



CITY OF FAIRBURN
CITY HALL
56 Malone Street
Fairburn, GA 30213
January 28, 2019
6:00 PM

WORKSHOP AGENDA

- I. MEETING CALLED TO ORDER: Mayor Elizabeth Carr-Hurst
- II. ROLL CALL: Keshia McCullough, City Clerk
- III. PRESENTATIONS
- IV. COUNCIL DISCUSSION
- V. REVIEW OF AGENDA ITEMS FOR COUNCIL SESSION
- VI. ADJOURN



CITY OF FAIRBURN
CITY HALL
56 Malone Street
Fairburn, GA 30213
January 28, 2019
7:00 PM

REGULAR AGENDA

The Honorable Mayor Elizabeth Carr-Hurst, Presiding

The Honorable Linda J. Davis
The Honorable Alex Heath
The Honorable Pat Pallend

The Honorable Hattie Portis-Jones
The Honorable Ulysses Smallwood
The Honorable James Whitmore

Keshia McCullough
Randy Turner

City Clerk
City Attorney

I. Meeting Called to Order:

The Honorable Mayor Carr-Hurst

II. Roll Call:

Keshia McCullough, City Clerk

III. Invocation:

Bishop Aaron Lackey
Temple of Prayer Family Worship
Cathedral

IV. Pledge of Allegiance:

In Unison

V. Presentations:

None

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 will be referred to the City Administrator for review and a response within 10 business days.

VII. Adoption of the Council Agenda:

Councilmembers

VIII. Approval of Consent Agenda Items:

Councilmembers

IX. Approval of December 10, 2018 Minutes:

Councilmembers

X. Appointments:

Office of the Mayor

Mayor Elizabeth Carr-Hurst

1. Appointment of Mayor Pro Tem for 2019
2. Appointment of City Attorney for 2019
3. Appointment of City Clerk for 2019
4. Appointment of Police Chief for 2019
5. Appointment of Fire Chief for 2019
6. Legal Organ of the City of Fairburn for 2019

XI. Public Hearings:

Planning & Zoning/Community Development Tarika Peek

7. Use Permit 18U-003-Exeter Bohannon Land, LLC
8. Rezoning 18RZ-004 with a Concurrent Use Permit 18RZ-004-Exeter Bohannon Land, LLC
9. Rezoning 18RZ-005-South Fulton, LLC

XII. Agenda Items:

City Clerk

Keshia McCullough

10. Approval of the 2019 Council Meeting Schedule

Police

Chief Stoney Mathis

11. Approval of the lease purchase agreement between the City of Fairburn and Motorola for the purchase of necessary communication radios in the amount of \$113,708

Parks and Recreation

Chapin Payne

12. Approval of the South Fulton Little League contract to utilize Duncan Park's baseball fields for the Spring 2019 season

Fire Department

Interim Chief Cornelius Robinson

13. Approval of the Physio Control service agreement for cardiac monitors in the amount of \$5,821.20

Property Management

Harvey Stokes

14. Approval of the lease agreement between the City of Fairburn and Armando Mexican Restaurant

15. Council Comments:

Councilmembers

16. Executive Session*

None

17. Adjournment

Councilmembers

*When an Executive Session is required, one will be called for the following issues:
(1) Personnel (2) Real Estate or (3) Litigation.



CITY OF FAIRBURN
STATE OF THE CITY ADDRESS
Temple of Prayer Family Worship Cathedral
161 Senoia Road
Fairburn, Georgia 30213
January 14, 2019
7:00 PM

The Honorable Mayor Elizabeth Carr-Hurst

The Honorable Linda J. Davis
The Honorable Alex Heath
The Honorable Pat Pallend

The Honorable Hattie Portis-Jones
The Honorable Ulysses Smallwood
The Honorable James Whitmore

Mayor Carr-Hurst's State of the City Address highlighted the City's accomplishments of the past year and focused on her vision and planned initiatives for 2019 and beyond. Mayor Carr-Hurst stated that her plans for 2019 includes good jobs, massive investment in affordable houses and open spaces, infrastructure to fix traffic, doubling down on community-driven public safety and making downtown Fairburn vibrant for day and night life.

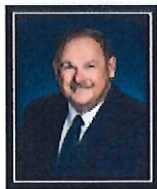
Fairburn Mayor and City Council



The Honorable Mayor Elizabeth Carr-Hurst



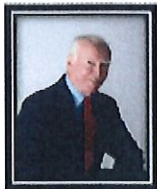
Mayor Pro Tem
James Whitmore



Councilman
Alex Heath



Councilwoman
Hattie Portis-Jones



Councilman
Pat Pallend



Councilman
Ulysses Smallwood



Councilwoman
Linda J. Davis

Order of Program

Master of Ceremony.....Mayor Pro Tem James Whitmore
City of Fairburn
Procession of City Council.....City of Fairburn Councilmembers and
Mayor
Presentation of the Colors.....Fairburn Color Guard
Pledge of Allegiance to the Flag.....DeShane Dottery-Dukes, Jr.
National Anthem.....Dae'ah Dottery-Dukes
Invocation.....Minister Danita Jones
In His Great Name Ministries
Welcome.....Bishop Aaron B. Lackey
Temple of Prayer Family Worship Cathedral
Opening Remarks.....Representative Derrick Jackson
Georgia House of Representatives
Fairburn Video.....
Introduction of Mayor.....Mayor Vince Williams
City of Union City
Selection.....Kierra Turner
State of the City Address.....
The Honorable Mayor Elizabeth Carr-Hurst
Adjournment.....Mayor Pro Tem James Whitmore
City of Fairburn

Situated To Succeed!

Reception immediately following the State of the City Address
Fairburn City Hall-56 Malone St. S.W.-Fairburn, GA 30213



CITY OF FAIRBURN
CITY HALL
56 Malone Street
Fairburn, GA 30213
December 10, 2018
7:00 PM

The Honorable Mayor Elizabeth Carr-Hurst, Presiding

The Honorable Linda J. Davis
The Honorable Alex Heath
The Honorable Pat Pallend

The Honorable Hattie Portis-Jones
The Honorable Ulysses Smallwood
The Honorable James Whitmore

Keshia McCullough
Randy Turner

City Clerk
City Attorney

- I. Meeting Called to Order:
The meeting was called to order at 7:03 PM. The Honorable Mayor Carr-Hurst
- II. Roll Call: Keshia McCullough, City Clerk
All members of Council were present providing the Council with a quorum.
- III. Invocation: Pastor Charles Ramsey
St. John A.M.E. Church
- IV. Pledge of Allegiance: In Unison
- V. Presentations: None
- 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 will be referred to the City Administrator for review and response within ten (10) business days.
- VII. Adoption of the Council Agenda: Councilmembers
Councilman Smallwood motioned to adopt the Council Agenda. Councilwoman Davis provided the second.

Motion Carried 6-0

- VIII. Approval of Consent Agenda Items: Councilmembers
Councilman Smallwood motioned to approve Consent Agenda Items #1-6.
Councilwoman Davis provided the second.

Motion Carried 6-0

- IX. Approval of November 26, 2018 Minutes: Councilmembers
Mayor Pro-Tem Whitmore motioned to approve the November 26, 2018 minutes.
Councilwoman Davis provided the second.

Motion Carried 6-0

- X. Public Hearings: None

- XI. Agenda Items:

Utilities

Tom Ridgway

1. Approval of the Election for Off-System Sales Margins for Power Supply Year 2019

Councilman Smallwood motioned to approve the consent agenda item.
Councilwoman Davis provided the second.

Motion Carried 6-0

Human Resources

Linda Johnson

2. Approval of the cancellation of the City of Fairburn's Long-Term Care (LTC) group policy with Unum Life Insurance Company

Councilman Smallwood motioned to approve the consent agenda item.
Councilwoman Davis provided the second.

Motion Carried 6-0

City Clerk

Keshia McCullough

3. Approval to add a Certification of Documents and Accident Report fee to the City of Fairburn's fee schedule

Councilman Smallwood motioned to approve the consent agenda item.
Councilwoman Davis provided the second.

Motion Carried 6-0

8. Council Comments:

Councilmembers

Councilwoman Portis-Jones congratulated Police Chief Mathis on his Blue-Light Christmas. She also congratulated Landmark Christian School students on being engaged in the community. She stated that they are the future and that this is how the City will move forward. Lastly, she thanked Pastor Ramsey for giving the invocation and she wished everyone a Merry Christmas and a wonderful New Year.

Councilman Pallend said that this is a delightful way to end the year and he hopes for all that 2019 is the best year they have ever had.

Councilman Smallwood wished everyone a Merry Christmas and he stated that he is thankful to be here and involved in this great City. He extended congratulations to Mayor Carr-Hurst on her powerful speaking engagement at Enon Baptist Church. He ended by stating that he's very excited for the City of Fairburn's future.

Councilwoman Davis said that she's excited about the young people at Landmark Christian School seeing a problem and presenting a solution to it. She is also excited that Landmark Christian School is partnering with the City. Councilwoman Davis wished everyone a Merry Christmas and Happy New Year.

Councilman Heath expressed appreciation to the citizens of Fairburn for electing him for his third term on Council. He stated that Fairburn has always been a close place for him as it is where he grew up. Councilman Heath stated that he is thankful for all Department Heads and employees because without them the Council wouldn't be able to do what they need to do. Lastly, he wished everyone a Merry Christmas.

Mayor Pro-Tem Whitmore stated that this will be the end of his third year on Council as of December 31st. He further stated that a lot has happened and he blessed to be a governing official for the City of Fairburn. He gave kudos to the Blue Light Christmas. He said that the Police are showing that they can be a community policing department within the City of Fairburn. He concluded stating that the staff luncheon that took place on Friday was wonderful and he wished everyone a Merry Christmas and a prosperous New Year.

Mayor Carr-Hurst congratulated Landmark Christian School. She thanked Council by stating that each one of them has played a vital role in the running of the City. She said that she's surrounded by competent people every day. She expressed that they are going to do some great things in Fairburn has never been seen because they are Moving Forward Together. She noted that the State of the City address is January 14, 2019 at 7:00 PM at Temple of Prayer Family Worship Cathedral and it will be streamed live on the City's website. She thanked all Department Heads and staff and wished everyone a Merry Christmas and a healthy and happy New Year.

9. Executive Session*

None

10. Adjournment

Councilmembers

Mayor Pro-Tem Whitmore motioned to adjourn the meeting at 7:33 PM.
Councilman Smallwood provided the second. **Motion Carried 6-0**

Meeting adjourned at 7:33 PM

*When an Executive Session is required, one will be called for the following issues:
(1) Personnel (2) Real Estate or (3) Litigation.

Elizabeth Carr-Hurst, Mayor

Keshia McCullough, City Clerk



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: APPOINTMENT OF MAYOR PRO TEM FOR 2019

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

Submitted: 1/17/19

Work Session: 1/28/19

Council Meeting: 1/28/19

DEPARTMENT: City Clerk

BUDGET IMPACT: N/A

PUBLIC HEARING? () Yes (x) No

PURPOSE: For Mayor Elizabeth Carr-Hurst to appoint a member of Council to Mayor Pro Tem for 2019.

HISTORY: Per Article II, Section 9 of the Fairburn City Charter, at the first regular meeting in each year, the Mayor shall appoint a member of City Council as Mayor Pro Tem.

FACTS AND ISSUES: The Mayor Pro Tem duties shall be to preside over the meetings of the City Council and perform all duties as Mayor in the absence or disqualification of the Mayor.

RECOMMENDED ACTION: For Mayor Elizabeth Carr-Hurst to appoint Linda J. Davis as Mayor Pro Tem for 2019.


Elizabeth Carr-Hurst, Mayor



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: APPOINTMENT OF CITY ATTORNEY

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

Submitted: 1/17/19

Work Session: 1/28/19

Council Meeting: 1/28/19

DEPARTMENT: Mayor and Council

BUDGET IMPACT: 100-1320-52-1205 (Legal)

PUBLIC HEARING? () Yes (x) No

PURPOSE: For Mayor and Council to appoint Randy Turner (Turner Ross Germain, LLC) as the City Attorney for the City of Fairburn.

HISTORY: Per Article IV, Section 30 of the Fairburn City Charter, the Mayor and Council have the right and power to a City Attorney in the opinion of the said Mayor and Council for the management and operation of the business of the City of Fairburn.

FACTS AND ISSUES: The Mayor and Council make annual appointments of the City Attorney pursuant to the City's Charter at the first regular meeting of the Mayor and Council each year.

RECOMMENDED ACTION: For Mayor and Council to appoint Randy Turner (Turner Ross Germain, LLC) as City Attorney for the City of Fairburn for 2019.


Elizabeth Carr-Hurst, Mayor



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: APPOINTMENT OF CITY CLERK

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

Submitted: 1/17/19

Work Session: 1/28/19

Council Meeting: 1/28/19

DEPARTMENT: Mayor and Council

BUDGET IMPACT: 100-1310-51-1100 (City Clerk Salaries & Wages)

PUBLIC HEARING? () Yes (x) No

PURPOSE: For Mayor and Council to appoint Keshia McCullough as the City Clerk for the City of Fairburn.

HISTORY: Per Article IV, Section 28 of the Fairburn City Charter, the Mayor and Council shall elect a person as City Clerk whose duties shall be to keep an accurate record of minutes of all meetings and shall perform all duties prescribed for him/her by the Mayor and Council of the City.

FACTS AND ISSUES: The Mayor and Council make annual appointments of the City Clerk pursuant to the City's Charter at the first regular meeting of the Mayor and Council each year.

RECOMMENDED ACTION: For Mayor and Council to appoint Keshia McCullough as City Clerk for the City of Fairburn for 2019.


Elizabeth Carr-Hurst, Mayor



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: APPOINTMENT OF POLICE CHIEF

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

Submitted: 1/17/19

Work Session: 1/28/19

Council Meeting: 1/28/19

DEPARTMENT: Mayor and Council

BUDGET IMPACT: 100-3200-51-1100 (Police Salaries & Wages)

PUBLIC HEARING? () Yes (x) No

PURPOSE: For Mayor and Council to appoint Stoney Mathis as the Police Chief for the City of Fairburn.

HISTORY: Per Article IV, Section 30 of the Fairburn City Charter, the Mayor and Council have the right and power to elect officers or employers in the opinion of the said Mayor and Council for the management and operation of the business of the City of Fairburn.

FACTS AND ISSUES: The Mayor and Council make annual appointments of the Police Chief pursuant to the City's Charter at the first regular meeting of the Mayor and Council each year.

RECOMMENDED ACTION: For Mayor and Council to appoint Stoney Mathis as Police Chief for the City of Fairburn for 2019.


Elizabeth Carr-Hurst, Mayor



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: APPOINTMENT OF FIRE CHIEF

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

Submitted: 1/17/19

Work Session: 1/28/19

Council Meeting: 1/28/19

DEPARTMENT: Mayor and Council

BUDGET IMPACT: 100-3500-51-1100 (Fire Salaries & Wages)

PUBLIC HEARING? () Yes (x) No

PURPOSE: For Mayor and Council to appoint Cornelius Robinson as the Fire Chief for the City of Fairburn.

HISTORY: Per Article IV, Section 32 of the Fairburn City Charter, the Mayor and Council shall have the right to elect a Chief of the Fire Department.

FACTS AND ISSUES: The Mayor and Council make annual appointments of the Fire Chief pursuant to the City's Charter at the first regular meeting of the Mayor and Council each year.

RECOMMENDED ACTION: For Mayor and Council to appoint Cornelius Robinson as Fire Chief for the City of Fairburn for 2019.


Elizabeth Carr-Hurst, Mayor



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: LEGAL ORGAN FOR THE CITY OF FAIRBURN FOR 2019

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

Submitted: 1/17/19

Work Session: 1/28/19

Council Meeting: 1/28/19

DEPARTMENT: City Clerk

BUDGET IMPACT: N/A


PUBLIC HEARING? () Yes (x) No

PURPOSE: For Mayor and Council to consider and appoint the South Fulton Neighbor Newspaper as the legal organ for the City.

HISTORY: An official legal organ for the City of Fairburn is appointed every year.

FACTS AND ISSUES: In January of each year, Mayor and Council will confirm the official legal organ of the City.

RECOMMENDED ACTION: For Mayor and Council to appoint the South Fulton Neighbor Newspaper as the official legal organ for the City for 2019.


Elizabeth Carr-Hurst, Mayor



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

SUBJECT: USE PERMIT 18U-003 - Exeter Bohannon Land, LLC

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

Planning and Zoning Commission: 01.08.19

Mayor and City Council: 01.28.19

DEPARTMENT: Community Development/Planning and Zoning Office

BUDGET IMPACT: None

PUBLIC HEARING: (X) Yes () No

PURPOSE: For the Mayor and City Council to continue a use permit petition to allow a 492,480 square foot cross dock/e-commerce warehouse facility in a PD (Planned Development) district.

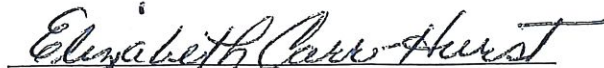
DESCRIPTION: The applicant is proposing to develop a 492,480 square foot cross dock/e-commerce warehouse with associated truck courts, vehicle parking, and stormwater management facility. The subject property is located on the southwest side of Bohannon Road. Site access is proposed along the northeastern side of the subject property, on Bohannon Road.

PLANNING AND ZONING COMMISSION RECOMMENDATION: The rezoning petition was reviewed by the Planning and Zoning Commission on Tuesday, January 8, 2019. The Planning and Zoning Commission recommended a Continuance of the petition to the February 5, 2019 Planning and Zoning Commission meeting and February 25, 2019 City Council public hearing.

STAFF RECOMMENDATION: CONTINUANCE to the following meeting and public hearing dates:

Planning and Zoning Commission Meeting
City Council Public Hearing

Tuesday, February 5, 2019
Monday, February 25, 2019


Elizabeth Carr-Hurst, Mayor

APPLICATION INFORMATION

Use Permit Petition 18U-003

APPLICANT/PETITIONER INFORMATION

Property Owners
Octaviano Ayala
Bartow Properties, LLC

Petitioner
Exeter Bohannon Land, LLC
c/o Doug Dillard

PROPERTY INFORMATION

Addresses: 6570 Bohannon Road [parcel # 07 400001800413], 0 Bohannon Road [parcel # 07 400001632170]

Land Lot and District: Land Lot 180, District 7

Frontage: Bohannon Road

Area of Property: +/- 68.8 acres

Existing Zoning and Uses: PD (Planned Development District), Undeveloped and Single-family residential use

Overlay District: N/A

2035 Comprehensive Future Land Use Map Designation: Greenspace

MEETING AND HEARING DATES

Planning and Zoning Commission Meeting
January 8, 2019

Mayor and City Council Public Hearing
January 28, 2019

INTENT

To continue a request for a use permit to allow a 492,480 square foot cross dock/e-commerce warehouse facility in a PD (Planned Development) district.

STAFF RECOMENDATION

Staff is recommending a CONTINUANCE of the rezoning petition to the following meeting/public hearing dates:

Planning and Zoning Commission Meeting
City Council Public Hearing

Tuesday, February 5, 2019
Monday, February 25, 2019

Staff is recommending a continuance of the rezoning petition for the following reasons:

A. A traffic impact study for the project, dated November 12, 2018, was submitted to staff by Exeter. The traffic study was reviewed by David A. Fairlie, P.E., Senior Transportation Engineer at Moreland Altobelli, on behalf of the City of Fairburn and comments were provided to staff on December 4, 2019. Mr. Fairlie provided the following comments/concerns:

1. The executive summary of the study indicates that "All of the new truck trips will use Creekwood Road north of the site to primarily access SR 74 and I-85 to originate and terminate at destinations north of the

site.” However, Creekwood Road currently has a truck prohibition from Johnson/Bohannon Road to Oakley Industrial Blvd. The reason for this prohibition is likely due to Creekwood Road’s narrow lanes (seemingly 10 feet or less in the section between Ridge Drive and Cleckler Road), and to the weight capacity limitations of a bridge, on Creekwood Road, over a small creek. If all trucks generated by the proposed facility are to use Creekwood Road, several improvements would be necessary to condition the roadway for truck traffic. Yet, the study does not mention any planned or proposed improvements.

