary.

**RECOMMENDED ACTION:** For the Mayor and City Council to approve a 90 day moratorium on the acceptance of rezoning applications, site plans, development plans, permit applications, business license applications and any and all other approvals for extended stay residential facilities or other similar accommodations, located on Georgia Highway 74.

  
Elizabeth Carr-Hurst, Mayor



**ORDINANCE NO. 2019-0802**

**STATE OF GEORGIA  
CITY OF FAIRBURN**

**AN ORDINANCE TO IMPOSE A NINETY-DAY MORATORIUM ON THE ACCEPTANCE OF REZONING APPLICATIONS, SITE PLANS, DEVELOPMENT PLANS, PERMIT APPLICATIONS, BUSINESS PERMITS, BUSINESS LICENSE APPLICATIONS AND ANY AND ALL OTHER APPROVALS FOR EXTENDED STAY RESIDENTIAL FACILITIES, OR OTHER SIMILAR ACCOMMODATIONS, LOCATED ON GEORGIA HIGHWAY 74 WITHIN THE CITY LIMITS OF THE CITY OF FAIRBURN; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Mayor and City Council of Fairburn have been vested with substantial powers, rights and functions to generally regulate the practice, conduct or use of property for the purposes of maintaining health, morals, safety, peace and the general welfare of the City of Fairburn; and

**WHEREAS**, Georgia law recognizes that local governments may impose moratoria on zoning decisions, building permits and other development approvals where exigent circumstances warrant the same, pursuant to the case law found at City of Roswell v. Outdoor Systems, Inc., 274 Ga. 130 (2001); Taylor v. Shetzen, 212 Ga. 101 (1955); and

**WHEREAS**, the Georgia Supreme Court, in the case of DeKalb County v. Townsend, 243 Ga. 80 (1979), held that, "To justify a moratorium, it must appear first, that the interests of the public generally, as distinguished from those of a particular class, require such interference; and second, that the means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals." The Mayor and City Council have found that the interests of the public necessitate the enactment of a moratorium for health, safety, morals and general welfare purposes by means which are reasonable and not unduly oppressive; and

**WHEREAS**, the Courts take judicial notice of a local government's inherent ability to

impose moratoria on an emergency basis; and

**WHEREAS**, the Mayor and City Council of the City of Fairburn have, as a part of planning, zoning and growth management, hired a consultant to assist in the review and update of the City of Fairburn Zoning Ordinance and City of Fairburn Zoning Map and during this process, determined that the boundaries of the Georgia Highway 74 Overlay District need to be extended and therefore seeks to maintain the status quo until that process has been completed; and

**WHEREAS**, Section 80-90 Georgia Highway 74 Overlay District (b)(2) Findings and Intent states: “[T]he regulations set forth in this section are intended to insure attractive developments which are complimentary and will promote a mix of uses rather than the undesirable commercial sprawl which has plagued many communities and threatened the very character that attracted such development interests. These standards will reinforce and implement a land use plan that features residential, office, personal services, hospitality uses and retail commercial uses along Georgia Highway 74.”; and

**WHEREAS**, currently there exists a need for the implementation of a land use plan that provides for the extension of the boundaries of the Georgia Highway 74 Overlay District in order to address the development and location of extended stay residential facilities or other similar accommodations; and

**WHEREAS**, the Mayor and City Council wish to impose this moratorium to allow time for the consultant to make recommendations to the Mayor and City Council once the review of the City of Fairburn Zoning Ordinance and City of Fairburn Zoning Map is complete and for Mayor and City Council to consider and adopt text amendments to the City of Fairburn Zoning Ordinance that will provide for the implementation of an orderly approach to the City’s land use plan for the extension of the boundaries of the Georgia Highway 74 Overlay District; and



**WHEREAS**, the Mayor and City Council are, and have been interested in, developing a cohesive and coherent policy regarding the extension of the boundaries of the Georgia Highway 74 Overlay District within the City of Fairburn in order to address the development of extended stay residential facilities and other similar accommodations and have intended to promote community development through stability, predictability and balanced growth, which will further the prosperity of the City as a whole; and

