

REVISED AGENDA

March 2, 2017

7:00 p.m.

- I. Call to Order
- II. Pledge of Allegiance
- III. Announcements, Awards, Special Recognition
 - Recognize Chad Matheny – 20 Years of Service, Fire Department
 - Recognize Andy Lee – 20 Years of Service, Fire Department
 - Recognition of Police Officer Adam Pendleton & Firefighter Will Harbin – American Legion Post 50
- IV. Public Comment
- V. Agenda Changes
- VI. Minutes
 - February 16, 2017, Regular Meeting Minutes
- VII. Consent Agenda
 - 1. Consider Proposed Amendments to Soil Erosion & Sedimentation Control Ordinance
 - 2. Consider Surplus of Vehicles & Lease of Vehicles to Keep Peachtree City Beautiful
 - 3. Consider Appointments to Convention & Visitors Bureau – **James Hooper, Patti Kadkhodaian**
 - 4. Consider Approval of Underground Utility Easement for TowerCom on Peachtree Parkway
- VIII. Old Agenda Items
- IX. New Agenda Items
 - 03-17-01 Consider Emergency Stormwater Pipe Rehabilitation, 201 Journeys End – **Utility Asset Management, Inc.** (Mike Madison)
 - 03-17-02 Consider Resolution of Opposition to SB 116 Prohibiting County/Municipal **Assessment of Stormwater Utility Fees on Water-Neutral Properties** (Mike Madison / Ted Meeker)
- X. Council/Staff Topics
- XI. Executive Session
- XII. Adjourn

This agenda is subject to change at any time up to 24-hours prior to the scheduled meeting

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: Mayor and Council

FROM: Jonathan N. Rorie, City Manager 

DATE: March 1, 2017

SUBJECT: Consider Appointment of Convention & Visitors Bureau Members
Consent Agenda, March 2, 2017

Recommendation:

Appoint James Hooper to the CVB Board to fulfill one of the vacated Hospitality Sector terms that ends 9/30/2017 and appoint Patti Kadkhodaian to fulfill the other Hospitality Sector position term that ends 9/30/2018.

Discussion:

The Selection Committee composed of Mayor Vanessa Fleisch, Council Member Mike King, Rick Adlington - CVB Chairman and myself, considered these applicants and recommend appointing them to fulfill these open positions.

The Committee met with the applicants and learned of their experience and qualifications for serving on the CVB Board. Our recommendation, as stated above, is to appoint James Hooper to the term 3/2/2017 – 9/30/2017 and appoint Patti Kadkhodaian to the term 3/2/2017 – 9/30/2018.

Copies of all of the applicants interviewed for these positions are attached for your review.

Budget Impact:

This item should have no budgetary impact.



PEACHTREE CITY CONVENTION & VISITORS BUREAU
APPLICATION FOR APPOINTMENT

Hospitality Sector

Thank you for your interest in being considered for appointment to the **Peachtree City Convention & Visitors Bureau, Inc. (CVB)**. The purpose of the CVB is to serve the needs and interests of tourism within the City of Peachtree City.

The CVB is comprised of seven members. The composition of the Board, as is outlined in the CVB By-Laws, requires 4 seats to be filled by volunteers with specific backgrounds. The description below indicates the specific background we are looking for during this current cycle. Only applicants with experience in the category will be accepted. Applications received without experience in the checked category will not be considered.

Four (4) members who are citizens of or persons conducting business within the City of Peachtree City with current or previous tourism/hospitality related experience desired to serve a two-year term. The Board Members shall serve for a maximum of two consecutive two-year terms. These members shall be appointed by the City Council. The process of appointment used by the City Council shall be the same process utilized for the appointments of members of other boards, authorities and commissions of the city.

Currently, meetings are held on the third Wednesday of each month at 8:00 am at the Visitor's Center, lower level - 201 McIntosh Trail. Members are required to attend a minimum of eighty percent (80%) of all meetings.

Please take a few minutes to complete the form below and answer the questions attached to this application and return it with a resume, if available, to Debbie Lemay, City Hall, 151 Willowbend Road, Peachtree City, GA 30269 by **5:00 p.m. on Friday, February 10, 2017**. Interviews to be held the week of February 20, 2017 - if selected for interview, you will be contacted to confirm date/time.

NAME

JH James H Hooper

ADDRESS:

1114 ASTORIA LANE.

PTC GA 30269

E-MAIL:

JH. Hooper @ BULLDOG SUPPLY, COM

TELEPHONE (Best Phone Number to Reach You)

(Cell)

404 641 5896

(Alt)

770 487 8750

Information provided on this form is subject to disclosure as a public record under GA Open Records Law

1. What is the name of the company you are a manager / owner / operator of?

BULLDOG SUPPLY INC.

2. Which capacity and how long have you served in this capacity?

PRESIDENT, 23 YRS. EMP. 12 YRS PRESIDENT.

3. List major jobs you have held during your working career to include name of company and position.

NA

4. Are you a resident of Peachtree City? How long? If not, where do you reside?

YES, 19 YRS.

5. Why are you interested in serving on the CVB?

To promote tourism within our city.

6. What qualifications and experience do you possess that would benefit the CVB?

I have worked with corporate and non corporate groups coming to our golf car community as a golf

7. Do you have any past experience relating to CVB operations? If so, describe. car vendor.

NO.

8. Have you attended any CVB meetings in the past year and, if so, how many?

NO.

9. Are you willing to take continuing education classes?

YES.

10. Would there be any possible conflict of interest between your employment and you serving the CVB?

✓

**PEACHTREE CITY CONVENTION & VISITORS BUREAU
APPLICATION FOR APPOINTMENT**

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Currently, meetings are held on the third Wednesday of each month at 8:00 am at the Visitor's Center, lower level - 201 McIntosh Trail. Members are required to attend a minimum of eighty percent (80%) of all meetings.

Please take a few minutes to complete the form below and answer the questions attached to this application and return it with a resume, if available, to Debbie Lemay, City Hall, 151 Willowbend Road, Peachtree City, GA 30269 by **5:00 p.m. on Friday, February 10, 2017**. Interviews to be held the week of February 20, 2017 – if selected for interview, you will be contacted to confirm date/time.

NAME: Patricia (Patti) Kadkhodaian

ADDRESS: 317 Quarters Rd.

Fayetteville, GA 30215

E-MAIL: patti@golfrider.com

TELEPHONE (Best Phone Number to Reach You)

(Cell) 678 472 1199

(Alt) _____

P. Kadkhodaian

1/30/17

Signature

Date

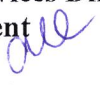
Information provided on this form is subject to disclosure as a public record under GA Open Records Law

1. What is the name of the company you are a manager / owner / operator of? AJAKO (sold October 2016 after almost 25 years in operation) Co-owner Golf Rider & Owner of Lead Grow Rich (coaching, training, speaking)
2. Which capacity and how long have you served in this capacity? AJAKO 25 years, Golf Rider 20 years, LGR new
3. List major jobs you have held during your working career to include name of company and position. All tasks related to operating a business
4. Are you a resident of Peachtree City? How long? If not, where do you reside? Fayetteville 20 years...moving to Peachtree City later 2017
5. Why are you interested in serving on the CVB? Positively affect our community and the recreation and hospitality arenas.
6. What qualifications and experience do you possess that would benefit the CVB? Leadership and relationship building
7. Do you have any past experience relating to CVB operations? If so, describe. NO
8. Have you attended any CVB meetings in the past year and, if so, how many? NO
9. Are you willing to take continuing education classes? YES, depending on the class
10. Would there be any possible conflict of interest between your employment and you serving the CVB? NO
11. Describe your current community involvement. Rotary Club of Peachtree City, ABWA, Fayette Chamber of Commerce, Business Women of Fayette & Coweta

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: Mayor and Council Members

VIA: Jon Rorie, City Manager 
Paul Salvatore, Financial Services Director *P.S.*
Angela Egan, Purchasing Agent 

FROM: Mike Madison, Stormwater Manager 

DATE: February 28, 2017

SUBJECT: Emergency Stormwater Pipe Rehabilitation at 410 Journeys End
March 2, 2017 City Council Agenda

Recommendation: Staff recommends that City Council award the bid for the emergency stormwater pipe rehabilitation at 410 Journeys End to Utility Asset Management for their unit cost base bid amount of \$54,204.00.