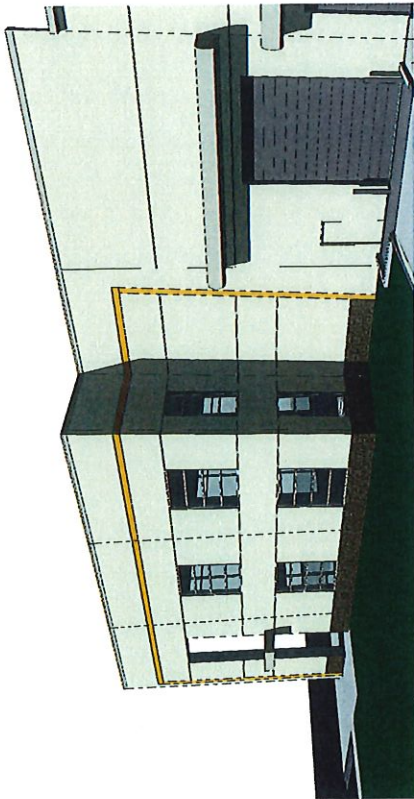
2. The description of Creekwood Road refers to a site that seems to correspond to the Clorox Company facility and not the proposed site’s location. This would need to be clarified.
3. The description of Johnson Road and Bohannon Road indicate that both roadways have a posted speed limit of 40MPH. However, the correct posted speed limit on Johnson and Bohannon Road is 45MPH.
4. It is mentioned that “All trucks would use Bohannon Rd to/from Creekwood Rd and Oakley Industrial Blvd, with 20% on north Bohannon Rd, 50% north (to/from I-85) & 20% south on SR 74.” Clarification is needed as to why these percentages do not add up to 100%.
5. The Synchro analyses included in the appendix show that a heavy vehicle percentage of 2% was used for all scenarios (Existing, Background, and Build). Two percent heavy vehicles is the default in synchro. If information is available for heavy vehicle percentages, the default value should be replaced accordingly. Assuming the Existing and Background scenarios in fact had 2% heavy vehicles, the heavy vehicle percentage for the Build scenario should certainly be higher and could be calculated based on the study’s trip generation calculations. Higher heavy vehicle percentages may negatively affect the results of the intersection analyses. The analyses would need to be revised with the correct heavy vehicle percentages to obtain more accurate results.
6. From the concept plan provided in the appendix, it seems that the intersection sight distances (ISD), from the site’s driveway onto Bohannon Road, are limited by the horizontal curvature of Bohannon Road. The recommended ISD according to AASHTO guidelines is 500 feet for passenger cars turning left onto a roadway with a posted speed limit of 45MPH. The recommended distance for trucks would be greater. Please indicate if and how the proposed location of the driveway to the warehouse/distribution facility would meet the ISD requirements for the type of trucks expected at the site.

The above-mentioned comments were submitted to the applicant on December 10, 2018. The applicant is reviewing the traffic impact study comments/concerns expressed by Moreland Altobelli and is preparing to provide feedback.

- B. Staff proposed site development conditions and is currently working with the applicant to come to an agreement on the zoning conditions.
- C. The applicant is revising the use permit application to reflect the use permit considerations listed in the zoning ordinance.

ATTACHMENT

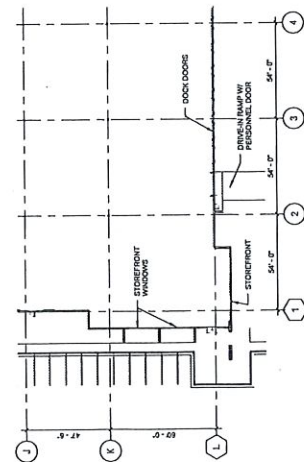
Conceptual Site Plan



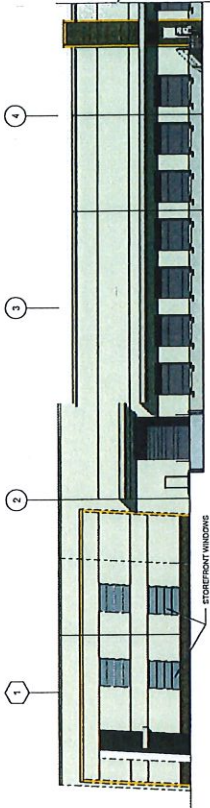
1 ENTRY PERSPECTIVE - A



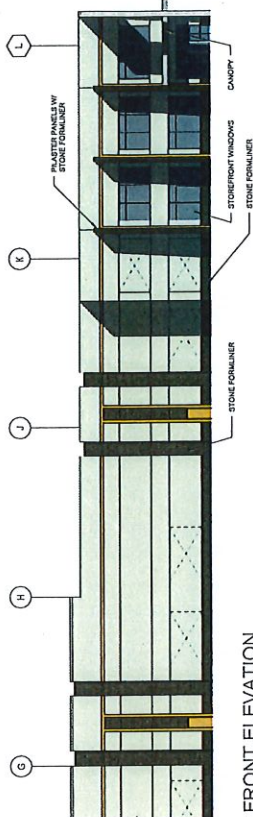
2 ENTRY PERSPECTIVE - B



6 ENTRY PLAN



4 DOCK ELEVATION



5 FRONT ELEVATION



3 ENTRY PERSPECTIVE - C

LACY CURRY TRACT
LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 180, 7TH DISTRICT, FULTON COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF BOHANNON ROAD (60 FOOT RIGHT-OF-WAY WIDTH), LOCATED SOUTH 45 DEGREES 53 MINUTES 00 SECONDS EAST, 1286.94 FEET FROM THE COMMON CORNER OF LAND LOTS 163, 164, 179, AND 180;

THENCE, ALONG SAID RIGHT-OF-WAY LINE, SOUTH 83 DEGREES 33 MINUTES 38 SECONDS EAST, 35.23 FEET TO A POINT;

THENCE, LEAVING SAID RIGHT OF WAY LINE, SOUTH 00 DEGREES 07 MINUTES 24 SECONDS EAST, 898.19 FEET TO A POINT;

THENCE, SOUTH 89 DEGREES 52 MINUTES 36 SECONDS WEST, 101.00 FEET TO A POINT;

THENCE, SOUTH 00 DEGREES 07 MINUTES 24 SECONDS EAST, 206.50 FEET TO A POINT;

THENCE, SOUTH 89 DEGREES 52 MINUTES 36 SECONDS WEST, 361.50 FEET TO A POINT;

THENCE, NORTH 00 DEGREES 07 MINUTES 24 SECONDS WEST, 361.50 FEET TO A POINT;

THENCE, NORTH 89 DEGREES 52 MINUTES 36 SECONDS EAST, 361.50 FEET TO A POINT;

THENCE, SOUTH 00 DEGREES 07 MINUTES 24 SECONDS EAST, 120.00 FEET TO A POINT;

THENCE, NORTH 89 DEGREES 52 MINUTES 36 SECONDS EAST, 66.00 FEET TO A POINT;

THENCE, NORTH 00 DEGREES 07 MINUTES 24 SECONDS WEST, 867.22 FEET TO THE **POINT OF BEGINNING**.

SAID TRACT OF LAND CONTAINING **3.78 ACRES (164,499 SQUARE FEET)**.

All that certain lot or parcel of land situate in **Fulton and Fayette Counties**, State of Georgia, and being more particularly described as follows:

PARCEL ONE

All that tract or parcel of land lying and being in Land Lot 163 of the 7th District of Fulton County, Georgia, and being more particularly described as follows.

BEGINNING at an iron pin on the north line of Land Lot 163 where said Land Lot line intersects the westerly line of Creekwood Drive (50-foot right-of-way); running thence south 3 degrees 39 minutes west, along the west line of said Creekwood Drive, 187.87 feet to an iron pin; running thence northwesterly along the northeasterly side of Creekwood Drive a distance of 359.41 feet to an iron pin, the chord of said arc being north 56 degrees 07 minutes west, 356.73 feet, running thence south 87 degrees 53 minutes east, along the north line of Land Lot 163, 308.32 feet to the iron pin at the POINT OF BEGINNING on Creekwood Drive, said property being shown as having .561 acres as per plat of survey for Bohannon Group, Ltd., dated December 18, 1973, and finally revised March 27, 1974, prepared by Morrison J. Simms & Associates, registered land surveyors.

PARCEL TWO

All that tract or parcel of land lying and being in Land Lots 163 and 180 of the 7th District of Fulton County, Georgia, and in Land Lot 145 of the 7th District of Fayette County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin at the point where the east line of Land Lot 163 intersects the southwest right-of-way line of Bohannon Road (60-foot right-of-way); running thence south 03 degrees 39 minutes west along the east line of Land Lot 163, 357.66 feet to a geodetic monument; running thence south 72 degrees 43 minutes 51 seconds east, 590.49 feet to an iron pin on the southwesterly right-of-way line of Bohannon Road; running thence southeasterly along the southwesterly right-of-way line of Bohannon Road 306.46 feet to an iron pin, the chord of the arc just described being south 70 degrees 49 minutes 23 seconds east, 305.23 feet; running thence south 79 degrees 44 minutes east, along the southwesterly right-of-way line of Bohannon Road, 83.35 feet to an iron pin; running thence south 02 degrees 39 minutes west, 2,388.42 feet to an iron pin on the south line of Land Lot 145 of the 7th District of Fayette County, Georgia; running thence north 87 degrees 30 minutes 30 seconds west, along the south line of said Land Lot 145, 1,308.49 feet to a point, said point being a common point with property now or formerly owned by Mann, and being shown on plat of survey recorded in Plat Book 8, Page 104, in the Office of the Clerk of the Superior Court of Fayette County, Georgia; running thence north 16 degrees 37 minutes 30 seconds west, 280 feet, more or less, to the center line of County Line Creek; running thence westerly and southwesterly along the center line of County Line Creek and following the meanderings thereof, 625 feet, more or less, to a point where said center line intersects the south line of Land Lot 145; continuing thence southwesterly along the center line of said County Line Creek, and following the meanderings thereof, 360 feet, more or less, to a point where said center line intersects the south line of Land Lot 163; running thence north 88 degrees 10 minutes 30 seconds west, 172.68 feet, more or less, to an iron pin; running thence north 02 degrees 23 minutes 30 seconds east, 2,916.55 feet to an iron pin at the southwest corner of property now or formerly owned by Fulton County; running thence south 89 degrees 26 minutes 30 seconds east, along the south line of said Fulton County property, 399.79 feet to an iron pin; running thence north 02 degrees 23 minutes 30 seconds east, along the east line of said Fulton County property, 538.95 feet to an iron pin on the south right-of-way line of Bohannon Road; running thence south 87 degrees 53 minutes east, 435.62 feet to an iron pin; running thence southeasterly along the southwesterly right-of-way line of Bohannon Road 656.34 feet to an iron pin, the chord of said arc being south 64 degrees 02 minutes 15 seconds east, 637.55 feet; running thence south 40 degrees 11 minutes 30 seconds east, along the southwesterly right-of-way line of Bohannon Road, 40.50 feet to the iron pin at the POINT OF BEGINNING, said tract containing 154.3 acres as per plat of survey for Bohannon Group, Ltd., prepared by Morrison J. Simms & Associates, registered land surveyors, dated December 18, 1973, and revised March 27, 1974

PARCEL THREE

All that tract or parcel of land lying and being in Land Lot 180 of the 7th District of Fulton County, Georgia, being more particularly described as follows:

BEGINNING at a point where the southwesterly right-of-way line of Bohannon Road (also known as Johnson Road, also known as Creekwood Road) intersects the west land lot line of Land Lot 180, running thence south 3 degrees west along said land lot line, and along the property line of property now or formerly owned by J. W. Milam, 350.4 feet to a point; thence south 73 degrees 05 minutes east, and along the property line of property now or formerly owned by J. W. Milam, 988.7 feet to a point on the southerly right-of-way line of said road; thence in a northwesterly direction along the southwesterly side of said road, and following the curvature thereof, 1,145.8 feet, more or less, to the point of beginning at the west line of Land Lot 180.

LESS AND EXCEPT the following described tracts of land

EXCEPTED TRACT I

All that tract or parcel of land lying and being in Land Lots 163 and 180 of the Seventh District of Fulton County, Georgia, according to a plat of survey prepared for Rose Mill Homes, Inc. by J. R. Wood, Surveyors and Planners, Inc., dated 12/14/77, and being Lot No. 55, Bohannon Farms Subdivision, and being more particularly described as follows:

Beginning at a point where the west line of Land Lot 180 intersects with the south right-of-way of Bohannon Road (60-foot right-of-way), which also being the east line of Land Lot 163, thence south 40 degrees 11 minutes 30 seconds east 76.79 feet to a point; thence south 49 degrees 48 minutes 30 seconds west 246.30 feet to a point; thence north 31 degrees 52 minutes 00 seconds west 32 feet to a point; thence north 16 degrees 49 minutes 21 seconds west 216.14 feet to a point; thence north 40 degrees 00 minutes 06 seconds east 140.81 feet to a point; thence along the arc of a curve to the right and along the west right-of-way line of Bohannon Road 194.51 feet, having a chord distance of 194.03 feet and a bearing of south 45 degrees 16 minutes 23 seconds east to the point of beginning.

EXCEPTED TRACT II

All that tract or parcel of land lying and being in Land Lot 180 of the 7th District of Fulton County, Georgia, according to a plat of survey prepared for Rose Mill Homes, Inc., by J. R. Wood, Surveyors and Planners, Inc., dated 12/9/77, revised: 3/23/78, revised: 4/3/78, and being Lot No. 85, Bohannon Farms Subdivision and being more particularly described as follows:

Beginning at a point where the west line of Land Lot 180 intersects with the south right-of-way line of Bohannon Road (60-foot right-of-way) thence follow the south right-of-way of Bohannon Road in an easterly direction 780 feet to the POINT OF BEGINNING; thence southeast along said right-of-way following a curve having a chord direction of south 68 degrees 49 minutes 16 seconds east and a chord length of 246.69 feet to a point; thence south 46 degrees 47 minutes 19 seconds west 410.49 feet to a point; thence north 43 degrees 11 minutes 30 seconds west 200 feet to a point; thence north 39 degrees 47 minutes 18 seconds east 286.47 feet to a point; continuing thence north 39 degrees 47 minutes 18 seconds east 15.0 feet, more or less, to a point on the existing south right-of-way line of Bohannon Road; running thence southeasterly along said right-of-way and following the curvature thereof, 15.0 feet, more or less, to the point of beginning.

Being the same property conveyed by Warranty Deed from Fardev Co., a partnership composed of Thomas E. Farr, individually, and Thomas E. Farr, Trustee under Trust Agreement dated December 15, 1976, to Kingston Hill Corporation, a Georgia corporation dated August 23, 1982, filed for record August 25, 1982, recorded in Deed Book 260, page 796, in the office of the Clerk of the Superior Court of Fayette County, Georgia, and filed

for record August 31, 1982, recorded in Deed Book 8224, page 217, in the office of the Clerk of the Superior Court of Fulton County, Georgia.

FURTHER LESS AND EXCEPT:

All that property previously released by Kingston Hill Corporation by virtue of that certain Quitclaim Deed dated November 16, 1988, filed for record on November 21, 1988 at Deed Book 12064, page 348, Fulton County Records, said property being all that tract or parcel of land lying and being in Land Lot 180 of the 7th District of Fulton County, Georgia, and being more particularly described as follows:

Beginning at a point located on the existing southerly right-of-way of Bohannon Road (a 60-foot right-of-way), which point is located 1,137.73 feet east of the intersection of said right-of-way with the west land lot line of Land Lot 180, as measured along said right-of-way; running thence south 79 degrees 44 minutes 00 seconds east 35.00 feet to a point; running thence south 02 degrees 39 minutes 00 seconds west 896.00 feet to a point; running thence north 87 degrees 21 minutes 00 seconds west 100.00 feet to a point; running thence south 02 degrees 39 minutes 00 seconds west 206.50 feet to a point; running thence north 87 degrees 21 minutes 00 seconds west 361.5 feet to a point, running thence north 02 degrees 39 minutes 00 seconds east 361.5 feet to a point; running thence south 87 degrees 21 minutes 00 seconds east 361.5 feet to a point; running thence south 02 degrees 39 minutes 00 seconds west 120.00 feet to a point; running thence south 87 degrees 21 minutes 00 seconds east 85.31 feet to a point; running thence north 02 degrees 39 minutes 00 seconds east 865.64 feet to the point of beginning; said tract containing 3.768 acres, as per plat of survey prepared for Lacy S. Curry dated June 10, 1988 by Charles C. Jones, Registered Land Surveyor # 1650.

LESS AND EXCEPT:

All that tract of land lying and being in Land Lot 163 of the 7th District, Fulton County, Georgia and more particularly described as follows:

BEGINNING AT A POINT on the southern right of way of Johnson Road (80 foot right of way). said point being located 2004.14 feet easterly of the centerline of Gullatt Road as measured along the southern right of way of Johnson Road, said point being The True Point of Beginning.

Proceeding thence along said right of way S 87 degrees 51 minutes 24 seconds West a distance of 570.34 feet to a point. Proceeding thence South 55 degrees 00 minutes 00 seconds East a distance of 618.77 feet to a point. Proceeding thence South 00 degrees 40 minutes 00 seconds West a distance of 821.40 feet to a point. Proceeding thence South 11 degrees 00 minutes 00 seconds East a distance of 719.07 feet to a point. Proceeding thence South 79 degrees 00 minutes 00 seconds West a distance of 298.67 feet to a point. Proceeding thence South 40 degrees 50 minutes 00 seconds West a distance of 616.09 feet to a point. Proceeding thence North 87 degrees 36 minutes 30 seconds West a distance of 498.43 feet to a point. Proceeding thence North 02 degrees 23 minutes 30 seconds East a distance of 2423.86 feet to a point. Proceeding thence South 89 degrees 29 minutes 30 seconds East a distance of 399.72 feet to a point. Proceeding thence North 02 degrees 23 minutes 33 seconds East a distance of 538.81 feet to a point and The True Point Of Beginning. Said tract containing 52.000 Acres.

Being all that parcel or tract of land conveyed from Bartow Properties, LLC to Asbury Park, LLC, a Georgia limited liability company by virtue of Warranty Deed dated November 18, 2003, and recorded December 15, 2003 in Deed Book 36694, Page 107, Fulton County, Georgia Records.

OCTAVIANO AYALA TRACT

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 180, 7TH DISTRICT, FULTON COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4 INCH OPEN TOP PIPE IN THE SOUTHERLY RIGHT-OF-WAY LINE OF BOHANNON ROAD (60 FOOT R/W WIDTH), LOCATED SOUTH 35 DEGREES 17 MINUTES 10 SECONDS EAST, 969.08 FEET FROM THE COMMON CORNER OF LAND LOTS 163, 164, 179, AND 180;

THENCE, WITH SAID RIGHT-OF-WAY LINE, 261.52 FEET ALONG A CURVE TO THE LEFT, (SAID CURVE HAVING A RADIUS OF 1045.84 FEET, AND CHORD BEARING SOUTH 70 DEGREES 40 MINUTES 58 SECONDS EAST, 260.84 FEET) TO A 3/4 INCH OPEN TOP PIPE;

THENCE, LEAVING SAID RIGHT OF WAY LINE, SOUTH 44 DEGREES 13 MINUTES 46 SECONDS WEST, 409.49 FEET TO A POINT IN A POND;

THENCE, NORTH 45 DEGREES 44 MINUTES 06 SECONDS WEST, 200.00 FEET TO A POINT;

THENCE, NORTH 37 DEGREES 16 MINUTES 03 SECONDS EAST, 301.72 FEET TO THE **POINT OF BEGINNING**.

SAID TRACT OF LAND CONTAINING **1.77 ACRES (76,764 SQUARE FEET)**.