**WHEREAS**, the Mayor and City Council therefore consider this moratorium a proper exercise of their police powers.

**NOW THEREFORE BE IT ORDAINED**, by authority of same that:

**Section I. FINDINGS OF FACT**

The Mayor and City Council of the City of Fairburn make the following findings of fact;

1. It appears that the City of Fairburn Zoning Ordinance and the City of Fairburn Comprehensive Land Use Plan require an additional review by the City of Fairburn as they relate to the development of extended stay residential facilities and other similar accommodations; and
2. Substantial disorder, detriment and irreparable harm would result to the citizens, businesses and the City of Fairburn if the current land use regulation scheme related to the further development of extended stay residential facilities, or other similar accommodations located on Georgia Highway 74, were to be utilized by property owners prior to a more thorough review; and
3. The City's ongoing revision of its Zoning Ordinance and Comprehensive Land Use Plan requires that a limited cessation of all rezoning applications, site plans, development plans, permit applications, building permits, business license applications and any and all other approvals with respect to the above described use, be enacted; and

4. It is necessary and in the public interest to delay, for a reasonable period of time, the processing of any rezoning applications, site plans, development plans, permit applications, building permits, business license applications and any and all other approvals for extended stay residential facilities, or other similar accommodations, along Georgia Highway 74 within the City of Fairburn, to ensure that the design, development and location of the same are consistent with the long-term planning objectives of the City; and

5. That the Georgia Supreme Court has ruled that limited moratoria are reasonable and do not constitute a final legislative action pursuant to the Georgia Zoning Procedures Law when such moratoria are applied throughout the City under City of Roswell et al v. Outdoor Systems, Inc., 274 Ga. 130 (2001).

## **Section II. IMPOSITION OF MORATORIUM**

1. There is hereby imposed a moratorium on the acceptance by the staff of the City of Fairburn of rezoning applications, site plans, development plans, permits, business license applications and any and all other approvals, and on their acceptance of all applications for use of land located on Georgia Highway 74 within the City of Fairburn for extended stay residential facilities or other similar accommodations.

2. Section 80-4 Definitions of the City of Fairburn Zoning Ordinance, defines extended stay residential facilities or other similar accommodations as the following: "A building designed for occupancy as a temporary abiding place of individuals who are lodged with or without meals, in which there are six or more guestrooms."

3. The duration of this moratorium shall be until November 12, 2019.

4. This moratorium shall be effective as of the date of its adoption.



5. This moratorium shall have no effect upon rezoning approvals or permits previously issued or as to site plans, development plans or business license applications previously approved by the City.

6. The provisions of this Ordinance shall not affect the issuance of permits or site plan reviews that have received final approval by the City on or before the effective date of this Ordinance.

7. As of the effective date of this Ordinance, no applications for rezoning, site plans, development plans, permits, business license applications and any and all other approvals for extended stay residential facilities or other similar accommodations located on Georgia Highway 74 within the City of Fairburn shall be accepted by any agent, employee or officer of the City, and any so accepted for filing will be deemed in error, null and void and of no effect whatsoever and shall constitute no assurance whatsoever of any right to engage in any act, and any action in reliance on any such application submittal shall be unreasonable.

### **Section III. DURATION OF MORATORIUM**

The duration of this moratorium shall be until the Mayor and City Council adopt an ordinance extending the boundaries of the Georgia Highway 74 Overlay District within the City of Fairburn or until November 12, 2019, whichever occurs first.

### **Section IV. EFFECTIVE DATE**

The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

**BE IT ORDAINED** by the Mayor and City Council of Fairburn, this 12<sup>th</sup> day of August, 2019.

CITY OF FAIRBURN, GEORGIA

Elizabeth Carr-Hurst, Mayor

APPROVED AS TO FORM:

ATTEST:

William R. Turner, City Attorney

Shana T. Moss, Interim City Clerk