



**May 19, 2020 5:30 pm**

1. Call to Order by Mayor Jonathan McCollar
2. Invocation and Pledge of Allegiance by Councilmember Phil Boyum
3. Recognitions/Public Presentations
  - A) Presentation of a proclamation recognizing May 17-23, 2020 as National Public Works Week.
4. Public Comments (Agenda Item):
5. Consideration of a Motion to approve the Consent Agenda
  - A) Approval of Minutes
    - a) 04-21-2020 Work Session Minutes
    - b) 05-05-2020 Council Minutes
6. Public Hearing of First Reading and Consideration of a Motion to move forward with **Ordinance 2020-03**: An Ordinance revising Chapter 6 of the Statesboro Code of Ordinances regarding Temporary Special Event Permits found in Sec 6-8(d) (3).
7. Public Hearing of First Reading and Consideration of a Motion to move forward with **Ordinance 2020-04**: An Ordinance revising Chapter 6 of the Statesboro Code of Ordinances regarding open container found in Sec. 6-17(d).
8. Public Hearing of First Reading and Consideration of a Motion to move forward with an Ordinance revision to Chapter 6 of the Statesboro Code of Ordinances by removing the restriction found in Sec. 6-7(i).
9. Public Hearing and Consideration for a Motion to Approve: **Application V 20-04-01**: Josh Whitfield requests a variance from Section 1509(C), Table 6 of the Statesboro Zoning Ordinance for the installation of one (1) wall sign with a maximum height of eighteen (18) feet on 0.03 acres of property located at 19 Courtland Street within Sign District 4 and the CBD (Central Business District) (Tax Parcel #S28-000023-000).
10. Public Hearing and Consideration for a Motion to Approve: **Application SE 20-04-02**: Roberta Benique requests a special exception from Section 401(I) of the Statesboro Zoning Ordinance to establish a Group Day Care in the R-20 (Single-Family Residential) district as a home occupation on 0.73 acres of property located at 109 Christie Lane (Tax Parcel #S34-000015-000).

11. Consideration of a motion to approve a Development Agreement with JGR Development allowing an additional \$500,000 intermediate reimbursement from the TAD Special Fund for installation of public infrastructure within the Old Register TAD.
12. Consideration of a Motion to approve a change order with Motorola Solutions, Inc. for the Dispatch Console Project to include proper grounding of Police Headquarters.
13. Consideration of a motion to approve the purchase of nine PLCs with control panels, hardware and installation from Revere Control Systems, Inc. in the amount of \$86,500.00 with funds approved in the 2020 CIP Budget Item # WWD-176.
14. Consideration of a Motion to award a Professional services contract to Wood Engineering in the amount of \$58,000.00 for design, bidding and construction oversight services for a new Compressed Natural Gas filling station with funds approved as part of the 2020 CIP Budget item #NGD-58.
15. Consideration of a Motion to set the date for a Public Hearing for the City of Statesboro Fiscal Year 2021 Budget.
16. Consideration of a Motion to approve **Resolution 2020-15**: A Resolution establishing the Loan Loss Reserve Fund for the benefit of the Statesboro Small Business Recovery Fund and appropriate \$250,000.00 in City enterprise funds to the Loan Loss Reserve Fund.
17. Other Business from City Council
18. City Managers Comments
19. Public Comments (General)
  - A. Alberta Deal address Mayor and Council about her concerns regarding a Church located at 410 S. Zetterower Street.
20. Consideration of a Motion to enter into Executive Session to discuss “Personnel Matters” “Real Estate” and/or “Potential Litigation” in accordance with O.C.G.A 50-14-3(b)
21. Consideration of a Motion to Adjourn

# CITY OF STATESBORO



## COUNCIL

Phil Boyum, District 1  
Paulette Chavers, District 2  
Venus Mack, District 3  
John Riggs, District 4  
Shari Barr, District 5

Jonathan McCollar, Mayor  
Charles Penny, City Manager  
Leah Harden, City Clerk  
I. Cain Smith, City Attorney

50 EAST MAIN STREET • P.O. BOX 348  
STATESBORO, GEORGIA 30459-0348

**To:** Jason Boyles, Assistant City Manager  
John Washington, Director - Public Works and Engineering Department

**From:** Robert Seamans, Superintendent, Streets and Parks Division

**Date:** 05/01/2020

**RE:** National Public Works Week Proclamation

**Policy Issue:** Advocacy and Outreach of Public Works and Engineering Activities and Programs.

### **Recommendation:**

Recognition of National Public Works Week and City of Statesboro Public Works & Engineering Employees.

### **Background:**

The 2020 National Public Works Week is May 17 – 23, 2020. The American Public Works Association uses this time to promote public works as a profession and to educate the public on the importance of public works activities and program to their daily lives.

### **Budget Impact:**

None

### **Council Person and District:**

All (citywide)

### **Attachments:**

2020 NPWW Proclamation

# A PROCLAMATION BY THE MAYOR AND CITY COUNCIL OF STATESBORO, GEORGIA

NATIONAL PUBLIC WORKS WEEK PROCLAMATION  
May 17 – 23, 2020

## “The Rhythm of Public Works”

- WHEREAS, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of the City of Statesboro; and,
- WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation’s transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,
- WHEREAS, it is in the public interest for the citizens, civic leaders and children in the City of Statesboro to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and,
- WHEREAS, the year 2020 marks the 60th annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association be it now,
- RESOLVED, I, Jonathan McCollar, Mayor of the City of Statesboro, do hereby designate the week May 17 – 23, 2020 as National Public Works Week; I urge all citizens to join with representatives of the American Public Works Association/Canadian Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Seal of the City of Statesboro on this 19th day of May, 2020.

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Jonathan McCollar, Mayor



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CITY OF STATESBORO  
WORK SESSION MINUTES  
APRIL 21, 2020

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Mayor & Council Work Session

50 E. Main St. Council Chambers

4:00 PM

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A Work Session of the Statesboro City Council was held on April 21, 2020 at 4:00 p.m. in the Council Chambers at City Hall 50 East Main Street. Present was Mayor Jonathan McCollar; Council Members: Phil Boyum, Paulette Chavers, Venus Mack and Shari Barr. Council Member John Riggs joined the meeting via Zoom Meetings. Also present was City Clerk Leah Harden, City Attorney Cain Smith, City Manager Charles Penny, Assistant City Manager Jason Boyles and Public Information Officer Layne Phillips.

The meeting was called to order by Mayor Jonathan McCollar.

City Manager Charles Penny introduced Kathleen Field our new Director of Planning and Development.

**1. Creek on the Blue Mile Presentation – Freese & Nichols**

Joining the meeting via zoom George Kelly with Freese and Nichols and project manager for the Creek on the Blue Mile presented the results to Phase I of the project. Phase I consisted of the flood and feasibility study with key features of 100-year floodplain and floodway mitigation, maintaining continual flow for the linear park with the focal point of Lonice Barrett Regional Community Recreation Park which includes a dock, walking trails, picnic areas and other features. Another key feature is a backup surface water supply. The flood feasibility evaluation contains upper Little Lotts Creek basin that drains into the reservoir and lower Little Lotts Creek that drains into Little Lotts Creek itself. The evaluation leads to the primary goal of the project, which is floodplain mitigation. We had to look at the existing floodplain and floodway to determine what would be the best for this area. Taking into consideration balancing storage/outflow, storm water stream flow and downstream inflow and to mitigate flooding while maintaining continual flow for the linear park. Mr. Kelly's recommendation is to move forward with Phase II, which is the site feasibility that studies the environment including wetland & streams fish and wildlife cultural resources. It also includes geotechnical explorations, geological study, safe yield analysis and water quality testing of surface and groundwater.

Councilmember Boyum inquired about the area Max Lockwood as it looks like there is a floodplain north of that area. Are we going to have to account for that flow and what we were going to do to control/restrict the volume? Chuck Perry also with the project stated that the area is outside the study area, the water that is coming through that area is being taken into account in the model flowing into the newly constructed channel that will be part of the park area. Mr. Perry believes the flood area north of Max Lockwood would be reduced. Councilmember Boyum asked has it been calculated to know how much water needs to be in the reservoir to make sure water is in the creek at all times. George said that they haven't answered that question because flooding was the criteria for this project. Boyum also wanted to confirm that the plan was for the water to be 2ft deep. George said he believes that is the normal flow in the pedestrian walkway area.

City Manager Charles Penny stated this completes the first stage of work and we are at a milestone on whether we go or no go. Mr. Penny stated it is my recommendation to authorize the engineers to move forward to the second phase of the project.

## 2. Alcohol License – City and State Laws

City Attorney Cain Smith presented comparisons of the City of Statesboro Alcohol Ordinance vs. State Law. Cain reviewed the following areas **Catering**, city and state laws are not distinguishable, **Insurance**, state does not require insurance for licensees the City does, **Proximity** package sales are governed by state law on premises sales proximity requirements are governed by local governments. **Open Container**, State prohibits open container inside vehicles there is no state law otherwise. City regulates and prohibits open containers. **Underage Admission** we are more restrictive than the state. **Distilled Spirits** package sales prohibited in the city of Statesboro. **Employees** are same as state law although requirements for server TIPS trainings come solely from the City. **Pricing** restrictions are set solely by the City. **Taxes** are as high as allowed under state law. **Non Profit Special Events** are the same as state law. **Special Events** applies to for profit cash bars, admission payment or donation solicitation at a non-licensed premises. City license caterers are the only ones who can apply and requires 45 days in advance application. The state allows any party to apply and requires 10 days in advance. **Violations** City conducts violation hearings and penalizes licensees. State conducts parallel but separate proceedings for same incident. **Licensing** the state sets out basic license requirements. The city regulates licensure in accordance with the powers granted by the state. Currently the city prohibits alcohol licensing to any city, state or federal employee or official whose duties include the regulation of policing of alcoholic beverages or licenses or any tax collecting activity. There are two options regarding this ordinance, one we could leave Chapter 6 in its current state or two-give direction to staff regarding what parts should be reviewed and updated.

Councilmember Paulette Chavers asked, so as of right now, being an elected official, I cannot hold an alcohol license. City Attorney Cain smith answered, that is correct.

Councilmember Venus Mack expressed her interest in lifting the ban. There was discussion about open container in the downtown area. Mayor McCollar stated he would like to see a blanket exemption for a specific area of the city center.

Mayor McCollar stated Special Events should align with the state to allow anyone to get a Temporary Special Event permit and matching the number of days to the state. In addition, we need to change the licensing to follow state law. Direction was given to place on the next council agenda a consideration to direct City Attorney to draft changes to the City of Statesboro alcohol ordinance regarding these three areas.

## 3. Apartment Development Discussion

City Manager Mr. Charles Penny reviewed with Mayor and Council the housing units within the City comparing owner occupied vs. tenant occupied. He stated based on 2018 numbers there are 12,349 units in Statesboro. Of that number 24.5% (3025) units are owner occupied while the other 62.9% (7767) units are tenant occupied which compared to the state of Georgia at 37%. When we look at our City, we have Georgia Southern University, East Georgia State College and Ogeechee Technical College, which bring in a student population that drives the number of tenant occupied units. As far as multi-family units under development right now, we do not have any projects underway. We currently have about 4000 apartment units across our community. The question is what things can we do to change and encourage home ownership in our community? At this time within the City of Statesboro, we have potential for 3065 more apartment units to be developed. Mr. Penny recommends a housing study to be done by Bleakly. This would be a sixteen-week process. In addition, we need to look at some incentives to help increase single-family construction within the City limits. City staff will report to City Council in June 2020.

Mayor Jonathan McCollar addressed the recent ruling released by Governor Brian Kemp allowing business to re-open. Some will be able to open on Friday and more to be opening on Monday. He stated businesses have a responsibility to keep themselves and their customers safe. Even though you have the option of opening up

on Friday or Monday use discernable judgement and open up when it is safe to do so. Mayor McCollar invited everyone for the 6:15 pm Facebook live where he will address these actions by the Governor.

Councilmember Shari Barr stated what is allowed and can be done does not have to be done. Continue to use your own best judgment continue to keep yourself, your family and employees as safe as you can.

Councilmember Venus Mack reminded everyone to do what you can to protect yourselves and families. Continue to practice social distancing and wash your hands.

Councilmember Phil Boyum stated well over 95 percent of the people I see out there shopping are doing what they can to be safe and businesses are doing everything they can to protect their employees. This community has come together and done everything they can to make some money but at the same time to be as safe as possible

The meeting was adjourned at 5:53 pm



CITY OF STATESBORO  
COUNCIL MINUTES  
MAY 5, 2020

Regular Meeting

50 E. Main St. City Hall Council Chambers

9:00 AM

1. **CALL TO ORDER**

Mayor Jonathan McCollar called the meeting to order

2. **INVOCATION AND PLEDGE**

Councilman Shari Barr gave the Invocation and Pledge of Allegiance.

**ATTENDENCE**

Attendee Name	Title	Status	Arrived
Jonathan McCollar	Mayor	Present	
Phil Boyum	Councilmember	Present	
Paulette Chavers	Councilmember	Present	
Venus Mack	Councilmember	Present	
John Riggs	Councilmember	Present Via Zoom	
Shari Barr	Councilmember	Present	

Other staff present was: City Manager Charles Penny, Assistant City Manager Jason Boyles, City Attorney Cain Smith, City Clerk Leah Harden and Public Information Officer Layne Phillips.

3. **Recognitions/Public Presentations:**

**A) Presentation of a Proclamation for International Firefighters Day.**

Mayor Jonathan McCollar read and presented a proclamation to Fire Chief Tim Grams of the Statesboro Fire Department for International Firefighters Day.

4. **Public Comments (Agenda Item):**

Sam Jones signed up to speak just before the meeting started regarding agenda item 12.

Mr. Jones spoke in regards to agenda item 12 regarding a proposal from Bleakly Advisory Group to conduct a study regarding the housing needs for the City of Statesboro, he suggested instead of having the study done to take this money and adding some to it to assist in down payments to help citizens in becoming homeowners.

5. **Consideration of a Motion to approve the Consent Agenda**

**A) Approval of Minutes**

- a) **04-07-2020 Council Minutes**
- b) **02-04-2020 Executive Session Minutes**
- c) **03-03-2020 Executive Session Minutes**
- d) **03-17-2020 Executive Session Minutes**
- e) **04-07-2020 Executive Session Minutes**

A motion was made to approve the consent agenda.

**RESULT:**

Approved (Unanimous)

**MOVER:**

Councilmember Shari Barr



<b>SECONDER:</b>	Councilmember Paulette Chavers
<b>AYES:</b>	Boyum, Chavers, Mack, Riggs, Barr
<b>NAYS:</b>	

**6. Consideration of a motion to approve the Statesboro Police Department Towing Rotation and Wrecker Agreement.**

A motion was made to approve the Statesboro Police Department Towing Rotation and Wrecker Agreement.

<b>RESULT:</b>	Approved (Unanimous)
<b>MOVER:</b>	Councilmember Paulette Chavers
<b>SECONDER:</b>	Councilmember Phil Boyum
<b>AYES:</b>	Boyum, Chavers, Mack, Riggs, Barr
<b>NAYS:</b>	

**7. Consideration of a Motion to direct the City Attorney to draft ordinance revision of City Ord 6-7(i) as it pertains to prohibition of alcohol licensing to public employees and officials.**

Mayor McCollar stated a discussion of alcohol licensing and/or permitting approval removed from mayor and council and placed administratively to city staff will be placed on the next work session.

A motion was made to direct the City Attorney to draft ordinance revision of City Ord 6-7(i) as it pertains to prohibition of alcohol licensing to public employees and officials by removing this subsection from the ordinance to reflect the state.

<b>RESULT:</b>	Approved 4-1 Councilmember Phil Boyum against
<b>MOVER:</b>	Councilmember Paulette Chavers
<b>SECONDER:</b>	Councilmember Venus Mack
<b>AYES:</b>	Chavers, Mack, Riggs, Barr
<b>NAYS:</b>	Phil Boyum

**8. Consideration of a motion to direct the City Attorney to draft ordinance revision of City Ord 6-17(d) as it pertains to exemptions to open container prohibition.**

A motion was made to direct the City Attorney to draft ordinance revision of City Ord 6-17(d) as it pertains to exemptions to open container prohibition which would allow open container in the City Center to be an identified geographical area.

<b>RESULT:</b>	Approved (Unanimous)
<b>MOVER:</b>	Councilmember Phil Bouym
<b>SECONDER:</b>	Councilmember Venus Mack
<b>AYES:</b>	Boyum, Chavers, Mack, Riggs, Barr

NAYS

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**9. Consideration of a Motion to direct the City Attorney to draft ordinance revision of City Ord 6-8(d)(3)a as it pertains to temporary special event permits.**

A motion was made to direct the City Attorney to draft ordinance revision of City Ord 6-8(d)(3)a as it pertains to temporary special event permits changing the amount of days for application submission from 45 to 21 and allowing anyone the ability to obtain a permit for a temporary Special Event.

**RESULT:**

Approved 3-2

**MOVER:**

Councilmember Venus Mack

**SECONDER:**

Councilmember Paulette Chavers

**AYES:**

Chavers, Mack, Barr

**NAYS:**

Councilmember: Phil Boyum and John Riggs

**10. Consideration of a Motion to Approve Resolution 2020-13: A resolution approving co-application with the Downtown Development Authority for an Economic Development Administration Grant and Commitment of matching funds.**

A motion was made to Approve Resolution 2020-13: A resolution approving co-application with the Downtown Development Authority for an Economic Development Administration Grant and Commitment of matching funds.

**RESULT:**

Approved (Unanimous)

**MOVER:**

Councilmember Paulette Chavers

**SECONDER:**

Councilmember Venus Mack

**AYES:**

Boyum, Chavers, Mack, Riggs, Barr

**ABSENT**

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**11. Consideration of a Motion to Approve Resolution 2020-14: A Resolution requesting approval to apply for the staffing for adequate fire and emergency response grant for the City of Statesboro, Georgia**

A motion was made to approve Resolution 2020-14: A Resolution requesting approval to apply for the staffing for adequate fire and emergency response grant for the City of Statesboro, Georgia

**RESULT:**

Approved (Unanimous)

**MOVER:**

Councilmember Shari Barr

**SECONDER:**

Councilmember Paulette Chavers

**AYES:**

Boyum, Chavers, Mack, Riggs, Barr

**NAYS:**

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**12. Consideration of a Motion to authorize execution of any documents to accept a proposal from Bleakly Advisory Group to conduct an approximately 16 week long housing needs study for the City of Statesboro.**

<b>RESULT:</b>	No action was taken on this item
<b>MOVER:</b>	
<b>SECONDER:</b>	
<b>AYES:</b>	
<b>NAYS:</b>	

**13. Consideration of a Motion to approve a Memorandum of Understanding & Agreement with Georgia Southern University for development of Akins Boulevard.**

A motion was made to approve a Memorandum of Understanding & Agreement with Georgia Southern University for development of Akins Boulevard.

<b>RESULT:</b>	Approved (Unanimous)
<b>MOVER:</b>	Councilmember Paulette Chavers
<b>SECONDER:</b>	Councilmember Venus Mack
<b>AYES:</b>	Boyum, Chavers, Mack, Riggs, Barr
<b>NAYS:</b>	

**14. Consideration of a Motion to approve a Development Agreement with JGR Development LLC to reimburse the TAD Special Fund in the amount of \$500,000.00 in 2018 SPLOST funds allocated to improvements along Old Register Road.**

A motion was made to approve a Development Agreement with JGR Development LLC to reimburse the TAD Special Fund in the amount of \$500,000.00 in 2018 SPLOST funds allocated to improvements along Old Register Road.

<b>RESULT:</b>	Approved (Unanimous)
<b>MOVER:</b>	Councilmember Venus Mack
<b>SECONDER:</b>	Councilmember Phil Boyum
<b>AYES:</b>	Boyum, Chavers, Mack, Riggs, Barr
<b>NAYS:</b>	

**15. Other Business from City Council**

Councilmember Phil Boyum asked work done on estimates that reflects what the sales tax implications will be to the City from the past three months. Mr. Penny stated this may be answered when he gets to his report.

Councilmember Shari Barr thanks the citizens of Statesboro for doing the best they can to keep their distance and holding down the disease and encourages everyone to continue to wear their masks, wear their gloves and keep their distances.

**16. City Managers Comments**

City Manager Charles Penny stated we are working on next year’s budget and will set up four meetings for budget review with Mayor and Council. The dates for these meetings will be May 20<sup>th</sup>, 21<sup>st</sup>, 27<sup>th</sup> and 28<sup>th</sup> the times would be from 4-6 pm. We will set the date for the Public Hearing at the May 19<sup>th</sup> council meeting for the Fiscal Year 2021 budget.