Re: USE PERMIT 18U-003
Property of Exeter Bohannon Land, LLC
6570 Bohannon Road, 0 Bohannon Road
07400001800413, 07400001632170
68.8 acres; Land Lot 180
District 7,
Fairburn, Fulton County, Georgia

AN ORDINANCE GRANTING THE APPLICANT, EXETER BOHANNON LAND, LLC, A USE PERMIT, SUBJECT TO CERTAIN CONDITIONS, TO ALLOW A FOUR HUNDRED NINETY-TWO THOUSAND FOUR HUNDRED EIGHTY (492,480) SQUARE FOOT CROSS DOCK/E-COMMERCE WAREHOUSE FACILITY IN A PD (PLANNED DEVELOPMENT) ZONING DISTRICT: TO IDENTIFY THE CONDITIONS ATTACHED TO THE GRANT OF THE USE PERMIT; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

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 THAT:

Whereas, Chapter 80. Article II, Zoning Districts, Section 80-87 – PD (Planned Development) District (c) Permitted Uses of the City of Fairburn Zoning Ordinance requires that a Use Permit be obtained for M-1 (Light Industrial) District and M-2 (Heavy Industrial) District uses; and

Whereas, Chapter 80, Article IV, Section 80-171 of the City of Fairburn Zoning Ordinance requires approval of the Use Permit by the City of Fairburn City Council; and

Whereas, the City of Fairburn Zoning Ordinance allows for the operation of heavy and/or light industrial uses within the PD (Planned Development) District within the City of Fairburn only by way of a use permit, describes the objective criteria to be evaluated in deciding whether to grant a requested use permit, and permits City Council to attach other conditions that it deems necessary to protect the environment as well as the public health, safety and welfare; and

Whereas, the Applicant, Exeter Bohannon Land, LLC seeks a use permit in accordance with its application, 18U-003, in order to operate a 492,480 square foot cross dock/e-commerce warehouse facility at the location 6570 Bohannon Road and 0 Bohannon Road, with parcel identification numbers 07400001800413, 07400001632170 in the PD (Planned Development) District as described in Exhibit A; and

Whereas, 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 28th day of January, 2019 and continued in order to be referred back to the Planning and Zoning Commission February 5th, 2019, meeting for the Planning and Zoning Commission to review the proposed amendment and a report be transmitted to the Mayor and City Council for the continued public hearing to be held on February 25, 2019, pursuant to Section 80-298 of the City of Fairburn Zoning Ordinance.

Whereas, pursuant to Chapter 80. Article IV, Section 80-171(5)(b) of the City of Fairburn Zoning Ordinance, the Use Permit, if granted, shall expire within three years from the date of approval of this resolution, unless a land disturbance permit, building permit, business license or certificate of occupancy has been issued.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Fairburn, Georgia:

Section 1. That a use permit is granted to the Applicant, Exeter Bohannon Land, LLC, in accordance with Chapter 80, Article IV.- Administrative Permits and Use Permits of the City of Fairburn Zoning Ordinance in order to operate a cross dock/e-commerce warehouse facility at the location 6570 Bohannon Road, 0 Bohannon Road with parcel identification numbers 07400001800413, 07400001632170, in the PD (Planned Development) District, the City of Fairburn City Council concluding that the use permit should be granted, subject to certain conditions.

Section 2. That the granted use permit is limited by the following conditions:

1. To restrict the use of the Subject Property as follows:
 - a. The Subject Property will be developed subject to the requirements and conditions of the approved concurrent use permit known as 18U-005.
 - b. The Subject Property will be developed with no more than 492,480 square feet of warehouse space.
2. To the owner's agreement to abide by the following:
 - a. The Subject Property shall be developed in substantial conformity with the Zoning Site Plan prepared by Eberly and Associates and submitted with the original use permit application stamped received by July 2, 2018, and attached as Exhibit A. Any determination as to "substantial conformity" shall be made by City staff.
3. To the owner's agreement to the following site development considerations:
 - a. Development standards as follows:
 - Building setbacks
 - a. Front: 35 feet
 - b. Side: 20 Feet, 50 feet (abutting residential district)
 - c. Rear: 30 feet, 50 feet (abutting residential district)
4. Truck queuing shall be maintained on the Subject Property to eliminate truck stacking on public roads.

5. Provide a 50-foot buffer around the perimeter of the Subject Property where it directly abuts residentially zoned property, including AG-1 (Agricultural District) zoned property.
6. Provide a 25-foot vegetated buffer along the entire site frontage (Bohannon Road).
7. Exterior of the building(s) shall be constructed predominately of stone, brick, concrete, glass or metal. Vinyl siding is a prohibited exterior building material.
8. Lighting on the exterior of the building(s) shall be directed downward and internal to the property lines. All perimeter lighting shall be directed to the interior of the Subject Property.
9. Provide a combination of existing trees and newly planted trees (where insufficient vegetation exists). A vegetated earthen berm and fencing shall be installed on the outer perimeter of the truck courts to maximize screening and sound remediation from surrounding properties.
10. The detention ponds shall meet the minimum City of Fairburn standards.
11. A minimum of 5 feet sidewalks shall be installed along the Subject Property street frontage and shall be constructed to comply with the American with Disabilities Act (ADA) and City of Fairburn's development standards.
12. Commercial driveways/concrete aprons shall be at each project entrance to delineate public from private. Commercial drives shall extend a minimum of 12 feet from the edge of pavement or to the right-of-way.
13. The Developer shall fully upgrade substandard streets (Creekwood Road and Bohannon Road) used for access to the Subject Property. The upgrade of the substandard streets shall include roadway reconstruction, road widening and bridge replacement as deemed necessary by the City Engineer.
14. The Developer shall provide roadway improvements which shall include pavement, signing, striping, curb and gutter and drainage along the entire site frontage (Bohannon Road) at no cost to the City.
15. Turning lanes shall be required to meet projected traffic demand and/or safe operations, as determined by the City Engineer. 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 projects indicate they are justified.

Section 3. 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 4. This Ordinance shall become effective on the 28th day of January, 2019.

Section 5. All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed to the extent of the conflict.

APPROVED this 28th day of January, 2019, by the Mayor and Council of the City of Fairburn, Georgia.

Elizabeth Carr-Hurst, Mayor

ATTEST:

Keisha McCollough, City Clerk

APPROVED AS TO FORM:

William R. (Randy) Turner, City Attorney



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

SUBJECT: REZONING 18RZ-004 with a Concurrent Use Permit [18U-005] - Exeter Bohannon Land, LLC

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

Planning and Zoning Commission: 01.08.19

Mayor and City Council: 01.28.19

DEPARTMENT: Community Development/Planning and Zoning Office

BUDGET IMPACT: None

PUBLIC HEARING: (X) Yes () No

PURPOSE: For the Mayor and City Council to continue a petition to rezone 3.78 acres from **AG-1 (Agricultural)** to **PD (Planned Development)** with a concurrent use permit to allow a M-1 (Light Industrial) use.

DESCRIPTION: The applicant is proposing to develop a 492,480 square foot cross dock/e-commerce warehouse with associated truck courts, vehicle parking, and stormwater management facility. The subject property is located on the southwest side of Bohannon Road. Site access is proposed along the northeastern side of the subject property, on Bohannon Road.

PLANNING AND ZONING COMMISSION RECOMMENDATION: The rezoning petition was reviewed by the Planning and Zoning Commission on Tuesday, January 8, 2019. The Planning and Zoning Commission recommended a Continuance of the petition to the February 5, 2019 Planning and Zoning Commission meeting and February 25, 2019 City Council public hearing.

STAFF RECOMMENDATION: CONTINUANCE to the following meeting and public hearing dates:

Planning and Zoning Commission Meeting
City Council Public Hearing

Tuesday, February 5, 2019
Monday, February 25, 2019


Elizabeth Carr-Hurst, Mayor

APPLICATION INFORMATION

Rezoning Petition 18RZ-004 with a Concurrent Use Permit [18U-005]

APPLICANT/PETITIONER INFORMATION

Property Owner
Lacy Curry

Petitioner
Exeter Bohannon Land, LLC
c/o Doug Dillard

PROPERTY INFORMATION

Address:	6560 Bohannon Road [Parcel # 07 400001800462]
Land Lot and District:	Land Lot 180, District 7
Frontage:	Bohannon Road
Area of Property:	+/- 3.78 acres
Existing Zoning and Use:	AG-1 (Agricultural District), Single-Family residential use
Overlay District:	N/A
2035 Comprehensive Future Land Use Map Designation:	Greenspace
Proposed Zoning:	PD (Planned Development District)

MEETING AND HEARING DATES

Planning and Zoning Commission Meeting
January 8, 2019

Mayor and City Council Public Hearing
January 28, 2019

INTENT

To continue the petition to rezone the subject property from **AG-1 (Agricultural)** to **PD (Planned Development)** with a Use Permit to allow a M-1 (Light Industrial) use.

STAFF RECOMENDATION

Staff is recommending a **CONTINUANCE** of the rezoning petition to the following meeting/public hearing dates:

Planning and Zoning Commission Meeting
City Council Public Hearing

Tuesday, February 5, 2019
Monday, February 25, 2019

Staff is recommending a continuance of the rezoning petition for the following reasons:

A. A traffic impact study for the project, dated November 12, 2018, was submitted to staff by Exeter. The traffic study was reviewed by David A. Fairlie, P.E., Senior Transportation Engineer at Moreland Altobelli, on behalf of the City of Fairburn and comments were provided to staff on December 4, 2019. Mr. Fairlie provided the following comments/concerns:

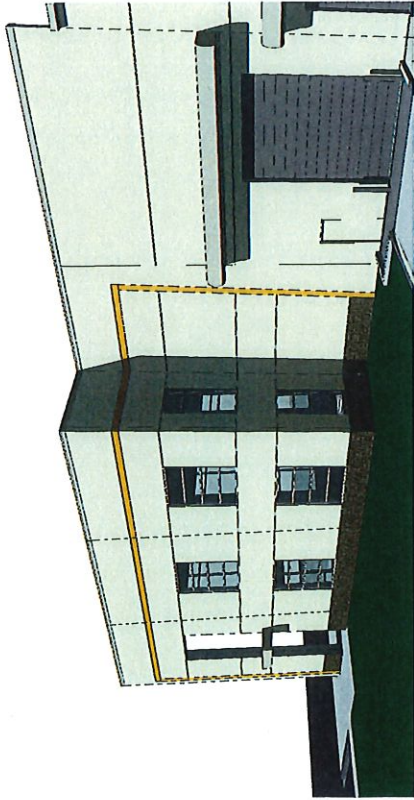
1. The executive summary of the study indicates that "All of the new truck trips will use Creekwood Road north of the site to primarily access SR 74 and I-85 to originate and terminate at destinations north of the site." However, Creekwood road currently has a truck prohibition from Johnson/Bohannon Road to Oakley Industrial Blvd. The reason for this prohibition is likely due to Creekwood Road's narrow lanes (seemingly 10 feet or less in the section between Ridge Drive and Cleckler Road), and to the weight

- capacity limitations of a bridge, on Creekwood Road, over a small creek. If all trucks generated by the proposed facility are to use Creekwood Road, several improvements would be necessary to condition the roadway for truck traffic. Yet, the study does not mention any planned or proposed improvements.
2. The description of Creekwood Road refers to a site that seems to correspond to the Clorox Company facility and not the proposed site's location. This would need to be clarified.
 3. The description of Johnson Road and Bohannon Road indicate that both roadways have a posted speed limit of 40MPH. However, the correct posted speed limit on Johnson and Bohannon Road is 45MPH.
 4. It is mentioned that "All trucks would use Bohannon Rd to/from Creekwood Rd and Oakley Industrial Blvd, with 20% on north Bohannon Rd, 50% north (to/from I-85) & 20% south on SR 74." Clarification is needed as to why these percentages do not add up to 100%.
 5. The Synchro analyses included in the appendix show that a heavy vehicle percentage of 2% was used for all scenarios (Existing, Background, and Build). Two percent heavy vehicles is the default in synchro. If information is available for heavy vehicle percentages, the default value should be replaced accordingly. Assuming the Existing and Background scenarios in fact had 2% heavy vehicles, the heavy vehicle percentage for the Build scenario should certainly be higher and could be calculated based on the study's trip generation calculations. Higher heavy vehicle percentages may negatively affect the results of the intersection analyses. The analyses would need to be revised with the correct heavy vehicle percentages to obtain more accurate results.
 6. From the concept plan provided in the appendix, it seems that the intersection sight distances (ISD), from the site's driveway onto Bohannon Road, are limited by the horizontal curvature of Bohannon Road. The recommended ISD according to AASHTO guidelines is 500 feet for passenger cars turning left onto a roadway with a posted speed limit of 45MPH. The recommended distance for trucks would be greater. Please indicate if and how the proposed location of the driveway to the warehouse/distribution facility would meet the ISD requirements for the type of trucks expected at the site.

The above-mentioned comments were submitted to the applicant on December 10, 2018. The applicant is reviewing the traffic impact study comments/concerns expressed by Moreland Altobelli and is preparing to provide feedback.

- B. Staff proposed site development conditions and is currently working with the applicant to come to an agreement on the zoning conditions.
- C. The applicant is revising the use permit application to reflect the use permit considerations listed in the zoning ordinance.

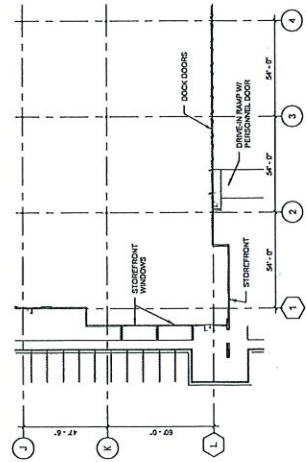
ATTACHMENT
Conceptual Site Plan



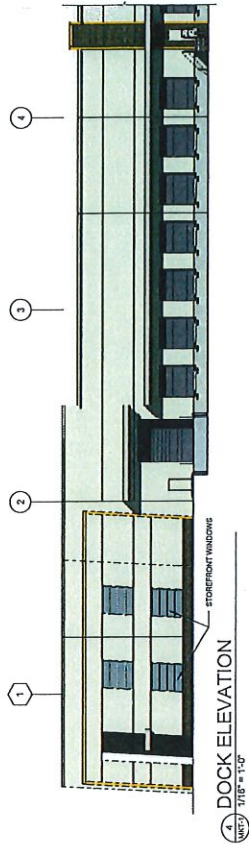
1 ENTRY PERSPECTIVE - A



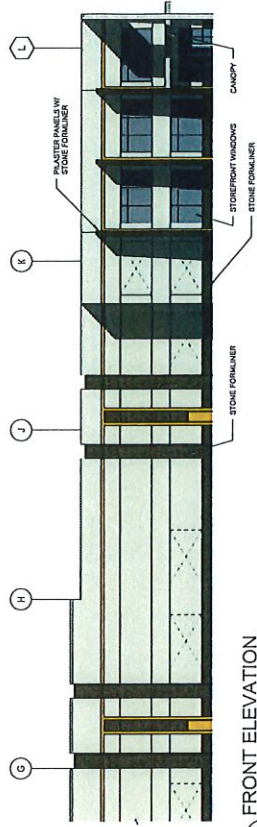
2 ENTRY PERSPECTIVE - B



6 ENTRY PLAN
1/8" = 1'-0"



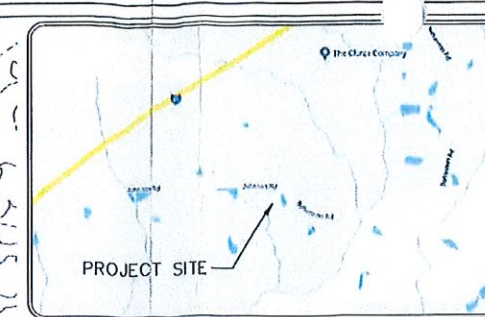
4 DOCK ELEVATION
1/8" = 1'-0"



5 FRONT ELEVATION
1/8" = 1'-0"



3 ENTRY PERSPECTIVE - C



LOCATION MAP
N.T.S.

SITE DATA

REQUESTING ZONING/USE: PD WITH M-1 USE

TOTAL AREA: 72.58 AC.
BARTOW PROPERTY: 67.03 AC.
AYALA PROPERTY: 1.77 AC.
LACY CURRY PROPERTY: 3.78 AC.

IMPERVIOUS AREA: 22.8 AC. (31.4%)

BUILDING DATA

BUILDING SQUARE FOOTAGE: 492,480 sq. ft.

PARKING DATA

REQUIRED PARKING
WAREHOUSE: 106 SPACES (1/2500 SF FOR
150,000 SF + 1/7500 SF FOR ADDITIONAL SF)
PARKING PROVIDED:
277 PROPOSED SPACES
TRAILER PARKING PROVIDED:
123 PROPOSED SPACES

OWNER/DEVELOPER

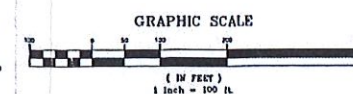
ADAM DUERR
EXETER BOHANNON LAND, LLC.
6285 BARFIELD ROAD
SUITE 225 ATLANTA, GA 30328
(404) 427-9313

ENGINEER

BRIAN BRUMFIELD
EBERLY & ASSOCIATES, INC.
2951 FLOWERS ROAD SOUTH
SUITE 119
ATLANTA, GEORGIA 30341
(770) 452-7849

24 HOUR CONTACT.

ADAM DUERR
(404) 427-9313



TEL 770.452.7849 FAX 770.452.0086
2951 FLOWERS ROAD SOUTH, STE 119
ATLANTA, GEORGIA 30341
WWW.EBERLY.NET

LAND PLANNING
CIVIL ENGINEERING
LANDSCAPE ARCHITECTURE

PROJECT:
EXETER BOHANNON ROAD

LAND LOT 163 & 180
7TH DISTRICT
FULTON COUNTY, GEORGIA
ADDRESS

REVISIONS:

[illegible]

REZONING CONCEPT PLAN

SCALE:	1" = 100'
DATE:	05/25/18
DRAWN BY:	L. MALONEY
PROJECT MANAGER:	B. BRUMFIELD

PROJECT NO.

16-060

SHEET NO.

CP1.0

LACY CURRY TRACT

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 180, 7TH DISTRICT, FULTON COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF BOHANNON ROAD (60 FOOT RIGHT-OF-WAY WIDTH), LOCATED SOUTH 45 DEGREES 53 MINUTES 00 SECONDS EAST, 1286.94 FEET FROM THE COMMON CORNER OF LAND LOTS 163, 164, 179, AND 180;

THENCE, ALONG SAID RIGHT-OF-WAY LINE, SOUTH 83 DEGREES 33 MINUTES 38 SECONDS EAST, 35.23 FEET TO A POINT;

THENCE, LEAVING SAID RIGHT OF WAY LINE, SOUTH 00 DEGREES 07 MINUTES 24 SECONDS EAST, 898.19 FEET TO A POINT;

THENCE, SOUTH 89 DEGREES 52 MINUTES 36 SECONDS WEST, 101.00 FEET TO A POINT;

THENCE, SOUTH 00 DEGREES 07 MINUTES 24 SECONDS EAST, 206.50 FEET TO A POINT;

THENCE, SOUTH 89 DEGREES 52 MINUTES 36 SECONDS WEST, 361.50 FEET TO A POINT;

THENCE, NORTH 00 DEGREES 07 MINUTES 24 SECONDS WEST, 361.50 FEET TO A POINT;

THENCE, NORTH 89 DEGREES 52 MINUTES 36 SECONDS EAST, 361.50 FEET TO A POINT;

THENCE, SOUTH 00 DEGREES 07 MINUTES 24 SECONDS EAST, 120.00 FEET TO A POINT;

THENCE, NORTH 89 DEGREES 52 MINUTES 36 SECONDS EAST, 66.00 FEET TO A POINT;

THENCE, NORTH 00 DEGREES 07 MINUTES 24 SECONDS WEST, 867.22 FEET TO THE **POINT OF BEGINNING.**

SAID TRACT OF LAND CONTAINING **3.78 ACRES (164,499 SQUARE FEET).**

Re: REZONING ORDINANCE 18RZ-004
CONCURRENT USE PERMIT 18U-005
Property of Lacy Curry
6560 Bohannon Road
07400001800462
3.78 acres; Land Lot 180
District 7,
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 DISTRICT) TO PD (PLANNED DEVELOPMENT DISTRICT) WITH A CONCURRENT USE PERMIT; 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 Subject Property located in the City of Fairburn as indicated on Exhibit "A" to this Ordinance be changed from AG-1 (Agricultural) District to PD (Planned Development) District with the following conditions:

1. To restrict the use of the Subject property as follows:
 - a. The Subject Property will be developed subject to the requirements and conditions of the approved concurrent use permit known as 18U-005.