Discussion: As detailed in the previous memo, an emergency bid was issued for the stormwater pipe rehabilitation project located at 410 Journeys End. Three vendors were selected and invited to participate in this time-compressed emergency repair project. All three attended the mandatory pre-bid meeting held February 16, 2017.

Bid results are as follows:

1. Utility Asset Management, Inc.	\$54,204.00
2. Ronnie D. Jones Enterprises, Inc.	\$55,930.00
3. Enviro Trenchless, LLC	\$79,270.00

Budget Impact: Sufficient funds are budgeted in the SW Account #521-4250-521245 Contractual Services.

CITY OF PEACHTREE CITY
STATE OF GEORGIA

RESOLUTION NO. 03-17-02

A RESOLUTION TO EXPRESS OPPOSITION TO SENATE BILL 116 PRESENTLY
PENDING IN THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA,
PERTAINING TO STORMWATER FEES AND WATER-NEUTRAL PROPERTIES;
AND FOR OTHER PURPOSES.

WHEREAS, Senate Bill 116 is presently pending in the General Assembly of the
State of Georgia; and

WHEREAS, Senate Bill 116 would limit the ability of a local government to bill
for stormwater fees for developments that comply with the State Blue Book standards; and

WHEREAS, while a development may comply with such standards, the stormwater
facilities within such developments still must be, in some cases, maintained by the City.
Removal of such developments from the stormwater billing process will also result in an
inequitable process by which only certain developments pay for such services; and

WHEREAS, Peachtree City offers credits to lessen the bill of all stormwater
customers based upon the level of treatment that is provided. No credits, however, reach
100% of the amount owed as the City, per the City's NPDES Permit, must inspect and
enforce maintenance on private stormwater best management practices, monitor streams
and collect samples on a routine basis and perform maintenance on the downstream
receiving Municipal Separate Storm Sewer System (MS4); and

WHEREAS, a removal of such developments from the stormwater billing process
fails to take into account that while a site may be developed to the Blue Book standards,
that does not mean that 100% of the runoff generated by that development is captured and

infiltrated by the on-site detention pond/ treatment device. At some point, the detention pond/treatment device will begin to release runoff to the City's MS4. The City's responsibilities, therefore, do not end with the on-site detention pond/treatment device.

THEREFORE, BE IT RESOLVED that the members of the Peachtree City Council do hereby encourage and support the members of the General Assembly to oppose Senate Bill 116.

IT IS SO RESOLVED, this 2nd day of March 2017.

ATTEST:

Betsy Tyler, City Clerk

Vanessa Fleisch, Mayor

City Council of Peachtree City

Agenda

March 2, 2017

7:00 p.m.

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 - Recognize Andy Lee – 20 Years of Service, Fire Department
 - Recognition of Police Officer Adam Pendleton & Firefighter Will Harbin – American Legion Post 50
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 - 4. Consider Approval of Underground Utility Easement for TowerCom on Peachtree Parkway
- VIII. Old Agenda Items
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 - 03-17-01 Consider Emergency Stormwater Pipe Rehabilitation, 201 Journeys End
Bids due back February 28 (Mike Madison)
- X. Council/Staff Topics
- XI. Executive Session
- XII. Adjourn

This agenda is subject to change at any time up to 24-hours prior to the scheduled meeting

City Council of Peachtree City
Meeting Minutes
February 16, 2017
7:00 p.m.

The Mayor and Council of Peachtree City met in regular session on Thursday, February 16, 2017. Mayor Vanessa Fleisch called the meeting to order at 7:00 p.m. Others attending: Terry Ernst, Mike King, Kim Learnard, and Phil Prebor.

Announcements, Awards, Special Recognition

Mayor Fleisch proclaimed March as DeMolay Month in Peachtree City. DeMolay members Logan Banks, Kurt Wilson, and Faith Miller accepted the proclamation along with parents Meredith Draper and Hans Wilson, Sr.

Minutes

February 2, 2017, Regular Meeting Minutes

February 7, 2017, Workshop Minutes

Ernst moved to approve the February 2, 2017, regular meeting minutes as written. Learnard seconded. Motion carried unanimously.

Prebor moved to approve the February 7, 2017, workshop minutes as written. Ernst seconded. Motion carried 3-0-2 (King, Learnard).

Consent Agenda

- 1. Consider Agreement with Fayette County for 2017 Municipal Election**
 - 2. Consider Acceptance of Donation from Osmose Utilities Services, Inc.**
 - 3. Consider Application for \$12,000 GEMA/Homeland Security Grant**
 - 4. Consider Application for GBI West Metro Regional Drug Enforcement Grant**
 - 5. Consider Application for GAEMS Grant and Corresponding FY 2017 Budget Amendment**
- If Received**

King moved to approve Consent Agenda items 1, 2, 3, 4, and 5. Ernst seconded. Motion carried unanimously.

New Agenda Items

02-17-02 Consider Ordinance Amendment – Land Development Ordinance (Section 1133 – Removal of Trees and Vegetation within Designated Buffers and Greenbelts)

Planning & Development Director Mike Warrix addressed Council, saying that staff recommended adoption of the ordinance as presented. The ordinance had been previewed at the January 19 meeting. He reviewed the issues with the existing language in the ordinance, which included enforcement provisions, approvals for removal of vegetation being issued verbally rather than in writing, notices of violation (NOV) being issued rather than citations, and no minimum fines/penalties for unauthorized removal of vegetation from City-owned greenbelts. Warrix added that Council had discussed the penalties to be imposed during the ordinance review in January, and Council consensus had been \$500 per violation. Additional fines could be imposed by the Municipal Court judge.

The proposed language included the following designated in red:

Sec. 1133. - Removal of trees and vegetation within designated buffers and greenbelts, prohibited.

Clearing, thinning and/or removal of any trees or vegetation within designated natural buffers, undisturbed buffers, tree save and landscape buffers, or any protected area on

any lot is strictly prohibited without first obtaining written approval and associated permits from the Planning and Development Department.

Clearing, thinning and/or removal of any vegetation within city-owned greenbelts is strictly prohibited. Each removed tree shall be considered a separate offense and will be subject to a citation from Code Enforcement to appear in Municipal Court and a fine of not less than \$500.00 per tree.

In addition to the citation and fine, the person responsible for clearing, thinning or removal of vegetation within a city-owned greenbelt shall be required to replace the total caliper inches of vegetation removed to assist in re-naturalizing the disturbed areas adjacent to their property. A detailed plant list of all material to be planted must be submitted to the Planning and Development Department for approval prior to installation, and all plant material must be guaranteed for a period of no less than two years from the date of final acceptance by the city.

Learnard asked for clarification concerning removal of brush from buffers and whether that would also incur a citation. Warrix said the fines were only for tree removal.

City Manager Jon Rorie said Learnard had a good point about the underbrush, and that required future thought. There had been discussions regarding scrub underbrush versus natural underbrush. As the City aged, certain things took place. He continued that Public Works had been working on the City's rights-of-way, and tree limbs had grown out over the streets and highways and were hitting buses and other vehicles. Some of the limbs had to be removed. Rorie had met with a resident, who had received permission 20 years ago to plant bushes in the greenbelt that bordered his property. During that time, the City had pruned the elaeagnus bushes three or four times. When the resident had planted the bushes, the resident had taken ownership and did not want the City to cut his bushes. Staff tried to respect that, but the City also had to maintain the rights-of-way. There needed to be a subjective process to determine what was underbrush. The key to the proposed amendments was written approval and associated permits, but there would still be some decision-making that had to take place.