**17. Public Comments (General) None**

**18. Consideration of a Motion to enter into Executive Session to discuss “Personnel Matters” “Real Estate” and/or “Potential Litigation” in accordance with O.C.G.A 50-14-3(b)**

There was no Executive Session

**19. Consideration of a Motion to Adjourn**

A motion was made to

<b>RESULT:</b>	Approved (Unanimous)
<b>MOVER:</b>	Councilmember John Riggs
<b>SECONDER:</b>	Councilmember Venus Mack
<b>AYES:</b>	Boyum, Chavers, Mack, Riggs, Barr
<b>NAYS:</b>	

The meeting was adjourned at 10:23 am

# CITY OF STATESBORO

## COUNCIL

Phillip A. Boyum  
Paulette Chavers  
Venus Mack  
John C. Riggs  
Shari Barr



Jonathan McCollar, Mayor  
Charles Penny, City Manager  
Leah Harden, City Clerk  
Cain Smith, City Attorney

50 EAST MAIN STREET • P.O. BOX 348  
STATESBORO, GEORGIA 30459-0348

**To:** Charles Penny, City Manager and Leah Harden, City Clerk

**From:** Cain Smith, City Attorney

**Date:** May 11, 2020

**RE:** May 19, 2020 City Council Agenda Items

**Policy Issue:** First Reading of ordinance revision of City Ord 6-8(d)(3)a which currently reads as follows : "A temporary permit to sell alcoholic beverages may be issued to any licensee holding a valid city issued catered event alcoholic beverage license for a period not to exceed three days for an approved special event. The licensed caterer must make complete application and pay all required application fees to the city clerk or his/her designee at least 45 days prior to the start date of the proposed event and shall be required to comply with all the general ordinances and regulations for on-premises consumption. The applicant seeking a temporary license must also obtain a state-issued temporary special event permit."

**Recommendation:** N/A

**Background:** Mayor and Council approved a motion to direct City Attorney to draft this agenda item pursuant to City Ord 2-2-4 at the May 5, 2020. Regular Council meeting.

**Budget Impact:** None

**Council Person and District:** All

**Attachments:** Proposed ordinance revision

### Ordinance 2020-03:

Section 6-8(d) (3) Temporary special event permit.

a. A temporary permit to sell alcoholic beverages may be issued to ~~any licensee holding a valid city issued catered event alcoholic beverage license~~ for a period not to exceed three days for an approved special event. The ~~licensed caterer applicant~~ must make complete application and pay all required application fees to the city clerk or his/her designee at least ~~45~~ 21 days prior to the start date of the proposed event and shall be required to comply with all the general ordinances and regulations for on-premises consumption. The applicant seeking a temporary license must also obtain a state-issued temporary special event permit.

b. ~~For events with less than 200 total people present any business holding an occupational tax certificate in a Bulloch County jurisdiction may apply. For events with more than 200 total attendees present only businesses holding a City issued catering license may apply. Regardless of event size only eight (8) temporary special event permits shall be issued to any entity in a twelve month period.~~

c. The special event must meet the following criterion prior to the issuance of a license to sell alcoholic beverages:

1. The special event must receive approval from the chief of SPD or his/her designee regarding crowd control, traffic control, and security measures.

2. The location at which the special event is to take place must be properly zoned and approved by the code enforcement officer.

3. The application must be presented to Mayor and Council and approved at a regularly scheduled meeting of the Statesboro City Council.

d. Every employee or volunteer of the special event licensee working the special event in any position dispensing, selling, serving, taking orders for, or mixing alcoholic beverages shall be required to possess valid server certification pursuant to section 6-10.

e. The code enforcement officer or the chief of SPD or his/her designee may immediately revoke any temporary license for a special event if it is determined continued alcohol sales may endanger the health, welfare, or safety of the public.

f. As a condition on the issuance of a temporary special event license, the ~~licensee applicant~~ shall indemnify and hold the city harmless from any and all claims, demands, or causes of action which may arise from activities associated with the special event.

g. An application fee as set out in the adopted rates and fees schedule shall be required, as well as any applications and/or fees required under Ordinance 70-61 and section 6-17.

# CITY OF STATESBORO

## COUNCIL

Phillip A. Boyum  
Paulette Chavers  
Venus Mack  
John C. Riggs  
Shari Barr



Jonathan McCollar, Mayor  
Charles Penny, City Manager  
Leah Harden, City Clerk  
Cain Smith, City Attorney

50 EAST MAIN STREET • P.O. BOX 348  
STATESBORO, GEORGIA 30459-0348

**To:** Charles Penny, City Manager and Leah Harden, City Clerk

**From:** Cain Smith, City Attorney

**Date:** May 11, 2020

**RE:** May 19, 2020 City Council Agenda Items

**Policy Issue:** *First reading of ordinance revision of City Ord 6-17(d) exemptions in order to provide for a pedestrian downtown open container exemption zone.*

**Recommendation:** N/A

**Background:** Mayor and Council approved motion to direct City Attorney to draft first reading of ordinance revision pursuant to City Ord 2-2-4 at the May 5, 2020 regular Council meeting.

**Budget Impact:** None

**Council Person and District:** All

**Attachments:** Proposed ordinance revision

**Ordinance 2020-04:**

Sec. 6-17 (j) – Downtown Open Container Exemption Zone

The restrictions contained herein shall not apply within the area of the City bounded on the north by Courtland Street, on the west by Martin Luther King Jr. Drive, on the south by Cherry Street, and on the east by Mulberry Street under the following conditions:

(1) Any On Premises licensee located within this delineated area may sell alcoholic beverages in a paper or plastic cup for removal from the premises; provided, however, that the alcoholic beverage is not placed in a can, bottle or other glass container and, further provided, that the licensee may dispense no more than one alcoholic beverage per person 21 years of age or older, and no person shall remove more than one alcoholic beverage from the licensed premises; and

(2) Any alcoholic beverage dispensed pursuant to this section shall not exceed 16 fluid ounces in size and no person shall possess an open container containing an alcoholic beverage unless contained in a plastic or paper cup not to exceed a volume of 16 fluid ounces on the streets, sidewalks or other public places within the area described in this subsection.



# CITY OF STATESBORO

## COUNCIL

Phillip A. Boyum  
Paulette Chavers  
Venus Mack  
John C. Riggs  
Shari Barr



Jonathan McCollar, Mayor  
Charles Penny, City Manager  
Leah Harden, City Clerk  
Cain Smith, City Attorney

50 EAST MAIN STREET • P.O. BOX 348  
STATESBORO, GEORGIA 30459-0348

**To:** Charles Penny, City Manager and Leah Harden, City Clerk

**From:** Cain Smith, City Attorney

**Date:** May 11, 2020

**RE:** May 5, 2020 City Council Agenda Items

**Policy Issue:** *First reading of ordinance revision removing the restriction found in City Ord 6-7(i) which currently reads as follows : "Interests of public employees and officials; prohibited. No license shall be granted to any city, state or federal employee or official whose duties include the regulation or policing of alcoholic beverages or licenses or any tax-collecting activity."*

**Recommendation:** N/A

**Background:** Mayor and Council approved this agenda item for first reading pursuant to City Ord 2-2-4 at the May 5, 2020 Council meeting.

**Budget Impact:** None

**Council Person and District:** All

**Attachments:** None

# CITY OF STATESBORO

## COUNCIL

Phil Boyum, District 1  
Paulette Chavers, District 2  
Venus Mack, District 3  
John Riggs, District 4  
Shari Barr, District 5



Jonathan M. McCollar, Mayor  
Charles W. Penny, City Manager  
Leah Harden, City Clerk  
I. Cain Smith, City Attorney

50 EAST MAIN STREET • P.O. BOX 348 • STATESBORO, GEORGIA 30459-0348

**To:** Charles W. Penny, City Manager and Leah Harden, City Clerk

**From:** Justin L. Williams, City Planner I

**Date:** May 8, 2020

**RE:** May 19, 2020 City Council Agenda Items

**Policy Issue:** *Statesboro Zoning Ordinance: Zoning Variance Request*

**Recommendation:** Staff recommends approval of the special exception requested by application V 20-04-01 with conditions.

**Background:** Josh Whitfield requests a variance from Section 1509 (C), Table 6 of the Statesboro Zoning Ordinance for the installation of one (1) wall sign with a maximum height of 18 feet on the property located at 19 Courtland Street in Sign District 4 and the CBD (Central Business) district (Tax Parcel # S28 000023 000).

**Budget Impact:** None

**Council Person and District:** Boyum (District 1)

**Attachments:** Development Services Report V 20-04-01



*City of Statesboro-Department of Planning and Development*  
**DEVELOPMENT SERVICES REPORT**

*P.O. Box 348  
 Statesboro, Georgia 30458*

*(912) 764-0630  
 (912) 764-0664 (Fax)*

<b>V 20-04-01            SIGN VARIANCE REQUEST            19 COURTLAND STREET</b>	
<b>LOCATION:</b>	19 Courtland Street
<b>REQUEST:</b>	Variance from Article XV: Section 1509(C), Table 6; for the height of signs in Sign District 4.
<b>APPLICANT:</b>	Josh Whitfield (Whitfield Signs)
<b>OWNER(S):</b>	Justin Peay Productions, LLC
<b>ACRES:</b>	0.03
<b>PARCEL TAX MAP #:</b>	S28 000023 000
<b>COUNCIL DISTRICT:</b>	District 1 (Boyum)

**PROPOSAL:**

The applicant requests a variance to Article XV; Section 1509(C), Table 6 of the Statesboro Zoning Ordinance. Specifically, this application requests a variance from the restriction of sign height in Sign District 4 and the CBD (Central Business) zoning district. Applicant is requesting the placement of a building sign on the business at 19 Courtland Street (See **Exhibit D – Proposed Signage Plans**).

**BACKGROUND:**

The applicant submitted a sign permit application on November 25, 2019 to place one additional wall sign on the currently existing building at 19 Courtland Street. The originally submitted sign permit application was denied on November 26, 2019 for requesting a maximum height of 18 feet in the Central Business District, as well as requesting the placement of more than one wall sign on an elevation, which is not authorized as per Section 1509, Table 6 of the Statesboro Zoning Ordinance.

**SURROUNDING LAND USES/ZONING:**

	ZONING:	LAND USE:
<b>NORTH:</b>	CBD (Central Business District)	Commercial Building (Vanderver R Pool, P.C)
<b>SOUTH:</b>	CBD (Central Business District)	Bulloch County Courthouse
<b>EAST:</b>	CBD (Central Business District)	Attached Commercial Building (Hart Law Group)
<b>WEST</b>	CBD (Central Business District)	Attached Commercial Building (Statesboro Properties)

The subject property is located within the CBD (Central Business) district. Surrounding parcels include Commercial and Government uses. (See **Exhibit A –Location Map**, **Exhibit B—Future Development Map & Exhibit C—Photos of Subject Site**).

**ATTACHMENTS:** **Exhibit A** (Location Map), **Exhibit B** (Future Development Map), **Exhibit C** (Photos of Subject Site and surrounding sites), **Exhibit D** (Proposed Signage Plans), **Exhibit E** (Table 6 – Statesboro Zoning Ordinance).

**COMPREHENSIVE PLAN:**

The *City of Statesboro Comprehensive Master Plan's* Future Development Map includes the subject site in the following character area:

<b><u>"Downtown – Urban Core"</u></b>	
<b><i>Vision:</i></b>	The Statesboro Downtown character area includes the central historic portion of Statesboro in the intersecting area of Main Street. The area is intended to be redeveloped to create a central business district including many of the characteristics of a traditional downtown by promoting building, site and street-scape design features that encourage street-level pedestrian activity. The area should support a wide mixture of office and retail uses within structures with the potential for residential uses to be located on upper floors. It can also include office-related government and institutional uses. Urban building form should be promoted except for properties that contain the City's few remaining historic homes which should be redeveloped according to their more pastoral character.
<b><i>Suggested Development &amp; Implementation Strategies:</i></b>	<ul style="list-style-type: none"> <li>• Ensure that future phases of streetscape enhancements are developed in harmony with previous efforts as well as economic development goals of the City and the Downtown Statesboro Development Authority (DSDA) /Main Street program.</li> <li>• New development should respect historic context of building mass, height and setbacks.</li> <li>• New developments that contain a mix of residential, commercial and/or community facilities at small enough scale and proximity to encourage walking between destinations should be encouraged.</li> <li>• Historic structures should be preserved or adaptively reused wherever possible.</li> <li>• Encourage mixed-use infill and redevelopment. Uses should typically transition across the rear of properties instead of across the street to soften the transition and maintain appropriate streetscapes.</li> <li>• Create local historic districts.</li> </ul> <p style="text-align: right;"><i>Statesboro Comprehensive Master Plan, Community Agenda page 85-86.</i></p>

In addition, the Future Development Map and Defining Narrative section of the Comprehensive Plan states the following:

"Downtown is the historic core of the city and should remain the activity and cultural hub of the region. In the Urban Core, traditional development of buildings along the sidewalk and a lively streetscape should be respected and promoted."

*Statesboro Comprehensive Master Plan, Community Agenda page 82.*

## ANALYSIS

### I. Variance from Article XV Section 1509(C) Table 6: Sign District 4 Dimension standards to allow for installation of signage above 12 feet in the Central Business District.

The applicant is requesting a variance from Article XV (Signs) regarding the internal illumination of signs in Sign District 4. Article XV (Signs) Section 1509 of the *Statesboro Zoning Ordinance* regulates the placement, maintenance and removal of all signs within the City of Statesboro. The subject site is located in the CBD (Central Business) zoning district and is regulated by the dimensional standards of Sign District 4. As per Table 6 (**Exhibit E**), signs may not exceed a height of 12 feet when affixed to a wall.

The intention of this request is to allow for the installation of one (1) building sign on the elevation of an existing business, located at 19 Courtland Street. This sign will be in addition to an existing suspended sign. The proposed sign will be placed at 18 feet on the front of the building. Current signage on the building elevation will be removed to ensure compliance with the City ordinance. Additionally, This request will not exceed the maximum square footage allowed for this individual establishment (See **Exhibit D – Proposed Signage Plans**).

Section 1503(G) states that no variances shall be permitted from the terms of Article XV regarding signs in the *Statesboro Zoning Ordinance*. It continues to state that “Specifically, no variances under article XVIII of this ordinance [chapter] shall be applicable to the standards contained within this article.” However, Article XV regarding signs is part of the *Statesboro Zoning Ordinance*, which provides for the award of variances by the City Council from the zoning regulations stating that “approval of a variance must be in the public interest, the spirit of the ordinance must be observed, public safety and welfare secured, and substantial justice done” and Section 1801 states that the **Mayor and Council [should] consider if the following are true in its consideration of a variance request:**

1. **There are special conditions pertaining to the land or structure in question because of its size, shape, topography, or other physical characteristic and that condition is not common to other land or buildings in the general vicinity or in the same zoning district;**
2. **The special conditions and circumstances do not result from the actions of the applicant;**
3. **The application of the ordinance to this particular piece of property would create an unnecessary hardship; and**
4. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations.**

## RECOMMENDATION

Staff recommends approval of the variance requested by application **V 20-04-01** with the following conditions:

1. Approval of this variance does not allow for the construction of the proposed signage. Applicant will be required to submit a sign permit application for staff review and DSDA approval prior to construction commencement.
2. Signage must comply with all other requirements of Sign District 4, and associated DSDA requirements.

At the regularly scheduled meeting of the Planning Commission on May 5, 2020, the Commission recommended approval of the variance with conditions 6-0.

EXHIBIT A: LOCATION MAP

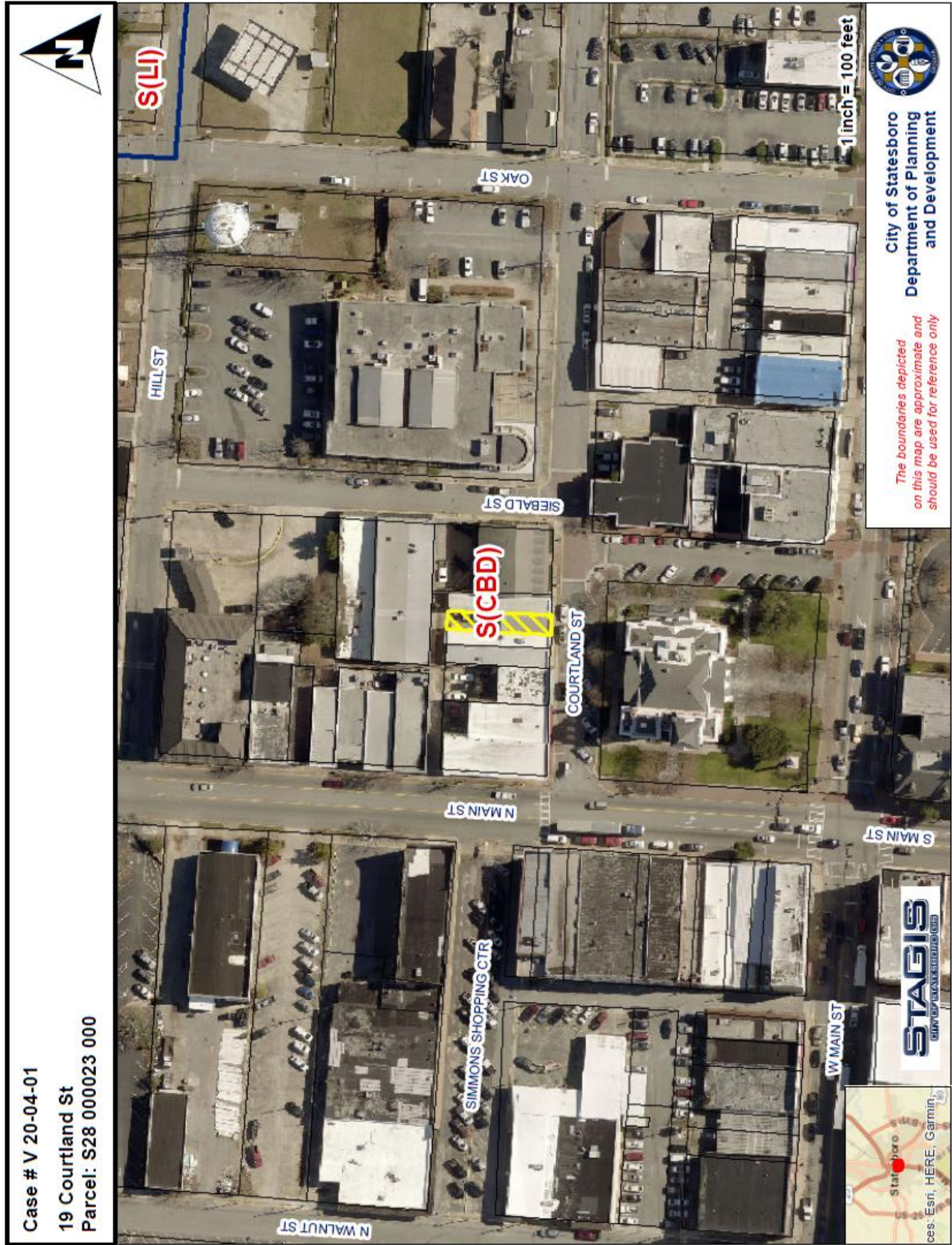
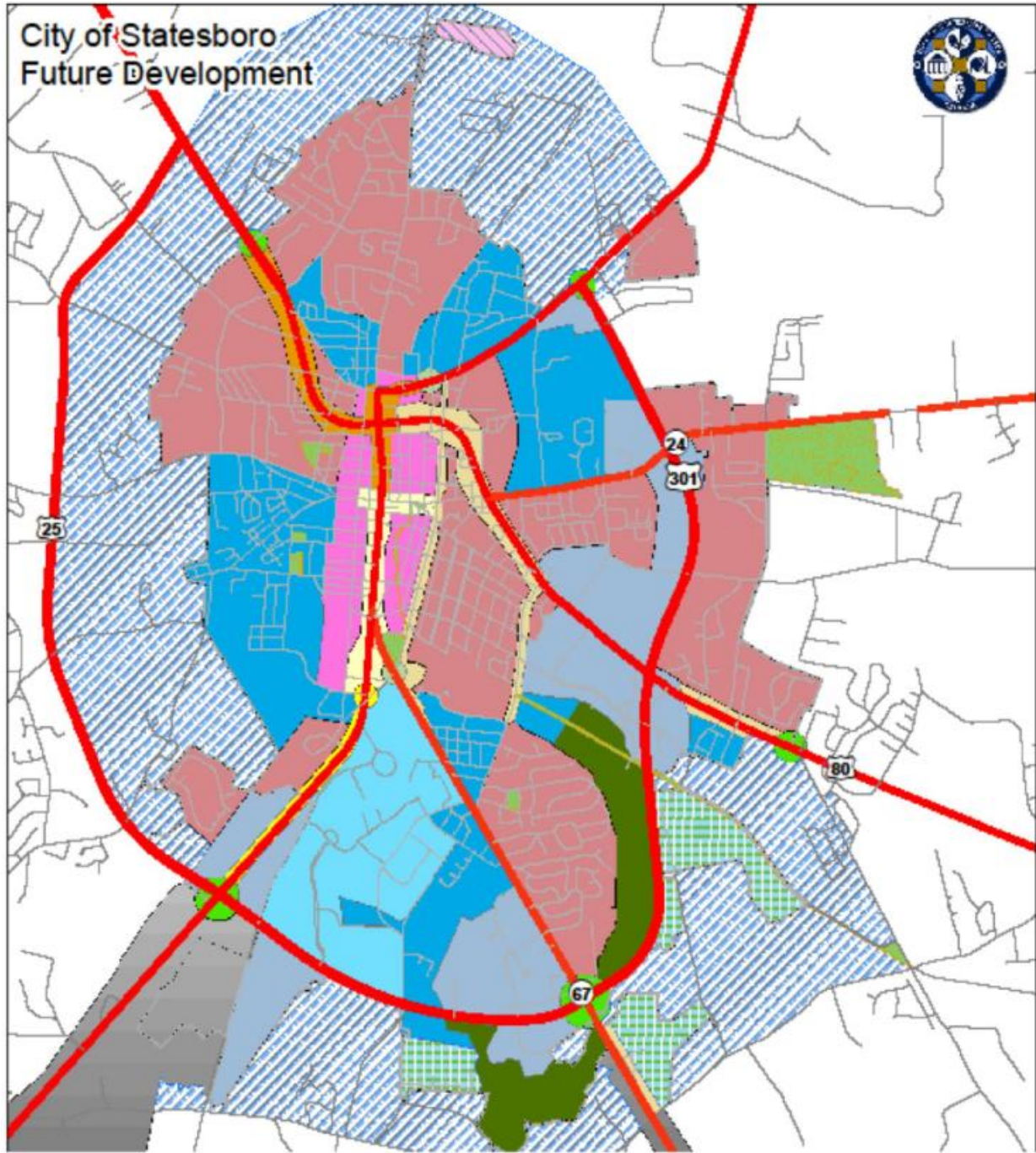