Section 2. That the approved concurrent use permit is limited by the following conditions:

1. The Subject Property will be developed with no more than 492,480 square feet of warehouse space.
2. The Subject Property shall be developed in substantial conformity with the Zoning Site Plan prepared by Eberly and Associates and submitted with the original use permit application stamped received by July 2, 2018, and attached as Exhibit A. Any determination as to "substantial conformity" shall be made by City staff.

Section 3. To the owner's agreement to the following site development considerations:

1. Development standards as follows:

Building setbacks

- a. Front: 35 feet
 - b. Side: 20 Feet, 50 feet (abutting residential district)
 - c. Rear: 30 feet, 50 feet (abutting residential district)
2. Truck queuing shall be maintained on the Subject Property to eliminate truck stacking on public roads.
 3. Provide a 50-foot buffer around the perimeter of the Subject Property where it directly abuts residentially zoned property, including AG-1 (Agricultural District) zoned property.
 4. Provide a 25-foot vegetated buffer along the entire site frontage (Bohannon Road).
 5. Exterior of the building(s) shall be constructed predominately of stone, brick, concrete, glass or metal. Vinyl siding is a prohibited exterior building material.
 6. Lighting on the exterior of the building(s) shall be directed downward and internal to the property lines. All perimeter lighting shall be directed to the interior of the Subject Property.
 7. Provide a combination of existing trees and newly planted trees (where insufficient vegetation exists). A vegetated earthen berm and fencing shall be installed on the outer perimeter of the truck courts to maximize screening and sound remediation from surrounding properties.
 8. The detention ponds shall meet the minimum City of Fairburn standards.
 9. A minimum of 5 feet sidewalks shall be installed along the Subject Property street frontage and shall be constructed to comply with the American with Disabilities Act (ADA) and City of Fairburn's development standards.
 10. Commercial driveways/concrete aprons shall be at each project entrance to delineate public from private. Commercial drives shall extend a minimum of 12 feet from the edge of pavement or to the right-of-way.
 11. The Developer shall fully upgrade substandard streets (Creekwood Road and Bohannon Road) used for access to the Subject Property. The upgrade of the substandard streets shall include roadway reconstruction, road widening and bridge replacement as deemed necessary by the City Engineer.
 12. The Developer shall provide roadway improvements which shall include pavement, signing, striping, curb and gutter and drainage along the entire site frontage (Bohannon Road) at no cost to the City.

13. Turning lanes shall be required to meet projected traffic demand and/or safe operations, as determined by the City Engineer. 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 projects indicate they are justified.

Section 4. 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 5. 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 6. 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 7. 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 28th day of January, 2019 and continued in order to be referred back to the Planning and Zoning Commission February 5th, 2019, meeting for the Planning and Zoning Commission to review the proposed amendment and a report be transmitted to the Mayor and City Council for the continued public hearing to be held on February 25, 2019, pursuant to Section 80-298 of the City of Fairburn Zoning Ordinance.

Section 8. This Ordinance shall become effective on the 28th day of January, 2019.

Section 9. All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed.

APPROVED this 28th day of January, 2019, by the Mayor and Council of the City of Fairburn, Georgia.

Elizabeth Carr-Hurst, Mayor

ATTEST:

Keisha McCollough, City Clerk

APPROVED AS TO FORM:

William R. (Randy) Turner, City Attorney



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

SUBJECT: REZONING 18RZ-005 - South Fulton, LLC

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

Planning and Zoning Commission: 09/11/18 Work Session: 01/28/19 Mayor and City Council: 01/28/19

DEPARTMENT: Community Development/Planning and Zoning

BUDGET IMPACT: None

PUBLIC HEARING: (X) Yes () No

PURPOSE: The applicant is requesting a withdrawal of the petition to rezone the subject property from **R-2 (Single-Family Residential District)** to **R-CT (Residential Condominium/Townhouse)** to allow the development of 200 townhouses and 86 single-family houses on 75.9 acres on Virlyn B. Smith Road.

The applicant is proposing to revise the development plans of the subject property, which will include a new housing type, density, and site amenities. A new rezoning application and conceptual plan will be submitted at a later date.

STAFF RECOMMENDATION: WITHDRAWAL


Elizabeth Carr-Hurst, Mayor

Deed Book 38074 Pg 102

Juanita Hicks

Clerk of Superior Court

Fulton County, Georgia

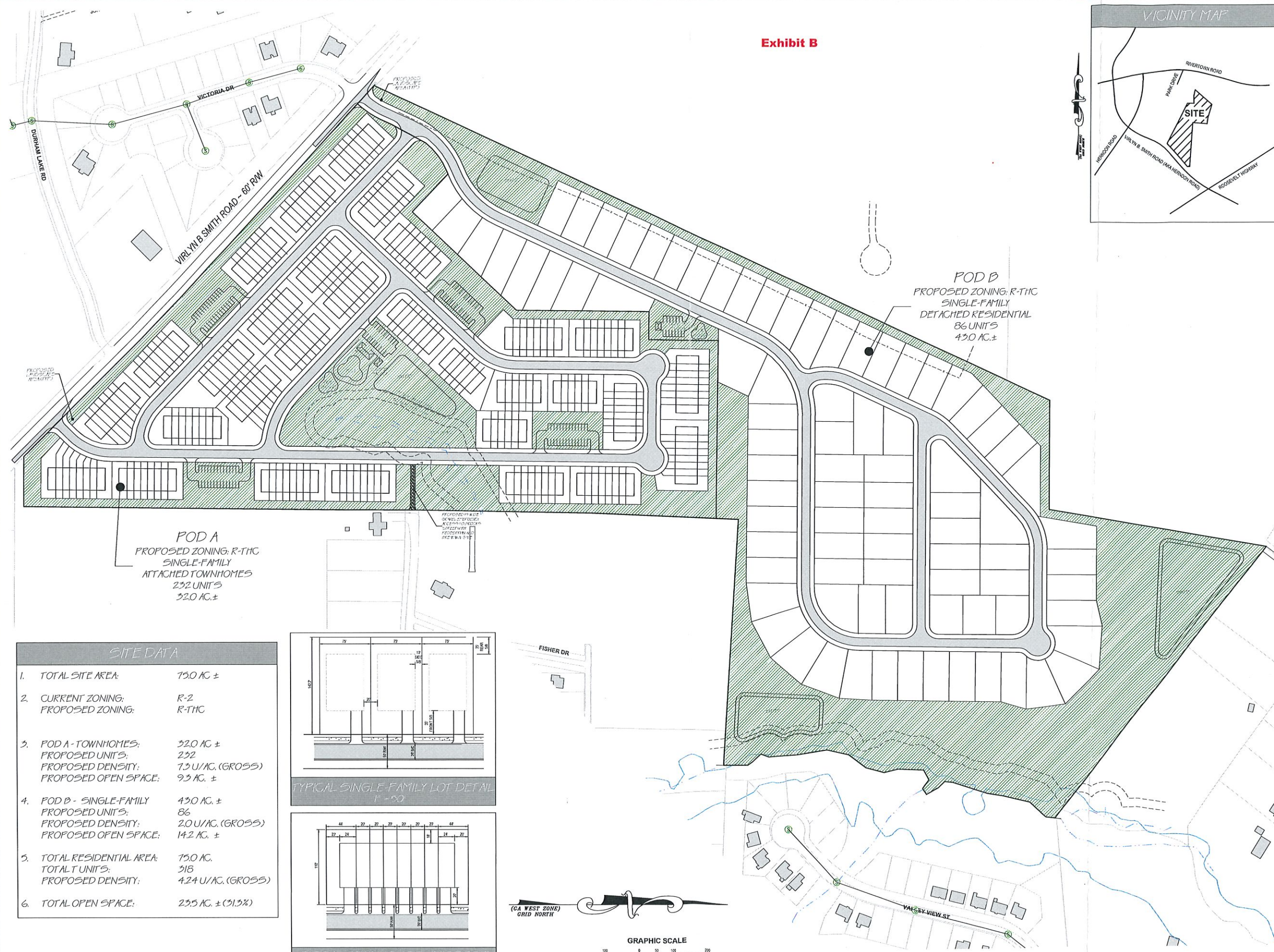
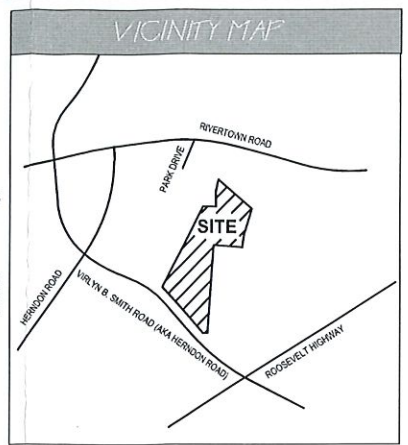
EXHIBIT "A"

[REDACTED]

ALL THAT TRACT or parcel of land lying and being in Land Lots 50, 51 and 68 of District 9-F, Fulton County, Georgia and being more particularly described as follows:

BEGINNING at the southeast corner of Land Lot 50 (corner common to Land Lots 48, 49, 50 and 51, District 9-F) and running thence north 86 degrees 19 minutes 00 seconds west along the south line of Land Lot 50, 149.74 feet to a point on the northeasterly right-of-way of Herndon Road; running thence northwesterly along the northeasterly right-of-way of Herndon Road the following courses and distances: north 41 degrees 28 minutes 00 seconds west, a distance of 377.02 feet to a point; north 42 degrees 18 minutes 00 seconds west, a distance of 196.84 feet to a point; north 43 degrees 58 minutes 00 seconds west, a distance of 198.88 feet to a point; north 44 degrees 18 minutes 00 seconds west, a distance of 717.89 feet to a point; thence leaving the right-of-way and running thence north 28 degrees 25 minutes 51 seconds east, a distance of 2,237.67 feet to a point on the north land lot line of Land Lot 50; running thence south 89 degrees 16 minutes 43 seconds east along the north land lot line of Land Lot 50, a distance of 319.99 feet to a point at the corner common to Land Lots 50, 51, 68 and 69; running thence north 03 degrees 18 minutes 16 seconds east along the west land lot line of Land Lot 68, a distance of 400.31 feet to an iron pin found; running thence north 12 degrees 20 minutes 25 seconds east, a distance of 214.54 feet to a point; running thence south 50 degrees 42 minutes 52 seconds east, a distance of 1,003.33 feet to a point; running thence south 37 degrees 50 minutes 29 seconds west, a distance of 100.66 feet to a point; running thence south 07 degrees 24 minutes 00 seconds west, a distance of 96.40 feet to a point; running thence south 05 degrees 13 minutes 00 seconds west, a distance of 190.30 feet to a point; running thence north 85 degrees 44 minutes 00 seconds west, a distance of 54.50 feet to a point; running thence south 03 degrees 32 minutes 00 seconds west, a distance of 162.90 feet to a point; running thence south 13 degrees 38 minutes 00 seconds west, a distance of 222.10 feet to a point; running thence south 06 degrees 38 minutes 00 seconds east, a distance of 213.10 feet to a point; running thence north 86 degrees 14 minutes 32 seconds west, a distance of 717.36 feet to a post on the east land lot line of Land Lot 50; running thence south 05 degrees 33 minutes 25 seconds west along the east land lot line of Land Lot 50, a distance of 470.98 feet to a post on the east land lot line of Land Lot 50; running thence south 03 degrees 58 minutes 00 seconds west along the east land lot line of Land Lot 50, a distance of 1,663.92 feet to a point at the common corner to Land Lots 50, 51, 68 and 69; which point is also the Point of Beginning, being a tract of 74.777 acres as shown on a survey for Totis, Inc. by Charles C. Jones, Registered Surveyor, No. 1650, dated June 27, 1988.

Exhibit B

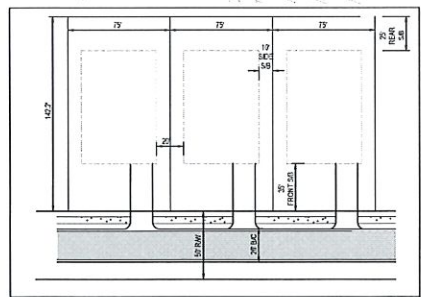


POD A
PROPOSED ZONING: R-THC
SINGLE-FAMILY
ATTACHED TOWNHOMES
232 UNITS
32.0 AC.±

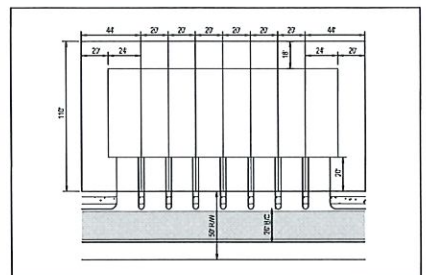
POD B
PROPOSED ZONING: R-THC
SINGLE-FAMILY
DETACHED RESIDENTIAL
86 UNITS
43.0 AC.±

SITE DATA

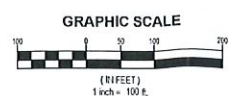
1. TOTAL SITE AREA:	75.0 AC. ±
2. CURRENT ZONING:	R-2
PROPOSED ZONING:	R-THC
3. POD A - TOWNHOMES:	32.0 AC. ±
PROPOSED UNITS:	232
PROPOSED DENSITY:	7.3 U./AC. (GROSS)
PROPOSED OPEN SPACE:	9.3 AC. ±
4. POD B - SINGLE-FAMILY	43.0 AC. ±
PROPOSED UNITS:	86
PROPOSED DENSITY:	2.0 U./AC. (GROSS)
PROPOSED OPEN SPACE:	14.2 AC. ±
5. TOTAL RESIDENTIAL AREA:	75.0 AC.
TOTAL UNITS:	318
PROPOSED DENSITY:	4.24 U./AC. (GROSS)
6. TOTAL OPEN SPACE:	23.5 AC. ± (31.3%)



TYPICAL SINGLE-FAMILY LOT DETAIL
1" = 50'



TYPICAL TOWNHOUSE UNIT DETAIL
1" = 20'



25th Moore Bass

CONSULTING

ATLANTA

CLIENT NAME

SOUTH FULTON, LLC.
270 N. JEFF DAVIS DRIVE
FAYETTEVILLE, GA

PROJECT NAME

FARBURN TRACTS

REVISIONS

MB

A41.112-CP4

ARCHIVE

DATE 7/2018

FILE #

CONTRACT #

DESIGNED BY

THE CONSULTING ENGINEERS AND ARCHITECTS ASSOCIATES, INC. (TCEA) 1125 N. JEFF DAVIS DRIVE, SUITE 200, FAYETTEVILLE, GA 30215

SEAL

DATE OF SEAL 7/2018

SHEET TITLE

CONCEPTUAL SITE PLAN

SHEET

1.0

Re: REZONING ORDINANCE 18RZ-005
Property of Virlyn OSCP, LLC
0 Virlyn B. Smith Road
09F090300500325, 09F090400511180,
09F180300681066 & 09F090300500333
75.9 acres; Land Lot 50, 51, 68 and 69
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 R-2 (SINGLE FAMILY RESIDENTIAL DISTRICT) TO R-CT (RESIDENTIAL CONDOMINIUM/TOWNHOUSE 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 R-2 (Single Family Residential District) to R-CT (Residential Condominium/Townhouse) with the following conditions:

- A. To the owner's agreement to restrict the use of the subject property as follows:
 - 1. Townhouse and Single-Family Residential units at density:
 - a. POD A- Townhouses at no greater than 7.3 units per acre or 232 units, whichever is less; and
 - b. POD B – Single-Family at no greater than 2.0 units per acre or 86 units, whichever is less:
 - 2. The minimum heated floor area for each unit shall be a minimum of 1,200 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 Moore Bass Consulting and submitted with the original rezoning

application stamped received July 2, 2018, and attached as Exhibit B. Any determination as to "substantial conformity" shall be made by City staff.

2. Property maintenance shall be accomplished through a condominium or townhouse 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. Full amenity package including recreation area, swimming pool and club house.
2. Exterior materials of the front façade shall be a minimum of twenty-five percent (25%) brick or stone. The side exterior material of each townhouse unit (building) shall be one-hundred (100%) brick or stone and shall be consistent with the front façade. Vinyl siding, aluminum, stucco (EIFS) and veneers shall be prohibited.
3. Two car garages shall be provided for 20% of the townhouse units and the remaining 80% of townhouses shall have one car garages. Garages shall be a combination of front and rear alley access.
4. A minimum of 20 percent of the total lot area shall be reserved for open space. Detention facilities shall not be included in the open space calculation.
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.
 - b. Provide not less than 100 feet of storage length for collector roadways.
 - c. Provide taper lengths of not less than 100 feet.

d. Longer storage and taper lengths may be required when traffic projections indicate they are justified.

9. Commercial driveways/concrete aprons shall be required at entrances to delineate public from private. Commercial drives need to extend a minimum of 12 feet from the edge of pavement or to the right-of-way.

10. A maximum number of 125 residential units shall be allowed per street outlet to a public street.

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

12. 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 24th day of September, 2018 and continued until the October 22, 2018 meeting and continued until the November 26, 2018 meeting and continued until the January, 28, 2019 meeting.

Section 6. This Ordinance shall become effective on January 28, 2019.

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

APPROVED this 28th day of January, 2019, by the Mayor and Council of the City of Fairburn, Georgia.

Elizabeth Carr-Hurst, Mayor

ATTEST:

Keisha McCollough, City Clerk

APPROVED AS TO FORM:

William R. (Randy) Turner, City Attorney



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: 2019 COUNCIL MEETING SCHEDULE

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

Submitted: 1/7/19

Work Session: 1/28/19

Council Meeting: 1/28/19

DEPARTMENT: City Clerk

BUDGET IMPACT: N/A

PUBLIC HEARING? () Yes (x) No

PURPOSE: For Mayor and Council to review and approve the dates for the 2019 Council Meetings.

HISTORY: Per Section Article IV, Section 34 of the Fairburn City Charter, regular sessions of the Mayor and City Council shall be held on the 2nd and 4th Mondays in each month at the City hall or such other place as may be designated by the said Mayor and Council.

FACTS AND ISSUES: In January of each year, Mayor and Council confirm the Council Meeting dates for the year.

RECOMMENDED ACTION: For Mayor and Council to review and approve the dates for the 2019 Council Meetings.


Elizabeth Carr-Hurst, Mayor



City Council 2019 Meeting Schedule

The Mayor and Council meet the 2nd and 4th Monday of every month at in the Council Chambers at **56 Malone Street SW, Fairburn, Georgia 30213**. The Workshops begin at 6:00 PM and the Council Meetings begin at 7:00 PM. Meeting dates and times are subject to change. Please visit the City of Fairburn's website for up to date information at www.fairburn.com.

Date of Meeting	Meeting Status (i.e. cancelled, moved to a different date, different location)
January 14, 2019	State of the City Address
January 28, 2019	
February 11, 2019	
February 25, 2019	
March 11, 2019	Cancelled-National League of Cities Conference
March 25, 2019	
April 8, 2019	
April 22, 2019	
May 13, 2019	
May 27, 2019	Cancelled-Memorial Day
June 10, 2019	
June 24, 2019	Cancelled-GMA Conference
July 8, 2019	
July 22, 2019	
August 12, 2019	
August 26, 2019	
September 9, 2019	
September 23, 2019	
October 14, 2019	
October 28, 2019	
November 11, 2019	Cancelled-Veteran's Day
November 25, 2019	
December 9, 2019	
December 23, 2019	



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: MOTOROLA LEASE PURCHASE AGREEMENT

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

Submitted: 01/15/2019

Work Session: 01/28/19

Council Meeting: 01/28/19

DEPARTMENT: Police Department

BUDGET IMPACT: Total amount of leased equipment is \$113,708.00. \$100, 934.00 will be paid from budget line 100-3200-58-1200 (Capital Lease Principal). \$12, 774.00 will be paid from budget line 100-3200-58-2200 (Interest Account).

The First payment would be due January 1, 2020.

The annual payment amount is \$28,427 for FY(s): 2020, 2021, 2022, and 2023

PUBLIC HEARING? () Yes (x) No

PURPOSE: To purchase 20 portable radios, accessories, and programming at the price of \$4,584.50 each. There would be an additional cost of \$9,244.00 to purchase service and accessories (cost breakdown attached).

HISTORY: The City currently uses Motorola to lease communication equipment for the Fairburn Police Department.