Warrix pointed out that typically the greenbelts dedicated to the City were platted, and those were the areas where there would be increased enforcement. People might not know there were greenbelt areas adjacent to their property, so there would have to be some education. The County's GIS maps also showed the City-owned greenbelts.

Rorie noted the ordinance had been previewed at the January 19 meeting, and staff had received some feedback from residents. There had been questions concerning invasive species, and removal of invasive species was allowed under the ordinance. This amendment would still allow for the removal of those species.

King moved to approve New Agenda item 02-17-02, amendments to the Land Development Ordinance (Section 1133 – Removal of Trees and Vegetation within Designated Buffers and Greenbelts). Prebor seconded. Motion carried unanimously.

02-17-03 Discuss Amendments to City Budgetary Policies

Rorie said there had been many housekeeping changes to the ordinances over the last 18 – 24 months, and staff had also been reviewing and updating all the City Administrative Regulations (CARs, which officially state and explain City policy to employees and usually cover more than one department) and City Administrative Manual (CAMs, which were job-related procedural

manual published by a department), which collectively comprised the City's administrative policies and procedures. Human Resources & Risk Management Director Ellece Brown had been spearheading the update project. Rorie noted that each policy was owned by a different department.

There had been 84 CARs and CAMs at the beginning of the review, Rorie said, and 37 had been eliminated because they were either covered in the personnel policy or had transitioned to ordinances. Fifteen that were under the City Manager's administrative approval were reviewed and revised. The remaining CARs and CAMs would require Council review and approval, and those primarily covered finance, purchasing, and City Clerk areas. The Budget Policies were the first to be considered.

Financial Services Director Paul Salvatore went over the proposed changes to the Budget Policies. He noted some of the changes were currently in practice, but had not been included in the policy prior to this revision.

"Additional personnel or" had been added to **Policy 3. Baseline and service level funding**, Salvatore said. The City's priority was to maintain existing services levels in all departments. The baseline funding levels should reflect current staffing and inflationary increases in supplies and service budgets. The baseline served as a point for subsequent budget discussions and the impact of adding additional personnel, a new facility, or a new service. Additional personnel had not been included as an increase to the service level.

Policy 5. Balance defined addressed additional requirements for budgetary balance for the Stormwater Utility Fund concerning its first bond's covenants, which had required a 1.15 debt service coverage ratio on an annual basis. The policy required the annual revenue available for debt service after operating expenses to be at least 15%. The proposed change would require the standard to remain in place unless future bond covenants required more a restrictive coverage ratio. The additional funds were placed in a renewal and extension fund, so there was money available for capital projects and cash purchases.

Policy 6. Capital projects changes included the criteria for ranking projects as core, essential, or discretionary. The ranking criteria had been used for years, but had not been included in the policy, Salvatore said.

Policy 8. Types and levels of services included the required level of Cash Reserves, which would change from 20% to 25% if the amendments were approved. The change had been made a few years ago during the budget process, but it had not been included in the policy. Salvatore pointed out that, if the City did not have a reserve policy and abide by it, then it would not have a AAA credit rating. The section of Policy 8 for the Capital Project Contingency included a change in name from the Public Improvement Program (PIP) to Capital Improvement Program (CIP).

The addition of a sentence in **Policy 12. Budget amendments, Carryovers**, stated that funds could be carried forward for essential expenditures in the General Fund that had not been incurred by the fiscal year-end, and those carryovers would be included in a budget amendment for the subsequent fiscal year for Council approval.

Policy 13. Reallocations changes would allow the Financial Service Director to approve transfers of appropriations within a fund below the City's legal level of approval. The requests for reallocation must come from a director or chief or their designee. Salvatore explained that this

had never been in writing, but had always been done. If the savings were in Personnel, it had to remain as a departmental saving and could not be reallocated.

In **Policy 14. Preventing overspending**, the changes would allow the City Manager to impound budgetary authority in situations where the cost of any particular service or commodity was expected to be significantly less than the amount appropriated. Salvatore said that, originally, this policy had been meant for revenue shortfalls, but the change also allowed the impoundment of excess funds in identified areas.

Policy 16. Review of fees and charges had required a comprehensive analysis of all City fees and charges every three years. It also required a public hearing prior to adoption of any changes. If approved, the new wording would have each department be responsible for conducting a survey of all fees and charges on a regular basis, but no less than every three years. Per ordinance, all proposed fee changes required Council before implementation.

Rorie said the Budget Policy had been the first of the remaining policies to come before Council, noting that Brown had recommended changing the name of the CARs and CAMs to City Operating Policy (COP). Staff was working on the other updates, and Council would have an opportunity to discuss the proposed changes prior to voting on them. This COP would be on the next agenda for consideration.

Council/Staff Topics

Ordinance Preview – Proposed Amendments to Soil Erosion & Sedimentation Control Ordinance

Public Information Officer/City Clerk Betsy Tyler reported the amendments were housekeeping updates to the ordinance. The proposed amendments would be available on the City website until the next meeting.

City Engineer Dave Borkowski said the City was a local issuing authority for land disturbance permits and to enforce the permit. The City had to adopt an erosion control ordinance, and it was required to adopt any changes to the state law. There were some definition tweaks, but many of the changes did not pertain to the City.

Executive Session

Learnard moved to convene in executive session for pending or threatened litigation at 7:34 p.m. King seconded. Motion carried unanimously.

King moved to reconvene in regular session at 7:58 p.m. Ernst seconded. Motion carried unanimously.

There being no further business, King moved to adjourn. Ernst seconded. Motion carried unanimously. The meeting adjourned at 7:59 p.m.

Pamela Dufresne, Deputy City Clerk

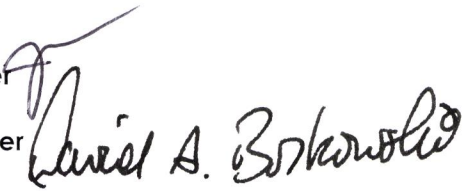
Vanessa Fleisch, Mayor

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: Mayor & Council Members

VIA: Jonathan N. Rorie, City Manager

FROM: David A. Borkowski, City Engineer 

DATE: February 23, 2017

SUBJECT: Required Changes to Soil Erosion and Sedimentation Control Ordinance
March 2, 2017, City Council Meeting

Recommendation:

That City Council adopt the required revisions to our Soil Erosion and Sedimentation Control Ordinance as shown on the attached ordinance.

Discussion:

The State of Georgia has amended State law requiring changes to local Soil Erosion and Sedimentation Control Ordinances. The major change has to do with adding buffers to coastal marshlands, of which there are none in Peachtree City. The other changes are very minor definition wording changes to certified personnel and final stabilization.

Adopting the attached changes are also a condition of the City's Municipal Stormwater Permit.

Staff recommends adopting the changes as required by State Law.

Budget Impact:

This item should have no budgetary impact.

AN ORDINANCE TO AMEND SECTION 1005 OF THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF PEACHTREE CITY, GEORGIA, TO PROVIDE FOR SOIL EROSION AND SEDIMENTATION CONTROL; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PEACHTREE CITY, and it is hereby ordained by authority of the same, that Chapter 18 of the Code of Ordinances of the City of Peachtree City, Georgia, as amended, be amended as follows:

Section 1. That Chapter Section 1005 of the Land Development Ordinance of the City of Peachtree City, Georgia, as amended, be further amended as follows:

Sec. 1005. - Soil erosion and sedimentation control.

1005.1 Title.

This section will be known as the "Peachtree City Soil Erosion and Sedimentation Control Ordinance."