EXHIBIT B: FUTURE DEVELOPMENT MAP



- |                                     |                                      |                           |
|-------------------------------------|--------------------------------------|---------------------------|
| Activity Centers/Regional Centers   | Developing Urban Neighborhood Area   | Park                      |
| Commercial Redevelopment Area # 1   | Downtown                             | Potential Annexation      |
| Commercial Redevelopment Area # 2   | Emerging Business                    | Residential Redevelopment |
| Commercial Redevelopment Area # 3   | Established Residential Neighborhood | University District       |
| Conservation Area                   | Gateway                              | Urban Core Gateway        |
| Developing Traditional Neighborhood | Neighborhood Center                  |                           |

**EXHIBIT C: SITE AND SURROUNDING PROPERTY PHOTOS**

**Picture 1:** View of the subject property and area where V 20-04-01 is being requested.



**Picture 2:** View of the adjoining property to the west of the subject site, currently Statesboro Properties.





**Picture 3:** View of the adjacent properties to the east of the subject site, the Hart Law Group. .



**Picture 4:** View of the adjacent property to the South, The Bulloch County Courthouse.



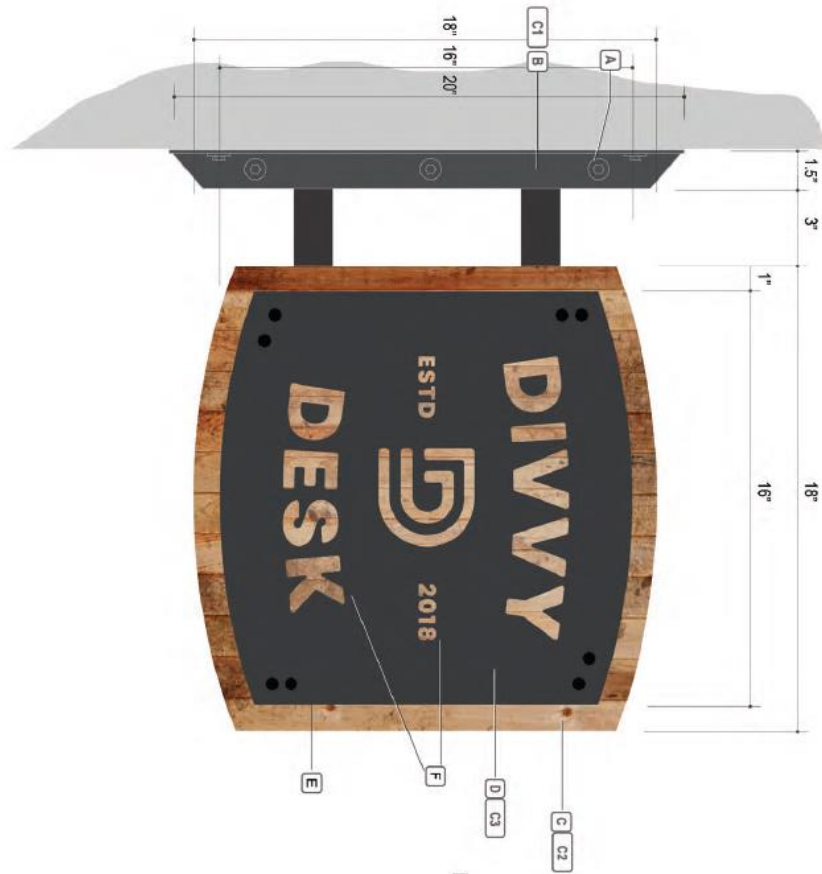
**Picture 5:** View of the adjacent property, to the southwest, the Siebald Building.



**Picture 6:** View of the adjacent property to the north in the rear of the interconnected buildings, Vanderver R Pool, P.C.

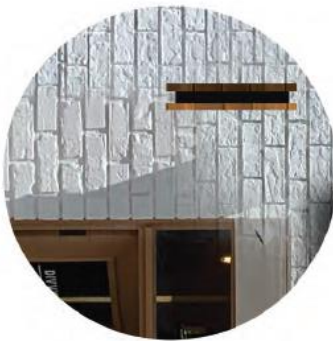


Exhibit D: Proposed Signage Plans



REPLICATE OLD SIGN at smaller size, as pictured

Align New Sign with Top of Door Frame



DF Outrigger Sign

Colors & Finishes

- C1** 119255 Black Matte
- C2** 0449 Silver TRD

Construction Specifications

- A** Mounting Hardware: Stainless Steel Connector to Walling to be Coordinated with Owner; Hardware to be Determined per wall type
- B** 2x4" Fines with Angle
- C** 5" Oakley Plywood, Stained
- D** TRD 25 Aluminum, Powder
- E** 5 Ball Head
- F** Routed Core; Square Wood



917 S College St  
 Sheboygan, WI 53081

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Project Name: Divvy Desk  
 Designer: J.M.  
 Date: 08/21/19

Revisions: 10/23/19

Drawing Status: NO EXCEPTIONS NOTED

Approved Signature: \_\_\_\_\_  
 Date: \_\_\_\_\_

Approved Signature: \_\_\_\_\_  
 Date: \_\_\_\_\_

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

Approved Signature: \_\_\_\_\_  
 Date: \_\_\_\_\_

3



**Colors & Finishes**

Colors shown are for guide only. Final colors may vary due to lighting. Client to cover printer's marks or adjustments to colors when user to produce or replicate color printer or color specifications.

- CT** ■ Black (MCP256 Black Matte) Textured

**Construction Specifications**

- A** Round Aluminum Panel, Powder Black, Mounted to Building Face Below Glass Trim
- B** 1-1/2" Angle Frame, Steel or 1/4" P"



91 S. Colfax, St.  
 Shelton, CT, 06484  
 972.851.8338

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Project Name: \_\_\_\_\_  
 Drawn By: \_\_\_\_\_

Project Contact: \_\_\_\_\_  
 Drawn By: \_\_\_\_\_

Date: \_\_\_\_\_  
 08.21.19

Revisions:  
 10.29.19  
 11.6.19  
 11.26.19

Approval Status:

- NO EXCEPTIONS NOTED
- EXCEPTIONS NOTED
- REJECTED
- RESUBMIT

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

Approved By: \_\_\_\_\_ Date: \_\_\_\_\_

Revision/Date:  
 (Drawn Date) 08.21.19

Drawing Type:  
 Preliminary  
 Production

Aluminum Wall Mounted Panel

**Exhibit E: Table 6: Statesboro Zoning Ordinance**

SIGN DISTRICT 4 (As defined in subsection 1509 A.4)	SIGN FOR AN INDIVIDUAL ESTABLISHMENT ON AN INDIVIDUAL LOT	SIGNS FOR INDIVIDUAL ESTABLISHMENTS, OFFICES, SHOPS, ETC. WHICH ARE PART OF A PLANNED OFFICE, COMMERCIAL, INDUSTRIAL OR RETAIL CENTER OR PART OF A CONTIGUOUS AND ADJACENT ROW OF STRUCTURES
AGGREGATE SIGN AREA**		
1. Maximum Number of Total Square Feet (square feet)	100 square feet including freestanding and building signs	Not applicable
FREESTANDING SIGNS**:		
2. Freestanding Sign Maximum Square Feet	60 square feet	Not allowed
3. Maximum Height	Eight feet	Not applicable
4. Setback Requirements	Two feet from property line	Not applicable
5. Number of Signs Allowed***	One sign structure per road frontage not to exceed the maximum allowable square footage	Not allowed
BUILDING SIGNS***:		
1. Maximum Number of Total Square Feet	100 square feet	The greater of 60 square feet or five percent of wall areas, allotted to the individual establishment
2. Maximum Height	12 feet	12 feet
3. Number of Building Signs Allowed	One per elevation	One per business or occupant
<p>*As provided in Section 1501 and Table 2 herein, "aggregate sign area" includes all freestanding or building signs regardless of whether or not a permit for a particular type of sign is required.</p> <p>**Limited to monument and standard informational signs. Billboards and stanchion signs prohibited as provided in Table 2 herein.</p> <p>***Internal illumination of building signs is prohibited. All signs shall be constructed of wood or metal material.</p>		

# CITY OF STATESBORO

## COUNCIL

Phil Boyum, District 1  
Paulette Chavers, District 2  
Venus Mack, District 3  
John Riggs, District 4  
Shari Barr, District 5



Jonathan M. McCollar, Mayor  
Charles W. Penny, City Manager  
Leah Harden, City Clerk  
I. Cain Smith, City Attorney

50 EAST MAIN STREET • P.O. BOX 348 • STATESBORO, GEORGIA 30459-0348

**To:** Charles W. Penny, City Manager and Leah Harden, City Clerk

**From:** Justin L. Williams, City Planner I

**Date:** May 8, 2020

**RE:** May 19, 2020 City Council Agenda Items

**Policy Issue:** *Statesboro Zoning Ordinance: Zoning Variance Request*

**Recommendation:** Staff recommends approval of the zoning variance requested by application SE 20-04-02 with conditions.

**Background:** Roberta Benique requests a special exception from Section 401 (I) of the Statesboro Zoning Ordinance to establish a Group Day Care in the R20 (Single-Family Residential) district as a home occupation, on the property located at 109 Christie Lane (Tax Parcel # S34 000015 000).

**Budget Impact:** None

**Council Person and District:** Boyum (District 1)

**Attachments:** Development Services Report SE 20-04-02



*City of Statesboro-Department of Planning and Development*  
**DEVELOPMENT SERVICES REPORT**

P.O. Box 348  
 Statesboro, Georgia 30458

(912) 764-0630  
 (912) 764-0664 (Fax)

<b>SE 20-04-02            SPECIAL EXCEPTION REQUEST            109 CHRISTIE LANE</b>	
<b>LOCATION:</b>	109 Christie Lane
<b>REQUEST:</b>	Special Exception to allow a group daycare in the R20 (Single-Family Residential) district.
<b>APPLICANT:</b>	Roberta Benique
<b>OWNER(S):</b>	Benique Benjamin & Roberta D
<b>ACRES:</b>	0.73
<b>PARCEL TAX MAP #:</b>	S34 000015 000
<b>COUNCIL DISTRICT:</b>	District 1 (Boyum)

**PROPOSAL:**

Mrs. Roberta Benique requests a Special Exception to allow for the utilization of the property located at 109 Christie Lane as a group day care in a R20 (Single Family Residential) district. A group daycare is defined pursuant to the Statesboro Zoning Ordinance as any place operated by a person, society, agency, institution, or group that receives pay for the supervision of seven (7) to eighteen (18) children under the age of eighteen (18) for less than twenty-four (24) hours a day. (See Exhibit A – Location Map)

**BACKGROUND:**

The subject site is a .73 acre single lot and is currently zoned R20 (Single Family Residential). There are currently no necessary conditional uses on the property. The proposed use is beyond the scope of the generally allowed home occupational uses within this zoning district. It should be noted that the purpose of this application is to consider whether the land uses and licenses proposed at the site may qualify this applicant for a zoning recommendation of approval at the site.

**SURROUNDING LAND USES/ZONING:**

	ZONING:	LAND USE:
<b>NORTH:</b>	R25 (Single Family Residential)	Single Family Homes (County)
<b>SOUTH:</b>	R20 (Single Family Residential)	Single Family Homes
<b>EAST:</b>	R25 (Single Family Residential)	Single Family Homes (County)
<b>WEST</b>	R20 (Single Family Residential)	Single Family Homes

The subject property is located within the R20 (Single Family Residential) district. Surrounding parcels include Single Family Homes. (See **Exhibit A** –Location Map, **Exhibit B**—Future Development Map & **Exhibit C**—Photos of Subject Site).

**ATTACHMENTS:** Exhibit A (Location Map), Exhibit B (Future Development Map), Exhibit C (Photos of Subject Site and surrounding sites), Exhibit D (Proposed Site Plans).

**COMPREHENSIVE PLAN:**

The *City of Statesboro Comprehensive Master Plan's* Future Development Map includes the subject site in the following character area:

<b><u>“Established Residential”</u></b>	
<b><i>Vision:</i></b>	<p>The traditional neighborhoods in the <b>Established Residential</b> area were developed from the late 19th to mid-20<sup>th</sup> century, and feature connected street grids linked with downtown. Sidewalks should be located on both sides of major streets; lesser streets may have limited facilities. Major corridors in this area may support a mix of residential and commercial uses. As corridors transition from residential to commercial, the original structures should be maintained and renovated whenever possible. Any new structures should respect the existing fabric of the neighborhood, through similar front, side, and rear setbacks. Some neighborhoods within this area are facing decline issues with blight. These neighborhoods may require extra attention to return them to viable neighborhoods. Strengthening the urban core thorough additional commercial, retail, and office development can benefit the neighborhoods surrounding the urban core by providing residential opportunities within walking or cycling distance to downtown..</p>
<b><i>Suggested Development &amp; Implementation Strategies:</i></b>	<ul style="list-style-type: none"> <li>• Enhance existing pedestrian connectivity by repairing/replacing sidewalks and adding new ones, where necessary.</li> <li>• Develop architectural guidelines to guide new development and renovations of historic buildings within historic districts.</li> <li>• Residential developments that incorporate “corner commercial” sites such as dry cleaning or convenience grocery or similar retail services.</li> <li>• Enlisting significant site features (view corridors, water features, farm land, wetlands, parks, traits, etc.) as amenity that shapes identity and character of development.</li> <li>• Retrofitting existing residential communities to improve pedestrian and bicycle access and connectivity with nearby commercial areas.</li> <li>• Revitalization of existing neighborhood commercial centers to capture more market activity and serve as community focal points.</li> <li>• Infill, redevelopment, and new development should promote lot sizes and setbacks appropriate for each neighborhood.</li> <li>• Neighborhood redevelopment should promote a tight grid of small lot single family development which utilizes more efficient lot and block layouts. New structures should respect the existing architectural fabric of the neighborhood.</li> <li>• Promote an interconnected street grid through appropriate revisions to development regulations. Streets, especially thoroughfares, should incorporate Context Sensitive Solutions (CSS) to provide traffic calming and protect community character.</li> </ul> <p style="text-align: right;"><i>Statesboro Comprehensive Master Plan, Community Agenda page 94-95.</i></p>



## ANALYSIS

### **I. Special Exception from Article IV, Section 401(I), to allow for a home occupation exceeding the allowed number of children which can be kept.**

The .73 acre site is currently zoned R20 (Single Family Residential). The site is currently used as a single-family home and maintains a home occupation as a family day care home. This is allowable as per Section 401 of the *Statesboro Zoning Ordinance*.

The *Statesboro Zoning Ordinance* distinguishes daycares into the following three (3) distinct categories:

1. **Family Daycare Home** – private residence who receives pay for supervision of three (3) but not more than six (6) children under eighteen (18) years of age who are not related to such persons and whose parents are not residents in the same private residence.
2. **Group Daycare** – any place operated by a person, society, agency institution, or group who receives pay for the supervision of not less than seven (7) or more than eighteen (18) children under eighteen (18) years of age.
3. **Daycare Center** – Any place operated by a person, society agency, institution, or group who receives pay for the supervision of nineteen (19) or more children eighteen (18) years old or under.

The applicant presently holds a business license and operates a family daycare which is permissible in private residences. The applicant has provided a copy of the state issued license for a family daycare and anticipates renewing in December with a group daycare status. The applicant has requested to intensify the use from a family daycare to group daycare in order to supervise approximately ten (10) children. This would reclassify the business to a Group Daycare as per Section 2702 of the *Statesboro Zoning Ordinance*.

Special Exceptions allow for a land use that is inconsistent with uses permitted of right within a zoning district but which may be granted where requested uses may be deemed appropriate and compatible with the surrounding neighborhood. In addition, Article XXIV of the *Statesboro Zoning Ordinance* states that approval of a proposed use by the Mayor and Council does not constitute an approval for future expansions, additions or changes to the initially approved operation.

Article XXVII (Daycare) of the Statesboro Zoning Ordinance restricts group daycares to the CR (Commercial Retail), HOC (Highway Oriented Commercial), CBD (Central Business District), and LI (Light Industrial) zoning districts. Section 2704 lists nine (9) minimum conditions for Mayor and City Council to consider when granting a proposed group daycare in a building also occupied as a residential dwelling.

1. **The premises on which the child care use is established shall have access on a thoroughfare adequate for traffic.**
  - Christie Lane is a public road that is considered adequate for traffic. In addition, the property fronts on Francis Scott Drive.
2. **The child care facility shall contain not less than 30 square feet of indoor play area for each child at maximum enrollment and not less than 100 square feet per child of outdoor play area at maximum enrollment.**
  - The existing building is approximately 2396 square feet which allows adequate square footage of indoor play area for ten (10) or more children.
  - The exact square footage of the outdoor play area is unknown at this time but is estimated to be greater than roughly 759 square feet which is enough for seven (7) children. Any increase in capacity would require additional play area.
3. **The outdoor play areas shall be fenced with fencing not less than four feet in height.**
  - The aforementioned outdoor play area contains fencing five (5) feet in height.
4. **The premises must contain adequate off-street loading and unloading.**
  - There is a paved parking area on Francis Scott Drive. This lot can conservatively hold six (6) vehicles at a time. Additional clearing is being done on the property to provide additional off-street parking.

- 
5. **In premises also occupied as a dwelling, the day care portion of the dwelling, shall not occupy over 25 percent of the heated square feet of the dwelling.**
    - The applicant will continue to live in the residential dwelling, so this provision will apply. The existing building is approximately 2396 square feet. Limiting the daycare portion to 25% of the overall square footage would reduce the useable space to 599 square feet. At 30 square feet of indoor play area per child, the applicant may supervise up to eighteen (18) children at any one time.
  6. **All signs shall be in compliance with the City's existing sign ordinance.**
    - Any new signs will be reviewed during the permitting process for compliance with the ordinance. In addition, this business must still fall under the requirements of a home occupation.
  7. **Off-street parking for employees shall be provided at the rate of one and one-half parking spaces per employee.**
    - The subject site appears to have adequate room for parking.
  8. **The applicant must provide a site plan indicating parking, pick-up and drop-off points, and playground area.**
    - The applicant has included a site plan with this application and site visits show that the increase in parking space should provide adequate space for pickup and drop-off.
  9. **Any other conditions that City Council may deem necessary to promote the health, safety, and welfare of the neighborhood.**
    - It may be of importance for the City Council to consider requiring an extended play area totaling a minimum of 1,800 square feet (100 square feet per child – 18 possible children).

In addition, Section 2406 of the *Statesboro Zoning Ordinance* lists seven (7) factors that should be considered by Mayor and City Council “in determining compatibility” of the requested use with adjacent properties and the overall community as for considerations of Conditional Use Variances, or Special Exceptions as follows:

- A. Adequate provision is made by the applicant to reduce any adverse environmental impact of the proposed use to an acceptable level.
- B. Vehicular traffic and pedestrian movement on adjacent streets will not be substantially hindered or endangered.
- C. Off street parking and loading, and the entrances to and exits from such parking and loading, will be adequate in terms of location, amount, and design to serve the use.
  - The *Statesboro Zoning Ordinance* states that any land use that requires a minimum of five (5) spaces or less may use alternative surface material for parking. This particular location requires spaces equal to 25% of capacity. With the requested space for 10 students, this would equal 3 parking spaces, with an additional space for the caretaker.
- D. Public facilities and utilities are capable of adequately serving the proposed use.
  - The proposed use will fall under the state fire marshal's jurisdiction.
  - The applicant has been informed to work with the State Fire Marshall in this regard.
- E. The proposed use will not have significant adverse effect on the level of property values or the general character of the area.
  - The proposed use should not have an adverse effect on property values in the area; however, it would likely cause a slight increase in traffic during pick up and drop off time.
- F. Unless otherwise noted, the site plan submitted in support of an approved conditional use shall be considered part of the approval and must be followed.
- G. Approval of a proposed use by the mayor and council does not constitute and [an] approval for future expansion of or additions or changes to the initially approved operation. Any future phases or changes that are considered significant by the planning commission and not included in the original approval are subject to the provisions of this section and the review of new detailed plans and reports for said alterations by the governing authority.