FACTS AND ISSUES: The radios we are currently using have been discontinued and will no longer be supported by Motorola.

RECOMMENDED ACTION: For Mayor and Council to approve the lease purchase agreement between the City and Motorola for the purchase of necessary communication radios.


Elizabeth Carr-Hurst, Mayor

LESSEE FACT SHEET

Please help Motorola Solutions Inc. provide excellent billing service by providing the following information:

1. Complete Billing Address CITY OF FAIRBURN, GA
56 Malone Street
Fairburn, Ga 30213
Attention: Brandy Smith
Phone: 770-964-2244
2. Lessee County Location: Fulton County, Ga
3. Federal Tax I.D. Number 58-6000575
4. Purchase Order Number to be referenced on invoice (if necessary) or other "descriptions" that may assist in determining the applicable cost center or department: Police Department
5. Equipment description that you would like to appear on your invoicing: Motorola radios for Police Department

Appropriate Contact for Documentation / System Acceptance Follow-up:

6. Appropriate Contact & Mailing Address 21 Torrey Williams
56 Malone Street
Fairburn, Ga. 30213
Phone: 770-964-2244 Ext 211
Fax: 770-774-7908
7. Payment remit to address: **Motorola Solutions Credit Company LLC**
P.O. Box 71132
Chicago IL 60694-1132

Thank you



December 20, 2018

CITY OF FAIRBURN, GA

Enclosed for your review, please find the **Municipal Lease** documentation in connection with the radio equipment to be lease purchased from Motorola Solutions Inc. The interest rate and payment streams outlined in Equipment Lease Purchase Agreement #24505 are valid for contracts that are executed and returned on or before **January 21, 2019**. After **1/21/19**, the Lessor reserves the option to re-quote and re-price the transaction based on current market interest rates.

Please have the documents executed where indicated and forward the documents to the following address:

Motorola Solutions Credit Company LLC
Attn: Paul Mecaskey / 44th Floor
500 W. Monroe
Chicago, IL 60661

Should you have any questions, please contact me at 847-538-3707.

Thank You,

MOTOROLA SOLUTIONS CREDIT COMPANY LLC
Paul Mecaskey

EQUIPMENT LEASE-PURCHASE AGREEMENT

Lease Number: 24505

LESSEE:

CITY OF FAIRBURN, GA
56 Malone St
Fairburn, GA 30213

LESSOR:

Motorola Solutions, Inc.
500 W. Monroe
Chicago, IL 60661

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the equipment, software, upgrades of same, extended warranties and other support, and other personal property described in Schedule A attached hereto ("Equipment") in accordance with the following terms and conditions of this Equipment Lease-Purchase Agreement ("Lease").

1. TERM. The Initial Term of this Lease begins as of the Commencement Date identified by Lessor in the Schedule A document relating to such Lease and, in accordance with applicable provisions of Georgia law, the Initial Term expires absolutely and without further obligation on the part of Lessee at midnight on the last day of the calendar year in which this Lease was executed, subject to Lessee's option to extend the term of this Lease for up to the number of consecutive one-year renewal terms (each of such terms, a "Renewal Term," and collectively, "Renewal Terms") to pay the Lease Payments due hereunder. Each Renewal Term under this Lease shall also terminate absolutely and without further obligation on the part of Lessee at midnight on the last day of each succeeding calendar year that is a Renewal Term, unless this Lease has been renewed as set forth herein. Lessee's annual option to extend the term of this Lease shall be exercised by the adoption by the governing body of Lessee of a final budget in accordance with applicable law which appropriates, specifically with respect to this Lease, moneys sufficient (after taking into account any moneys legally available for such purpose) to pay the Lease Payments and all additional amounts for which Lessee is or may become responsible under this Lease for the next succeeding Renewal Term as provided herein. The adoption of such final budget, after the holding of a public hearing, if necessary, and compliance with the procedures required by applicable law, shall extend the term of this Lease with respect to which such action is taken for the succeeding Renewal Term without any further action required by any officers or officials of Lessee. Within ten (10) days after the adoption of such final budget, Lessee shall deliver written notice to Lessor stating that Lessee has extended the term of this Lease. The terms and conditions of any Renewal Term of this Lease shall be the same as the terms and conditions during the Initial Term of this Lease, except that the Lease Payments shall be as provided in Schedule B.

2. RENT. Lessee agrees to pay to Lessor or its assignee the Lease Payments (herein so called), including the interest portion, in the amounts specified in Schedule B. The Lease Payments will be payable without notice or demand at the office of the Lessor (or such other place as Lessor or its assignee may from time to time designate in writing), and will commence on the first Lease Payment Date as set forth in Schedule B and thereafter on each of the Lease Payment Dates set forth in Schedule B. Any payments received later than ten (10) days from the due date will bear interest at the highest lawful rate from the due date. Except as specifically provided in Section 5 hereof, the Lease Payments will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, or recoupment for any reason whatsoever. Lessee currently intends, subject to Section 5, to continue the term of this Lease through the Initial Term and all Renewal Terms and to pay the Lease Payments hereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Lease Payments during the Initial Term and all Renewal Terms of this Lease can be obtained. Notwithstanding the foregoing, the decision whether or not to budget and appropriate funds or to extend this Lease for any Renewal Term is within the discretion of the governing body of the Lessee.

EQUIPMENT LEASE-PURCHASE AGREEMENT

Lease Number: 24505

LESSEE:

CITY OF FAIRBURN, GA
56 Malone St
Fairburn, GA 30213

LESSOR:

Motorola Solutions, Inc.
500 W. Monroe
Chicago, IL 60661

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the equipment, software, upgrades of same, extended warranties and other support, and other personal property described in Schedule A attached hereto ("Equipment") in accordance with the following terms and conditions of this Equipment Lease-Purchase Agreement ("Lease").

1. TERM. The Initial Term of this Lease begins as of the Commencement Date identified by Lessor in the Schedule A document relating to such Lease and, in accordance with applicable provisions of Georgia law, the Initial Term expires absolutely and without further obligation on the part of Lessee at midnight on the last day of the calendar year in which this Lease was executed, subject to Lessee's option to extend the term of this Lease for up to the number of consecutive one-year renewal terms (each of such terms, a "Renewal Term," and collectively, "Renewal Terms") to pay the Lease Payments due hereunder. Each Renewal Term under this Lease shall also terminate absolutely and without further obligation on the part of Lessee at midnight on the last day of each succeeding calendar year that is a Renewal Term, unless this Lease has been renewed as set forth herein. Lessee's annual option to extend the term of this Lease shall be exercised by the adoption by the governing body of Lessee of a final budget in accordance with applicable law which appropriates, specifically with respect to this Lease, moneys sufficient (after taking into account any moneys legally available for such purpose) to pay the Lease Payments and all additional amounts for which Lessee is or may become responsible under this Lease for the next succeeding Renewal Term as provided herein. The adoption of such final budget, after the holding of a public hearing, if necessary, and compliance with the procedures required by applicable law, shall extend the term of this Lease with respect to which such action is taken for the succeeding Renewal Term without any further action required by any officers or officials of Lessee. Within ten (10) days after the adoption of such final budget, Lessee shall deliver written notice to Lessor stating that Lessee has extended the term of this Lease. The terms and conditions of any Renewal Term of this Lease shall be the same as the terms and conditions during the Initial Term of this Lease, except that the Lease Payments shall be as provided in Schedule B.

2. RENT. Lessee agrees to pay to Lessor or its assignee the Lease Payments (herein so called), including the interest portion, in the amounts specified in Schedule B. The Lease Payments will be payable without notice or demand at the office of the Lessor (or such other place as Lessor or its assignee may from time to time designate in writing), and will commence on the first Lease Payment Date as set forth in Schedule B and thereafter on each of the Lease Payment Dates set forth in Schedule B. Any payments received later than ten (10) days from the due date will bear interest at the highest lawful rate from the due date. Except as specifically provided in Section 5 hereof, the Lease Payments will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, or recoupment for any reason whatsoever. Lessee currently intends, subject to Section 5, to continue the term of this Lease through the Initial Term and all Renewal Terms and to pay the Lease Payments hereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Lease Payments during the Initial Term and all Renewal Terms of this Lease can be obtained. Notwithstanding the foregoing, the decision whether or not to budget and appropriate funds or to extend this Lease for any Renewal Term is within the discretion of the governing body of the Lessee.

3. DELIVERY AND ACCEPTANCE. Lessor will cause the Equipment to be delivered to Lessee at the location specified in Schedule A ("Equipment Location"). Lessee will accept the Equipment as soon as it has been delivered and is operational. Lessee will evidence its acceptance of the Equipment either (a) by executing and delivering to Lessor a Delivery and Acceptance Certificate in the form provided by Lessor; or (b) by executing and delivering the form of acceptance provided for in the Contract (defined below).

Even if Lessee has not executed and delivered to Lessor a Delivery and Acceptance Certificate or other form of acceptance acceptable to Lessor, if Lessor believes the Equipment has been delivered and is operational, Lessor may require Lessee to notify Lessor in writing (within five (5) days of Lessee's receipt of Lessor's request) whether or not Lessee deems the Equipment (i) to have been delivered and (ii) to be operational, and hence be accepted by Lessee. If Lessee fails to so respond in such five (5) day period, Lessee will be deemed to have accepted the Equipment and be deemed to have acknowledged that the Equipment was delivered and is operational as if Lessee had in fact executed and delivered to Lessor a Delivery and Acceptance Certificate or other form acceptable to Lessor.

4. REPRESENTATIONS AND WARRANTIES. Lessor acknowledges that the Equipment leased hereunder is being manufactured and installed by Lessor pursuant to contract (the "Contract") covering the Equipment. Lessee acknowledges that on or prior to the date of acceptance of the Equipment, Lessor intends to sell and assign Lessor's right, title and interest in and to this Agreement and the Equipment to an assignee ("Assignee"). LESSEE FURTHER ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY SET FORTH IN THE CONTRACT, LESSOR MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE OR KIND WHATSOEVER, AND AS BETWEEN LESSEE AND THE ASSIGNEE, THE PROPERTY SHALL BE ACCEPTED BY LESSEE "AS IS" AND "WITH ALL FAULTS". LESSEE AGREES TO SETTLE ALL CLAIMS DIRECTLY WITH LESSOR AND WILL NOT ASSERT OR SEEK TO ENFORCE ANY SUCH CLAIMS AGAINST THE ASSIGNEE. NEITHER LESSOR NOR THE ASSIGNEE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER AS A RESULT OF THE LEASE OF THE EQUIPMENT, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, PROPERTY DAMAGE OR LOST PRODUCTION WHETHER SUFFERED BY LESSEE OR ANY THIRD PARTY.

Lessor is not responsible for, and shall not be liable to Lessee for damages relating to loss of value of the Equipment for any cause or situation (including, without limitation, governmental actions or regulations or actions of other third parties).

5. NON-APPROPRIATION OF FUNDS. Notwithstanding anything contained in this Lease to the contrary, in the event the funds appropriated by Lessee's governing body or otherwise available by any means whatsoever in any fiscal period of Lessee for Lease Payments or other amounts due under this Lease are insufficient therefor, this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments or other amounts herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available. The Lessee will immediately notify the Lessor or its Assignee of such occurrence. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its Assignee on the date of such termination, packed for shipment in accordance with manufacturer specifications and freight prepaid and insured to any location in the continental United States designated by Lessor. Lessor will have all legal and equitable rights and remedies to take possession of the Equipment.

6. LESSEE CERTIFICATION. Lessee represents, covenants and warrants that: (i) Lessee is a state or a duly constituted political subdivision or agency of the state of the Equipment Location; (ii) the interest portion of the Lease Payments shall be excludable from Lessor's gross income pursuant to Section 103 of the Internal Revenue Code of 1986, as it may be amended from time to time (the "Code"); (iii) the execution, delivery and performance by the Lessee of this Lease have been duly authorized by all necessary action on the

part of the Lessee; (iv) this Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; (v) Lessee will comply with the information reporting requirements of Section 149(e) of the Code, and such compliance shall include but not be limited to the execution of information statements requested by Lessor; (vi) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the Lease to be an arbitrage bond within the meaning of Section 148(a) of the Code; (vii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, this Lease to be a private activity bond within the meaning of Section 141(a) of the Code; (viii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the interest portion of the Lease Payments to be or become includible in gross income for Federal income taxation purposes under the Code; and (ix) Lessee will be the only entity to own, use and operate the Equipment during the Initial Term and each Renewal Term.

Lessee represents, covenants and warrants that (i) it will do or cause to be done all things necessary to preserve and keep the Lease in full force and effect, (ii) it has complied with all public bidding requirements where necessary and by due notification presented this Lease for approval and adoption as a valid obligation on its part, and (iii) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period.

If Lessee breaches the covenant contained in this Section, the interest component of Lease Payments may become includible in gross income of the owner or owners thereof for federal income tax purposes. In such event, notwithstanding anything to the contrary contained in Section 11 of this Agreement, Lessee agrees to pay promptly after any such determination of taxability and on each Lease Payment date thereafter to Lessor an additional amount determined by Lessor to compensate such owner or owners for the loss of such excludibility (including, without limitation, compensation relating to interest expense, penalties or additions to tax), which determination shall be conclusive (absent manifest error). Notwithstanding anything herein to the contrary, any additional amount payable by Lessee pursuant to this Section 6 shall be payable solely from Legally Available Funds.

It is Lessor's and Lessee's intention that this Agreement not constitute a "true" lease for federal income tax purposes and, therefore, it is Lessor's and Lessee's intention that Lessee be considered the owner of the Equipment for federal income tax purposes.

7. TITLE TO EQUIPMENT; SECURITY INTEREST. (a) During the term of this Lease, title to the Equipment shall be vested in Lessor, subject to the rights of Lessee under such Lease. Upon the first to occur of (i) the day after the last scheduled Lease Payment under such Lease is paid in full or (ii) the day after the Lessee exercises the prepayment option under the lease and such Lease is paid in full, Lessor shall transfer all of its right, title and interest in and to the Equipment under such Lease to Lessee without representation or warranty (except with respect to Lessor or anyone claiming by, through or under Lessor) "where is, as is" and "with all faults." Lessee, at its expense, will protect and defend Lessor's title to the Equipment identified in each Lease and will keep the Equipment under each Lease free and clear from any and all claims, liens, encumbrances and legal processes of Lessee's creditors and other persons.

(b) Upon the first to occur of (i) the expiration of the Initial Term or any Renewal Term under such Lease during which an Event of Nonappropriation occurs or (ii) an Event of Default under such Lease and a termination of Lessee's rights thereunder as provided therein, Lessor shall be entitled to repossess the Equipment identified in such Lease and otherwise to exercise its remedies as provided therein.

(c) All items of Equipment shall at all times be and remain personal property notwithstanding that any such Equipment may now or hereafter be affixed to realty.

8. USE; REPAIRS. Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and shall comply with all laws, ordinances, insurance policies, the Contract, any licensing or other agreement, and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of the possession, use or maintenance of the Equipment. Lessee, at its expense will keep the

Equipment in good repair and furnish and/or install all parts, mechanisms updates, upgrades, and devices required therefor.

9. ALTERATIONS. Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be readily removed without damage to the Equipment.

10. LOCATION; INSPECTION. The Equipment will not be removed from, [or if the Equipment consists of rolling stock, its permanent base will not be changed from] the Equipment Location without Lessor's prior written consent which will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operation.

11. LIENS AND TAXES. Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee shall pay, when due, all charges and taxes (local, state and federal) which may now or hereafter be imposed upon the ownership, licensing, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes, Lessee shall reimburse Lessor therefor within ten days of written demand.

12. RISK OF LOSS: DAMAGE; DESTRUCTION. Lessee assumes all risk of loss or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Lease Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee at the option of Lessor will: either (a) replace the same with like equipment in good repair; or (b) on the next Lease Payment date, pay Lessor the sum of : (i) all amounts then owed by Lessee to Lessor under this Lease, including the Lease payment due on such date; and (ii) an amount equal to all remaining Lease Payments to be paid during the Initial Term and each Renewal Term as set forth in Schedule B.

In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Lease Payment and the Balance Payment (as set forth in Schedule B) to be made by Lessee with respect to that part of the Equipment which has suffered the Event of Loss.

13. INSURANCE. Lessee will, at its expense, maintain at all times during the Initial Term and each Renewal Term, fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as shall be satisfactory to Lessor, or, with Lessor's prior written consent, Lessee may self-insure against any or all such risks. All insurance covering loss of or damage to the Equipment shall be carried in an amount no less than the amount of the then applicable Balance Payment with respect to such Equipment. The initial amount of insurance required is set forth in Schedule B. Each insurance policy will name Lessee as an insured and Lessor or it's Assigns as an additional insured, and will contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or it's Assigns as their interests may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event that Lessee has been permitted to self-insure, Lessee will furnish Lessor with a letter or certificate to such effect. In the event of any loss, damage, injury or accident involving the Equipment, Lessee

will promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto.

14. INDEMNIFICATION. Lessee shall, to the extent permitted by law, indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages or liabilities, including attorneys' fees and court costs, arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, licensing, possession, use, operation, rejection, or return and the recovery of claims under insurance policies thereon.

15. ASSIGNMENT. Without Lessor's prior written consent, Lessee will not either (i) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Lease or the Equipment or any interest in this Lease or the Equipment or; (ii) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. Lessor may assign its rights, title and interest in and to this Lease, the Equipment and any documents executed with respect to this Lease and/or grant or assign a security interest in this Lease and the Equipment, in whole or in part. Any such assignees shall have all of the rights of Lessor under this Lease. Subject to the foregoing, this Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

Lessee covenants and agrees not to assert against the Assignee any claims or defenses by way of abatement, setoff, counterclaim, recoupment or the like which Lessee may have against Lessor. No assignment or reassignment of any Lessor's right, title or interest in this Lease or the Equipment shall be effective unless and until Lessee shall have received a notice of assignment, disclosing the name and address of each such assignee; provided, however, that if such assignment is made to a bank or trust company as paying or escrow agent for holders of certificates of participation in the Lease, it shall thereafter be sufficient that a copy of the agency agreement shall have been deposited with Lessee until Lessee shall have been advised that such agency agreement is no longer in effect. During the Initial Term and each Renewal Term Lessee shall keep a complete and accurate record of all such assignments in form necessary to comply with Section 149(a) of the Code, and the regulations, proposed or existing, from time to time promulgated thereunder. No further action will be required by Lessor or by Lessee to evidence the assignment, but Lessee will acknowledge such assignments in writing if so requested.

After notice of such assignment, Lessee shall name the Assignee as additional insured and loss payee in any insurance policies obtained or in force. Any Assignee of Lessor may reassign this Lease and its interest in the Equipment and the Lease Payments to any other person who, thereupon, shall be deemed to be Lessor's Assignee hereunder.

16. EVENT OF DEFAULT. The term "Event of Default", as used herein, means the occurrence of any one or more of the following events: (i) Lessee fails to make any Lease Payment (or any other payment) as it becomes due in accordance with the terms of the Lease, and any such failure continues for ten (10) days after the due date thereof; (ii) Lessee fails to perform or observe any other covenant, condition, or agreement to be performed or observed by it hereunder and such failure is not cured within twenty (20) days after written notice thereof by Lessor; (iii) the discovery by Lessor that any statement, representation, or warranty made by Lessee in this Lease or in writing ever delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (iv) proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted against or by Lessee, or a receiver or similar officer shall be appointed for Lessee or any of its property, and such proceedings or appointments shall not be vacated, or fully stayed, within twenty (20) days after the institution or occurrence thereof; or (v) an attachment, levy or execution is threatened or levied upon or against the Equipment.