1005.2 Definitions.

The following definitions shall apply in the interpretation and enforcement of this section, unless otherwise specifically stated:

(1) *Best management practices (BMP's)*: A collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term "properly designed" means designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6 subsection (b).

(2) *Board*: The Board of Natural Resources.

(3) *Buffer*: The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

(4) *Certified personnel*: A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

(4)(5) *Coastal Marshlands*: Shall have the same meaning as in O.C.G.A. 12-5-282.

(5)(6) *Commission*: The Georgia Soil and Water Conservation Commission (GSWCC).

(6)(7) *Common development*: A contiguous area where multiple, separate and distinct construction activities will be taking place at different times on different schedules under one plan of development.

~~(7)~~(8) CPESC: Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc. Certified Profession in Erosion and Sediment Control Inc. a corporation registered in North Carolina, which is also referred to as CPESC or CPESC, Inc.

~~(8)~~(9) Cut: A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as "excavation."

~~(9)~~(10) Department: The Department of Natural Resources. (DNR)

~~(10)~~(11) Design professional: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert Inc. Certified Professional in Erosion and Sediment Control Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.

~~(11)~~(12) Director: The Director of the Environmental Protection Division or an authorized representative.

~~(12)~~(13) District: The Towaliga Soil and Water Conservation District.

~~(13)~~(14) Division: The Environmental Protection Division (EPD) of the Department of Natural Resources.

~~(14)~~(15) Drainage structure: A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.

~~(15)~~(16) Ephemeral stream: A stream; that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow.

~~(16)~~(17) Erosion: The process by which land surface is worn away by the action of wind, water, ice or gravity.

~~(17)~~(18) Erosion, sedimentation and pollution control plan: A plan required by the Erosion and Sedimentation Act, O.C.G.A. Ch. 12-7, that includes as a minimum protection at least as stringent as the State General Permit, best management practices, and requirements in subsection 1005.4(c) of this ordinance.

~~(18)~~(19) Fill: A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.

~~(19)~~(20) Final stabilization: All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100 percent of the soil surface is uniformly covered in permanent vegetation with a density of 70 percent or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). ~~(such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual~~

~~vegetation and a seeding of target crop perennials appropriate for the region including grass.~~ Final stabilization applies to each phase of construction.

~~(20)~~(21) Finished grade: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

~~(21)~~(22) Grading: Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

~~(22)~~(23) Ground elevation: The original elevation of the ground surface prior to cutting or filling.

~~(23)~~(24) Land-disturbing activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, building/structure construction, and filling of land but not including agricultural practices as described in subsection 1005.3(5).

~~(24)~~(25) Larger common plan of development or sale: A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; a piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

~~(25)~~(26) Local issuing authority: The governing authority of any county or municipality which is certified pursuant to O.C.G.A. § 12-7-8(a).

~~(26)~~(27) Metropolitan River Protection Act (MRPA): A state law referenced as O.C.G.A. § 12-5-440 et. seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

~~(27)~~(28) Natural ground surface: The ground surface in its original state before any grading, excavation or filling.

~~(28)~~(29) Nephelometric turbidity units (NTU): Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloidally dispersed or suspended particles are present.

~~(29)~~(30) NOI: A notice of intent form provided by EPD for coverage under the state general permit.

~~(30)~~(31) NOT: A notice of termination form provided by EPD to terminate coverage under the state general permit.

~~(31)~~(32) Operator: The party or parties that have:

- (A) Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
- (B) Day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.

~~(32)~~~~(33)~~ Outfall: The location where stormwater in a discernable, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

~~(33)~~~~(34)~~ Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.

~~(34)~~~~(35)~~ Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.

~~(35)~~~~(36)~~ Phase of phased: Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

~~(36)~~~~(37)~~ Primary permittee: The owner or operator or both of a tract of land for a construction project subject to the permits.

~~(37)~~~~(38)~~ Project: The entire proposed development project regardless of the size of the area of land to be disturbed.

~~(38)~~~~(39)~~ Project site: Any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

~~(39)~~~~(40)~~ Properly designed: Designed in accordance with design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation Commission and in effect as of January 1 of the year in which the land-disturbing activity was permitted and amendments to Manual as approved by the Commission up until the date of NOI submittal

~~(40)~~~~(41)~~ Roadway drainage structure: A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

~~(41)~~~~(42)~~ Secondary permittee: An owner, individual builder, utility contractor that conducts a construction activity within a common development.

~~(42)~~~~(43)~~ Sediment: Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.

~~(43)~~~~(44)~~ Sedimentation: The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

~~(44)~~~~(45)~~ Site Activity: All activity on the site to include but not limited to land disturbing, site work, and building construction of any type

~~(45)~~~~(46)~~ Soil and Water Conservation district approved plan: An erosion sedimentation and pollution control plan approved in writing by the Towaliga Soil and Water Conservation District.

~~(46)~~~~(47)~~ Stabilization: The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a

minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

~~(47)~~(48) State general permit: The National Pollution Discharge Elimination System (NPDES) general permit or permits for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and O.C.G.A. § 12-5-30(f).

~~(48)~~(49) State waters: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

~~(49)~~(50) Structural erosion and sedimentation and pollution control practices: Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

~~(50)~~(51) Surface mining: The same as defined in O.C.G.A. § 12-4-72, "The Georgia Surface Mining Act of 1968."

~~(51)~~(52) Tertiary permittee: Either the owner or operator of a remaining lot(s) within a common development where the primary permittee and all secondary permittees have submitted a notice of termination in accordance with the permit.

~~(52)~~(53) Trout streams: All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at www.gaepd.org www.epd.georgia.gov. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

~~(53)~~(54) Vegetative erosion and sedimentation control measures: Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- a. Permanent seeding, sprigging or planting, producing long-term vegetative cover;
- b. Temporary seeding, producing short-term vegetative cover; or
- c. Sodding, covering areas with a turf of perennial sod-forming grass.

(C) Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

~~(54)~~(55) Watercourse: Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

~~(55)~~(56) Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

1005.3 Exemptions.

This section shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (1) Surface mining;
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- (4) The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not; otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. § 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to article 2 of chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet; and no variance to a smaller buffer shall be granted. The minimum requirements of O.C.G.A. § 12-7-6(b) and the buffer zones provided by this paragraph shall be enforced by the local issuing authority;
- (5) Agricultural operations as defined in O.C.G.A. § 1-3-3, "Definitions," to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- (6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of subsection 1005.4(c) of this section, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
- (7) Any project carried out under the technical supervision of the Natural Resources Conservation Service (NCRS) of the United States Department of Agriculture;

- (8) Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the local issuing authority from regulating any such project which is not specifically exempted by paragraphs (1), (2), (3), (4), (5), (6), (7), (9) or (10) of this section;
- (9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of Department of Transportation or State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
- (10) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
- (11) Any public water system reservoir.

1005.4 Minimum requirements for erosion sedimentation and pollution control using best management practices.

- (a) General provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if the requirements of the ordinance and the NPDES general permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion,

sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of subsections 1005.4(b) and (c) of this ordinance. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES general permit.

(b) Minimum requirements/BMPs.