## RECOMMENDATION

Staff recommends approval of the variance requested by application **SE 20-04-02** with the following conditions:

1. Updated state licensure must be submitted to the tax department upon renewal of the Occupational Tax Certificate.
2. Approval of this variance does not grant authorization to conduct renovations to the facility. All renovations must be processed through the standard building permit application process.
3. Expansion of the facility cannot cause the heated floor space of the daycare facility to exceed 25% of the total footprint of the home.
4. The play area must be expanded to 1800 square feet to ensure adequate play area for the maximum allowable number of children in the facility type.

At the regularly scheduled meeting of the Planning Commission on May 5, 2020, the commission voted to recommend approval of the Special Exception 6-0.

EXHIBIT A: LOCATION MAP

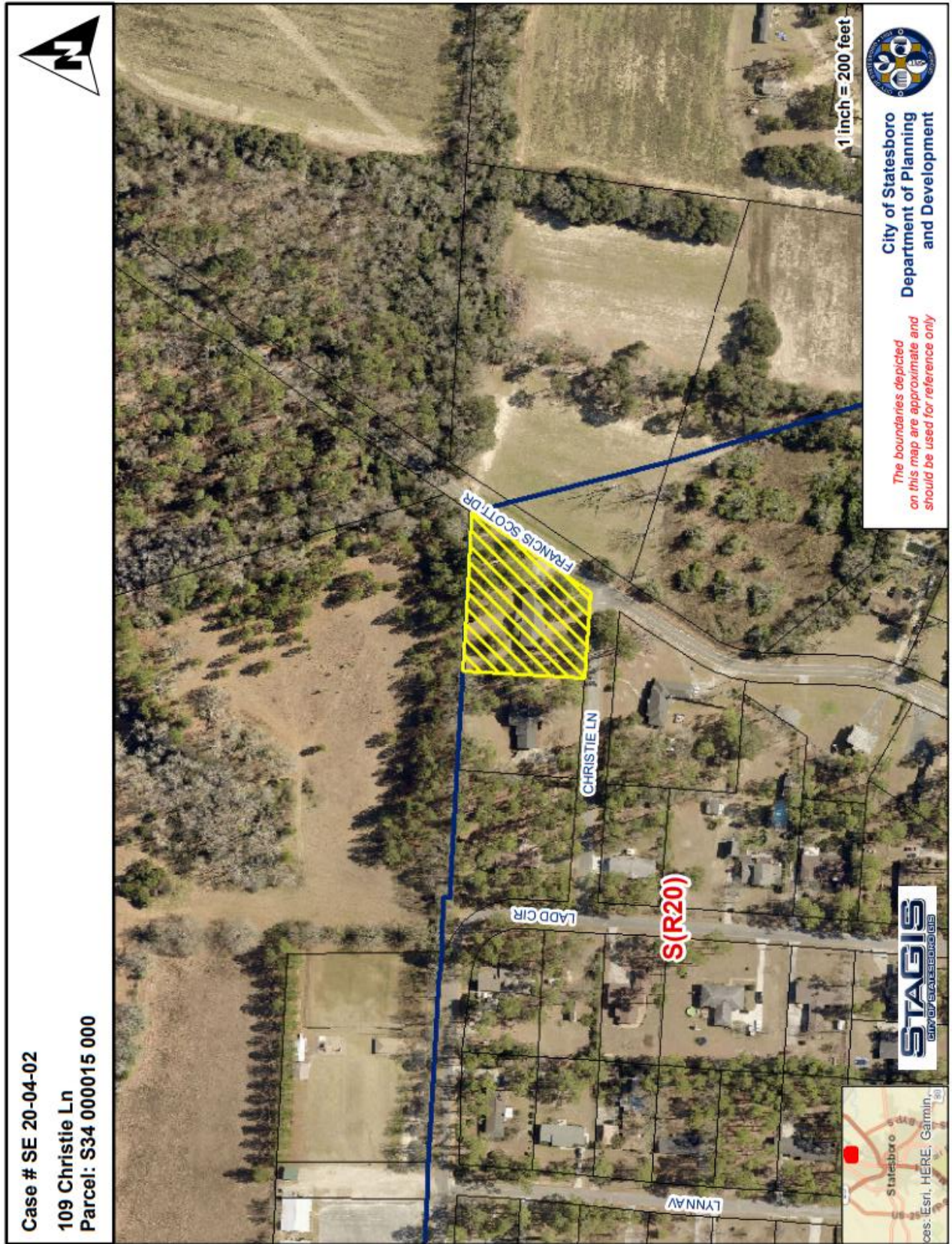
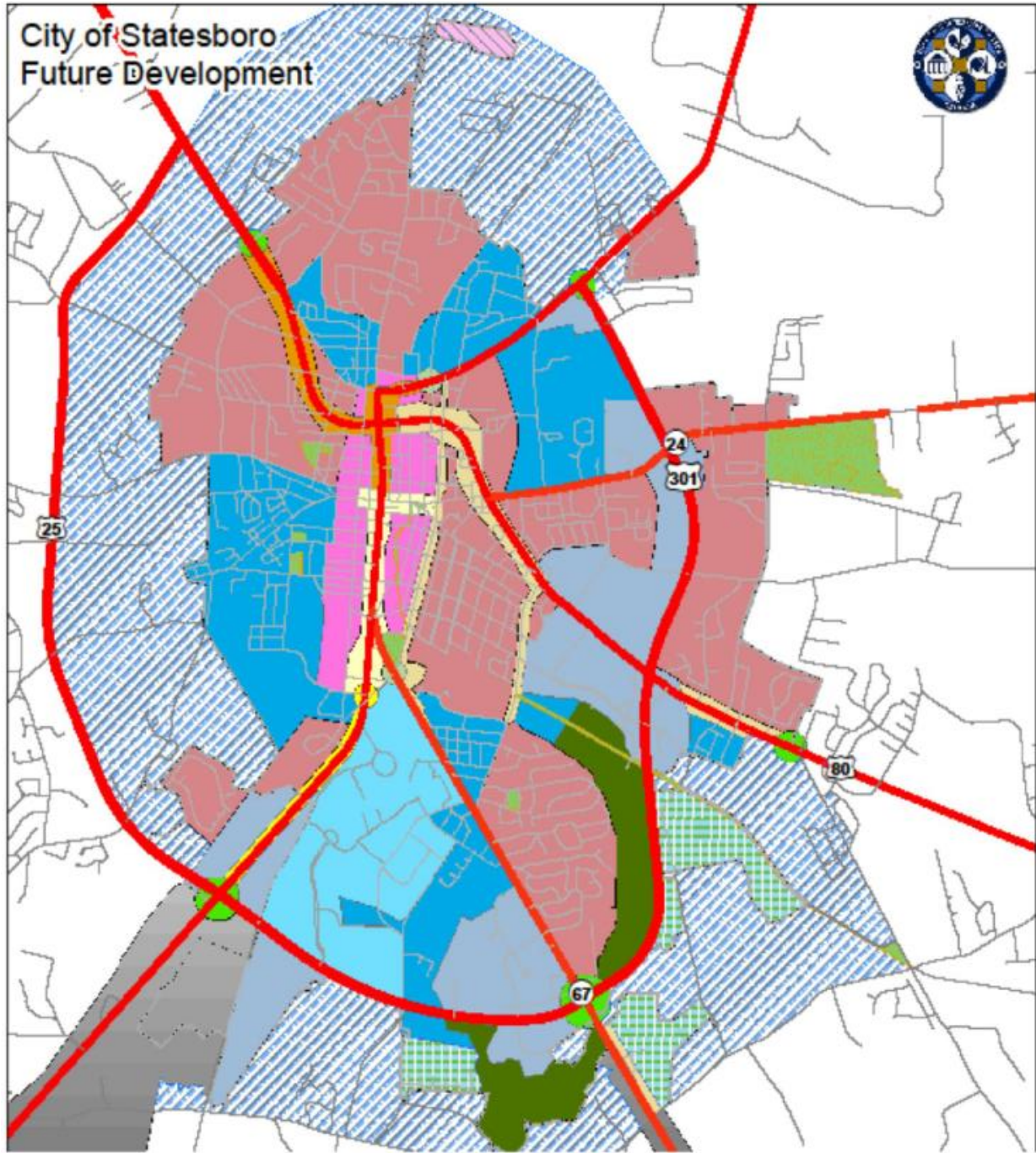


EXHIBIT B: FUTURE DEVELOPMENT MAP



- |                                     |                                      |                           |
|-------------------------------------|--------------------------------------|---------------------------|
| Activity Centers/Regional Centers   | Developing Urban Neighborhood Area   | Park                      |
| Commercial Redevelopment Area # 1   | Downtown                             | Potential Annexation      |
| Commercial Redevelopment Area # 2   | Emerging Business                    | Residential Redevelopment |
| Commercial Redevelopment Area # 3   | Established Residential Neighborhood | University District       |
| Conservation Area                   | Gateway                              | Urban Core Gateway        |
| Developing Traditional Neighborhood | Neighborhood Center                  |                           |

**EXHIBIT C: SITE AND SURROUNDING PROPERTY PHOTOS**

**Picture 1:** View of the subject property and area where SE 20-04-02 is being requested.



**Picture 2:** Additional view of the subject property from Francis Scott Drive. .



**Picture 3:** View of the adjacent property to the Southwest from Christie Lane.



**Picture 4:** View of the adjacent property to the northeast from the corner of Christie Lane and Francis Scott Drive.



**Picture 5:** View of the adjacent property to the west of the subject site from Christie Lane.



**Picture 6:** View heading East on Christie Lane.







# CITY OF STATESBORO

## COUNCIL

Phillip A. Boyum  
Paulette Chavers  
Venus Mack  
John C. Riggs  
Shari Barr



Jonathan McCollar, Mayor  
Charles Penny, City Manager  
Leah Harden, City Clerk  
Cain Smith, City Attorney

50 EAST MAIN STREET • P.O. BOX 348  
STATESBORO, GEORGIA 30459-0348

**To:** Charles Penny, City Manager and Leah Harden, City Clerk

**From:** Cain Smith, City Attorney

**Date:** May 11, 2020

**RE:** May 19, 2020 City Council Agenda Items

**Policy Issue:** *Consideration of Development Agreement with JGR Development allowing an additional \$500,000 intermediate reimbursement from the TAD Special Fund for installation of public infrastructure within the Old Register TAD.*

**Recommendation:** N/A

**Background:** Mayor and Council approved development agreement with same developer at the May 5, 2020 Council meeting. This development agreement transferred \$500,000 in 2018 TSPLOST funds to the TAD special fund to be made available for public infrastructure outlays within the TAD. Agreement before Council today would make funding in this amount available for reimbursement to Developer prior to in-service date and final reimbursement.

**Budget Impact:** None

**Council Person and District:** Venus Mack, District 3

**Attachments:** Proposed development agreement

# **DEVELOPMENT AGREEMENT**

**Between City of Statesboro, Georgia**

**and**

***JGR DEVELOPMENT, LLC***

***For Old Register Tax Allocation District***

***Public Infrastructure***

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## **DEVELOPMENT AGREEMENT**

This Development Agreement (this “Agreement”), dated as of the 19th day of May, 2020, is made by and between the Mayor and City Council of Statesboro, Georgia, a municipal corporation in Bulloch County in the State of Georgia (the “**City**”), and JGR Development, LLC, a limited liability company, as developer, (the “**Developer**”). Capitalized terms used herein and not otherwise defined have the meanings given to them in Article II or in the Redevelopment Plan, as appropriate.

### **ARTICLE 1 RECITALS**

**WHEREAS**, City is duly authorized to exercise the redevelopment powers granted to local governments in the State of Georgia pursuant to the Redevelopment Powers Law and in accordance with House Bill 795 enacted by the General Assembly in 2014 and approved in a referendum on November 4, 2014; and

**WHEREAS**, by a Resolution duly adopted on August 7, 2018 (the “**TAD Resolution**”), following a public hearing as required by law, the Mayor and Council City approved the Old Register Area Redevelopment Plan and created the Old Register Tax Allocation District (the “**TAD**”); and

**WHEREAS**, pursuant to a resolution adopted on August 7, 2018 the Bulloch County Board of Commissioners (“**County**”) gave the consent required under O.C.G.A. Sec. 36-44-8(1) and on August 9, 2018 the Bulloch County Board of Education (“**School Board**”) did the same; and

**WHEREAS**, pursuant to the requirements of O.C.G.A. Sec. 36-44-10, City has timely applied to the Georgia Department of Revenue for certification of the tax allocation increment base for the TAD and received such; and

**WHEREAS**, the Redevelopment Powers Law provides that City may enter into public-private partnerships to accomplish the redevelopment projects contemplated in the Redevelopment Plan; and

**WHEREAS**, the TAD Resolution expressed the intent of City, as set forth in the Redevelopment Plan, to provide funds to induce and stimulate redevelopment in the TAD; and

**WHEREAS**, the undertakings contemplated by the Redevelopment Plan include, among other renewal activity, development of “**Public Infrastructure**”; and

**WHEREAS**, Developer is the owner of certain real property located within the TAD; and

**WHEREAS**, Developer seeks to undertake the installation of Public infrastructure; and

**WHEREAS**, in order to induce and further facilitate the successful accomplishment of this portion of the Redevelopment Plan, City has indicated its intent to exercise its authority under the Redevelopment Powers Law and in accordance with State law to enter into this Development Agreement with Developer, pursuant to which, subject to the conditions described herein, the Tax

Allocation Increment collected in the TAD will be used to reimburse Developer for certain Redevelopment Costs advanced by Developer in connection with the Public Infrastructure; and

*WHEREAS*, Developer agrees, pursuant to the terms of this Agreement, to undertake this critical revitalization in City and to develop the Public Infrastructure consistent with the Redevelopment Plan, which revitalization would not be economically feasible without the reimbursements being provided through the TAD as contemplated herein; and

*WHEREAS*, Developer agrees to deed the Public Infrastructure on Developer's property to City upon completion of construction and reimbursement.

## AGREEMENT

*NOW THEREFORE*, City and Developer, for and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, hereby agree as follows:

### ARTICLE 2 GENERAL TERMS

**Section 2.1 Definitions.** Unless the context clearly requires a different meaning, the following terms are used herein with the following meanings:

“Act of Bankruptcy” means the making of an assignment for the benefit of creditors, the filing of a petition in bankruptcy, the petitioning or application to any tribunal for any receiver or any trustee of the applicable Person or any substantial part of its property, the commencement of any proceeding relating to the applicable Person under any reorganization, arrangement, readjustments of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or if, within 60 days after the filing of a bankruptcy petition or the commencement of any proceeding against the applicable Person seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, the proceedings have not been dismissed, or, if, within 60 days after the appointment, without the consent or acquiescence of the applicable Person, of any trustee, receiver or liquidator of the applicable Person or of the land owned by the applicable Person, the appointment has not been vacated.

“Administrative Fee” means an annual administrative fee payable to City from the Special Fund as provided in Section 3.3, to reimburse City for actual and/or imputed administrative costs, including reasonable charges for the time spent by public employees or agents of City in connection with the management and accounting of the Special Fund, in the amount of 1% of Positive Tax Increment per year until all TAD bonds or other alternative financing instruments have been paid off and closed.. Such Administrative Fee shall not reduce or otherwise diminish the total Reimbursement Costs payable to Developer.

“Advances” means advances by Developer or any other Person or entity to pay any costs that constitute Reimbursement Costs for which Developer may be entitled to reimbursement pursuant to Section 6.2.

“Affiliate” means, with respect to any Person, (a) a parent, partner, member or owner of such Person or of any Person identified in clause (b), and (b) any other Person that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such Person. As used in this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“City” means Statesboro, Georgia, a municipal corporation in the State of Georgia.

“City Manager” shall mean the appointed or interim Statesboro City Manager of any person that City Manager has indicated in writing to Developer to be his/ her designee for the purposes of this Agreement.

“Developer” means BVT Akins LP, a limited partnership and J Edward Akins Farm, LP, a limited partnership, developer of the Public Infrastructure.

“Development Team” means Developer and its development partners.

“Disbursements” means the funds deposited into the Special Fund available to Developer for reimbursement of Advances.

“Effective Date” means April 2, 2019, the effective date of this Agreement.

“Environmental Laws” means, including but without limitation, the Resource Conservation and Recovery Act, 42 U.S.C. Sec.6901 *et seq.*, as amended, the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986, and as further amended, the Clean Water Act, 33 U.S.C. Sec. 1251 *et seq.*, as amended, the Clean Air Act, 42 U.S.C. Sec. 7401 *et seq.*, as amended, the Toxic Substances Control Act, 15 U.S.C. Sec. 2601 *et seq.*, as amended, and any other applicable federal law relating to health, safety or the environment.

“Force Majeure” means any event or circumstance which is (a) beyond the reasonable control of the Person whose performance is required by this Agreement and (b) caused by fire, earthquake, flood, explosion, war, acts of terrorism, invasion, insurrection, mob violence, sabotage, lockouts, litigation, condemnation, riots or other civil disorder, national or local emergency, acts of God, unusual and unanticipated delays in transportation, unusual and unanticipated delays in obtaining lawful permits or consents to which the applicant is legally entitled, strike or labor dispute, severe weather conditions, or delays caused by City in excess of 30 days in responding to proposals for Material Modifications pursuant to Section 4.4. Developer will give written notice in accordance with Section 9.2 as soon as reasonably practical after the start of the Force Majeure event or occurrence giving rise to the delay, specifically identifying the occurrence or event and the anticipated resulting delay to the Public Infrastructure.

“General Contractor” means an experienced, licensed, bondable and reputable general contractor selected by Developer and reasonably satisfactory to City.



“Hazardous Substances” means any hazardous or toxic substance or waste as defined by any applicable Environmental Laws, together with (if not so defined by any such Environmental Laws) petroleum, petroleum products, oil, PCBs, asbestos, and radon.

“In-Service Date” means the placing in service of the Public Infrastructure and commencement of normal public operations thereof, as certified in writing by the Developer to City.

“Legal Requirements” means any legal requirements (including, without limitation, Environmental Laws), including any local, state or federal statute, law, ordinance, rule or regulation, now or hereafter in effect, or order, judgment, decree, injunction, permit, license, authorization, certificate, franchise, approval, notice, demand, direction or determination of any governmental authority.

“Loan Documents” means any agreement or instrument, other than this Agreement, to which Developer or any Affiliate thereof is a party or by which it is bound and that is executed in connection with any financing provided to or for the benefit of Developer in order to specifically finance all or any portion of the Public Infrastructure, and including any commitment or application for such financing and documents evidencing any Project Financing.

“Material Modification” means a Project Modification that requires the prior written consent of City, i.e., any change in the Public Infrastructure that would cause it not to substantially conform to its description in the Redevelopment Plan.

“Person” includes a corporation, a trust, an association, a partnership (including a limited liability partnership), a joint venture, an unincorporated organization, a business, an individual or natural person, a joint stock company, a limited liability company, a public body, or any other entity.

“Plans” means the Site Plan and the construction plans for the Public Infrastructure as the same may be modified from time to time, including any Material Modifications.

“Project Approvals” means all approvals, consents, waivers, orders, agreements, authorizations, permits and licenses required under applicable Legal Requirements or under the terms of any restriction, covenant or easement affecting the Public Infrastructure, or otherwise necessary or desirable for the ownership, acquisition, construction, equipping, use or operation thereof, whether obtained from a governmental authority or any other person.

“Project Financing” means any loans, financing, equity investment, or other agreement (other than this Agreement) provided to or for the benefit of Developer to finance, directly or indirectly, any portion of the Public Infrastructure.

“Public Infrastructure” means those improvements identified and more fully described in the Redevelopment Plan, as such plan may be amended or modified from time to time, a portion of the costs of which are to be advanced by Developer and reimbursed to Developer from the Special Fund as contemplated by this Agreement. Public Infrastructure as contemplated in the Redevelopment Plan shall be modified so that the “Extension” shall intersect with Board of Regents’ proposed extension of Akins Boulevard. Developer shall coordinate with Board of

Regents and City as to the appropriate point of intersection and extent of Extension construction. Developer shall complete Extension as far as is possible under the circumstances of Board of Regents' Akins Road project.