17. REMEDIES. Upon the occurrence of an Event of Default, and as long as such Event of Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies: (i) by written notice to Lessee, declare all amounts then due under the Lease, and all remaining Lease Payments due during the Fiscal Year in effect when the default occurs to be immediately due and payable, whereupon the same shall

become immediately due and payable; (ii) by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly discontinue use of the Equipment, remove the Equipment from all of Lessee's computers and electronic devices, return the Equipment to Lessor in the manner set forth in Section 5 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same; (iii) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for all Lease Payments and other amounts due prior to the effective date of such selling, leasing or subleasing and for the difference between the purchase price, rental and other amounts paid by the purchaser, Lessee or sublessee pursuant to such sale, lease or sublease and the amounts payable by Lessee hereunder; and (iv) exercise any other right, remedy or privilege which may be available to it under applicable laws of the state of the Equipment Location or any other applicable law or proceed by appropriate court action to enforce the terms of the Lease or to recover damages for the breach of this Lease or to rescind this Lease as to any or all of the Equipment. In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

18. PURCHASE OPTION. Upon thirty (30) days prior written notice from Lessee to Lessor, and provided that no Event of Default has occurred and is continuing, or no event, which with notice or lapse of time, or both could become an Event of Default, then exists, Lessee will have the right to purchase the Equipment on the Lease Payment dates set forth in Schedule B by paying to Lessor, on such date, the Lease Payment then due together with the Balance Payment amount set forth opposite such date. Upon satisfaction by Lessee of such purchase conditions, Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, without warranty, express or implied, except that the Equipment is free and clear of any liens created by Lessor.

18.1 PARTIAL PAYMENT/PURCHASE OPTION – GRANT FUNDING. Upon thirty (30) days prior written notice from Lessee to Lessor, and provided no Event of Default has occurred and is continuing, or no event, which with notice or lapse of time, or both could become an Event of Default, then exists, Lessee will have the right to make a partial payment against the Lease one time per calendar year at an amount no less than \$175,000.00 SO LONG AS SUCH PAYMENT IS BEING MADE FROM A FEDERAL GRANT FUNDING AWARD and upon Lessor's request, Lessee will provide Lessor certification of such. Application of said payment shall first be applied to accrued interest with the remainder going against the principal. Should Lessee make such payment, all remaining Lease Payments will be adjusted accordingly over the remainder of the Lease Term and Lessor shall provide to Lessee a revised Schedule B. Any reduction in outstanding principal can be viewed as the Lessee obtaining a greater equity position in the Lease subject to Lessor's rights pursuant to the other terms of this Lease.

19. NOTICES. All notices to be given under this Lease shall be made in writing and mailed by certified mail, return receipt requested, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five days subsequent to such mailing.

20. SECTION HEADINGS. All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

21. GOVERNING LAW. This Lease shall be construed in accordance with, and governed by the laws of, the state of the Equipment Location.

22. DELIVERY OF RELATED DOCUMENTS. (a) Lessee hereby agrees to complete, execute and deliver to Lessor with respect to this Lease a Certificate of Compliance with Georgia Law (in substantially the form attached hereto).

(b) Lessee will execute or provide, as requested by Lessor, such other documents and information as are reasonably necessary with respect to the transaction contemplated by this Lease.

23. ENTIRE AGREEMENT; WAIVER. This Lease, together with Schedule A Equipment Lease-Purchase Agreement, Schedule B, Evidence of Insurance, Statement of Essential Use/Source of Funds, Certificate of Incumbency, Certified Lessee Resolution (if any), Bank Qualified Statement, Information Return for Tax-Exempt Governmental Obligations and the Delivery and Acceptance Certificate and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitutes the entire agreement between the parties with respect to the Lease of the Equipment, and this Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of the Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof.

24. EXECUTION IN COUNTERPARTS. This Lease may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the _____ day of _____, 2019.

LESSEE:
CITY OF FAIRBURN, GA

LESSOR:
MOTOROLA SOLUTIONS, INC.

By: _____

By: _____

Print Name: _____

Title: _____

Title: _____

CERTIFICATE OF INCUMBENCY

I, _____ do hereby certify that I am the duly elected or
(Printed Name of Secretary/Clerk)

appointed and acting Secretary or Clerk of the CITY OF FAIRBURN, GA, an entity duly organized and existing under the laws of the **State of Georgia**, that I have custody of the records of such entity, and that, as of the date hereof, the individual(s) executing this agreement is/are the duly elected or appointed officer(s) of such entity holding the office(s) below his/her/their respective name(s). I further certify that (i) the signature(s) set forth above his/her/their respective name(s) and title(s) is/are his/her/their true and authentic signature(s) and (ii) such officer(s) have the authority on behalf of such entity to enter into that certain Equipment Lease Purchase Agreement number **24505**, between CITY OF FAIRBURN, GA and Motorola Solutions, Inc. If the initial insurance requirement on Schedule B exceeds \$1,000,000, attached as part of the Equipment Lease Purchase Agreement is a Certified Lessee Resolution adopted by the governing body of the entity.

IN WITNESS WHEREOF, I have executed this certificate and affixed the seal of CITY OF FAIRBURN, GA, hereto this

_____ day of _____, 2019.

By: _____

(Signature of Secretary/Clerk)

SEAL

CERTIFICATE OF COMPLIANCE WITH GEORGIA LAW

Equipment Lease/Purchase Agreement dated _____ ("Agreement")

by and between

Motorola Solutions, Inc. ("Lessor") and **CITY OF FAIRBURN, GA** ("Lessee")

THE UNDERSIGNED HEREBY CERTIFIES AND REPRESENTS FOR AND ON BEHALF OF LESSEE (please check the appropriate box) THAT:

☒ if Lessee is a county or municipality under the laws of the State of Georgia, (a) the sum of (i) the aggregate principal component of Lease Payments under the Lease plus (ii) the amount of debt incurred by Lessee pursuant to Article IX, Section V, Paragraph I of the Constitution of Georgia (which was outstanding in the aggregate principal amount of \$ _____ on _____) does not exceed 10% of the assessed value of all taxable property within Lessee; and (b) the Equipment financed pursuant to the Lease has not been the subject of a referendum which failed to receive the approval of the Lessee's voters within the four calendar years immediately preceding the date of execution of the Certificate of Acceptance to which this Certificate is attached; or

☐ if Lessee is a county, independent or area school system under the laws of the State of Georgia, (a) the total combined annual payments for Lessee's contracts under Georgia Code §20-2-506 and contracts of such school system under Article IX, Section III, Paragraph I of the Constitution of Georgia in any calendar year, excluding guaranteed energy savings contracts, does not exceed an amount equal to 7.5 percent of the total local revenue collected for maintenance and operation of the school system in the most recently completed fiscal year; and (b) the Lease to which this Certificate relates is not being entered into within four calendar years after an election on the proposed issuance of bonded debt for goods, materials, real or personal property, services or supplies which are the same as or substantially similar to the Equipment financed pursuant to such Lease and which proposal was defeated by the Lessee's electors.

DATED this _____ day of _____, 2019.

AUTHORIZED SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____

OPINION OF COUNSEL

With respect to that certain Equipment Lease-Purchase Agreement 24505 by and between Motorola Solutions, Inc. and the Lessee, I am of the opinion that: (i) the Lessee is, within the meaning of Section 103 of the Internal Revenue Code of 1986, a state or a fully constituted political subdivision or agency of the State of the Equipment Location described in Schedule A hereto; (ii) the execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of the Lessee, (iii) the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; and (iv) Lessee has sufficient monies available to make all payments required to be paid under the Lease during the current fiscal year of the Lease, and such monies have been properly budgeted and appropriated for this purpose in accordance with State law. This opinion may be relied upon by the Lessor and any assignee of the Lessor's rights under the Lease.

Attorney for CITY OF FAIRBURN, GA

**SCHEDULE A
EQUIPMENT LEASE-PURCHASE AGREEMENT**

Schedule A 24505
Lease Number:

This Equipment Schedule is hereby attached to and made a part of that certain Equipment Lease-Purchase Agreement Number **24505** ("Lease"), between MOTOROLA SOLUTIONS INC. ("Lessor") and CITY OF FAIRBURN, GA ("Lessee").

Lessor hereby leases to Lessee under and pursuant to the Lease, and Lessee hereby accepts and leases from Lessor under and pursuant to the Lease, subject to and upon the terms and conditions set forth in the Lease and upon the terms set forth below, the following items of Equipment

QUANTITY	DESCRIPTION (Manufacturer, Model, and Serial Nos.)
	Refer to attached Equipment List.
Equipment Location: GA	

Initial Term: 48 Months

Commencement Date: 1/25/2019

First Payment Due Date: 1/1/2020

Four (4) consecutive annual payments as outlined in the attached Schedule B, plus Sales/Use Tax of \$0.00, payable on the Lease Payment Dates set forth in Schedule B.

Fairburn Police Dept Equipment List

QTY	Model	Description
20	H98UCF9PW6BN	APX6000 700/800 MODEL 2 PORTABLE Included: QA40996AA P25 Trunking Q806BM Astro Digital CAI Q629AK AES Encryption QA00580AF TDMA H38BT Smartzone Operation NNTN4485 Batt IMPRES 2 Li-ion IP68 2550 mAh - Std Slim PMLN5709A Universal Belt Clip NAF5085A Whip Antenna HBB5BK Service from the Start
20	NNTN4485	Batt IMPRES Li-ion (SPARES)
20	PMMN4084	IMPRES RSM with Volume Toggle Switch, Orange Button
20	NNTN8860A	Single Unit Charger APX6000
20	PMLN5657B	Swivel Leather Case

Schedule B – Lease#24505

Compound Period: Annual

Nominal Annual Rate: 5.053%

CASH FLOW DATA

Event	Date	Amount	Number	Period	End Date
1 Loan	1/25/2019	100,934.00	1		
2 Payment	1/1/2020	28,427.00	4	Annual	1/1/2023

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	1/25/2019				100,934.00
2019 Totals		0.00	0.00	0.00	
1	1/1/2020	28,427.00	4,830.60	23,596.40	77,337.60
2020 Totals		28,427.00	4,830.60	23,596.40	
2	1/1/2021	28,427.00	3,907.53	24,519.47	52,818.13
2021 Totals		28,427.00	3,907.53	24,519.47	
3	1/1/2022	28,427.00	2,668.67	25,758.33	27,059.80
2022 Totals		28,427.00	2,668.67	25,758.33	
4	1/1/2023	28,427.00	1,367.20	27,059.80	0.00
2023 Totals		28,427.00	1,367.20	27,059.80	
Grand Totals		113,708.00	12,774.00	100,934.00	

INITIAL INSURANCE REQUIREMENT: \$100,934.00

Except as specifically provided in Section five of the Lease hereof, Lessee agrees to pay to Lessor or its assignee the Lease Payments, including the interest portion, in the amounts and dates specified in the above payment schedule.

EVIDENCE OF INSURANCE

Fire, extended coverage, public liability and property damage insurance for all of the Equipment listed on Schedule A number **24505** to that Equipment Lease Purchase Agreement number **24505** will be maintained by **CITY OF FAIRBURN, GA** as stated in the Equipment Lease Purchase Agreement.

This insurance is provided by:

Name of insurance provider

Address of insurance provider

City, State and Zip Code

Phone number of local insurance provider

E-mail address

In accordance with the Equipment Lease Purchase Agreement Number **24505**, **CITY OF FAIRBURN, GA**, hereby certifies that following coverage are or will be in full force and effect:

Type	Amount	Effective Date	Expiration Date	Policy Number
Fire and Extended Coverage	_____	_____	_____	_____
Property Damage	_____	_____	_____	_____
Public Liability	_____	_____	_____	_____

Certificate shall include the following:

Description: All Equipment listed on Schedule A number 24505 to that Equipment Lease Purchase Agreement number 24505. Please include equipment cost equal to the Initial Insurance Requirement on Schedule B to Equipment Lease Purchase Agreement number 24505 and list any deductibles.

Certificate Holder:

MOTOROLA SOLUTIONS, INC. and or its assignee as additional insured and loss payee
500 W Monroe
Chicago, IL 60661

If self insured, contact Motorola representative for template of self insurance letter.

STATEMENT OF ESSENTIAL USE/SOURCE OF FUNDS (# 24505)

To further understand the essential governmental use intended for the equipment together with an understanding of the sources from which payments will be made, **please address the following questions** by completing this form or by sending a separate letter:

1. What is the specific use of the equipment?
2. Why is the equipment essential to the operation of **CITY OF FAIRBURN, GA?**
3. Does the equipment replace existing equipment?
If so, why is the replacement being made?
4. Is there a specific cost justification for the new equipment?
If yes, please attach outline of justification.
5. What is the expected source of funds for the payments due under the Lease for the current fiscal year and future fiscal years?

General Fund

- Have dollars already been appropriated for the Lease Payment? Yes -or- No

- If yes, for what fiscal year(s) have appropriations been made? _____

Combination of Federal Grant funding supplemented by General Revenues

- What fiscal year(s) is expected to be funded via federal grants: _____

- What fiscal year(s) is expected to be funded via general revenues: _____

- Have these general revenues already been appropriated for the Lease Payment(s)? Yes -or- No

Other (please describe): _____

Bank Qualified Statement

LESSEE CERTIFIES THAT IT (circle one) HAS or HAS NOT

DESIGNATED THIS LEASE AS A QUALIFIED TAX-EXEMPT OBLIGATION IN ACCORDANCE WITH SECTION 265(b)(3) OF THE CODE AND IF THE LESSEE HAS DESIGNATED THIS LEASE AS A QUALIFIED TAX-EXEMPT OBLIGATION, IT HAS NOT DESIGNATED MORE THAN \$10,000,000 OF ITS OBLIGATIONS AS QUALIFIED TAX-EXEMPT OBLIGATIONS IN ACCORDANCE WITH SUCH SECTION FOR THE CURRENT CALENDAR YEAR AND THAT IT REASONABLY ANTICIPATES THAT THE TOTAL AMOUNT OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY LESSEE DURING THE CURRENT CALENDAR YEAR WILL NOT EXCEED \$10,000,000.

CERTIFIED LESSEE RESOLUTION

At a duly called meeting of the Governing Body of the Lessee (as defined in the Lease) **held on or before the execution date of the Lease**, the following resolution was introduced and adopted.
BE IT RESOLVED by the Governing Board of Lessee as follows:

1. Determination of Need. The Governing Body of Lessee has determined that a true and very real need exists for the acquisition of the Equipment or other personal property described in the Lease between CITY OF FAIRBURN, GA (Lessee) and Motorola Solutions, Inc. (Lessor).
2. Approval and Authorization. The Governing body of Lessee has determined that the Lease, substantially in the form presented to this meeting, is in the best interests of the Lessee for the acquisition of such Equipment or other personal property, and the Governing Board hereby approves the entering into of the Lease by the Lessee and hereby designates and authorizes the following person(s) referenced in the Lease to execute and deliver the Lease on Lessee's behalf with such changes thereto as such person deems appropriate, and any related documents, including any escrow agreement, necessary to the consummation of the transactions contemplated by the Lease.
3. Adoption of Resolution. The signatures in the Lease from the designated individuals for the Governing Body of the Lessee evidence the adoption by the Governing Body of this Resolution.

Information Return for Tax-Exempt Governmental Obligations

Under Internal Revenue Code section 149(e)

See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC

Part I Reporting Authority

If Amended Return, check here ☐

1 Issuer's name City of Fairburn, GA	2 Issuer's employer identification number (EIN) 58-6000595
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)	3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) 56 Malone St	Room/suite
5 Report number (For IRS Use Only) 3	
6 City, town, or post office, state, and ZIP code Fairburn, GA 30213	7 Date of issue 1/25/2019
8 Name of issue Equipment Lease Purchase Agreement # 24505	9 CUSIP number
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)	10b Telephone number of officer or other employee shown on 10a

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.

11 Education	11		
12 Health and hospital	12		
13 Transportation	13		
14 Public safety	14	100,934	00
15 Environment (including sewage bonds)	15		
16 Housing	16		
17 Utilities	17		
18 Other. Describe	18		
19 If obligations are TANs or RANs, check only box 19a <input type="checkbox"/>			
If obligations are BANs, check only box 19b <input type="checkbox"/>			
20 If obligations are in the form of a lease or installment sale, check box <input checked="" type="checkbox"/>			

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	1/1/2023	\$ 100,934.00	\$ n/a	4 years	5.053 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22		
23 Issue price of entire issue (enter amount from line 21, column (b))	23		
24 Proceeds used for bond issuance costs (including underwriters' discount)	24		
25 Proceeds used for credit enhancement	25		
26 Proceeds allocated to reasonably required reserve or replacement fund	26		
27 Proceeds used to currently refund prior issues	27		
28 Proceeds used to advance refund prior issues	28		
29 Total (add lines 24 through 28)	29		
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30		

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

31 Enter the remaining weighted average maturity of the bonds to be currently refunded	years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	years
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY)	
34 Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)	

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 63773S

Form **8038-G** (Rev. 9-2011)

Part VI Miscellaneous

- | | | |
|------------|--|--|
| 35 | | |
| 36a | | |
| 37 | | |
- 35** Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)
- 36a** Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)
- b** Enter the final maturity date of the GIC ▶ _____
- c** Enter the name of the GIC provider ▶ _____
- 37** Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units
- 38a** If this issue is a loan made from the proceeds of another tax-exempt issue, check box ☐ and enter the following information:
- b** Enter the date of the master pool obligation ▶ _____
- c** Enter the EIN of the issuer of the master pool obligation ▶ _____
- d** Enter the name of the issuer of the master pool obligation ▶ _____
- 39** If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ☐
- 40** If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ☐
- 41a** If the issuer has identified a hedge, check here ☐ and enter the following information:
- b** Name of hedge provider ▶ _____
- c** Type of hedge ▶ _____
- d** Term of hedge ▶ _____
- 42** If the issuer has superintegrated the hedge, check box ☐
- 43** If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ☐
- 44** If the issuer has established written procedures to monitor the requirements of section 148, check box ☐
- 45a** If some portion of the proceeds was used to reimburse expenditures, check here ☐ and enter the amount of reimbursement ▶ _____
- b** Enter the date the official intent was adopted ▶ _____

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

Signature of issuer's authorized representative

Date

Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name

Preparer's signature

Date

Check ☐ if self-employed

PTIN

Firm's name ▶

Firm's EIN ▶

Firm's address ▶

Phone no.

EQUIPMENT LEASE PURCHASE AGREEMENT DELIVERY AND ACCEPTANCE CERTIFICATE

The undersigned Lessee hereby acknowledges receipt of the Equipment described below ("Equipment") and Lessee hereby accepts the Equipment after full inspection thereof as satisfactory for all purposes of lease Schedule A to the Equipment Lease Purchase Agreement executed by Lessee and Lessor.

Equipment Lease Purchase Agreement No.: 24505

Lease Schedule A No. : 24505

EQUIPMENT INFORMATION

QUANTITY	MODEL NUMBER	EQUIPMENT DESCRIPTION
		Equipment referenced in lease Schedule A# 24505. See Schedule A for a detailed Equipment List.

LESSEE:

CITY OF FAIRBURN, GA

By: _____

Date: _____

*to complete
after
delivery*



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: South Fulton Little League – Usage Agreement

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

Submitted: January 16, 2019 **Work Session:** January 28, 2019 **Council Meeting:** January 28, 2019

DEPARTMENT: Recreation


BUDGET IMPACT: none

PUBLIC HEARING? () Yes (X) No

PURPOSE: For Mayor and Council to review and approve the facility use agreement for South Fulton Little League for the Spring 2019 season

HISTORY: South Fulton Little League is a South Fulton based youth baseball program for players ages 7-14. This organization has utilized Duncan Park's baseball fields in the past to implement their baseball program.

RECOMMENDED ACTION: For Council to approve the contract for South Fulton Little League to utilize Duncan Park's baseball fields for the Spring 2019 season.


Elizabeth Carr-Hurst, Mayor

DUNCAN PARK FIELD AND FACILITIES USE AGREEMENT

THIS AGREEMENT is made and entered into between the City of Fairburn, a municipal corporation of the State of Georgia (hereinafter referred to as the "City") and the South Fulton Little League (hereinafter referred to as "Lessee") to make use of the City's recreational fields and facilities at Duncan Park.

WHEREAS, the City of Fairburn is in possession of certain recreational fields and facilities at Duncan Park which may be used by the public; and

WHEREAS, the undersigned Lessee desires to make use of such recreational fields and facilities for recreational activities as specified below; and

WHEREAS, the City of Fairburn desires to make such recreational fields and facilities and the equipment contained thereon available to Lessee for the benefit of the community and the mutual benefit of the parties hereto, in accordance with the below terms and conditions; and

WHEREAS, the Lessee agrees to abide by certain standards and conditions in operating and using the recreational fields and facilities.