- (1) Best management practices as set forth in subsections 1005.4(b) and (c) of this ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act." As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the Manual for Erosion and Sediment Control in Georgia specified in O.C.G.A. § 12-7-6(b).
 - (2) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act," for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director. This paragraph shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
 - (3) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act," for each day on which such failure occurs.
 - (4) The director may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.
 - (5) The LIA may set more stringent buffer requirements than stated in subsections 1005.4(c)(15) and (16), in light of O.C.G.A. § 12-7-6(c).
- (c) The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. § 12-7-1 et seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation

Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

- (1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
- (2) Cut-fill operations must be kept to a minimum;
- (3) Development plans must conform to topography and soil type so as to create the lowest practical erosion potential;
- (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- (6) Disturbed soil shall be stabilized as quickly as practicable;
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
- (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
- (9) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.;
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
- (11) Cuts and fills may not endanger adjoining property;
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- (14) Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection 1005.4(b)(2) of this ordinance;
- (15) Except as provided in paragraph (16) and (17) of this subsection, there is established a 25-foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. § 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; or along any ephemeral stream. Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established

pursuant to part 6 of article 5, chapter 5 of title 12, the "Georgia Water Quality Control Act," shall remain in force unless a variance is granted by the director as provided in this paragraph. The following requirements shall apply to any such buffer:

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:
 - (i) Stream crossings for water lines; or
 - (ii) Stream crossings for sewer lines; and
- (16) There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to O.C.G.A. article 2 of chapter 5 of title 12, the "Georgia Water Quality Control Act," except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

- b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:
 - (i) Stream crossings for water lines; or
 - (ii) Stream crossings for sewer lines.

(17) There is established a 25 foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with Chapter 5 of Title 12 of this title, the "Coastal Marshlands Protection Act of 1970". And the rules and regulations promulgated thereunder, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to Code Section 12-2-8, where an alteration within the buffer area has been authorized pursuant to Code Section 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shore line stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specification and such measures are fully implemented. For the purposes of this paragraph maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat; and
- b. The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that

adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.

- c. The buffer shall not apply to any land disturbing activity conducted pursuant to and in compliance with a valid and effective land disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
- d. Activities where the area within the buffer is not more than 500 square feet or that have a "Minor Buffer Impact" as defined in 391-3-7-.01 (r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the Division at least 14 days prior to the commencement of land disturbance activities.

(d) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

(e) Nothing contained in O.C.G.A. 12-7-1 et. seq shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section IV B. & C. of this ordinance

1005.5 Application/permit process.

(a) *General.* The property owner, developer and designated planners and engineers shall design and review before submittal of the general development plans. The local issuing authority shall review the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the owner and/or operator are the only parties who may obtain a permit.

(b) *Application requirements.*

(1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the city without first obtaining a permit from the building department to perform such activity and providing a copy of notice of intent submitted to EPD if applicable.

(2) The application for a permit shall be submitted to the building department and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection 1005.5(c) of this ordinance. Erosion, sedimentation and

pollution control plans, together with supporting data must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of subsections 1005.4(b) and (c) of this ordinance will be met. Applications for a permit will not be accepted unless accompanied by three full-size printed copies and one 8½" × 11" reduced copy of the applicant's erosion, sedimentation and pollution control plans, and an appropriate and properly filled out Georgia EPD Erosion Sedimentation & Pollution Control Plan Checklist. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.

- (3) A fee, shall be charged in the amount set forth in the current city fee schedule.
- (4) In addition to the local permitting fees, fees will also be assessed pursuant to O.C.G.A. § 12-5-23(a)(5), provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. § 12-7-8(a), one-half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to subsection O.C.G.A. § 12-7-17(9) or (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.
- (5) Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The district shall approve or disapprove a plan within 34 days of receipt. Failure of the district to act within 35 days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the local issuing authority. No permit will be issued unless the plan has been approved by the district, and any variances required by subsections 1005.4(c)(15) and (16) has been obtained, all fees have been paid and bonding, if required as per subsection 1005.5(b)(6), have been obtained. Such review will not be required if the local issuing authority and the district have entered into an agreement which allows the local issuing authority to conduct such review and approval of the plan without referring the application and plan to the district. The local issuing authority with plan review authority shall approve or disapprove a revised plan submittal within 35 days of receipt. Failure of the local issuing authority with plan review authority to act within 35 days shall be considered an approval of the revised plan submittal.
- (6) If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the local issuing authority may require a bond as outlined in subsection 1005.5(b)(7) of this ordinance prior to approving the permit application.
- (7) The local issuing authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing

activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the local issuing authority with respect to alleged permit violations.

(c) *Plan requirements.*

- (1) Plans must be prepared to meet the minimum requirements as contained in subsections 1005.4(b) and (c) of this ordinance, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission and in consultation with the division and the Stakeholder Advisory Board created pursuant to O.C.G.A. § 12-7-20.
- (2) Data required for site plan shall include all the information required from the appropriate Erosion, Sedimentation & Pollution Control Plan Review Checklist established by the commission as of January 1 of the year in which the land-disturbing activity was permitted.

(d) *Permits.*

- (1) Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the local issuing authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
- (2) No permit shall be issued by the local issuing authority unless the erosion, sedimentation and pollution control plan has been approved by the district and the local issuing authority has affirmatively determined that the plan is in compliance with the ordinance, any variances required by subsections 1005.4(c)(15), and (16) and (17) are obtained, bonding requirements, if necessary, as per subsection 1005.5(b)(6) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the local issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- (3) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this ordinance, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.
- (4) If the tract is to be developed in phases, then a separate permit, and plan shall be required for each phase.
- (5) The permit may be suspended, revoked, or modified by the local issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and

sedimentation control plan or that the holder or his successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

- (6) The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. § 12-7-7(f)(1).

1005.6 Inspection and enforcement.

- (a) The engineering department will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this section, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this section.
- (b) This ordinance shall be amended to the extent appropriate within 12 months of any amendments to the Erosion and Sedimentation Act of 1975.
- (c) The engineering department shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- (d) No person shall refuse entry or access to any authorized representative or agent of the local issuing authority, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- (e) The district or the commission or both shall semi-annually review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. § 12-7-8(a). The district or the commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The district or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.
- (f) The division may periodically review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and

enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. § 12-7-8(a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7(e), the division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a local issuing authority.

1005.7 Penalties and incentives.

- (a) *Failure to obtain a permit for land-disturbing activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this ordinance without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the local issuing authority.
- (b) *Stop-work orders.*
 - (1) For the first and second violations of the provisions of this ordinance, the director or the local issuing authority shall issue a written warning to the violator. The violator shall have not more than five days to correct the violation. If the violation is not corrected within five days the director or the local issuing authority shall issue a stop-work order requiring that all site activities, including building construction that would not result in a safety issue, be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the director or the local issuing authority shall issue an immediate stop-work order in lieu of a warning;
 - (2) For a third and each subsequent violation, director or the local issuing authority shall issue an immediate stop-work order for all site activities, including building construction that would not result in a safety issue, and may require an increase in the bond posted by the application to ensure compliance with the approved plan; and;
 - (3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
 - (4) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the local issuing authority or by the director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity, on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.
- (c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures

necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of subsection 1005.5(b)(6). The local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

- (d) *Monetary penalties.* Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this section, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this ordinance shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this ordinance, notwithstanding any provisions in any city charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under county ordinances approved under this section shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

1005.8 Education and certification.

- (a) *Education requirements.* Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.
- (b) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
- (c) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.
- (d) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of O.C.G.A. § 12-7-19(b)(1), then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified of O.C.G.A. § 12-7-19(b)(4) and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

1005.9 Administrative appeal/judicial review.

- (a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the local issuing authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the city council within 30 days after receipt by the local issuing authority of written notice of appeal.
- (b) *Judicial review.* Any person, aggrieved by a decision or order of the local issuing authority, after exhausting his administrative remedies, shall have the right to appeal to the Superior Court of Fayette County by writ of certiorari.

1005.10 Effectivity, validity, and liability.

- (a) *Effectivity.* This section shall become effective on the 1st day of July, 2010.
- (b) *Validity.* If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this ordinance.
- (c) *Liability.*
 - (1) Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the local issuing authority or district for damage to any person or property.
 - (2) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this section or the terms of the permit.
 - (3) No provision of this section shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.

Section 2. All ordinances or parts thereof which conflict with the provisions of this ordinance are, to the extent of such conflict and except as hereinafter provided, hereby repealed.