“Public Infrastructure Budget” means the projected hard and soft costs capitalizable under GAAP for acquisition, financing, and construction of the Public Infrastructure as set forth in Schedule D hereto, as such Schedule may be amended or modified from time to time.

“Public Infrastructure Completion Date” means January 9, 2020 the anticipated date of substantial completion of the Public Infrastructure (as evidenced by delivery by Developer to City of the certificate contemplated in Section 4.1(e)).

“Public Infrastructure Construction Schedule” means the estimated schedule for construction of the Public Infrastructure as set forth in Schedule C, as such Schedule may be amended or modified from time to time.

“Redevelopment Costs” has the meaning given that term by O.C.G.A. Sec. 36-44-3(8) and as used in this Agreement, means Redevelopment Costs of the TAD and any other Redevelopment Costs (as defined in the Redevelopment Powers Law) contemplated by this Agreement and provided for in the Redevelopment Plan.

“Redevelopment Plan” means the Redevelopment Plan for the TAD approved by City pursuant to the TAD Resolution, following a public hearing as required by law, as may be amended from time to time.

“Redevelopment Powers Law” means the Redevelopment Powers Law, O.C.G.A. Sec. 36-44-1, *et seq.*, as may be amended from time to time.

“Reimbursement Costs” means the redevelopment costs authorized to be paid or reimbursed by the Redevelopment Plan.

“Requisition” means a requisition in substantially the form attached as Schedule E hereto (or such other form approved by City).

“School Board” means the Board of Education of Bulloch County, Georgia.

“Site” means the real property on which the Public Infrastructure will be located within the TAD, as more specifically identified in Schedule A-1 hereto.

“Special Fund” means the bank account established by City for the depositing of Tax Allocation Increment along with the proceeds of TAD revenue bonds obtained by the City and payment of Disbursements as permitted under this Agreement.

“State” means the State of Georgia.

“TAD” means that Old Register Tax Allocation District created by City effective August 7, 2018, pursuant to the Redevelopment Powers Law and the TAD Resolution and as further described in the Redevelopment Plan.

“TAD Bonds” means any source of financing the City receives and holds in Special Fund to reimburse Developer for construction and installation of Public Infrastructure

“TAD Resolution” has the meaning provided in the recitals above.

“Tax Allocation Increment” means the positive tax allocation increment (within the meaning of the Redevelopment Powers Law) levied and collected on real and personal property within the TAD attributable to the ad valorem millage rate levied annually by City, County and School Board.

**Section 2.2 Singular and Plural.** Words used herein in the singular, where the context so permits, also include the plural and vice versa. The definitions of words in the singular herein also apply to such words when used in the plural where the context so permits and vice versa.

### **ARTICLE 3 REPRESENTATIONS AND WARRANTIES**

**Section 3.1 Representations and Warranties of Developer.** Developer hereby represents and warrants to City that:

- (a) Organization and Authority. Developer is in good standing and authorized to transact business in the State of Georgia as a domestic limited liability company. Developer’s officers have the requisite power and authority to execute and deliver this Agreement, to incur and perform its obligations hereunder, and to carry out the transactions contemplated by this Agreement.
- (b) Due Authorization, Execution and Delivery. The execution, delivery, and performance of this Agreement has been duly authorized by all necessary action and proceedings by or on behalf of Developer, and no further approvals or filings of any kind, including any approval of or filing with any governmental authority, are required by or on behalf of Developer as a condition to the valid execution, delivery, and performance by it of this Agreement. This Agreement, when duly executed and delivered by each party hereto, will be the valid, binding and enforceable obligation of Developer in accordance with its terms, subject to matters and laws affecting creditors’ right generally and to general principles of equity.
- (c) Organizational Documents. Developer’s organizational documents are in full force and effect as of the Effective Date, and no fact or circumstance has occurred that, by itself or with the giving of notice or the passage of time or both, would constitute a default thereunder.
- (d) Bankruptcy. No Act of Bankruptcy has occurred with respect to Developer.
- (e) No Litigation. There is no action, suit or proceeding pending or, to the knowledge of Developer, threatened against or affecting Developer in any court, before any arbitrator or before or by any governmental body which (i) in any manner raises any question affecting the validity or enforceability of this Agreement, (ii) could materially and adversely affect the business, financial position or results of operations of Developer, or

(iii) could materially and adversely affect the ability of Developer to perform its obligations hereunder.

(f) No Undisclosed Liabilities. Developer is not in default under or in breach of any material contract or agreement, and no event has occurred which, with the passage of time or giving of notice (or both) would constitute such a default, which has a material adverse effect on the ability of Developer to perform its obligations under this Agreement.

(g) Principal Office. The address of Developer's principal place of business is 2704 Old Register Rd, Statesboro Ga, 30458.

(h) Licenses and Permits. Developer will at all appropriate times possess all franchises, patents, copyrights, trademarks, trade names, licenses and permits, and rights in respect of the foregoing, adequate for the conduct of its business substantially as now conducted or as it is intended to be conducted with respect to the Public Infrastructure

(i) Project Location. The Public Infrastructure is located wholly within City and further, wholly within the boundaries of tax parcels 076 0000001 000, 002, 004, and 006, as such parcels are identified by the Board of Tax Assessors for Bulloch County, Georgia.

(j) Utilities. All utility services necessary and sufficient for the construction and operation of the Public Infrastructure will be obtained when needed and will at all appropriate times be available through dedicated public rights of way or through perpetual private easements. Developer shall be responsible for all utilities installation.

(k) Plans. Developer will furnish to City true and complete sets of the Plans. The Plans so furnished to City will comply with all applicable governmental requirements, all Project Approvals, and all restrictions, covenants and easements affecting the Public Infrastructure.

(l) Funding Sources for Project Financing. Schedule G contains a true, correct, and completed list of all sources and uses of funds, including all Project Financing, all of which has been committed to Developer.

(m) Liens. Other than as to City, there are no material liens of record of laborers, subcontractors or materialmen on or respecting the Public Infrastructure on the Effective Date. Developer shall provide a signed notarized affidavit/form certifying there are no outstanding liens on Project to the City.

(n) Construction Schedule. The Public Infrastructure Construction Schedule is complete and accurately reflects the currently estimated schedule for construction of the Public Infrastructure.

(o) Budget. The Public Infrastructure Budget is complete and accurately reflects the currently estimated costs of the Public Infrastructure.

(p) Title. As of the Effective Date, Developer holds fee simple title to the Site.

(q) Tax Allocation Increment. Developer acknowledges that City has made no representation as to the amount of Tax Allocation Increment to be generated by the TAD and that Developer has had the opportunity to investigate and make its own conclusions as to the amount of Tax Allocation Increment to be generated by the TAD.

(r) Special Services District Developer acknowledges that should Tax Allocation Increment be insufficient to pay for servicing the TAD Bonds that City shall create a special services tax district over the TAD. A Special Services District may be established before, during, and/or after construction and installation of the Public Infrastructure. Nothing in this Agreement shall limit the timing or number of times said District may be established, terminated, or reestablished by City.

**Section 3.2 Representations and Warranties of City.** City hereby represents and warrants to Developer that:

(a) Organization and Authority. City is a municipal corporation duly created and existing under the laws of the State. City has the requisite power and authority to execute and deliver this Agreement, to incur and perform its obligations hereunder, and to carry out the transactions contemplated by this Agreement.

(b) Due Authorization, Execution and Delivery. The execution, delivery, and performance of this Agreement has been duly authorized by all necessary action and proceedings by or on behalf of City, and no further approvals or filings of any kind, including any approval of or filing with any governmental authority, are required by or on behalf of City as a condition to the valid execution, delivery, and performance by City of this Agreement. This Agreement, when duly executed and delivered by each party hereto, will be the valid, binding and enforceable obligation of City in accordance with its terms, subject to matters and laws affecting creditors' right generally as to political bodies and to general principles of equity.

(c) No Litigation. There are no actions, suits, proceedings or investigations of any kind pending or threatened against City before any court, tribunal or administrative agency or board or any mediator or arbitrator that questions the validity of this Agreement or any action taken or to be taken pursuant hereto.

(d) TAD Resolution. The TAD Resolution has been validly adopted, remains in full force and effect, and has not been amended or supplemented since its date of adoption. No amendment of or supplement to the TAD Resolution is contemplated by City.

(e) Redevelopment Agent. City has been duly designated as Redevelopment Agent for the TAD as contemplated by the Redevelopment Powers Law.

(f) Recitals. The Recitals in Article I of this Agreement relating to actions taken by public bodies are true and correct.

(g) Redevelopment Plan and TAD. The Redevelopment Plan and the TAD have been duly adopted and created, respectively, by City

**ARTICLE 4  
DEVELOPMENT AND CONSTRUCTION**

**Section 4.1 Construction, Completion, and Conveyance of the Public Infrastructure**

(a) Developer will use commercially reasonable efforts to develop and construct, or cause the development and construction of, the Public Infrastructure with diligence and good faith in a good and workmanlike manner and in substantial conformance with the Plans and the descriptions thereof set forth in Schedules A and B and in accordance with the Public Infrastructure Construction Schedule set forth in Schedule C, all subject to Force Majeure. City acknowledges that during the term of this Agreement modifications to the Public Infrastructure as contemplated on the Effective Date may occur. To the extent that such modifications are material but are not Material Modifications, Developer will provide a revised version of Schedule B or Schedule C, as appropriate, to City within fifteen (15) days, which will be used as the basis for reimbursement of Advances under Section 6.2. To the extent that any such modification is a Material Modification, Developer will comply with the procedures set forth in Section 4.4. City agrees to use commercially reasonable efforts to assist Developer with the Public Infrastructure on the terms set forth in this Agreement to further the public purposes of the Redevelopment Plan and the Redevelopment Powers Law. Without limitation, such cooperation shall include City's enabling Developer to construct, have constructed, or pay for the construction of (as determined by Developer upon consultation with City) all elements of the Public Infrastructure that are or shall be public facilities or located on public property.

(b) Developer will construct, or cause the construction of, the Public Infrastructure in accordance with all applicable Legal Requirements.

(c) Beginning on the Effective Date and continuing until the Public Infrastructure Completion Date, on or before the last business day of every reporting month Developer will provide City a written update on the status and progress of the construction of the Public Infrastructure and the costs and expenses incurred in connection with it to date. Said updates shall be provided by the Developer in the form of a written report in a format determined by Developer. Additionally, if requested by City or, any such monthly update shall also be given in a telephone conference between the Darin Van Tassell and City Manager. These reports and telephone conferences shall be in addition to and not as a substitute for any customary inspections or documents required by City in the usual course of issuing permits and inspecting construction of the Public Infrastructure.

(d) Upon completion of the construction of the Public Infrastructure, Developer will provide City with a final cost summary of all costs and expenses associated with the Public Infrastructure, a certification that it has been completed, and evidence that all amounts owing to contractors and subcontractors have been paid in full evidenced by customary affidavits executed by such contractors.

(e) Upon completion of the preceding subsection and review and approval of Public Infrastructure by City Staff, Developer shall convey the Site, all Public Infrastructure, necessary easements, and applicable rights of way to City.

(f) Developer shall obtain a “completion bond” to ensure that installation of Public Infrastructure is completed in the event there is a termination of this agreement as contemplated in Section 4.3. City shall be listed as endorsee/ beneficiary of said completion bond.

**Section 4.2 Approvals Required for the Project.** Developer will obtain or cause to be obtained all necessary Project Approvals for the Public Infrastructure and will comply with all Legal Requirements of any governmental body regarding the use or condition of the Public Infrastructure. Developer may, however, contest any such Legal Requirement or Project Approval by an appropriate proceeding diligently prosecuted. City agrees to process zoning and permit applications in a prompt and timely manner in accordance with its normal rules and procedures.

**Section 4.3 Unreasonable Delay or Abandonment; Cessation of Work.** If City determines in its reasonable discretion that construction and/or installation the Public Infrastructure is delayed for reasons other than Force Majeure or market forces such that the Public Infrastructure will not be completed within 120 days of the Public Infrastructure Completion Date, as amended, then City may terminate this Agreement. Prior to any such termination, City must give 60 days’ advance written notice to Developer and Developer must have failed to effect a cure within said 60-day notice period. Upon termination of this Agreement as provided in this Section, none of the parties hereto will have any further rights, duties or obligations hereunder except that Developer shall convey the Public Infrastructure, the Site, necessary easements, and all associated rights of way to City for consideration of ten dollars (\$10.00).

**Section 4.4 Material Modifications.** Prior to Developer making a Material Modification to the Public Infrastructure, Developer will submit the proposed modifications to the City Manager in writing for review. Any such submission must clearly identify all changes, omissions and additions as compared to the previously approved description of the Public Infrastructure. The City Manager, as soon as reasonably possible, will put the request for modification on a meeting agenda for City’s consideration. City will act on the requested modification within an amount of time that is reasonably required to consider the request. In addition, to the extent any Material Modification requires an amendment to any portion of the Redevelopment Plan, City will have such amount of time as reasonably required to pursue any such amendment (including required approvals, if any).

## ARTICLE 5

### DUTIES, RESPONSIBILITIES AND SPECIAL COVENANTS OF DEVELOPER

**Section 5.1 Completion of the Project.** Subject to any delays for Force Majeure, notwithstanding any other provision of this Agreement Developer will commence and complete construction of the Public Infrastructure substantially in accordance with Schedule C with diligence and in a good and workmanlike manner, free and clear of all liens and claims for materials supplied or for labor or services performed, or prohibited elsewhere that violate this

Agreement (except inchoate construction liens) subject to any lawful protest in accordance with Section 5.6.

**Section 5.2 Compliance with Documents.** Prior to its compliance with the Performance Commitments set forth in Schedule I, Developer will remain in compliance with its obligations and covenants in the Loan Documents, if any, pursuant to which amounts were loaned or otherwise made available to Developer to finance construction of the Public Infrastructure.

**Section 5.3 Litigation.** Developer will notify City in writing, within fifteen (15) business days of its having knowledge thereof, of any actual or pending litigation or adversarial proceeding in which a claim is made against Developer or against the Site or the Public Infrastructure in any case which Developer reasonably considers may impair Developer's ability to perform its obligations under this Agreement, and of any judgment rendered against Developer in any such litigation or proceeding. Prior to the expiration of the Performance Commitments set forth in Schedule I, Developer will notify City in writing and within fifteen (15) business days of any matter that Developer reasonably considers may result or does result in a material adverse change in the financial condition of Developer or in the financial condition or operation of the Public Infrastructure.

**Section 5.4 Maintenance of the Project.** Developer agrees that, for as long it has a real property interest in the Public Infrastructure, it will at its own expense (i) keep the Public Infrastructure, or cause it to be kept, in as reasonably safe condition in accordance with applicable Legal Requirements as its operations permit, and (ii) keep the Public Infrastructure in good repair and in good operating condition. .

**Section 5.5 Records and Accounts.** Developer will keep true and accurate records and books of account in connection with the Public Infrastructure in which full, true and correct entries will be made on a consistent basis, in accordance with GAAP in all material aspects.

**Section 5.6 Liens and Other Charges.** Developer will duly pay and discharge, or cause to be paid and discharged, before the same become overdue all claims for labor, materials, or supplies that if unpaid might by law become a lien or charge upon the Public Infrastructure unless Developer is lawfully protesting the same, in which case Developer will provide a suitable "mechanics lien bond" to discharge such lien from the Public Infrastructure.

**Section 5.7 Compliance with Laws, Contracts, Licenses, and Permits.** Developer will comply in all material respects with (a) all applicable laws related to the Public Infrastructure, (b) all material agreements and instruments related to or regarding the Public Infrastructure by which it may be bound, (c) all restrictions, covenants and easements affecting the Public Infrastructure (d) all applicable decrees, orders and judgments related to or regarding the Public Infrastructure, and (e) all licenses and permits required by applicable laws and regulations for the ownership, use, or operation of the Public Infrastructure.

**Section 5.8 Laborers, Subcontractors and Materialmen.** On or before the end of each calendar quarter prior to the Public Infrastructure Completion Date, Developer will furnish to City, upon written request, affidavits listing all laborers, subcontractors, materialmen, and any other Persons who might or could claim statutory or common law liens and are furnishing or have



furnished labor or material to the Public Infrastructure or any part thereof, together with affidavits, or other evidence satisfactory to City, showing that such parties have been paid all amounts then due for labor and materials furnished to the Public Infrastructure. Upon certification of completion of the Public Infrastructure, Developer shall furnish to City final lien waivers from the General Contractor and all subcontractors and materialmen who provided goods or services in excess of \$5000.00 to said projects. Affidavits and other materials submitted pursuant to this section shall be deemed approved by City if Developer does not receive written disapproval from City within thirty (30) days from the submission thereof.

**Section 5.9 Taxes.** To the extent of its interest therein, Developer will pay when due all taxes imposed upon or assessed against the Site and the Public Infrastructure or arising in respect of the use or possession thereof, and will provide to City, within ten days after a written request therefor, validated receipts showing the payment of such taxes when due. Developer will have the right to appeal an assessment for ad valorem tax purposes.

**Section 5.10 Insurance.** To the extent of its interest therein, Developer, or its Affiliates, will keep the Public Infrastructure continuously insured consistent with its normal operating policies and subject to its customary deductibles and limitations, but Developer may at any time elect to be self-insured. Any such insurance maybe provided through blanket insurance policies covering one or more facilities owned or operated by Developer and through any combination of underlying and umbrella policies as Developer may select.

**Section 5.11 Further Assurances and Corrective Instruments.** City and Developer agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements and amendments hereto and such further instruments as may reasonably be required for carrying out the intention or facilitating the performance of this Agreement; provided that the rights of City and Developer hereunder and the ability of Developer to construct the Public Infrastructure are not impaired thereby.

**Section 5.12 Performance by Developer.** Developer will perform all acts to be performed by it hereunder and will refrain from taking or omitting to take any action that would materially violate Developer's representations and warranties hereunder or render the same materially inaccurate as of the Effective Date and subsequent Requisition dates.

**Section 5.13 Restrictions on Easements and Covenants.** Except for Permitted Exceptions, Developer will not create or suffer to be created or to exist any easement, right of way, restriction, covenant, condition, license or other right in favor of any Person which adversely affect or might adversely affect the use of the Public Infrastructure, or any part thereof, without obtaining the prior approval of City (such approval not to be unreasonably withheld).

**Section 5.14 Access to the Site.** Prior to the In-service Date Developer will permit persons designated by City to access the Site and to discuss the progress and status of the Public Infrastructure with representatives of Developer, all in such detail and at such times as City may reasonably request. All such access must be during normal business hours and in a manner that will not unreasonably interfere with construction activities of the Public Infrastructure or with Developer's business operations generally

**Section 5.15 Delivery of Documents.** No later than five (5) business days prior to the Effective Date, Developer shall deliver to City the following:

- (a) Most recent plat of the Site;
- (b) Title Policy for the Public Infrastructure parcels, including any Permitted Exceptions;
- (c) Resolutions authorizing Developer to enter into this Agreement (see Section 3.1(b)); and
- (d) Certification of the good standing of Developer from the Georgia Secretary of State.

On the Effective Date, and if applicable, Developer shall deliver to City information evidencing that Developer has obtained Project Financing and completion bond with City as additional endorsee.

## **ARTICLE 6 DISBURSEMENT; SPECIAL FUND; FINANCING ALTERNATIVES**

### **Section 6.1 Advances.**

- (a) Developer shall may make or cause to be made Advances sufficient to fully install and construct all Public Infrastructure.
- (b) Developer may submit a Requisition to City for its review and approval for reimbursement for any such Advances in accordance with Section 6.2.

**Section 6.2 Disbursement.** Subject to substantial compliance by Developer with all of the material terms and conditions of this Agreement, the funds deposited into the Special Fund will be available for disbursement to Developer for reimbursement of Advances at such times and in such amounts as determined (“Disbursement”) in accordance with the following procedures:

- (a) Developer may submit a Requisition to City upon paid Advances totaling \$2,375,000 (two million three hundred seventy five thousand dollars) toward construction and installation of the Public Infrastructure. Developer shall convey a fee simple interest in all rights of ways.
- (b) Developer may submit an additional Requisition to City upon paid Advances totaling \$1,000,000 (one million dollars) toward construction and installation of the Public Infrastructure. Developer shall convey a fee simple interest in all rights of ways.
- (c) Developer may submit an additional Requisition to City upon paid Advances totaling \$500,000 (five hundred thousand dollars) toward construction and installation of the Public Infrastructure. Developer shall convey a fee simple interest in all rights of ways.

(d) Upon the In-Service Date and delivery of the certification required by Section 4.1(d), Developer will submit a Requisition to City. The Requisition will include (i) the Public Infrastructure Budget and (ii) the Public Infrastructure Costs. The accuracy of the cost breakdown in the Requisition must be certified by Developer, and hard construction costs must be certified by the General Contractor. The amount of the Requisition shall not exceed the Reimbursement Costs.