NOW, THEREFORE, be it agreed by the City of Fairburn and the undersigned Lessee that the Lessee hereby agrees to provide recreational activities at Duncan Park consisting of South Fulton Little League practice and games on the schedule listed and to lease the following facilities for that purpose:

Duncan Park Baseball Fields labeled 3, 4, and 5

- **Monday's and Wednesday's:** 5:30 pm – 7:30 pm / Fields 3 & 4
- **Tuesday's & Thursday's:** 5:30 pm – 7:30 pm / Fields 3 & 4
- **Tuesday's and Thursday's:** 5:30 pm – 6:30 pm / Field 5
- **Games on Saturday's**

Concession/Restroom Building #B206103 – ONLY on Gameday

This Agreement is to become effective on January 28, 2019 and shall terminate on June 30, 2019

FEES AND REPORTS: South Fulton Little League agrees to pay to the City of Fairburn a rental fee during the Term in the amount of \$300.00 due at the start of the season. South Fulton Little League will also be responsible for a \$200.00 refundable damage deposit. South Fulton Little League shall include a participation report and season summary at the end of the season.

For the use of the above Duncan Park field and facilities, the Lessee agrees to the following conditions:

1. The fields will be delivered from the City to the Lessee in an as-is condition. The City shall be responsible for general maintenance and electrical support during the term of the Lease. Maintenance shall include cutting and fertilizing the grass inside the ball field fencing and applying replacement in-field mix. In-field mix is applied (1) time prior to the start of the season. Additional in-field mix is the responsibility of the lessee. The field accessories must be returned to the City in the same condition they were received, or the damage deposit will be used to restore them to their original condition. An accurate inventory sheet must be returned before the deposit is returned.
2. The Concession Stand will be delivered to the Lessee in a clean, ready-to-use condition, and it must be returned to the City in the same condition it was received, or the damage deposit will be used to restore it to its proper condition. South Fulton LL is responsible for providing all equipment for the concession stand.
3. The Lessee will be responsible for keeping the restrooms clean and properly supplied on a daily basis after use of the fields. If it becomes necessary for the City to clean and supply a restroom during the period of a Lease, the lessee shall be responsible for reimbursing the City for its expenses.
4. The Lessee shall provide the Parks & Recreation Director with a general liability insurance policy in the amount of \$500,000.00 per person / \$1,000,000.00 per occurrence for bodily injury and property damage prior to the Lease becoming effective for the term of this Agreement. The policy shall name the City as an additional insured as to any claim arising from the use of the Park by the Lessee. Lessee further agrees to indemnify, defend, and hold harmless the City, its officers, officials, and employees from any claims for injuries to persons, including death, loss of or damage to property, which arise and are due to or resulting from the acts or omissions of the Lessee, its invites, agents, or assigns.
5. The Lessee shall provide the Parks & Recreation Director with a practice and game schedule. All special activities of its activities at least one week in advance of those activities.
6. The Lessee must have a representative that is CPR/AED certified at each practice and game.
7. The Lessee will perform a background check on each individual who will be working with young people at a Park in connection with the Lessee's activities. A copy of each background check will be delivered to the Parks & Recreation Director prior to the individual's involvement with the program. No individual will be allowed to work with young people at Duncan Park in any way unless his or her background check is found by the City Administrator to be acceptable. Background checks must be

submitted to the Parks & Recreation Director at least two weeks prior to any scheduled activity.

8. The Lessee shall provide security at all events scheduled at the Park. This security shall be responsible for maintaining the orderly operation of the program. This security must be able to contact emergency and non-emergency assistance if and when needed. An emergency plan must be submitted to the Parks & Recreation Director prior to the start of the season.
9. In the City's discretion, failure to follow the policies and procedures for the use of the Park and its facilities, Lessee's use of the Park may be suspended or this Lease may be immediately terminated.
10. The facilities included in this Lease shall not be sub-leased without the written approval of the City.

The Lessee further understands and agrees that no improvements either permanent or temporary will be made to these facilities unless prior written approval from the City is obtained. Any improvements to real property or appurtenances thereto shall become the property of the City.

The Lessee agrees that by signing this Agreement it will abide by these conditions and understands that failure to abide by them may result in the loss of the right to conduct their activities as provided herein.

Failure to have all required documentation submitted to the Director of Parks and Recreation as required herein will result in loss of use of facilities until compliance with the contract.

This Agreement entered into this _____ day of _____, 2019.

CITY OF FAIRBURN

SOUTH FULTON LITTLE LEAGUE ASSOCIATION

By: _____
Elizabeth Carr-Hurst, Mayor

By: _____
South Fulton Little League Representative (Print Name)

Attest: _____
Keshia McCullough, City Clerk

Signature

Attest: _____
William R. (Randy) Turner

Mailing Address:

CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YY)
PRODUCER Keystone Risk Managers, LLC 1995 Point Township Drive Northumberland, PA 17867		CERTIFICATE #: 194015-2018-2 3 10 04
ADDITIONAL NAMED INSURED: SOUTH FULTON LL Corey Williams 350 Dominique Court FAYETTEVILLE, GA 30214		INSURERS AFFORDING COVERAGE: INSURER A: Lexington Insurance Company INSURER B: National Union Fire Insurance Company of Pittsburgh, PA (Non-Liability) INSURER C: AIG Specialty Insurance Company

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L NAMED INSRD	TYPE OF INSURANCE		POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	X	GENERAL LIABILITY		011225822	01/01/2018	01/01/2019	EACH OCCURRENCE	\$1,000,000
		X	OCCURRENCE				GENERAL AGGREGATE	\$2,000,000
		X	INCL PARTICIPANTS	Property Damage Deductible: \$250			PRODUCTS/COMP OPS AGGREGATE	\$1,000,000
		X	SEXUAL ABUSE				Sexual Abuse OCCURRENCE	\$1,000,000
							Sexual Abuse AGGREGATE	\$2,000,000
			MEDICAL PAYMENTS				Any One Person	
A	X	DIRECTORS & OFFICERS		019130066	01/01/2018	01/01/2019	EACH LOSS	\$1,000,000
							AGGREGATE	\$1,000,000
C	X	CYBER LIABILITY COVERAGE		018254546	01/01/2018	01/01/2019	LIMIT OF LIABILITY CLAIMS MADE	\$100,000 PER LEAGUE AGGREGATE
	S&P	SECURITY AND PRIVACY LIABILITY INSURANCE		\$100,000 PER LEAGUE SUBLIMIT OF LIABILITY \$1,000 PER LEAGUE RETENTION			RETROACTIVE DATE	CONTINUITY DATE
		REGULATORY ACTION SUBLIMIT OF LIABILITY		\$100,000 PER LEAGUE SUBLIMIT OF LIABILITY \$1,000 PER LEAGUE RETENTION			POLICY INCEPTION	POLICY INCEPTION
	EM	EVENT MANAGEMENT INSURANCE		\$100,000 PER LEAGUE SUBLIMIT OF LIABILITY \$1,000 PER LEAGUE RETENTION			NOT APPLICABLE	POLICY INCEPTION
		CRIME COVERAGE					EACH LOSS	\$35,000
				Crime Deductible: \$250 Property/\$1,000 Money			AGGREGATE	NONE
B	X	SPORTS EXCESS ACCIDENT		SRG9105434	01/01/2018	01/01/2019	As in Master Policy: Med. Max. \$100,000 Deductible \$50	As in Master Policy Excess

"X" INDICATES COVERAGE(S) SELECTED FOR ADDITIONAL NAMED INSURED

ADDITIONAL INSURED

Who is an Insured (SECTION II) of the General Liability policy is amended to include as an insured the person or organization shown in the schedule, but only with respect to liability arising out of the above named Little League's maintenance or use of ball fields, or other premises loaned, donated, or rented to that Little League by such person or organizations and subject to the following additional exclusions:

- Structural alterations, new construction, maintenance, repair or demolition operations performed by or on behalf of the person or organization designated in the Schedule and/or performed by the above named Little League; and
- That part of the ball field or other premises not being used by the above named Little League.

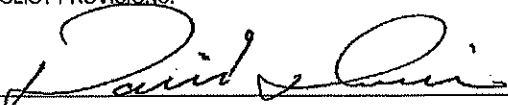
NAME AND ADDRESS OF PERSON OR ORGANIZATION:

INSURED

Little League Baseball Risk Purchasing Group, Inc.
 539 U.S. RT. 15 Highway
 South Williamsport, PA 17702

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.


 AUTHORIZED REPRESENTATIVE



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: Physio Control service agreement for cardiac monitors

☐ AGREEMENT

☐ POLICY / DISCUSSION

☒ CONTRACT

☐ ORDINANCE

☐ RESOLUTION

☐ OTHER

Submitted: 01/17/2019

Work Session: 01/28/2019

Council Meeting: 01/28/2019

DEPARTMENT: Fire

BUDGET IMPACT: \$5,821.20 (Included in Fire Department's 18-19 FY Budget)

From 100-3500-52-2220;

PUBLIC HEARING? ☐ Yes ☒ No

PURPOSE: The Fire Department is requesting funds to approve a one-year service agreement with Physio Control for on-site comprehensive coverage and preventative maintenance for Life Pak cardiac monitors and AEDs. This equipment provides basic and advanced life support operations during EMS operations. The annual service and maintenance agreement will offer an overall discount and expedite repair/replacement of all Physio Control products. Having this agreement in place will also reduce the amount of time the equipment would be out of service.

HISTORY: Previously, there was a three-year contract at the cost of \$8,247.57 annually for eight devices that expired in 2018. An additional AED unit was transferred to use in a City building. Two monitors, due to age, are no longer serviceable, thereby decreasing the number of units under contract from eight to five. The monitors are still in working condition and will serve as backup units when one of the other three are down for service.

RECOMMENDED ACTION: Staff recommends that Mayor and Council approve the use of budgeted funds for the annual Physio Control maintenance contract in above amount.


Elizabeth Carr-Hurst, Mayor



Physio Control, Inc.
11811 Willows Road NE
P.O. Box 97006
Redmond, WA 98073-9706 U.S.A
www.physio-control.com
tel (800) 442.1142
fax (800) 772.3340

Quote Number 00154495
Create Date 12/12/2018 12:56 PM
Quote Expiration Date 03/12/2019
Quote Consultant OPEN TERRITORY
678-972-2769
EAVV52

Service Plan Quote

Account: 02321401	Service Plan Detail
Chief Cornelius D. Robinson FAIRBURN FD 149 W BROAD ST FAIRBURN, GA 30213 (770) 964-2244 corobinson@fairburn.com	Type Renewal Service Plan Start Date 10/07/2018 Service Plan End Date 10/06/2019 Reference Plan PB18T976 Billing Frequency Annual Terms All quotes subject to credit approval and the following terms and conditions Net Terms NET 30 Promotion Coverage Details-Brochure www.physio-control.com/ServicePlans/
Notes	
Service plan customers receive 15% discount on Accessories and Disposables. LP15 SN'S: 43903039, 38743114, 42833000 LP1000 SN'S: 43876754, 37123797	

Product	Start Date	End Date	Qty	Term List Price	Disc %	Annual Net Price Per Unit	Term Net Price Per Unit	Extended Term Net Price
LP15-OSCOMP-1	10/07/2018	10/06/2019	3	1,764.00	10.00	1,587.60	1,587.60	4,762.80
LP1000-OSCOMP-1	10/07/2018	10/06/2019	2	588.00	10.00	529.20	529.20	1,058.40

* Denotes Proration
Product Descriptions provided below signature line.

Subtotal	USD 5,821.20
Estimated Tax	USD 0.00
Estimated Shipping & Handling	USD 0.00
Grand Total	USD 5,821.20

Pricing Summary Totals	
List Price Total	USD 6,468.00

Total Discount	USD -646.80
Estimated Tax + S&H	USD 0.00

Tax will be calculated at time of invoice and is based on the Ship To location where product will be shipped.

GRAND TOTAL FOR THIS QUOTE
USD 5,821.20

Please provide a company issued Purchase Order that includes Billing and Shipping Address.
PO must reference payment terms of Net 30 days.

- OR -

Required information if no Purchase Order is provided

Billing Address <input type="checkbox"/> same as address on quote	Shipping Address <input type="checkbox"/> same as Billing Address
Account Name	Account Name
Address	Address
City	City
State	State
Zip Code	Zip Code
Accounts Payable Contact Information	
Accounts Payable Contact	Accounts Payable Phone Number
Accounts Payable Email	Customer is Tax Exempt? <input type="checkbox"/> Yes <input type="checkbox"/> No
Authorized Customer Signature	
Name	Signature
Title	Date

Optional information:

Special Ship to Address

Comments

For Multiple End Users, please attach a supporting document with End User name, physical location, product type and quantity

Reference Number NS/02321401/186477/00154495

Product	Product Description
LP15-OSCOMP-1	LIFEPAK 15 Service - 1 YEAR. On-site Comprehensive Coverage for LIFEPAK® 15 Includes: -Services performed at customer's location by a Physio-Control Technical Specialist -Parts and labor necessary to restore device to original specifications -Annual Preventive Maintenance and inspections including quality assurance documentation -Discounts on accessories, disposables, and upgrades -Updates to the latest software version -Preconfigured loaner device provided if needed -Battery Replacement Service
LP1000-OSCOMP-1	LIFEPAK 1000 Service - 1 YEAR. On-site Comprehensive Coverage. On-site Comprehensive Coverage for LIFEPAK® 1000 Includes: -Services performed at customer's location by a Physio-Control Technical Specialist -Parts and labor necessary to restore device to original specifications -Annual Preventive Maintenance and inspections including quality assurance documentation -Discounts on accessories and disposables -Updates to the latest software version -Preconfigured loaner device provided if needed -Battery Replacement Service -Replacement of adult electrodes at scheduled time of service due to expiration or failure.

Service Plan Summary

List of covered equipment by location will be provided upon Customer's signature of this quote.

General Terms for all Products, Services and Subscriptions.

Physio-Control, Inc. ("Physio") accepts Buyer's order expressly conditioned on Buyer's assent to the terms set forth in this document. Buyer's order and acceptance of any portion of the goods, services or subscriptions shall confirm Buyer's acceptance of these terms. Unless specified otherwise herein, these terms constitute the complete agreement between the parties. Amendments to this document shall be in writing and no prior or subsequent acceptance by Seller of any purchase order, acknowledgment, or other document from Buyer specifying different and/or additional terms shall be effective unless signed by both parties.

Pricing. Prices do not include freight insurance, freight forwarding fees, taxes, duties, import or export permit fees, or any other similar charge of any kind applicable to the goods and services. Sales or use taxes on domestic (USA) deliveries will be invoiced in addition to the price of the goods and services unless Physio receives a copy of a valid exemption certificate prior to delivery. Discounts may not be combined with other special terms, discounts, and/or promotions.

Payment. Payment for goods and services shall be subject to approval of credit by Physio. Unless otherwise specified by Physio in writing, the entire payment of an invoice is due thirty (30) days after the invoice date for deliveries in the USA, and sight draft or acceptable (confirmed) irrevocable letter of credit is required for sales outside the USA.

Minimum Order Quantity. Physio reserves the right to charge a service fee for any order less than \$200.00.

Patent Indemnity. Physio shall indemnify Buyer and hold it harmless from and against all demands, claims, damages, losses, and expenses, arising out of or resulting, from any action by a third party against Buyer that is based on any claim that the services infringe a United States patent, copyright, or trademark, or violate a trade secret or any other proprietary right of any person or entity. Physio's indemnification obligations hereunder will be subject to (i) receiving prompt written notice of the existence of any claim; (ii) being able to, at its option, control the defense and settlement of such claim (provided that, without obtaining the prior written consent of Buyer, Physio will enter into no settlement involving the admission of wrongdoing); and (iii) receiving full cooperation of Buyer in the defense of any claim.

Limitation of Interest. Through the purchase of Physio products, services, or subscriptions, Buyer does not acquire any interest in any tooling, drawings, design information, computer programming, patents or copyrighted or confidential information related to said products or services, and Buyer expressly agrees not to reverse engineer or decompile such products or related software and information.

Delays. Physio will not be liable for any loss or damage of any kind due to its failure to perform or delays in its performance resulting from an event beyond its reasonable control, including but not limited to, acts of God, labor disputes, the requirements of any governmental authority, war, civil unrest, terrorist acts, delays in manufacture, obtaining any required license or permit, and Physio inability to obtain goods from its usual sources.

Limited Warranty. Physio warrants its products and services in accordance with the terms of the limited warranties located at <http://www.physio-control.com/Documents/>. The remedies provided under such warranties shall be Buyer's sole and exclusive remedies. Physio makes no other warranties, express or implied, including, without limitation, NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IN NO EVENT SHALL PHYSIO BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR OTHER DAMAGES.

Compliance with Confidentiality Laws. Both parties acknowledge their respective obligations to maintain the security and confidentiality of individually identifiable health information and agree to comply with applicable federal and state health information confidentiality laws.

Compliance with Law. The parties agree to comply with any and all laws, rules, regulations, licensing requirements or standards that are now or hereafter promulgated by any local, state, and federal governmental authority/agency or accrediting/administrative body that governs or applies to their respective duties and obligations hereunder.

Regulatory Requirement for Access to Information. In the event 42 USC § 1395x(v)(1)(I) is applicable, Physio shall make available to the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy

of these terms, such books, documents and records as are necessary to certify the nature and extent of the costs of the products and services provided by Physio.

No Debarment. Physio represents and warrants that it and its directors, officers, and employees (i) are not excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 USC § 1320a-7b(f); (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services; and (iii) are not under investigation which may result in Physio being excluded from participation in such programs.

Choice of Law. The rights and obligations of Physio and Buyer related to the purchase and sale of products and services described in this document shall be governed by the laws of the state where Buyer is located. All costs and expenses incurred by the prevailing party related to enforcement of its rights under this document, including reasonable attorney's fees, shall be reimbursed by the other party.

Additional Terms for Purchase and Sale of Service Plans.

In addition to the General Terms above, the following terms apply to all Physio Service Plans.

Service Plans. Physio shall provide services according to the applicable Service Plan purchased by Buyer and described at <http://www.physio-control.com/ServicePrograms.aspx> for the length of the subscription purchased and for the devices specified as covered by the Service Plan ("Covered Equipment").

Pricing. If the number or configuration of Covered Equipment changes during the Service Plan subscription, pricing shall be pro-rated accordingly. For Preventative Maintenance, Inspection Only, Comprehensive, and Repair & Inspect Service Plans, Buyer is responsible to pay for preventative maintenance and inspections that have been performed since the last anniversary of the subscription start date and such services shall not be pro-rated.

Device Inspection Before Acceptance. All devices that are not covered under Physio's Limited Warranty or a current Service Plan must be inspected and repaired (if necessary) to meet specifications at then-current list prices prior to being covered under a Service Plan.

Unavailability of Covered Equipment. If Covered Equipment is not made available at a scheduled service visit, Buyer is responsible to reschedule with the Physio Service Technician, or ship-in the Equipment to a Physio service depot. Physio reserves the right to charge Buyer a surcharge for a return visit. Surcharges will be based on then-current Physio list price of desired services, less 10% for labor and 15% for parts, plus applicable travel costs. The return visit surcharge will be in addition to the subscription price of the Service Plan. To avoid the surcharge, Buyer may ship devices to a Physio service depot. Buyer shall be responsible for round-trip freight for ship-in service.

Unscheduled or Uncovered Services. If Buyer requests services to be performed on Covered Equipment which are not covered by a Service Plan, or are outside of designated Services frequency or hours, Physio-Control will charge Buyer for such services at 10% off Physio-Control's standard rates (including overtime, if appropriate) and applicable travel charges. Repair parts required for such repairs will be made available at 15% off the then-current list price.

Loaners. If Covered Equipment must be removed from service to complete repairs, Physio will provide Buyer with a loaner device, if one is available. Buyer assumes complete responsibility for the loaner and shall return the loaner to Physio in the same condition as received, normal wear and tear exempted, upon the earlier of the return of the removed Covered Equipment or Physio's request.

Cancellation. Buyer may cancel a Service Plan upon sixty (60) days' written notice to Physio. In the event of such cancellation, Buyer shall be responsible for the portion of the designated price which corresponds to the portion of the Service Plan subscription prior to the effective date of termination and the list-price cost of any preventative maintenance, inspections, or repairs rendered after the last anniversary date of the subscription start date.