Section 3. Should any provision of this ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any provision thereof other than the provisions specifically declared to be invalid. The City Council declares that it would have passed this ordinance and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses or phrases may be declared invalid.

Section 4. This ordinance shall be in full force and effect upon its official adoption by the City Council.

This _____ day of _____ 2017.

Vanessa Fleisch, Mayor

Attest: _____
City Clerk

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: Mayor and Council Members

VIA: Jon Rorie, City Manager *JR*
Paul Salvatore, Financial Services Director *P.S.*
Kelly Bush, Assistant Finance Director *KB*
Angela Egan, Purchasing Agent *AE*
Scott Hicks, Public Works Superintendent/Interim Director *SH*

FROM: Josh Doughty, Fleet Manager *JD*

DATE: February 13, 2017

SUBJECT: Surplus Vehicles and Authorize contract to lease vehicles to Keep Peachtree City Beautiful
March 2, 2017 City Council Agenda

Recommendation: Staff recommends Council declare surplus the two vehicles described below and to authorize the contract with Keep Peachtree City Beautiful to lease the vehicles.

Discussion: The Public Works Fleet Manager has recommended the following items be declared as surplus:

ASSET #	DESCRIPTION	MILEAGE	VIN
3065	2001 Ford F-250	118,969	1FTNF20L71EB57894
6015	1998 Ford Expedition	148,922	1FMRU18WOWL02895

KPTCB would like to lease these vehicles. A new contract will be signed with KPTCB.

Budget Impact: The trade in values of these vehicles is approximately \$1,500 and \$750 respectively. Keep Peachtree City Beautiful will pay the City \$20 per month per vehicle.

VEHICLE LEASE #1 2017

This vehicle lease ("Lease") is made this the _____ day of _____ 2017 between the City of Peachtree City, Georgia (hereafter referred to as Lessor) and Keep Peachtree City Beautiful Inc. ("Lessee"). Lessor and Lessee hereby agree as follows:

1. Lessor hereby leases to the Lessee, for an initial term of ten months the following described vehicles: 2001 Ford F-250 VIN 1FTNF20L71EB57894 and 1998 Ford Expedition VIN 1FMRU18WOWLB02895. The term and rent shall commence on or about the 3rd day of March 2017 and end on the 31st day of December 2017. The term of this Lease shall be extended for an additional term of 12 months pursuant to the terms of this Lease including this paragraph for renewal unless either Lessor or Lessee, at least 60 days before the end of the term of this Lease, gives written notice to the other of intention to terminate this Lease on expiration of the term provided for in this agreement.
2. Lessee will acquire license plates registered in its name under the laws of the State of Georgia.
3. Lessee will maintain or cause to be maintained the vehicle in good working condition. Nothing in this agreement shall require Lessor to provide or pay for or cause to be provided or paid for any gasoline, oil, antifreeze, washing or storage for the vehicle.
4. Lessee shall be responsible for the cost of any inspections of the vehicle as required by laws of the State of Georgia.
5. Lessee agrees to pay to Lessor at the sum of Twenty dollars (\$20 00), as rent, on the first day of each and every calendar month per vehicle. The rent for the first and last month of the term, unless the term starts on the first day of the month and ends on the first day of the month, shall be apportioned on the basis which the number of days of the term in the month bears to the whole number of days in such month.
6. The vehicle leased under this agreement will be used solely in connection with the operations of Lessee and shall be operated in a careful manner and Lessee will pay or cause to be paid any fines imposed by any governmental authority levied upon the vehicle and or its driver as the result of any act or omission during the term the vehicle is leased under this agreement.
7. Lessee will not use or allow the vehicle to be used for any personal use or illegal purpose and will reimburse Lessor if the vehicle is confiscated and for expenses incurred as a result of any confiscation or attempted confiscation by any governmental authority whatsoever, whenever such confiscation and expenses, or either, is caused by the illegal use of such vehicle while the vehicle is leased under this agreement.
8. Lessee will keep and maintain the vehicle in good running order and will see that it stays in good repair and is properly serviced at the expense of Lessee.

9. Immediately on the discovery of the need of any repair or servicing of the vehicle, Lessee shall cause such vehicle to be taken to an authorized service station of the manufacturer of such vehicle. The cost of such repair may be deducted by the Lessee from the next rental payment due Lessor under this agreement, provided Lessee shall make no repairs the cost of which shall exceed \$1,000 without the written consent of Lessor first obtained. At the time of making such deduction, Lessee shall provide Lessor with an itemized invoice evidencing payment for the repairs for which such deduction is claimed. Notwithstanding the foregoing Lessee is responsible for payment for repairs resulting from the negligence of Lessee or anyone driving the car with or without the consent of Lessee or the violation by Lessee of the terms of this agreement and no such deduction from rental payments may be made.

10. Maintenance and repair of the vehicle may be scheduled through the Public Works Department on a space available and reimbursable basis.

11. Lessee at his/her expense will pay for at his sole expense all gasoline, oil, antifreeze, washing and storage fees for the vehicle leased under this agreement.

12. Lessee will acquire, pay for, and maintain vehicle indemnity insurance, including public liability and property damage insurance, issued by a responsible company or companies, protecting the interests of both Lessee and Lessor against liability for damage, personal injury, or death caused by the vehicle or the operation of the vehicle to the extent of not less than \$1,000,000 per accident and not less than \$1,000,000 per person; and the sum of \$500,000 per accident against liability for damage to property caused by the operation of any vehicle leased under this agreement, and Lessee agrees that the policy will include Lessor as a "named insured" and shall not be cancelled until after sixty (60) days written notice to Lessor of intention to cancel, and the Lessee further agrees to furnish to Lessor prior, to the use or operation of any such vehicle, a certificate of such insurance.

13. Should any claim be made or any action be commenced against Lessor arising from any of the causes covered by the insurance referred to in Paragraph 11, Lessor will promptly notify Lessee and Lessee will conduct the defense of any such claim or action at Lessee's expense, including all costs and attorneys fees.

14. In the event of the cancellation of any public liability and property damage insurance required under the terms of this Lease, the use by Lessee of the vehicle shall cease until all such insurance so cancelled has been renewed or replaced.

15. Except as otherwise subsequently provided, upon the expiration of the term of this Lease or its earlier termination for any reason, the vehicle shall be returned by Lessee to Lessor at 209 McIntosh Trail, Peachtree City, GA 30269.

16. If any default shall be made by Lessee in the payment when due, of any rent or other sum due under this agreement, or in the performance of any other provision, or if

Lessee is or becomes unable to pay his/her debts from his/her own means as they become due, or if any receiver or trustee of the business or of the property or assets of the Lessee shall be appointed by any court, or if the Lessee shall abandon the vehicles, or if the Lessee shall otherwise, in any manner whatever, become unable to pay the rent specified here or to perform any of the provisions to be kept or performed by Lessee, then Lessor shall have the option, without notice to Lessee or demand for performance, to require Lessee to redeliver the vehicle to Lessor at a location designated by Lessor at Lessee's expense.

17. Upon any such default, and with or without terminating or forfeiting this Lease and without in any way affecting any other right or remedy of Lessor or any duties or obligations of Lessee under this agreement, Lessor may lease the vehicle as the agent and for the account of Lessee upon such terms and conditions as Lessor may deem advisable, in which event the rents received on any such lease shall be applied first to the expenses of leasing and collecting, including any necessary renovation or repairs, toward payment of all sums due or to become due to Lessor under this agreement, and if a sufficient sum shall not thus be realized to pay such rent and other charges, Lessee shall pay to Lessor monthly any deficiency.

18. Upon any such default, Lessor may terminate this Lease in which event Lessee shall pay to Lessor the amount of rent that would have been paid to Lessor had there been no such default.

19. The foregoing remedies for default shall not be exclusive but shall be cumulative and in addition to all other remedies.