(e) The Requisition must be accompanied by evidence reasonably satisfactory to City showing:

(i) Copies of all bills or statements or canceled checks for any indirect or non-construction expense for which the Disbursement is requested (other than land valuation as set forth on Schedule D);

(ii) That all construction has been conducted substantially in accordance with the Plans (and all changes thereto approved by City or otherwise permitted pursuant to the terms hereof); and

(iii) That there are no liens outstanding against the Public Infrastructure or the real property on which it is installed that are in violation of this Agreement.

(f) The construction for which Reimbursement Costs are included in the Requisition must be reviewed and approved by City or its appointed consultant to verify the approval of the construction, the cost of completed construction, and compliance with this Agreement.

(g) Notwithstanding anything to the contrary herein, in no event will Tax Allocation Increment applicable to periods after the first (1st) year after the In-Service year (the end of such period, the “**Cutoff Date**”) be used to satisfy outstanding balances due Developer, if any. Disbursements due Developer under this Agreement will terminate upon the earlier to occur of (i) the satisfaction of all amounts due Developer including the aggregate of all Requisitions in an amount not to exceed Reimbursement Costs or (ii) the Cutoff Date.

(h) In no event shall Disbursements to Developer exceed a sum total of \$5,250,000 (five million two hundred and fifty thousand dollars), less amount of costs incurred by City relating to issuance and closing of TAD Bonds or other alternative financing.

(i) In no event shall City make more than four Disbursements to Developer.

(j) In no event shall City make any Disbursements to Developer prior to TAD Bond proceeds of a minimum of \$2,375,000 being deposited into the Special Fund.

### **Section 6.3 Limited Liability.**

(a) The payment of all Disbursements required by be paid by City under this Agreement shall be special or limited obligations of City payable only from the Special Fund. City will have no liability to honor any Requisition except from amounts on deposit in the Special Fund.

(b) To the extent permitted by State law, no director, officer, employee or agent of City will be personally responsible for any liability arising under or growing out of the Agreement.

(c) City shall not be obligated to disburse any funds to any person under this Agreement other than as directed by Developer or as otherwise permitted under this Agreement.

**Section 6.4 Special Fund.** City will deposit the Tax Allocation Increment into the Special Fund as property tax payments are received. Any funds obtained from TAD bonds or other financing arrangements entered into by City shall also be deposited into the Special Fund

**Section 6.5 Alternative Financing.** Nothing in this Agreement will limit the right of City and Developer to consider alternative methods of financing or refinancing Reimbursement Costs, including, without limitation, the issuance of TAD Bonds, so long as such financing does not have a detrimental effect on the Public Infrastructure.

## **ARTICLE 7 INDEMNIFICATION**

**Section 7.1 Indemnification.** Developer will defend, indemnify, and hold City and its agents, employees, officers, and legal representatives (collectively, the “Indemnified Persons”) harmless for all claims, causes of action, liabilities, fines, and expenses (including, without limitation, reasonable attorneys’ fees, court costs, and all other defense costs and interest) (collectively, the “Losses”) for injury, death, damage, or loss to persons or property sustained in connection with or incidental to the construction of the Public Infrastructure and, to the extent caused by construction of other elements of the Public Infrastructure pursuant to a construction contract directly between the contractor and the Developer, sustained in connection with the construction of such elements. Notwithstanding anything to the contrary in this Article, (1) Developer’s indemnification obligation under this Article is limited to the policy limits available under the insurance policies required under Section 5.10; (2) Developer will not be obligated to indemnify any Indemnified Person for the Indemnified Person’s own negligence, recklessness or intentional act or omission; and (3) Developer will not be obligated to indemnify any Indemnified Persons to the extent that any claims that might otherwise be subject to indemnification hereunder resulted, in whole or in part, from the gross negligence, recklessness or intentional act or omission of any other Indemnified Person or Persons.

**Section 7.2 Notice of Claim.** If an Indemnified Person receives notice of any claim or circumstance which could give rise to indemnified Losses, the receiving party must give written notice to Developer within ten (10) business days. The notice must include a description of the indemnification event in reasonable detail, the basis on which indemnification may be due, and the anticipated amount of the indemnified Losses. If an Indemnified Person does not provide this notice within the ten-business-day period, it does not waive any right to indemnification except to the extent that Developer is prejudiced, suffers loss, or incurs expense because of the delay.

**Section 7.3 Defense.** Developer may assume and control the defense of the claim based on the indemnified Losses at its own expense with counsel chosen by Developer with the

concurrence of the Indemnified Person. In such case, Developer will also control any negotiations to settle the claim. Within ten (10) business days after receiving written notice of the indemnification request, Developer will advise the Indemnified Person as to whether or not it will defend the claim. If Developer does not assume the defense, the Indemnified Person will assume and control the defense and all defense expenses actually incurred by it will constitute Losses.

**Section 7.4 Separate Counsel.** If Developer elects to defend a claim, the Indemnified Person may retain separate counsel, at the sole cost and expense of such Indemnified Person, to participate in (but not control or impair) the defense and to participate in (but not control or impair) any settlement negotiations. Developer may settle the claim without the consent or agreement of the Indemnified Person, unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the Indemnified Person to comply with restrictions or limitations that materially and adversely affect the Indemnified Person, (ii) would require the Indemnified Person to pay amounts that Developer does not fund in full, or (iii) would not result in the Indemnified Person's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

**Section 7.5 Survival.** The provisions of Article VII will remain in effect until the expiration of one (1) years after certification of completion of the Public Infrastructure

## **ARTICLE 8 DEFAULT**

### **Section 8.1 Default by Developer.**

- (a) The following will constitute a "Default" by Developer:
- (i) Failure of Developer to materially and timely comply with and perform any of its covenants, conditions or obligations set forth in this Agreement;
  - (ii) The declaration of an "event of default" by any lender under any Loan Documents, if any, with respect to Project Financing or a breach of Section 5.2;
  - (iii) An Act of Bankruptcy of Developer;
  - (iv) Any material representation or warranty made by Developer in this Agreement or subsequently made by it in any written statement or document furnished to City and related to the transactions contemplated by this Agreement is false, inaccurate or fraudulent in any material respect as of the date such representation or warranty is made; and
  - (v) Any material report, certificate or other document or instrument furnished to City by Developer in relation to the transactions contemplated by this Agreement is false, inaccurate or misleading in any material respect; or if any report, certificate or other document furnished to City on behalf of Developer, to the extent that Developer knows such document is false, inaccurate or misleading and fails to promptly report such discrepancy to City.

**Section 8.2 Remedies.** If a Default by Developer occurs and is continuing 60 days after receipt of written notice to Developer from City specifying the existence of such Default (or within a reasonable time thereafter if such Default cannot reasonably be cured within such 60-day period and Developer begins to diligently pursue the cure of such Default within such 60-day period), the Default will become an “Event of Default,” and City will be entitled to elect any or all of the following remedies: (i) terminate this Agreement and discontinue further funding hereunder, (ii) seek any remedy at law or in equity that may be available as a consequence of Developer’s default; (iii) pursue specific performance of this Agreement or injunctive relief; or (iv) waive such Event of Default. Upon termination of this Agreement as provided in this Section, none of the parties hereto will have any further rights, duties or obligations hereunder.

**Section 8.3 Remedies Cumulative.** Except as otherwise specifically provided, all remedies of the parties provided for herein are cumulative and will be in addition to any and all other rights and remedies provided for or available hereunder, at law or in equity.

**Section 8.4 Agreement to Pay Attorneys’ Fees and Expenses.** In the event of an Event of Default by Developer, if City employs attorneys or incurs other expenses for the collection of amounts due hereunder or for the enforcement of the performance or observance of any covenants or agreements on the part of Developer contained herein, Developer agrees that it will on demand therefor pay to City, as applicable, the reasonable fees of such attorneys and such other reasonable expenses so incurred by City, the amount of such fees of attorneys to be without regard to any statutory presumption.

**Section 8.5 Default by City.** The following will constitute a “Default” by City: Any material breach by it of any representation made in this Agreement or any material failure by it to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, for a period of 60 days after written notice specifying such breach or failure and requesting that it be remedied, given to it by Developer; provided that in the event such breach or failure can be corrected but cannot be corrected within said 60-day period, the same will not constitute a default hereunder if corrective action is instituted by the defaulting party or on behalf of the defaulting party within said 30-day period and is being diligently pursued.

**Section 8.6 Remedies Against City.** Upon the occurrence and continuance of a Default by City hereunder, Developer may seek any remedies available at law or in equity and may assert a claim for attorney’s fees, reasonable expenses and actual costs.

## **ARTICLE 9 MISCELLANEOUS**

**Section 9.1 Term of Agreement; Survival.** This Agreement will commence on the Effective Date and will expire on the earlier to occur of the date on which all Reimbursement Costs have been fully reimbursed to Developer from the Special Fund or one (1) year after the In-Service Date.

**Section 9.2 Notices.** Any notice sent under this Agreement (except as otherwise expressly required) must be written and mailed or sent by overnight courier or personally delivered to an officer of the receiving party at the following addresses:

**If to Developer:**

Darin Van Tassell  
2704 Old Register Rd  
Statesboro, Ga 30458

**If to City:**

Statesboro City Manager  
50 E Main St  
Statesboro Georgia 30458

With a copy to: City Attorney at same address

Each party may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this Section will be deemed to be given when so mailed, and any communication so delivered in person will be deemed to be given when received for by, or actually received by the party identified above.

**Section 9.3 Amendments and Waivers.** Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed by the parties hereto. No course of dealing on the part of any party to this Agreement, nor any failure or delay by any party to this Agreement with respect to exercising any right, power or privilege hereunder will operate as a waiver thereof.

**Section 9.4 Invalidity.** In the event that any provision of this Agreement is held unenforceable in any respect, such unenforceability will not affect any other provision of this Agreement.

**Section 9.5 Successors and Assigns.** Prior to the In-Service Date, Developer may not assign this Agreement or any of its rights hereunder or any interest herein without the prior written consent of City, which consent may not be unreasonably withheld, conditioned or delayed; provided that Developer may, without the prior consent of City, assign this Agreement and all or any portion of its rights hereunder and interests herein (i) to any Affiliate of it or to any entity which controls, is controlled by or under common control with it; (ii) to any purchaser of all of substantially all of the assets or stock of Developer or ; or (iii) to any lender providing financing for all or any part of the Public Infrastructure. After the In-Service Date, Developer may assign this Agreement and all or any portion of its rights hereunder and interests herein. Developer will provide written notice to City of any assignment. Upon any such assignment of the obligations of Developer hereunder, Developer will be deemed released from such obligations. Notwithstanding the above, Developer may collaterally assign this Agreement and its rights hereunder and interest herein, without the consent of City, to a lender to secure financing or development of the Public Infrastructure.

**Section 9.6 Schedules; Titles of Articles and Sections.** The Schedules attached to this Agreement are incorporated herein and will be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such Schedules and the provisions of this Agreement, the provisions of this Agreement will prevail. All titles or headings are only for the convenience of the parties and may not be construed to have any effect or meaning as to the agreement between the parties hereto. Any reference herein to a Section or subsection will be considered a reference to such Section or subsection of this Agreement unless otherwise stated. Any reference herein to a Schedule will be considered a reference to the applicable Schedule attached hereto unless otherwise stated.

**Section 9.7 Applicable Law.** This Agreement is a contract made under and will be construed in accordance with and governed by the laws of the United States of America and the State of Georgia. Venue for any legal action resulting from this Agreement shall be in the court of appropriate jurisdiction in Bulloch County.

**Section 9.8 Entire Agreement.** This written agreement represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

**Section 9.9 Approval by the Parties.** Whenever this Agreement requires or permits approval or consent to be hereafter given by any of the parties, the parties agree that such approval or consent may not be unreasonably withheld, conditioned or delayed, and will be deemed given if no written objection is delivered to the requesting party within ten (10) business days after delivery of the request to the approving party.

**Section 9.10 Additional Actions.** The parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of the day and year first written above.

(Signatures on following pages)



**CITY OF STATESBORO, GEORGIA**

---

Mayor Jonathan McCollar

---

Attested by Leah Harden, City Clerk

**JGR Development, LLC**

---

Darin Van Tassell, Managing Member

## SCHEDULES

- A Site Description
- B \_\_\_ Public Infrastructure Description
- C \_\_\_ Public Infrastructure Construction Schedule
- D \_\_\_ Public Infrastructure Budget
- E Form of Requisition
- F Intentionally Omitted
- G Source and Uses Statement
- H Intentionally Omitted
- I Performance Commitments







**SCHEDULE D**

**PUBLIC INFRASTRUCTURE PROJECT BUDGET**

Land acquisition	
Sitework/Foundation	
Infrastructure	
Construction services, architectural, engineering, civil design	
Environmental and permitting	
Total	\$ _____.00

**Note: Amounts may be adjusted within each category. The total budget may be adjusted or increased or decreased in accordance with the terms of this Agreement.**

**SCHEDULE E**

**FORM OF REQUISITION**

**OLD REGISTER TAX ALLOCATION DISTRICT**

Requisition No. \_\_

Date of Requisition: \_\_\_\_\_, 20\_\_.

TO:

Attention:

Facsimile:

**PROJECT:**

**Public Infrastructure**

**DEVELOPER:**

Application is made for payment of amounts on deposit in the Special Fund to pay for Reimbursement Costs in the amount, for the purposes and on the terms set forth below, all in accordance with the provisions of that certain Development Agreement between City and the Developer named above, dated as of \_\_\_\_\_, 201\_. All capitalized terms used herein not otherwise defined shall have the meaning given them in the Development Agreement.

As of the date of this Requisition No. \_\_, outstanding Requisition amounts and accrued interest thereon is \$\_\_\_\_\_ (the "Outstanding Balance") as detailed below:

<b>Requisition No.</b>	<b>Date Approved</b>	<b>Amount of Requisition</b>	<b>Amounts Paid to Date</b>	<b>Balance Unpaid</b>	<b>Total Amount Due</b>

AIA Form G-702 and its Continuation Sheet, AIA Document G-703, are attached as Exhibit A and are made a part of this Requisition. Architect's and Contractor's Certificates for Payment are attached as part of the attached AIA Form G-702.

1. The Public Infrastructure Budget is \$\_\_\_\_\_ and the Public Infrastructure costs, Schedule of Values and Percentages of Completion are as set forth on Forms G-702 and G-703 attached.
2. Total amount requested: \$\_\_\_\_\_.
3. Attached hereto as Exhibit B are:
  - a. Copies of all bills or statements or cancelled checks for any indirect or soft-cost expense for which this Requisition is requested;
  - b. Copies of all bills or statements or cancelled checks for any such hard cost expenses incurred by the Developer for which this Requisition is requested;
  - c. To the extent applicable, a copy of a satisfactory "Interim Waiver and Release Upon Payment" pursuant to O.C.G.A. Sec. 44-14-366 from the General Contractor which received payment from the proceeds of the immediately preceding Requisition; and

### **DEVELOPER'S CERTIFICATIONS**

In accordance with the Development Agreement, Developer certifies to City that:

- i. all of its representations and warranties made in and as of the date of the Development Agreement were true and correct as of the effective date thereof;
- ii. the construction of the Public Infrastructure is in accordance with the Plans and the Development Agreement;
- iii. the Project Cost breakdown referenced in this Requisition is accurate;
- iv. all amounts being reimbursed for stored materials are and will be stored in either (a) a bonded warehouse approved by City and accessible to inspection by representatives of City, or (b) stored in a locked and otherwise secure storage arrangement acceptable to City and insured in an amount acceptable to City;
- v. no amounts are requested for materials to be stored more than 150 days before being used for the Public Infrastructure;
- vi. no payment under this Requisition exceeds the maximum allowable non-construction expenses actually incurred within the amounts set forth in the Public Infrastructure Budget, plus the lesser of (a) the actual cost of the completed portion of the Public Infrastructure or (b) the scheduled value of each completed portion of the Public Infrastructure as set forth in the Schedule of Values attached hereto;
- vii. all payments requested under this Requisition are for Public Infrastructure items (i) which are of a quality and construction acceptable under this Agreement and (ii) which have not been previously paid;



- viii. there are no liens outstanding against the site of the Public Infrastructure except (i) inchoate liens for property taxes not yet due and payable, (ii) liens being contested in accordance with the terms and conditions set forth in applicable law and (iii) liens consented to by City or otherwise not prohibited by the Development Agreement;
- ix. Developer is not in default under the Development Agreement; and
- x. no governmental body has lawfully issued the equivalent of a stop order with respect to any portion of the Public Infrastructure

Submitted by:

DEVELOPER

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Approved:

CITY OF STATESBORO, GEORGIA

By: \_\_\_\_\_  
Its: \_\_\_\_\_

## **SCHEDULE G**

### **SOURCES AND USES STATEMENT**

Sources are from internal/external sources, debt or equity financing.

Uses are as described in the Development Agreement.





# STATESBORO POLICE DEPARTMENT

Ph 912-764-9911

25 West Grady Street, Statesboro, Georgia 30458

Fx 912-489-5050

TO: Charles Penny, City Manager

FROM: Mike Broadhead, Chief of Police *MB*

DATE: May 19, 2020

RE: Change Order to Dispatch Console Project

POLICY ISSUE: Budget

RECOMMENDATION: That Council approve a change order for the dispatch console project that includes the proper grounding of police headquarters.

BACKGROUND: During the early summer of 2019, police headquarters was struck by lightning which damaged the air conditioning units as well as the dispatch consoles. City Council approved the use of \$361,500 to replace the consoles in November, 2019. As the console vendor (Motorola) explored the damage caused by the lightning strike, they discovered that the building was never properly grounded. This improper grounding directly led to the damage from the storm, and is likely to occur again. Motorola has asked for a change order that includes an additional \$18,571 to properly ground the building.

BUDGET IMPACT: According to the Budget Director, Cindy West, there are funds in the 2013 SPLOST that can be used to cover this additional expense.

COUNCIL DISTRICT: All

ATTACHMENTS: Change Order Document



Change Order No. 001

Date: May 12, 2020

Project Name: City of Statesboro Police Department Four Position Dispatch Site

Customer Name: Statesboro Police Department

Customer Project Mgr:

The purpose of this Change Order is to: (highlight the key reasons for this Change Order)

Addition:

To correct grounding issues at the City of Statesboro Police Department's dispatch room, IT equipment room and the main electrical room.

Contract # PO0033347

Contract Date: 12/11/2019

In accordance with the terms and conditions of the contract identified above between [City of Statesboro, GA] and Motorola Solutions, Inc., the following changes are approved:

Contract Price Adjustments

Original Contract Value:	\$361,500.00
Previous Change Order amounts for Change Order numbers 000 through 000	\$ 0.00
This Change Order:	\$ 18,571.00
New Contract Value:	\$380,071.00

**Completion Date Adjustments**

Original Completion Date:	06/29/2020
Current Completion Date prior to this Change Order:	06/29/2020
New Completion Date:	06/29/2020

**Changes in Equipment:** *(additions, deletions or modifications)* **Include attachments if needed**

Addition of new grounding to be installed on site at the City of Statesboro PD.  
Equipment and Services are provided below.

**Changes in Services:** *(additions, deletions or modifications)* **Include attachments if needed**

ADD the following:

- install 2(two) 5/8 x 8' ground rods in Island next to sally port
- install approximately 10(ten) 5/8 x 8' ground rods from sally port to generator
- install 1/0 bare copper on all ground rods
- x-ray and make 2(two) wall penetrations and 1(one) floor penetration
- install 1/4x4x18 ground bar in ceiling at sally port
- upgrade grounding in equipment room
- install 1/0 green jacket copper from main water closet to buss bar in sally port
- install 1/0 green jacket from buss bar to 2nd floor equipment room
- install 1/0 green jacket from buss bar to dispatch
- purchase and install fused 60 amps 3 phase 480v disconnect
- purchase and install 3 phase Type 1 TVSS unit
- meg test new ground system

**Schedule Changes:** *(describe change or N/A)*

No Change To Schedule

**Pricing Changes:** *(describe change or N/A)*

ADD: \$18,571.00

**Customer Responsibilities:** *(describe change or N/A)*

Responsible for all trenching and removal of landscaping and backfilling of trenches once the grounding is completed as well as trench under drive to extend ground back to the existing generator.

**Payment Schedule for this Change Order:**  
*(describe new payment terms applicable to this change order)*

Unless amended above, all other terms and conditions of the Contract shall remain in full force. If there are any inconsistencies between the provisions of this Change Order and the provisions of the Contract, the provisions of this Change Order will prevail.

IN WITNESS WHEREOF the parties have executed this Change Order as of the last date signed below.