No Solicitation. During the Service Plan subscription and for one (1) year following its expiration Buyer agrees to not to actively and intentionally solicit anyone who is employed by Physio to provide services such as those described in the Service Plan.



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

**SUBJECT: LEASE AGREEMENT BETWEEN THE CITY OF FAIRBURN AND
ARMANDO MEXICAN RESTAURANT**

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

Submitted: 1/18/19

Work Session: 1/28/19

Council Meeting: 1/28/19

DEPARTMENT: Property Management

BUDGET IMPACT: N/A

PURPOSE: For Mayor and Council to approve a lease agreement between the City of Fairburn and Armando Mexican Restaurant to be located at 30 West broad Street. The leased space equates to 2,178 sq. ft. to be leased at \$9.00 per square ft. or \$19,602 per year, (\$1,633.50 per month) for a period of not less than 10 years during the initial agreement, with an option to renew.

HISTORY: This facility is known as the freight depot and have been used over the last 10 years or so by the city as an employee's wellness center with gym equipment installed. Participation by employees declined over the years. Prior to this facility becoming a wellness center, the city leased the space to a tenant whose company went by the name of "Iron Horse Graphics".

RECOMMENDED ACTION: Staff recommends Council to authorize the Mayor to execute this lease agreement between the City of Fairburn and Armando Mexican Restaurant, to become effective February 1, 2019.


Elizabeth Carr-Hurst, Mayor

**STATE OF GEORGIA
COUNTY OF FULTON**

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter "Agreement"), made and entered into effective the 1st day of February, 2019 ("Effective Date") by and between the **CITY OF FAIRBURN, GEORGIA**, a Georgia Municipal Corporation, whose address is 56 Malone Street, Fairburn, Georgia 30213, (hereinafter "the City" or "the Lessor"), and **ARMANDO S. JIMENEZ**, an individual doing business as Armado's, a restaurant (hereinafter "the Lessee"), the parties to this Agreement hereinafter sometimes referred to collectively as "the Parties".

ARTICLE I. LEASED PREMISES AND USE OF LEASED PREMISES

The Lessor, in consideration of the rents agreed to be paid by the Lessee and of the covenants, agreements, provisions and stipulations herein agreed to be mutually kept and performed by the Parties, does, as of the Effective Date, grant, demise, lease and rent, upon the terms and conditions herein stated, unto the Lessee the premises situated in Fulton County, Georgia, and more particularly described as follows, *to wit*:

SEE DESCRIPTION ON EXHIBIT "A" ATTACHED

(hereinafter "the Premises"), together with all the improvements, tenements, and appurtenances, thereunto belonging or in any wise appertaining, including the right of ingress and egress thereto and therefrom at all times, and the Lessee does hereby agree as of the Effective Date to lease, rent and take the Premises from the Lessor, upon the terms and conditions herein stated, to use the Premises solely for educational functions and facilities.

ARTICLE II. TERM

This Agreement shall be for a term of ten (10) years commencing at 12:00 AM on February 1, 2019 and shall terminate at 11:59 PM on January 31, 2029, unless earlier terminated, modified, extended, or renewed (hereinafter "the Term").

ARTICLE III. RENT

The Lessee shall pay the Lessor, at its above-stated address, or at such other address or addresses as may be designated in writing from time to time by the Lessor, the following Rent:

- a. Beginning on the Effective Date, and throughout the Term of this Agreement, Lessee shall pay Lessor an annual Rent of Nine Dollars (\$9.00) per square foot of the Premises described in

Exhibit "A" attached, which annual Rent shall be paid to Lessor in equal monthly installments on the first (1st) day of each and every calendar month during the Term.

- b. Any monthly installment of Rent not received by Lessor within ten (10) days of the due date of shall incur a late fee of one percent (1%) which shall be due and payable immediately to the Lessor.

ARTICLE IV. **MAINTENANCE AND REPAIR**

Except for routine maintenance chores such as changing filters, replacing light bulbs, and minor plumbing repairs, Lessor shall be responsible for the maintenance and repair of all plumbing, electrical, and mechanical equipment installed on the Premises by Lessor, except for special equipment that was installed at the request of the Lessee and was intended specifically for the use of the Lessee. Lessor shall be responsible for the maintenance of the grounds and the parking areas related to the Premises.

ARTICLE V . **STIPULATIONS**

The said stipulations provisions, covenants, agreements, terms and conditions attached thereto and marked Exhibit "B", are hereby incorporated herein and made a part of this Agreement by reference.

ARTICLE VII. **GEORGIA LAW; ENTIRE AGREEMENT**

This Agreement shall be governed by, construed under, performed and enforced in accordance with the laws of the State of Georgia. The Parties mutually agree that this Agreement, including the attached Exhibits "A" and "B" shall constitute the entire agreement of the Parties and that all other agreements between the Parties respecting the Premises shall be deemed null and fully discharged as of the Effective Date of this Agreement.

(Signatures On Next Page)

IN WITNESS WHEREOF, Lessor and Lessee, by and through their authorized representatives, have hereunto executed, signed, and delivered this Agreement in duplicate the day, month, and year first written above, each of the said parties keeping one of the copies hereof.

CITY OF FAIRBURN, GEORGIA
(SEAL)

Signed as to Lessor, in the presence of:

By: _____
Elizabeth Carr-Hurst, Mayor

Unofficial Witness


Attest: _____
Keshia McCullough, City Clerk

Approved: _____
William R. Turner, City Attorney

Notary Public

Armando S. Jimenez
(SEAL)

Signed as to Lessee, in the presence of:

By:  _____
Armando S. Jimenez, Individually
And as Personal Guarantee

 _____
Unofficial Witness

 _____
Notary Public



EXHIBIT "A"

Leased Premises

30 West Broad Street, Fairburn, Georgia 30213, which Leased Premises is otherwise known as the former train depot lying to the south of Highway 92.

Total Square Feet of Leased Premises: 2178

EXHIBIT "B"

Stipulations, Provisions, Covenants, Agreements, Terms and Conditions of Agreement

Purpose of Paragraph Identification References

The brief, captioned, paragraph-identification references, which appear in the left hand margin of this Exhibit B, are for the purpose of convenience only and shall be completely disregarded in construing this Agreement.

Definitions

- a) "Lessor" means the City of Fairburn, Georgia, including their successors and assigns, if any.
- b) "Lessee" means Armando S. Jimenez.
- c) "Premises" means the premises leased and identified in Article 1 of the Agreement, set forth with more particularity at Exhibit A to this Agreement.
- d) Any and all references to the "term" of this Agreement shall mean not only the initial term, but also any renewal or extension of the initial term.

Time of Essence

Time is of the essence in this Agreement.

Service of Notice

All notices, requests, demands and other communications necessary or required under this Agreement shall be in writing and shall be mailed by first class United States certified mail, return receipt requested, delivered by a commercial carrier, or personally delivered at the addresses indicated below:

If to Lessor ---

Mayor
City of Fairburn
City Hall
56 Malone Street
Fairburn, Georgia 30213
If to Lessee ---

and

City Administrator
City of Fairburn
City Hall
56 Malone Street
Fairburn, Georgia 30213

If to Lessee ---

Armando S. Jimenez
30 West Broad Street
Fairburn, Georgia 30213

or, as to each party, at such other address and/or person as shall be designated by such party by written notice to the other.

Covenants of Title and Quiet Enjoyment

Lessor covenants that the City of Fairburn is seized of the Premises in fee simple absolute. Lessee, paying the rents and keeping the stipulations, provisions, covenants, terms, agreements, and conditions herein contained, shall lawfully, quietly and peacefully have, hold, use, possess, enjoy, and occupy the Premises hereby rented, with all the improvements, tenements, appurtenances, and each and every part and parcel thereof for and during said term hereby granted, without any suit, hindrance, interruption, inconvenience, eviction, ejection, or molestation by the Lessor or by any other person or persons whatsoever. If, for any reason whatever, except if caused by an act of Lessee or its agents, Lessee is deprived of its right to lawfully, quietly, and peacefully have, hold, use, possess, enjoy and occupy the Premises hereby rented, with all the improvements, tenements, appurtenances, and each and every part and parcel thereof, for and during said term hereby granted, without any suit, hindrance, interruption, inconvenience, eviction, ejection, or molestation by the Lessor or by any other person or persons whatsoever, then this Agreement may be immediately canceled and terminated at the option of the Lessee by giving the Lessor notice thereof. If the Lessor's title shall come into dispute or litigation, the Lessee may withhold payment of rents (without interest) until final adjudication or other settlement of such dispute or litigation.

Notice of Appointment of Agent

Lessee shall be under no obligation to recognize any agent for the collection of rent accrued or to accrue hereunder or otherwise authorized to act with respect to the Premises until notice of the appointment and the extent of the authority of such agent shall be first given to the Lessee by the Lessor in writing.

Change in Ownership of Premises

No change or division in the ownership of the Premises, or of the rents payable hereunder, however accomplished, shall operate to enlarge the obligations or diminish the rights of the Lessee. Further, no change or division in ownership shall be binding on the Lessee for any purpose until the Lessee shall have been furnished with a certified copy of the recorded instrument, or other legally authenticated written instrument, evidencing such change or division in ownership.

Binding Effect On Heirs, Assigns, Etc.

Each of the stipulations, provisions, terms, conditions, covenants, agreements and obligations contained in this Agreement shall apply, extend to, be binding upon and inure to the benefit or detriment of each and every one of the heirs, legal representatives, devisees, legatees, next-of-kin, successors and assigns of the respective parties hereto, and shall be deemed and treated as covenants real running with the Premises during the term of this Agreement. Whenever a reference to the parties hereto is made, such reference shall be deemed to include the heirs, legal representatives, devisees, legatees, next-of-kin, successors and assigns of said party, the same as if in each case expressed.

Lessor's Failure to Deliver Premises at Commencement of Term

Should the Lessor, for any reason whatever, be unable to deliver possession of the Premises to the Lessee at the commencement of the term, there shall be a total abatement of rent during the period between the commencement date and the date upon which the Lessor delivers possession of the Premises to the Lessee.

Destruction of or Damage to Premises

In the event the Premises, either prior to the commencement date or during the term of this Agreement shall be so damaged, by any cause whatever, as to be rendered unfit for occupancy by the Lessee, there shall be a total abatement of rent during the period of time the Premises are unfit for occupancy. Shall the Premises, either prior to the commencement date of this Agreement or during the term thereof, be partially destroyed, by any cause whatever, except if caused by act of Lessee or its agents, but not rendered unfit for occupancy by Lessee, then the Lessor agrees that the Premises, at the Lessor's expense and with reasonable promptness and dispatch, shall be repaired and restored to substantially the same condition as before the damage. In the event of a partial destruction of the Premises there shall be a proportionate abatement in the rent payable during the time such repairs or rebuilding are being made. Such proportionate deduction of rent shall be based upon the extent to which the making of such repairs or rebuilding shall interfere with the business carried on by the Lessee in Premises. Full rental shall again commence after completion of the repairs and restoration of the Premises by the Lessor. In connection with the foregoing, it is agreed by the parties hereto that the Lessee and Lessor shall have a third party to decide, after making a reasonable assessment of damages, who shall make the decision as to whether or not the Premises are fit or unfit for occupancy by the Lessee. There shall be no abatement of rent if any damage is caused by act of Lessee or its agents.

Use of Premises and Lessee's Insurance Requirements

a) Lessee shall use Premises solely for the operation of a restaurant for which the Premises are hereby rented; and no use shall be made of Premises, nor acts done, which will cause a cancellation of or an increase in the fire, casualty and other extended coverage insurance insuring the Premises, without first consulting with Lessor and obtaining appropriate insurance endorsements, including the payment of any increase in premium for such endorsements. The

Lessee shall not sell, or permit to be kept for use in or about Premises, any article or articles which may be prohibited by the standard form of fire insurance policies unless the policy is endorsed as set forth in this paragraph.

b) Lessee shall insure or self-insure at its own cost and expense all of its fixtures, furnishings, equipment and personal property, which it may use or store on the Premises. Lessee will obtain and maintain general liability insurance coverage for the acts of its officers, members, and employees in an amount not less than \$1,000,000.00 per each occurrence.

Event of Default

If Lessee fails to fulfill or obey any of the stipulations, provisions, terms, conditions, covenants, agreements, or obligations of this Lease, whether monetary or non-monetary, Lessee shall be in default of the Lease ("Event of Default"). In the Event of Default, Lessor may, at its option, provide a written seven (7) days notice of default and opportunity to cure upon Lessor specifying the nature of said default. Upon the expiration of seven (7) days, if Lessee has not cured the Event of Default, Lessor may pursue all remedies available to Lessor at law or in equity, including, but not limited to, dispossessory proceedings in a court of competent jurisdiction. In the Event of Default, Lessor may take any legal action to enforce any of Lessee's covenants and obligations in the Lease.

Holding Over

Any holding over, or continued use and/or occupancy by the Lessee of the Premises after the expiration of this Agreement shall operate and be construed as a tenancy at will.

Repairs by Lessor

During the term of this Agreement, and subject to the provisions of Article 4 of this Agreement, Lessor, shall, at its sole cost, service, replace, keep and maintain in good order and repair each and every part and portion of the existing Premises together with any improvements or additions the Lessor might install in or place upon the Premises in the course of the term of this Agreement. In the event that Lessee constructs or erects any additions and/or improvements to or on the Premises, Lessor shall have no obligation whatsoever to service, replace, keep and maintain the same in good order and repair.

Notice to Lessor of Damage of Defects

Lessee shall give to Lessor prompt written notice of any defects in the Premises and, subject to the provisions of Article 4 of this Agreement, such defects shall be remedied with due diligence by the Lessor at Lessor's expense.

Entry for Inspection and Repairs, Alterations or Additions, Janitorial Services, Rubbish Removal

Lessee shall permit Lessor, his agents or employees, to enter into and upon Premises at all

reasonable times for the purpose of inspecting the same or for the purpose of maintaining or making repairs, alterations, or additions to any portion of the Premises.

Lessee shall furnish janitorial services for general cleaning of the Premises. Lessee shall use care to select honest and efficient personnel for such services.

Lessee shall keep the Premises clean, both inside and outside, at its own expense, and shall see that all garbage, trash, and all other refuse is disposed of properly.

Termites, Rodents, and Pests

Lessor shall, subject to the provisions of Article 4 of this Agreement, at its own expense, keep the Premises free from infestation by termites, rodents, and other pests, and shall repair all damage caused to the Premises by same during the term of this Agreement.

Utilities

Lessee shall furnish all water, electricity, gas, fuel, oil, coal, light, air conditioning, heat, cable, internet and power, or any other utility used by Lessee while occupying the Premises. No deduction shall be made from the rent due to a stoppage in the services of water, electricity, gas, fuel, oil, coal, light, air conditioning, heat, cable, internet and power or any other utility unless caused by an act of Lessor. In the event of an interruption in water, electricity, light, air conditioning, heat, cable, internet, or power caused by Lessor, subject to the provisions of Article 4 of this Agreement, Lessor will proceed with all due diligence to restore same.

Taxes and Assessments

Should the Lessee's leasehold in the Premises be subject to any taxes or assessments, Lessee shall be solely responsible for such taxes and assessments.

Removal of Improvements, Erections and Additions by Lessee

With the express written consent of the Lessor first having been obtained, the Lessee may make, at Lessee's own expense, such improvements, erections, and alterations as are necessary to adapt the Premises for the conduct of the Lessee's business. All improvements, erections and additions installed in or placed upon the Premises by the Lessee, whether permanently affixed thereto or otherwise, shall continue and remain the property of the Lessee, and may be removed by the Lessee, in whole or in part, at any time before the expiration or termination of this Agreement or upon a reasonable time thereafter. If the Lessee removes any or all of the improvements, erections and additions it has installed in or placed upon the Premises, the Lessee agrees to repair any specific damage directly resulting to the Premises from such removal to the condition existing at the beginning of the tenancy, fair wear and tear excepted.

Removal of Fixtures by Lessee

At any time before the expiration or termination of this Agreement, or upon a reasonable time thereafter, Lessee shall have the right and privilege to remove all easily removable fixtures, equipment, appliances and movable furniture which it has placed in or upon the Premises. The Lessee agrees to repair any specific damage directly resulting to the Premises from such removal to the condition existing at the beginning of the tenancy, fair wear and tear excepted.

Reservation of Rights

Lessor reserves the right to have access to the Premises for the purpose of inspecting same and maintaining its improvements to the Premises.

Waiver of Rights

The waiver by Lessor, or by Lessee, of any breach of any stipulation, provision, term, covenant, agreement or condition herein contained shall not be deemed to be a waiver of such stipulation, provision, term, covenant, agreement or condition on any subsequent breach of the same or any other stipulation, provision, term, covenant, agreement or condition herein contained.

Abandonment of Premises

During the term of this Agreement, Lessee agrees not to abandon or vacate the Premises without cause.

Waste and Nuisance

Lessee shall not commit, or suffer to be committed, any waste upon the Premises, or any nuisance.

Assignment and Subletting

Lessee shall not assign this Agreement, or any interest therein, and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person to occupy or use the Premises, or any portion thereof, without the express written consent of Lessor first having been obtained. Any such assignment or subletting without such consent shall be void, and shall, at the option of the Lessor, on twenty (20) days notice to Lessee, terminate this Agreement. Consent to one assignment and/or subletting shall not waive this provision, and all later assignments and/or sublettings shall likewise be made only on the prior consent of Lessor.

Effect on Assignment and Subletting when Lessee Surrenders Premises

The voluntary or other surrender of this Agreement by Lessee, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Lessor, terminate all or any existing sublets or subtenancies, or may, at the option of Lessor, operate as an assignment to him of any or all such sublets or subtenancies.

Surrender of Premises

Lessee shall, at the termination of this Agreement, vacate and surrender the Premises in good order and condition; reasonable use and ordinary wear and tear excepted.

Invalidity of Provision or Portion of Provision

Should any provision or portion of such provision of this Agreement be held invalid, the remainder of this Agreement or the remainder of such provision shall not be affected.

Compliance with Laws, Ordinances and Regulations

- a) Lessor shall be responsible for compliance with all applicable laws, ordinances, and regulations.
- b) Lessor is solely responsible for assuring that the Premises and all common areas are at all times in compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.* (hereinafter the "ADA") as amended, and with all regulations promulgated pursuant to the ADA (hereinafter the "Regulations"). Except for any remodeling or alterations to the Premises after the commencement date of this Agreement due to an election by Lessee to remodel (but not including any remodeling or alterations at the beginning of the term of this Agreement to make the Premises initially suitable for Lessee), Lessor shall be solely responsible for all costs and expenses associated with ADA compliance. Lessor shall not charge Lessee for, nor seek reimbursement from Lessee for, any expenditures, capital or otherwise, associated with conforming the Premises or common areas to the requirements of the ADA and the Regulations.

Subordination

This Agreement shall be subject and subordinate to all existing liens and encumbrances against the Premises (and all rights and obligations contained therein).

Mold

Lessee acknowledges that it is necessary for the Lessee to provide appropriate climate control, keep the property clean, and take other measures to retard and prevent mold and mildew from accumulating in the Premises. Lessee agrees to clean and dust on a regular basis to remove visible moisture accumulation on windows, walls and on other surfaces as soon as reasonably possible. Lessee agrees not to block or cover heating, ventilation, or air conditioning ducts on the Premises. Lessee also agrees to immediately report to the Lessor: (1) any evidence of a water leak or excessive moisture on the property, as well as in any storage room or common area; (2) any evidence of a mold or mildew like growth that cannot be removed by simply applying a common household cleaner and wiping the area; (3) any failure or malfunction of the heating, ventilation or air conditioning systems in the Premises; and (4) any inoperable windows and doors. Lessee further agrees that Lessee shall be responsible for damage to the Premises and Lessee's property as

well as injury to Lessee and Lessee's occupants resulting from Lessee's failure to comply with the terms of this paragraph.

Entire Agreement

This Agreement, including the attached Exhibits A and B, embodies and sets forth all the provisions, agreements, conditions, covenants, terms and understandings between the parties relative to the Premises. There shall be no provisions, agreements, conditions, covenants, terms, understandings, representations or inducements, either oral or written, between the parties other than are herein set forth. It is further understood and agreed that no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties unless reduced to writing and signed by all the parties to this Agreement.

END OF EXHIBIT "B"