20. In case any litigation of any kind between Lessee and Lessor shall arise out of this Lease, and Lessor shall prevail in such litigation, Lessee agrees to pay Lessor a reasonable attorney's fee which shall be taxed by the court as part of the costs of such litigation.

21. Lessor will not be liable to Lessee for any loss of business or any other damage caused by any interruption of the service provided for here or otherwise.

22. Lessor does not assume any liability for any acts or omissions of Lessee or of any of Lessee's agents, employees or drivers and Lessee specifically releases Lessor from all such liability and agrees to indemnify, enter and defend, and hold Lessor harmless of and from any and all such liability.

23. This is a vehicle lease only, and the Lessee has acquired no right, title or interest in the vehicle, except the right to use the same pursuant to the provisions of this Lease.

24. So long as the Lessee performs all of the terms and conditions of this Lease including payment of the rental, Lessee shall have the unrestricted lawful use of such vehicle for any lawful purpose except the transportation of persons or property for hire.

25. Lessee will not assign or mortgage this Lease, or any interest in it, or permit the use of the vehicle by any person other than Lessee or an adult member of his or her family or his or her agents or employees, nor sublet any vehicle without the written consent of Lessor.

26. Lessor reserves the right to terminate this Agreement at any time provided that Lessor shall give to Lessee at least thirty 30 days written notice of the effective date of such termination.

27. This lease agreement represents the entire agreement between the parties and no provision may be waived or modified, except by an instrument in writing signed by both of the parties.

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

THIS AGREEMENT EXECUTED IN COUNTERPARTS ON THE DATE BELOW EACH PARTY'S NAME BELOW, AND THE PARTIES HEREBY AFFIX THEIR NAMES, SIGNATURES AND SEALS, WITH THE FULL INTENT TO BE BOUND HEREBY.

CITY:
City of Peachtree City

KPTCB:
Keep Peachtree City Beautiful

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

SUMNER | MEEKER
LLC
ATTORNEYS AT LAW

THEODORE P. MEEKER, III

14 EAST BROAD STREET
NEWNAN, GEORGIA 30263

TELEPHONE 770-251-1750
FACSIMILE 770-251-1770

TO: City Council
City of Peachtree City

FROM: Theodore P. Meeker, III 
City Attorney

DATE: February 23, 2017

RE: Easement request from Tower Com

Tower Com has requested an easement for utility installation in the City buffer along Robinson Road adjacent to the Church of Christ.

If approved, the easement is restricted to locating the utilities underground. No above-ground disturbance is permitted. Tower Com is offering the City the sum of \$3,000.00. This amount is in excess of the values per square feet that the City has paid for stormwater easements in recent years.

A copy of the proposed easement is attached.

TPM/kg
Attachment

Prepared by and upon
recording return to:
Brian P. Cain, Esq.
Holt Ney Zatcoff & Wasserman, LLP
100 Galleria Parkway, Suite 1800
Atlanta, Georgia 30339-5911

UTILITY EASEMENT AGREEMENT

1. **Parties.** The parties to this Utility Easement Agreement (this "Agreement") are PEACHTREE CITY, GEORGIA, a political subdivision of the State of Georgia ("Grantor"), and TOWERCOM V, LLC, a Florida limited liability company ("Grantee").

2. **Preamble.** Grantor warrants that it is the owner of certain property located in Fayette County, Georgia, being hereinafter described as the "Utility Easement," and as owner has the power and authority to convey the easement rights set forth herein. Grantee is leasing a portion of the property owned by Peachtree City Church of Christ, Inc. (the "Church"), more particularly described on Exhibit A attached hereto and made a part hereof (the "Leased Property"). Grantee has obtained from the Church that certain utility easement more particularly described as "10' Utility Easement #2" on Exhibit B attached hereto and made a part hereof (the "Existing Utility Easement"). Grantor and Grantee desire to enter into this Agreement for the purpose of Grantor granting a utility easement to Grantee, as more particularly described hereinafter.

3. **Agreement.** In consideration of Ten Dollars (\$10.00) in hand paid and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee, intending to be legally bound, hereby agree to the terms and conditions of this Agreement.

4. **Utility Easement.** Grantor hereby grants, transfers and conveys to Grantee a nonexclusive utility easement over Grantor's property, which property is more particularly described as "10' Utility Easement #1" on Exhibit C attached hereto and made a part hereof (the "Utility Easement"). The Utility Easement to and from South Peachtree Parkway (a public right of way) to the Existing Utility Easement is granted for the purpose of Grantee installing, operating and maintaining, repairing, and replacing underground utility lines, including fiber optic cable (the "Facilities"). The easement rights granted hereunder by Grantor to Grantee shall expressly include, without limitation, the right to free and unencumbered ingress and egress under the Utility Easement until such time as the lease of the Leased Property for wireless communication facilities is terminated or expires by its terms. Notwithstanding anything contained herein to the contrary, the parties agree that this easement grants no above-ground rights with respect to utilities and that all utilities allowed hereunder shall be underground.

There shall be no above-ground disturbance within the Utility Easement conveyed herein. Whenever Grantee is entering Grantor's property for the purposes allowed hereunder, Grantee shall ensure that its work is done expeditiously and in a good and workmanlike manner and in accordance with all applicable laws and regulations. Upon completion of any work, the area affected thereby shall be promptly restored to substantially the same condition as existed prior to the commencement of such work. Additionally, Grantee shall not permit or suffer any liens to be placed upon any portion of the Grantor's property as a result of any use of the Utility Easement granted herein. If any claim of lien shall be filed against any portion of the Grantor's property by reason of any activities of, by or on behalf of Grantee, then Grantee shall promptly cause said claim to be cancelled and discharged of record within ten (10) days after receipt of written notice that said claim has been filed.

5. **Notices.** Any notice sent pursuant to this Agreement shall be in writing and sent by personal delivery or by reputable courier, or by depositing it with the United States Postal Service, certified or registered mail, return receipt requested, with adequate postage prepaid, addressed to the appropriate party. The initial addresses of the parties shall be as set forth below:

To Grantor: Peachtree City, Georgia
151 Willowbend Road
Peachtree City, Georgia 30269
Attention: _____

To Grantee: TowerCom V, LLC
3442 Francis Road, Suite 210
Alpharetta, Georgia 30004
Attention: Paul Bulloch Jr.

6. **Successors and Assigns.** The Utility Easement granted herein shall be appurtenant to and shall run with the Leased Property, and shall be binding upon and inure to the benefit of each party hereto, its successors, assigns, mortgagees, tenants, representatives and invitees.

7. **Governing Law.** This Agreement shall be governed by and enforced in accordance with the laws of the State of Georgia.

[Signatures on Next Page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal this
____ day of _____, 20____.

GRANTOR:

Signed, sealed and delivered in the
presence of:

PEACHTREE CITY, GEORGIA, a political
subdivision of the State of Georgia

Unofficial Witness

By: _____

Name: _____

Title: _____

Notary Public

(NOTARY SEAL)

My Commission Expires:

GRANTEE:

Signed, sealed and delivered in the
presence of:

TOWERCOM V, LLC, a Florida limited
liability company

Unofficial Witness

By: _____

Paul Bulloch Jr.