**Motorola  
Solutions, Inc.**

**Customer**

By: \_\_\_\_\_  
Printed Name: Jay Nix  
Title: Project Manager  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



# CHANGE ORDER

[001]

Reviewed by: Gary Ladd  
\_\_\_\_\_  
Motorola Solutions Project Manager

Date: 05/12/2020  
\_\_\_\_\_



# CITY OF STATESBORO

## COUNCIL

Phillip A. Boyum  
Paulette Chavers  
Venus Mack  
John C. Riggs  
Shari Barr



Jonathan McCollar, Mayor  
Charles Penny, City Manager  
Leah Harden, City Clerk  
I. Cain Smith, City Attorney

50 EAST MAIN STREET • P.O. BOX 348  
STATESBORO, GEORGIA 30459-0348

To: Mr. Charles Penny, City Manager

From: Steve Hotchkiss, Director of Public Utilities

Date: 5-11-2020

RE: Sole Source purchase of Programmable Logic Controllers (PLC)

Policy Issue: Purchasing

Recommendation: Consideration of a motion to approve the purchase of nine PLCs with control panels, hardware and installation from Revere Control Systems, Inc. in the amount of \$86,500.00 with funds approved in the 2020 CIP Budget Item # WWD-176.

Background: The Water Sewer Department and the Waste Water Treatment Plant use PLCs to control many of the automated systems and equipment that operates the City's water wells, waste treatment function and SCADA system. These components were installed when the City first started using automated controls more than twenty years ago and have not had a major upgrade since. PLCs are basically highly specialized computers that control specific functions and because of their age our current PLCs can no longer accept new program updates and are more prone to malfunction.

We are requesting to purchase these items Sole Source from Revere because the new units must match the existing equipment and must be compatible with our existing SCADA system. This contract will cover the equipment, installation and startup of the system once installed.

Revere has managed our SCADA and Automated Controls for many years and has provided good service and reliability. Our consultants at Hussey Gay Bell Engineering have reviewed the proposals and have compared the prices against other brands and find them to be very competitive with industry standards.

Budget Impact: Funds were approved in the 2020 CIP #WWD-176

Council Person and District: All

Attachments: Revere Proposal

**Georgia Municipal Association City of Excellence**

Telephone: (912) 764-5468 • Fax: (912) 764-4691 • email: [cityhall@statesboroga.net](mailto:cityhall@statesboroga.net)



**PROPOSAL FOR**  
**GE PLC UPGRADES**  
**CITY OF STATESBORO, GA**  
GARY MOSLEY, SCADA ADMINISTRATOR  
302 BRIARWOOD ROAD  
STATESBORO, GA 30458

**QUOTE DATE: MAY 11, 2020**

Dear Gary:

Thank you for the opportunity to present our proposal for upgrading the GE 90-30 PLCs to the GE Rx3i PLC Platform at the Wastewater Treatment Plant and the Remote Well/Tank Sites. We will provide the GE Rx3i PLC hardware as well as the services outlined in the defined scope of work.

The following GE Rx3i PLC Hardware components will be provided per PLC Control Panel.

### PLC Hardware Lists

<b>PLC-700 Control Panel</b>		
<b>Qty</b>	<b>Description</b>	<b>Manufacturer</b>
1	GE Rx3i 12-Slot Universal Base	IC695CHS012
1	GE Rx3i Power Supply 120/240 VAC 40 Watts (Occupies 2 Slots)	IC695PSA040
1	GE Rx3i Base Expansion 10 Slots	IC694CHS392
1	GE Rx3i Power Supply 120/240 VAC Standard	IC694PWR321
1	GE Rx3i CPU Dual Slot, 1.1 GHz Processor, 10 Mg Memory, 1 Ethernet Port	IC695CPE310
1	GE Rack Expansion Cable, I/O Expansion 2 Meters	IC693CBL301

<b>Well No. 2 Control Panel</b>		
<b>Qty</b>	<b>Description</b>	<b>Manufacturer</b>
1	GE Rx3i 7-Slot Universal Base	IC695CHS007
1	GE Rx3i Power Supply 120/240 VAC 40 Watts (Occupies 2 Slots)	IC695PSA040
1	GE Rx3i CPU Single Slot, 1.1 GHz Processor, 5 Mg Memory, 1 Ethernet Port	IC695CPE305

<b>Well No. 4 Control Panel</b>		
<b>Qty</b>	<b>Description</b>	<b>Manufacturer</b>
1	GE Rx3i 7-Slot Universal Base	IC695CHS007
1	GE Rx3i Power Supply 120/240 VAC 40 Watts (Occupies 2 Slots)	IC695PSA040
1	GE Rx3i CPU Single Slot, 1.1 GHz Processor, 5 Mg Memory, 1 Ethernet Port	IC695CPE305

<b>Well No. 6 Control Panel</b>		
<b>Qty</b>	<b>Description</b>	<b>Manufacturer</b>
1	GE Rx3i 7-Slot Universal Base	IC695CHS007
1	GE Rx3i Power Supply 120/240 VAC 40 Watts (Occupies 2 Slots)	IC695PSA040
1	GE Rx3i CPU Single Slot, 1.1 GHz Processor, 5 Mg Memory, 1 Ethernet Port	IC695CPE305

<b>Well No. 8 Control Panel</b>		
<b>Qty</b>	<b>Description</b>	<b>Manufacturer</b>
1	GE Rx3i 7-Slot Universal Base	IC695CHS007
1	GE Rx3i Power Supply 120/240 VAC 40 Watts (Occupies 2 Slots)	IC695PSA040
1	GE Rx3i CPU Single Slot, 1.1 GHz Processor, 5 Mg Memory, 1 Ethernet Port	IC695CPE305

<b>Well No. 9 Control Panel</b>		
<b>Qty</b>	<b>Description</b>	<b>Manufacturer</b>
1	GE Rx3i 7-Slot Universal Base	IC695CHS007
1	GE Rx3i Power Supply 120/240 VAC 40 Watts (Occupies 2 Slots)	IC695PSA040
1	GE Rx3i CPU Single Slot, 1.1 GHz Processor, 5 Mg Memory, 1 Ethernet Port	IC695CPE305

<b>Well No. 10 Control Panel</b>		
<b>Qty</b>	<b>Description</b>	<b>Manufacturer</b>
1	GE Rx3i 12-Slot Universal Base	IC695CHS012
1	GE Rx3i Power Supply 120/240 VAC 40 Watts (Occupies 2 Slots)	IC695PSA040
1	GE Rx3i CPU Single Slot, 1.1 GHz Processor, 5 Mg Memory, 1 Ethernet Port	IC695CPE305

<b>Claude Howard Tank Control Panel</b>		
<b>Qty</b>	<b>Description</b>	<b>Manufacturer</b>
1	GE Rx3i 7-Slot Universal Base	IC695CHS007
1	GE Rx3i Power Supply 120/240 VAC 40 Watts (Occupies 2 Slots)	IC695PSA040
1	GE Rx3i CPU Single Slot, 1.1 GHz Processor, 5 Mg Memory, 1 Ethernet Port	IC695CPE305

<b>Stadium Tank Control Panel</b>		
<b>Qty</b>	<b>Description</b>	<b>Manufacturer</b>
1	GE Rx3i 7-Slot Universal Base	IC695CHS007
1	GE Rx3i Power Supply 120/240 VAC 40 Watts (Occupies 2 Slots)	IC695PSA040
1	GE Rx3i CPU Single Slot, 1.1 GHz Processor, 5 Mg Memory, 1 Ethernet Port	IC695CPE305

<b>Walmart Tank Control Panel</b>		
<b>Qty</b>	<b>Description</b>	<b>Manufacturer</b>
1	GE Rx3i 7-Slot Universal Base	IC695CHS007
1	GE Rx3i Power Supply 120/240 VAC 40 Watts (Occupies 2 Slots)	IC695PSA040
1	GE Rx3i CPU Single Slot, 1.1 GHz Processor, 5 Mg Memory, 1 Ethernet Port	IC695CPE305

## Engineering Services

The following Engineering Services will be provided for each PLC Control Panel Upgrade.

### A. Engineering Services

- PLC hardware configuration and logic conversion using Machine Edition programming software.
- Remove existing GE 90-30 PLC Hardware including base(s), power supply, CPU, Ethernet Module.
- Installation of GE Rx3i PLC Hardware as provided in this proposal.
- Note: The existing GE 90-30 I/O Modules will be reused.
- Verification of communications with the GE Proficy iFix HMI Application.
- Provide a copy of the new PLC program file to the City of Statesboro.

## Project Pricing and Timelines

<b>PLC-700 Control Panel Upgrade .....</b>	<b>\$ 12,890.00</b>
<b>Well No. 2 Control Panel Upgrade.....</b>	<b>\$ 8,286.00</b>
<b>Well No. 4 Control Panel Upgrade.....</b>	<b>\$ 8,286.00</b>
<b>Well No. 6 Control Panel Upgrade.....</b>	<b>\$ 8,286.00</b>
<b>Well No. 8 Control Panel Upgrade.....</b>	<b>\$ 8,286.00</b>
<b>Well No. 9 Control Panel Upgrade.....</b>	<b>\$ 8,286.00</b>
<b>Well No. 10 Control Panel Upgrade.....</b>	<b>\$ 10,550.00</b>
<b>Claude Howard Tank Control Panel Upgrade .....</b>	<b>\$ 7,210.00</b>

<b>Stadium Tank Control Panel Upgrade.....</b>	<b>\$ 7,210.00</b>	
<b>Walmart Tank Control Panel Upgrade.....</b>	<b>\$ 7,210.00</b>	
<b>Total PLC Upgrade Price .....</b>	<b>\$ 86,500.00</b>	<b>Total Price</b>

- Pricing:**                   • Prices do not include sales tax based on the City of Statesboro providing a tax exempt certificate.
- Timeline:**               • Scheduling of onsite services are based on material lead time and coordination with the City of Statesboro SCADA Administrator.
- Sales Tax:**               Revere must collect taxes for shipments made to the following states unless a tax exemption certificate is provided prior to shipping: AL, AR, CO, FL, GA, KY, LA, MS, NC, NV, OH, PA, SC, TN, and TX.

### Payment Terms

Unless stated otherwise, payment terms are net cash thirty (30) days after shipment. A late charge of one and a half percent (1½%) per month shall be added to all amounts not received within thirty (30) days after invoice. Buyer agrees to pay all costs and expenses of Seller, including collection fees, attorneys’ fees and expenses and court costs for securing payments due and/or resolving disputes under this contract.

Project will be invoiced according to a schedule of values agreed to by both Seller and Buyer. Partial shipments will be invoiced as shipped.

### List of Attachments/Exhibits

The following attachments and/or exhibits are considered an integral part of this proposal:  
- Revere Terms and Conditions

Thank you for your consideration of Revere Control Systems. We look forward to working with you on this project.

Sincerely,

*Nan Johnson*  
Nan Johnson, PMP  
Vice President of Municipal Systems

Revere Control Systems, Inc.  
Phone: 205.271.9806  
[njohnson@reverecontrol.com](mailto:njohnson@reverecontrol.com)

These are the terms and conditions for all work performed by Revere Control Systems ("RCS") for ("Buyer") that is related to:  
(the "Project"). Dated .

**ENTIRE AGREEMENT** The entire agreement between RCS and Buyer consists of: (a) these Terms and Conditions, (b) RCS's proposal (to which these terms and conditions are attached) (the "Proposal"), (c) the written requirements of Buyer (if any) that are attached as Exhibit A and, (d) if applicable, Buyer's later purchase orders to the extent they do not contain any additional, inconsistent or contrary terms or conditions (all of which are expressly rejected by RCS) to those set forth in the foregoing documents (collectively the "Contract"). The Contract may only be modified by a written Change Order executed by both Buyer and RCS. To the extent these Terms and Conditions are inconsistent with the Proposal or Buyer's written requirements (if any) attached as Exhibit A or any of Buyer's purchase orders, these Terms and Conditions shall take priority. To the extent the Proposal is inconsistent with the Buyer's written requirements (if any) attached as Exhibit A or any of Buyer's purchase orders, the Proposal shall take priority.

**INTELLECTUAL PROPERTY** RCS shall retain sole ownership of all of its intellectual property used or produced in connection with the Project, including but not limited to all drawings, specifications, software, written materials, manuals, marks, business methods, and all other property that is capable of protection by a patent, copyright or trademark (whether or not such protection has actually been sought). Buyer shall not use such intellectual property except for the purpose of confirming the quality of design and/or manufacturing of the products and services set forth in the Proposal. Buyer shall not photocopy, duplicate or in any way copy such intellectual property except for the Buyer's internal purposes only (but not for rendering services or selling products to third persons). Buyer shall not sell, license, assign or transfer the intellectual property protected by this paragraph to anyone. Buyer shall ensure that Owner is in possession of valid licenses for all third-party software (not provided by RCS) used for the Project, and shall indemnify and hold harmless RCS against all claims by licensors of such software. RCS makes no warranty regarding the effect of such third-party software on the performance of the software to be developed by RCS for the Project and RCS shall be released from any warranties given to Buyer to the extent that such software causes or contributes to problems. Following acceptance and final payment to RCS, RCS will grant to the Owner a non-transferable, non-exclusive license to use the software for the Owner's internal purposes only in the form of the license agreement attached as Exhibit B.

**TAXES** Prices stated herein do not include any tax, excise, duty or levy now or hereafter enacted or imposed, by any governmental authority on the manufacture, sale, delivery and/or use of any item delivered. An additional charge will be made therefore and paid by Buyer unless RCS is furnished with a proper exemption certificate relieving RCS of paying or collecting the tax, excise, duty or levy in question.

**LIABILITY** The total liability of RCS to Buyer for any loss, indemnity, damage or delay of any kind will not under any circumstances exceed 25% of the Contract Sum. Under no circumstances will RCS be liable for any loss, indemnity damage or delay arising out of its failure to perform due to causes beyond its reasonable control, including, without limitation, acts of God, interference by others, delays in receiving approvals or necessary information from Buyer, a higher-tier party and/or the ultimate owner, fires, strikes, floods, war, terrorism, riots, delays in transportation and adverse weather. Under no circumstances will RCS be liable for any special, incidental or consequential damages based on breach of warranty, breach of contract, negligence, gross negligence, strict liability, products liability or any other legal theory.

**TERMINATION** RCS may terminate this Contract for any of the reasons that Buyer may terminate its contract, if any, with any higher-tier buyer or the ultimate owner. Buyer may terminate RCS only for persistently or repeatedly failing or neglecting to carry out the Work in accordance with the Contract (and only after failing to take steps to correct such failure following ten (10) days written notice by Buyer). If terminated without cause, RCS shall be entitled to receive payment for the Work executed, and costs incurred by reason of such termination (including any restocking charges), along with reasonable overhead and profit on Work not yet executed.

**SEVERABILITY** The provisions of this contract are severable. If any part or parts of this contract are held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the contract shall remain in full force and effect.

**NO ASSIGNMENT** Buyer may not assign its rights under this contract without the prior express written consent of RCS.

**TITLE** It is expressly understood that title to the products manufactured by RCS shall not pass to Buyer, but shall remain vested in and continue to be the property of RCS or its successors or assigns, until the purchase price, any applicable late charges and any other sums due hereunder have been fully paid.

**WARRANTY AND LIMITATIONS** RCS warrants to the purchaser that buys for use, and not for resale (the "Ultimate Purchaser") that all products furnished and which are manufactured by RCS will conform to specifications, drawings, samples and other written descriptions that are a part of this Contract, and will be free from defects in materials and workmanship. These warranties shall remain in effect for a period of twelve (12) months after acceptance of RCS's work under the Contract by either Buyer or Ultimate Purchaser (or their legal representatives) or twelve (12) months after the system is placed in productive use, or eighteen (18) months after shipment, whichever occurs first. Parts replaced or repaired during the warranty period shall carry the unexpired portion of the original warranty.

The liability of RCS hereunder is limited to replacing or repairing at RCS's factory or on the job site, at RCS's option, any part or parts which have been returned to RCS and which are defective or do not conform to such specifications, drawings or other written descriptions that are a part of the Contract; provided that such part or parts are returned within ninety (90) days after such defect is discovered. RCS shall have the sole right to determine if the parts are to be repaired at the job site or whether they are to be returned to the factory for repair or replacement. RCS shall not be liable for any damage done by unauthorized repair work, unauthorized replacement parts, from any misapplication or misuse of the item, or for damage due to accident, abuse, or Act of God. RCS shall not be liable for any labor, subcontracted or performed, by Buyer for preparation of any warranted item for return to RCS's factory or for preparation work for field repair or replacement. Non-compliance with the terms of payment by the Buyer shall result in a failure of consideration under this contract and shall relieve RCS of any duties or obligations with respect to any warranties stated herein.

**EXCEPT AS SET FORTH IN THIS PROPOSAL WITH REGARD TO BOTH HARDWARE AND SOFTWARE, RCS MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF FREEDOM FROM PATENT INFRINGEMENT, OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE OR OTHER EXPRESS OR IMPLIED WARRANTIES. RCS IS NOT LIABLE FOR AND PURCHASER WAIVES ANY RIGHT OF ACTION IT HAS OR MAY HAVE AGAINST RCS FOR ANY CONSEQUENTIAL OR SPECIAL DAMAGES ARISING OUT OF ANY BREACH OR WARRANTY AND FOR ANY DAMAGES PURCHASER MAY CLAIM FOR DAMAGE TO ANY PROPERTY OR INJURY OR DEATH TO ANY PERSON ARISING OUT OF ITS PURCHASE OR THE USE, OPERATION OR MAINTENANCE OF THE PRODUCT.**

**OTHER** Start-up service, operator orientation or installation is not included unless specifically offered in the Proposal. Buyer agrees to pay, as additional costs, for service calls on equipment not ready for start-up. Other field service is available at RCS's current prevailing rates. Stenographic, clerical or typographical errors are subject to correction.

**CHOICE OF LAW** This contract shall be construed under and governed by the laws of the State of Alabama, USA.

**COVENANT NOT TO SOLICIT EMPLOYEES** Commencing immediately, and continuing until a date one (1) year after the date of final completion of all obligations under this Contract, Buyer agrees not to directly or indirectly employ, solicit for employment, or advise or recommend to any other person that such other person employ or solicit for employment, any person employed by or under contract to RCS.

**LOSS OR DAMAGE** The responsibility for loss or damage of the equipment specified in the Contract shall be Buyer's from the time of shipment. Buyer is responsible for protecting the equipment against loss or damage of any kind. RCS shall pay for and maintain until final acceptance of RCS's work under this Contract policies of insurance issued by carriers acceptable to the Buyer which afford coverage for worker's compensation (including employer's liability) and general liability.

**FAILURE TO MAKE PAYMENT** If, after seven (7) days notice by RCS, the Buyer does not make payment for the Work in conformity with this Contract (or, with or without such notice if the Buyer has repeatedly failed to make payment in conformity with this Contract), RCS may suspend its work under this Contract until it receives all payments then due, and the Contract Sum shall be increased by RCS's reasonable demobilization and remobilization costs and reasonable finance charges. In the event collection of any amounts due to RCS is referred to an attorney, Buyer shall bear all costs of collection, including, but not limited to RCS's reasonable attorney fees. RCS may require prepayment of any or all amounts due if the financial condition of Buyer, a higher-tier buyer or the Ultimate Purchaser reasonably justifies it.

**ASBESTOS ABATEMENT** RCS is not responsible for asbestos abatement associated with any construction demolition. It will be the Buyer's responsibility to secure such services.

**ARBITRATION** All claims arising out of this Contract shall be subject to arbitration before a single arbitrator in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. The arbitrator shall be a person with experience in software development and electrical issues. The governing law and place of the arbitration will be in the State of Alabama, USA.

# CITY OF STATESBORO

## COUNCIL

Phillip A. Boyum, District 1  
Paulette Chavers, District 2  
Venus Mack, District 3  
John Riggs, District 4  
Shari Barr, District 5



Jonathan McCollar, Mayor  
Charles Penny, City Manager  
Leah Harden, City Clerk  
Cain Smith, City Attorney

50 EAST MAIN STREET • P.O. BOX 348  
STATESBORO, GEORGIA 30459-0348

**To: Mr. Charles Penny  
City Manager**

**From: Steve Hotchkiss  
Director of Public Utilities**

**Date: 4-29-2020**

**RE: Professional Services Contract WOOD Engineering**

**Policy Issue: Council Approval**

**Recommendation: Consideration of a motion to award a Professional services contract to WOOD Engineering in the amount of \$58,000.00 for design, bidding and construction oversight services for a new Compressed Natural Gas filling station, with funds approved as part of the 2020 CIP Budget item #NGD-58.**

**Background: In 2013 the City purchased a used Compressed Natural Gas fueling system from the First Transit Bus System that served Georgia Southern University. The system was relocated to the City's Public Works facility and has been in service for the last seven years. We currently have a fleet of five heavy duty garbage trucks and five light duty service trucks and pump approximately 33,000 equivalent gallons of fuel each year. The system is now fifteen years old and is reaching the end of its service life and is scheduled for replacement.**



**Our Natural Gas consulting engineers at WOOD Engineering have conducted a preliminary review of the current installation and have submitted their proposal to provide design, bidding and construction oversight for the project. The engineers estimate for the project is \$548,240.00, this does not include site work, gas main extension and meter upgrades to be provided by the City. The project is funded in the CIP for up to \$750,000.00, however, our estimate is to be under \$650,000.00 when completed.**

**Budget Impact: This project was approved as part of the 2020 CIP Budget with \$500,000.00 coming from 2013 SPLOST and \$250,000.00 from operating funds.**

**Council Person and District: All**

**Attachments: Wood Engineering Proposal**



Wood Environment & Infrastructure Solutions, Inc.  
1075 Big Shanty Road NW  
Suite 100  
Kennesaw, GA 30144  
USA  
T: 770-421-3400  
[www.woodplc.com](http://www.woodplc.com)

March 19, 2020  
Revised April 14, 2020

Mr. Steve Hotchkiss  
City of Statesboro  
P.O. Box 348  
Statesboro, GA. 30458

**Subject: Revised Proposal for Natural Gas Engineering Services  
CNG Fueling Station – Design and Construction Administration  
Statesboro, Georgia  
Wood Proposal No. 20PROPGOVT.0104**

Dear Mr. Hotchkiss,

Wood Environment & Infrastructure Solutions, Inc. (Wood) is pleased to submit this revised proposal to the City of Statesboro (City) for the detailed design and construction administration of a proposed Compressed Natural Gas (CNG) Fueling Station. These services will be provided as Additional Miscellaneous Services under the terms of our existing Time-and-Materials Services Agreement, dated February 10, 2014.