Managing Partner

Notary Public

(NOTARY SEAL)

My Commission Expires:

EXHIBIT A

Leased Property

All that tract or parcel of land lying and being in Land Lot 95, 7th District, City of Peachtree City, Fayette County, Georgia, being more particularly described as follows:

To find the point of beginning, commence at a 1-inch crimp top pipe found at the southwest corner of Peachtree City Church of Christ, Inc. as per Deed Book 3487, Page 576 and being found along the eastern right-of-way line of South Peachtree Parkway (having a variable width right-of-way); thence continuing along said eastern right-of-way line of South Peachtree Parkway, 25.13 feet along the arc of a curve to the right, having a radius of 452.50 feet and being scribed by a chord bearing North 02°33'43" East, 25.12 feet to a point; thence, North 04°50'29" East, 60.65 feet to a point; thence leaving said eastern right-of-way line of South Peachtree Parkway and running, 86.56 feet along the arc of a curve to the Left, having a radius of 111.63 feet and being scribed by a chord bearing North 44°01'09" East, 84.41 feet to a point; thence, North 08°13'54" East, 14.21 feet to a point; thence, 59.84 feet along the arc of a curve to the right, having a radius of 35.00 feet and being scribed by a chord bearing North 57°12'51" East, 52.82 feet to a point; thence, South 73°48'13" East, 2.73 feet to a point; Thence, 39.53 feet along the arc of a curve to the Left, having a radius of 35.00 feet and being scribed by a chord bearing North 73°50'29" East, 37.46 feet to a point; thence, North 41°29'10" East, 115.48 feet to a point; thence, North 11°18'18" West, 18.09 feet to a point; thence, North 46°04'06" East, 29.47 feet to a point; thence, North 11°18'18" West, 44.24 feet to a point and the true POINT OF BEGINNING; Thence running, North 78°41'42" East, 38.00 feet to a point; Thence, South 11°18'18" East, 7.10 feet to a point; Thence, South 07°18'25" West, 11.99 feet to a point; Thence, South 54°55'03" East, 5.55 feet to a point; Thence, South 11°18'18" East, 42.02 feet to a point; Thence, South 78°41'42" West, 38.00 feet to a point; Thence, North 11°18'18" West, 64.50 feet to a point and the POINT OF BEGINNING.

Said tract contains 0.0556 acres (2,422 square feet) more or less, as shown in a survey prepared for First American Title Insurance Company and TowerCom by POINT TO POINT LAND SURVEYORS, INC. dated October 6, 2014, and last revised November 22, 2016.

EXHIBIT B

Existing Utility Easement

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 95, 7th District, Peachtree City, Fayette County, Georgia, being scribed by the following centerline data:

To find the point of beginning, commence at a 1-inch crimp top pipe found at the southwest corner of Peachtree City Church of Christ, Inc. as per Deed Book 3487, Page 576 and being found along the eastern right-of-way line of South Peachtree Parkway (having a variable width right-of-way); thence continuing along said eastern right-of-way line of South Peachtree Parkway, 25.13 feet along the arc of a curve to the right, having a radius of 452.50 feet and being scribed by a chord bearing North 02°33'43" East, 25.12 feet to a point; thence, North 04°50'29" East, 140.01 feet to a point; thence, North 04°50'29" East, 57.83 feet to a point; thence leaving said eastern right-of-way line of South Peachtree Parkway and running, North 53°46'46" East, 66.31 feet to a point and the true POINT OF BEGINNING; Thence running, North 38°58'41" East, 33.28 feet to a point; Thence, North 41°18'28" East, 147.00 feet to a point; Thence, South 44°53'10" East, 22.95 feet to a point; Thence, 11.97 feet along the arc of a curve to the left, having a radius of 8.12 feet and being scribed by a chord bearing, South 78°16'28" East, 10.91 feet to a point; Thence, North 60°47'39" East, 22.63 feet to a point; Thence, South 11°58'24" East, 23.07 feet to the ENDING at a point.

As shown in a survey prepared for First American Title Insurance Company and TowerCom by POINT TO POINT LAND SURVEYORS, INC. dated October 6, 2014, and last revised November 22, 2016.

EXHIBIT C

Utility Easement

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 95, 7th District, Peachtree City, Fayette County, Georgia, being scribed by the following centerline data:

To find the point of beginning, commence at a 1-inch crimp top pipe found at the southwest corner of Peachtree City Church of Christ, Inc. as per Deed Book 3487, Page 576 and being found along the eastern right-of-way line of South Peachtree Parkway (having a variable width right-of-way); thence continuing along said eastern right-of-way line of South Peachtree Parkway, 25.13 feet along the arc of a curve to the right, having a radius of 452.50 feet and being scribed by a chord bearing North 02°33'43" East, 25.12 feet to a point; thence, North 04°50'29" East, 140.01 feet to a point; thence, North 04°50'29" East, 57.83 feet to a point and the true POINT OF BEGINNING; Thence leaving said eastern right-of-way line of South Peachtree Parkway and running, North 53°46'46" East, 66.31 feet to the ENDING at a point.

As shown in a survey prepared for First American Title Insurance Company and TowerCom by POINT TO POINT LAND SURVEYORS, INC. dated October 6, 2014, and last revised November 22, 2016.

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

TO: Mayor and Council Members

VIA: Jon Rorie, City Manager *JR*
Paul Salvatore, Financial Services Director *P.S.*
Angela Egan, Purchasing Agent *AE*

FROM: Mike Madison, Stormwater Manager *MM*

DATE: February 21, 2017

SUBJECT: Emergency Stormwater Pipe Rehabilitation at 410 Journeys End
March 2, 2017 City Council Agenda

Discussion: The owners of 410 Journeys End (property) notified Staff that a large sinkhole had developed in the front yard of the property and was located approximately 10 to 12 feet from the house foundation. Staff investigated and observed that the bottom of the sinkhole appeared to be migrating towards the house foundation. Staff also determined that the sinkhole appeared to be associated with a structurally degraded 36-inch diameter storm drainage pipe that runs through the front and side yard of the property. Staff further investigated the storm drainage pipe system and observed that the invert of the 36-inch diameter pipe was severely corroded in many locations and several failed pipe joints were noted. However, the pipe had not collapsed and was not blocked by debris and was capable of temporarily conveying some runoff. Staff sent a work crew to the property to fill the sinkhole to prevent further migration and expansion. Staff routinely checks for reappearance of the sinkhole.

Staff immediately started assessing solutions to address the degraded pipe system including open trench replacement as well as in situ rehabilitation by various methods. Given that the storm drainage pipe system was very near the foundation of the residence (less than 10 feet) and that the pipe system receives the outflow from the privately owned lake located in the Whitfield Farms Subdivision, Staff determined that whatever method was selected to address the pipe condition, it would need to be initiated quickly. Hence, Staff opted to bid this project on an emergency basis.

Because of the close proximity of the storm drainage pipe to the house foundation, Staff ruled out open trench replacement as a viable option to address the issues associated with the pipe system. Staff felt that excavation would have an impact on the foundation and therefore would necessitate, at significant expense, the shoring of the foundation. Multiple utilities would also have to be moved in order to accommodate the open trench replacement of the pipe system.

Staff selected in situ rehabilitation as the preferred option to address the issues associated with the pipe system. In situ rehabilitation can be performed without excavation of the pipe as all work associated with the process is performed within the pipe itself. Specifically, Staff selected the Centrifugally Cast Concrete Pipe (CCCP) method of pipe lining. The CCCP lining method is well suited for pipes with diameters greater than or equal to 30 inches and can be installed in a few days. Typically, the cost associated with CCCP lining is lower than the cost of open trench replacement.

In situ pipe rehabilitation can also be accomplished by utilizing the Cured in Place Pipe (CIPP) lining method. However, it has been Staff's experience that the CIPP method is more suitable for small diameter pipes and is not cost competitive when pipe diameters increase beyond 30 inches. Hence, the CIPP method was not selected.

Since the rehabilitation qualifies as an emergency and given that Staff does not anticipate the project to cost more than \$100,000.00, the City is not required to follow HB 1079 and have the bid advertised for 30 days. Based on the City's past experience with CCCP lining and knowledge of several contractors qualified to perform the work, the City selected three CCCP lining contractors to attend the mandatory pre-bid meeting that was held on February 16, 2017. All three contractors agreed to submit bids no later than February 28, 2017.

Following the bid opening on February 28, 2017, Staff will prepare a bid recommendation memo as an added agenda item for the March 2, 2017 Council Meeting.