The following sections present a summary of our understanding of the scope of services, fees and authorization requirements.

## Background

The City's existing CNG fueling station facilities (compressors, storage tanks, dispensers, etc.) located at the City's Public Works Complex, 5 Braswell Street, were purchased from Georgia Southern University approximately six years ago to serve the City's fleet of CNG refuse trucks and CNG pick-up trucks. Some of the components of the CNG station, such as the compressors, controls and dispensers, are near or past their useful life expectancy and out of compliance with current applicable codes, namely the Vehicular Natural Gas Fuel Systems Code (NFPA52) and the National Electric Code (NFPA 70). A recent site visit revealed many code violations.

The City would like to replace most of the CNG equipment, undergo modifications and upgrades as well as bring the station into compliance with applicable codes and regulations. The updated station will have capacity to fast-fill the City's fleet of CNG light duty vehicles and time-fill the City's fleet of CNG heavy-duty waste collection trucks; and be easily expanded in the future when additional CNG storage is required to accommodate additional fleet. Further description of the scope of services required for the CNG fueling station is described in Wood's CNG Fueling Station Replacement Engineering report issued on 02/20/2020. The aforementioned report will serve as the Basis of



Design (BOD) for this project. As indicated within the report, the City's preferred equipment vendor is Phoenix Energy Corporation.

It is also our understanding that the City would like Wood to prepare Bidding Documents (construction drawings, technical specifications, and bid form), and provide Bidding Assistance and Construction Administration. A topographic land survey of the new CNG construction site will be provided by the City of Statesboro.

## Scope of Services

Wood proposes to perform the following professional services:

### Phase 1 – Design

#### Task 1 – Site Visit, Investigation and Preliminary Site Plan

1. Kick-off Meeting & Site Investigation: Upon written authorization to proceed, our Project Manager and Electrical Engineer will meet with City representatives and Utility owners to discuss the CNG Fueling Station location and equipment and investigate the existing utilities that will serve the new station.
2. Station Design: Wood will assist the City in determining project limits and information required to be obtained from the City's contracted surveyor. After receiving an existing conditions and topographic survey in AutoCAD, we will add information obtained during field investigations to the drawings and generate the fueling station layout/site plan to avoid conflicts with known existing utilities and physical features.
3. Electrical Service Coordination: At the time of the kick-off meeting, we will host a coordination meeting with the Electrical Utility Owner, Phoenix Energy, and City Staff to discuss the extent of the electrical incoming service.

#### Task 2 – Engineering Design

1. Construction Drawings: Prepare pre-final and final construction plans and specifications to include:
  - a. Update existing site plan prepared off aerial imagery with field run survey data
  - b. Proposed site plans
  - c. CNG equipment and piping plans
  - d. CNG station Process and Instrumentation Diagram (P&ID)
  - e. Electrical plans
  - f. Construction details
  - g. Technical specifications

Construction drawings will be signed and stamped by Georgia Professional Engineers.



2. Pre-Final Review: Submit one (1) 65 percent complete drawings and specifications to the City of Statesboro Gas Department for review and approval. Wood will review the comments received and incorporate appropriate comments into the final construction plans.
3. Cost Estimates: An Engineer's Opinion of Probable Construction Cost was previously prepared based on conceptual sketches. Updating this cost opinion is not included in this proposal.
4. Bidding Documents: Prepare Bidding Documents using Engineers Joint Contract Documents Committee (EJCDC) standard documents. Bidding Documents will include:
  - a. Advertisement for Bids
  - b. Information for Bidders
  - c. Bid Form
  - d. Bid Bonds
  - e. Agreement Form
  - f. Technical Specifications
  - g. Notice of Award
  - h. Notice to Proceed
  - i. General Conditions and Supplementary Conditions
  - j. Construction Drawings
5. City of Statesboro Gas Department Review: Review and discuss via phone conference the Final Contract Documents and the Construction Cost Estimates with City Representatives.
6. Fire Marshal Submittals: Submit plans and specifications to the State and County Fire Marshal's offices for approval and coordinate inspection prior to facility start-up. Wood will make every reasonable effort to obtain approval. Up to three (3) rounds of comments and subsequent submittals are included within this proposal.

## Phase 2 – Bidding Support

1. Assist the City in selecting a period for advertising and bidding the proposed improvements. Provide Advertisement for Bids for use by the City.
2. Assist with distribution of Bidding Documents to qualified contractors.
3. During the bidding period, act as the City's representative in responding to Contractor's questions and inquiries (up to 4 total anticipated and included in this proposal).
4. Attend bid opening via telecom, tabulate and evaluate bids; make a recommendation of award.



### **Phase 3 – Construction Oversight**

1. Prepare and distribute contract documents, once executed by the Contractor and the City.
2. Participate in one (1) pre-construction conference to review Contractor’s administrative and procedural responsibilities.
3. Review shop drawings, submittals, and respond to contractor’s Request for Information (RFI) for conformance to the contract documents (up to 30 included).
4. During construction Wood will make three (3) site visits, for one (1) full day, to inspect progress and quality of the work regarding conformation to the contract documents.
  - a) Start of construction
  - b) Site visit at 50% construction completion conducted by a Civil Engineer.
  - c) Substantial Completion site visit conducted by a Civil and an Electrical Engineer.

Additional site visits requested by the contractor or the City are not included within this proposal but, if requested, will be provided at additional fee.

5. Review Contractor’s applications for payment. The City is to provide approval for quality control, installed material quantities, and other items submitted by the contractor for payment. Up to 3 applications for payment review and their approval are included in this scope of services.
6. During the Substantial Completion inspection, Wood will provide an evaluation of the construction progress and issue a final punch list to be resolved. Contractor and City of Statesboro Gas Department Inspector to provide verification of completion of final punch list items.

### **Deliverables**

1. Site visit reports
2. Pre-final and final bid documents, including drawings and specifications
3. Meeting minutes (kickoff meeting, pre-construction, 50% construction completion, substantial completion)
4. Bid evaluation and recommendation of award
5. Review of submittals and requests for information (RFI)
6. Punchlist

### **Assumptions and Exclusions**

1. Kickoff meeting will be held on site.



2. A full day site inspection includes travel from Kennesaw, GA. to the project location.
3. City to provide representative for access to site.
4. City will have 2 weeks to review pre-final package and provide one round of comments. Wood will provide responses within 7 days of receipt of comments.
5. Wood will provide responses to RFIs within 3 business days.
6. City or Contractor to provide 2 weeks' notice prior to any site visit.
7. As-built drawings are not included as these are to be provided by the Contractor.
8. Participation in on-site pre-bid meeting is excluded from this proposal.
9. Field survey is excluded from this proposal. Topographic and planimetric map will be provided by the City; Wood will coordinate with City's Surveyor.
10. Erosion Control Plans and inspections are excluded from this proposal. Wood will provide a base AutoCAD file for use by the City to perform this task.

## Schedule

Wood can commence the services proposed herein within ten (10) business days of receipt of written authorization to proceed. Wood anticipates the schedule provided below. The durations for the bidding, equipment manufacturing, and construction oversight phase are estimated to be 6 to 8 months. If actual duration exceeds our assumptions Wood may seek additional funds to provide support. Some of the tasks listed below may occur concurrent but for estimating contingency, the duration total is linear.

Design Tasks	Duration (Working Days)
Kick-off Meeting	1
Design	30
Bidding	40
Equipment Manufacturing	100
Pre-construction Conference & Vendor Submittals	25
Construction Oversight	60
<b>Total</b>	<b>256</b>

Due to COVID-19 restrictions issued by the State, County, and City, Wood cannot guarantee the accuracy of the above schedule. Delays in the schedule could be caused by current and additional State, County, and/or City restrictions. These restrictions could impact activities such as the utility owner's ability to meet on-site, City hired surveyor's ability to deliver topographic survey, ability to attend bid opening meeting, ability to attend pre-construction meeting, and manufacturing lead times. Should delays or additional effort be required due to COVID-19 impacts, Wood reserves the right to modify our schedule and fee accordingly.



## Fee

Wood proposes to perform the CNG Station Design and construction administration services outlined herein in accordance with the terms and conditions of our existing Time-and-Materials Services Agreement. Fees for Wood’s services will be invoiced on a time and materials basis not to exceed \$58,000.

Task	Cost
Phase 1 – Design (Labor)	\$39,300
Phase 1 – Design (Expenses)	\$200
Phase 2 – Bidding (Labor)	\$3,050
Phase 2 – Bidding (Expenses)	\$150
Phase 3 – Construction Oversight (Labor)**	\$14,800
Phase 3 – Construction Oversight (Expenses)	\$500
<b>Total</b>	<b>\$58,000.00</b>

\*\*Recommended budget is based upon a 60 business days construction period. Actual fee will depend upon the experience and performance of the contractor; the frequency of required site meetings, quantity of material submittals, actual number of requests for information, and the required level of construction oversight.

Wood will not exceed the estimated fees without prior authorization by the City.

## Authorization

Notwithstanding anything mentioned in this proposal, the attached documents or any terms or conditions applicable to Wood’s work, if Wood’s work is delayed, disrupted, suspended, or otherwise impacted as a direct or indirect result of COVID-19 (coronavirus), including, but not limited to, by (1) disruptions to material and/or equipment supply; (2) illness of Wood’s or Subcontractors’ workforce and/or unavailability of labor; (3) government quarantines, closures, or other mandates, restrictions, and/or directives; (4) Wood’s or Subcontractors’ restrictions and/or directives; and/or (5) fulfillment of Wood’s or Subcontractors’ contractual or legal health and safety obligations associated with COVID-19; then, Wood shall be entitled to a reasonable adjustment to the schedule and duration to account for such delays, disruptions, suspensions, and impacts.

To the extent the causes identified herein result in an increase in the price of labor, materials, or equipment used in the performance of these services, Wood may be entitled to a mutually-agreed upon equitable adjustment to the price for such increases, provided Wood presents documentation of such increases (including the original prices).

To authorize us to proceed, please provide an executed copy of this proposal by signing in the space provided below.



## Closing

We appreciate this opportunity and your confidence in Wood to provide these important services to you. Please contact Christopher Jung at 770-421-3471 if you have any questions or would like to discuss this proposal.

Sincerely,

**Wood Environment & Infrastructure Solutions, Inc.**

Christopher Jung, P.E.  
Project Manager

Joseph Kurz, P.E.  
Associate Engineer - Civil

## CLIENT AUTHORIZATION

The City of Statesboro agrees to the terms of this proposal and to a \$58,000 increase of the budget contained in our existing Time-and-Materials Services Agreement, dated February 10, 2014.

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

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

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





# CITY OF STATESBORO

**COUNCIL**  
Phillip A. Boyum  
Paulette Chavers  
Venus Mack  
John C. Riggs  
Shari Barr



Jonathan McCollar, Mayor  
Charles Penny, City Manager  
Leah Harden, City Clerk  
I. Cain Smith, City Attorney

50 EAST MAIN STREET • P.O. BOX 348  
STATESBORO, GEORGIA 30459-0348

**To:** Mr. Charles Penny, City Manager

**From:** Cindy S. West, Finance Director

A handwritten signature in blue ink, appearing to read "CSW", is written over the "From:" line.

**Date:** May 12, 2020

**RE:** Setting the date for the Public Hearing for Fiscal Year 2021 Budget

**Background:** The State of Georgia requires a public hearing on the proposed budget, at which time any person wishing to be heard on the budget may appear. The public hearing must be held at least one week prior to the meeting of the governing authority at which adoption of the budget resolution will be considered. Notification of the public hearing must be at least one week prior to the meeting.

**Budget Impact:** N/A

**Council Person and District:** All

**Attachments:** None

# CITY OF STATESBORO

## COUNCIL

Phillip A. Boyum  
Paulette Chavers  
Venus Mack  
John C. Riggs  
Shari Barr



Jonathan McCollar, Mayor  
Charles Penny, City Manager  
Leah Harden, City Clerk  
Cain Smith, City Attorney

50 EAST MAIN STREET • P.O. BOX 348  
STATESBORO, GEORGIA 30459-0348

**To:** Charles Penny, City Manager and Leah Harden, City Clerk

**From:** Cain Smith, City Attorney

**Date:** May 11, 2020

**RE:** May 19, 2020 City Council Agenda Items

**Policy Issue:** *Consideration of Resolution 2020-15 establishing the Loan Loss Reserve Fund in the amount of \$250,000 in City enterprise funds.*

**Recommendation:** Approve

**Background:** City staff has been in negotiations with local financial institutions to establish the Statesboro Small Business Recovery Fund in order to assist small businesses within the City that have been impacted by COVID-19 and are unable to obtain loans through traditional means. The Loan Loss Reserve Fund will be used to partially secure loans made from the Recovery Fund in order to induce financial institutions to provide lending opportunities to said small businesses.

**Budget Impact:** \$250,000 in enterprise funds committed until full satisfaction of all loans made under the Small Business Recovery Fund

**Council Person and District:** All

**Attachments:** Proposed resolution and City Manager's memo

**STATE OF GEORGIA  
COUNTY OF BULLOCH**

**MAYOR AND COUNCIL OF THE CITY OF STATEBORO GEORGIA**

**RESOLUTION # 2020 - 15**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF STATEBORO GEORGIA TO APPROVE THE ESTABLISHMENT OF THE LOAN LOSS RESERVE FUND FOR THE BENEFIT OF THE STATESBORO SMALL BUSINESS RECOVERY FUND AND APPROPRIATE \$250,000 IN CITY ENTERPRISE FUNDS TO THE LOAN LOSS RESERVE FUND**

WHEREAS, the COVID-19 pandemic has exacted an unprecedented toll on the Statesboro small business community; and

WHEREAS, relief funding and financing opportunities are, and are expected to remain, insufficient to fully meet the needs of the local small business community; and

WHEREAS, the Mayor and Council deem it in the best interest of the City and its residents to undertake actions necessary to ensure the continued operations and financial solvency of small businesses within the City in order to preserve the tax base, employment opportunities, and retail outlets and services available to City residents; and

WHEREAS, City staff has been in discussions with local financial institutions to provide an avenue for small businesses to receive loans beyond those currently afforded by the Small Business Administration and other traditional means through the establishment of the Statesboro Small Business Recovery Fund; and

WHEREAS, City staff has determined that the creation of a Loan Loss Reserve Fund to back up the Recovery Fund is the best avenue to help facilitate additional lending opportunities for small businesses in the City that are ineligible or unable to receive financing through traditional means; and

WHEREAS, it shall be necessary that the Loan Loss Reserve Fund remain in place until such time as all loans made through the Recovery Fund are fully satisfied.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF STATESBORO THAT:

The Loan Loss Reserve Fund is hereby established in the amount of \$250,000 appropriated from City enterprise funds. The Loan Loss Reserve Fund shall only be made available to financial institutions that are contracted to participate in the Statesboro Small Business Recovery Fund through future contract. City staff shall be authorized to continue to communicate and negotiate with interested financial institutions regarding these agreements.

RESOLUTION APPROVED AND ADOPTED this 19th day of May, 2020.

By: \_\_\_\_\_  
Jonathan McCollar, Mayor

Attest: \_\_\_\_\_  
Leah Harden, City Clerk

# CITY OF STATESBORO

## COUNCIL

Phillip A. Boyum, District 1  
Paulette Chavers, District 2  
Venus Mack, District 3  
John Riggs, District 4  
Shari Barr, District 5



Jonathan McCollar, Mayor  
Charles Penny, City Manager  
Leah Harden, City Clerk  
Cain Smith, City Attorney

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STATESBORO, GEORGIA 30459-0348

## INTEROFFICE MEMORANDUM City Manager's Office

TO: Mayor and City Council

FROM: Charles W. Penny, City Manager

DATE: May 14, 2020

RE: Statesboro Small Business Recovery Fund – Loan Loss Reserve

Small businesses throughout the City of Statesboro have been severely impacted by COVID-19. The City unfortunately does not have the resources available to make direct grants to these impacted small businesses, nor does the City have the infrastructure to manage a loan program. To that end, attached is a proposal to create a City-backed loan loss reserve for financial institutions willing to loan funds to these small businesses. The purpose of this memo is to seek the City Council's approval to establish a loan loss reserve utilizing \$250,000.00 of enterprise funds.

The loan loss reserve would be used to leverage funds from a financial institution to be loaned to small businesses impacted by the pandemic. The loan loss reserve provides protection to the financial institutions should a loan become delinquent. The financial institution may relax lending requirements; however, they have a responsibility to ensure the applicants are credit worthy in order to prevent delinquent loans. The loan loss reserve will remain in place until the amortization of all loans made in the Statesboro Small Business Recovery Fund have been fully satisfied.

Today the City Council is being asked to approve the establishment of the loan loss reserve for the Statesboro Small Business Recovery Fund and to authorize the use of \$250,000.00 in City funds to establish the reserve. Once your approval is received and a financial institution has agreed to participate in the Recovery Fund, a more detailed agreement will come before the City Council for your consideration.

It is my recommendation that the City Council approve the establishment of the Loan Loss Reserve for the Statesboro Small Business Recovery Fund and approve the use of \$250,000.00 of enterprise funds for the Loan Loss Reserve.

## **Statesboro Small Business Recovery Fund**

May 14, 2020

The nation has been ravaged by COVID-19 physically, mentally and financially. Government leaders have had to take extraordinary measures to mitigate and slow the spread of this deadly virus, which has included closing certain businesses. Many of the businesses are small entrepreneurs, self-care businesses, and physical fitness facilities, most of which operate day to day on a shoestring budget with very little capital reserve to sustain operations. The federal government has already passed a couple of emergency funding bills to keep the economy afloat; and our local government is interested in assisting businesses as well, through the establishment of a **Loan Loss Reserve for the Statesboro Small Business Recovery Fund.**

The purpose of the Loan Loss Reserve Fund is to serve as a backstop for one or more participating lending institutions in the Statesboro Small Business Recovery Fund to make loans to businesses using more flexible approval criteria. The Loan Loss Reserve Fund is not to be used to fund the loan; however, if a loan becomes delinquent and collection actions are taken, the Loan Loss Reserve Fund would be available to make the lending institution(s) whole. The City and the Lender will agree in advance on terms of a delinquent loan recovery agreement that will provide the actions to be taken by the lender before requiring recovery from the Loan Loss Reserve Fund.

The Loan Loss Reserve Fund will be funded by City of Statesboro. The proposed amount of the City's contribution to the Loan Loss Reserve Fund is \$250,000.00. The City would provide \$250,000.00 out of non-tax funded revenue. The fund would be used to leverage at least \$1,000,000.00 in available loans from the participating financial institutions to small businesses in Statesboro. Federally insured banks could receive Community Reinvestment Act Credit (CRA) for being part of the Statesboro Small Business Recovery Fund Recovery Fund and for making loans in association with the Recovery Fund. A bank certified by the U.S. Treasury as a Community Development Financial Institution, or "CDFI", would be able to achieve mission-related goals for assisting us in the process. The fund would sunset in 2024 or 4 years from the date of an approved agreement with the

City and participating financial institutions or upon full satisfaction of any loans backed by the loan loss reserve.

The fund is designed to provide an economic stimulus for small businesses impacted by the COVID-19; therefore, for small businesses to participate in the Statesboro Small Business Recovery Fund the following circumstances must exist:

1. The business had to be in existence in Statesboro on March 14, 2020 when the State of Emergency was declared by Governor Brian Kemp;
2. Applicants/business must have a minimum of two years of tax returns or other acceptable financial records which can be reviewed by the participating lending institution.

The maximum possible loan amount guaranteed by the Statesboro Small Business Recovery Fund would be \$25,000.00. On a case-by-case basis, a lending institution may be able to make additional capital available to a small business, but the Recovery Fund's exposure would be limited to \$25,000.00 for any one borrower.

The funding of the Loan Loss Reserve is subject to approval by City Council. The establishment of the Statesboro Small Business Recovery Fund is subject to agreement between the governing body and lending institutions.