

3rd Quarter Outstanding Service Awards Ceremony at 2:30 in the Pre-function area.

**CHEROKEE COUNTY
BOARD OF COMMISSIONERS**

Work Session

November 1, 2011

3:00 p.m.

Cherokee Hall

AGENDA

1. Land Conservation Workshop Summary
2. Discussion of Regular Agenda Items

Executive Session to Follow

Cherokee County, Georgia
Agenda Request

Work Session

SUBJECT: Land Conservation Workshop Summary MEETING DATE: November 1, 2011

SUBMITTED BY: Margaret Stallings, Principal Planner

COMMISSION ACTION REQUESTED:

Allow Planning & Engineering staff to give a brief presentation during the work session concerning the Land Conservation Workshop hosted by Cherokee County on October 12, 2011.

FACTS AND ISSUES:

BUDGET:

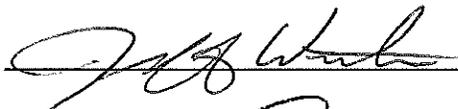
Budgeted Amount:	\$	Account Name:
Amount Encumbered:	\$	Account #:
Amount Spent to Date:	\$	
Amount Requested:	\$	
Remaining Budget:	\$	

Budget Adjustment Necessary:

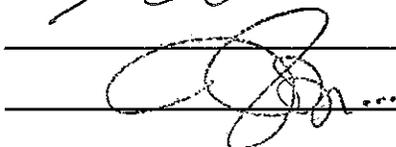
ADMINISTRATIVE RECOMMENDATION:

REVIEWED BY:

DEPARTMENT HEAD:

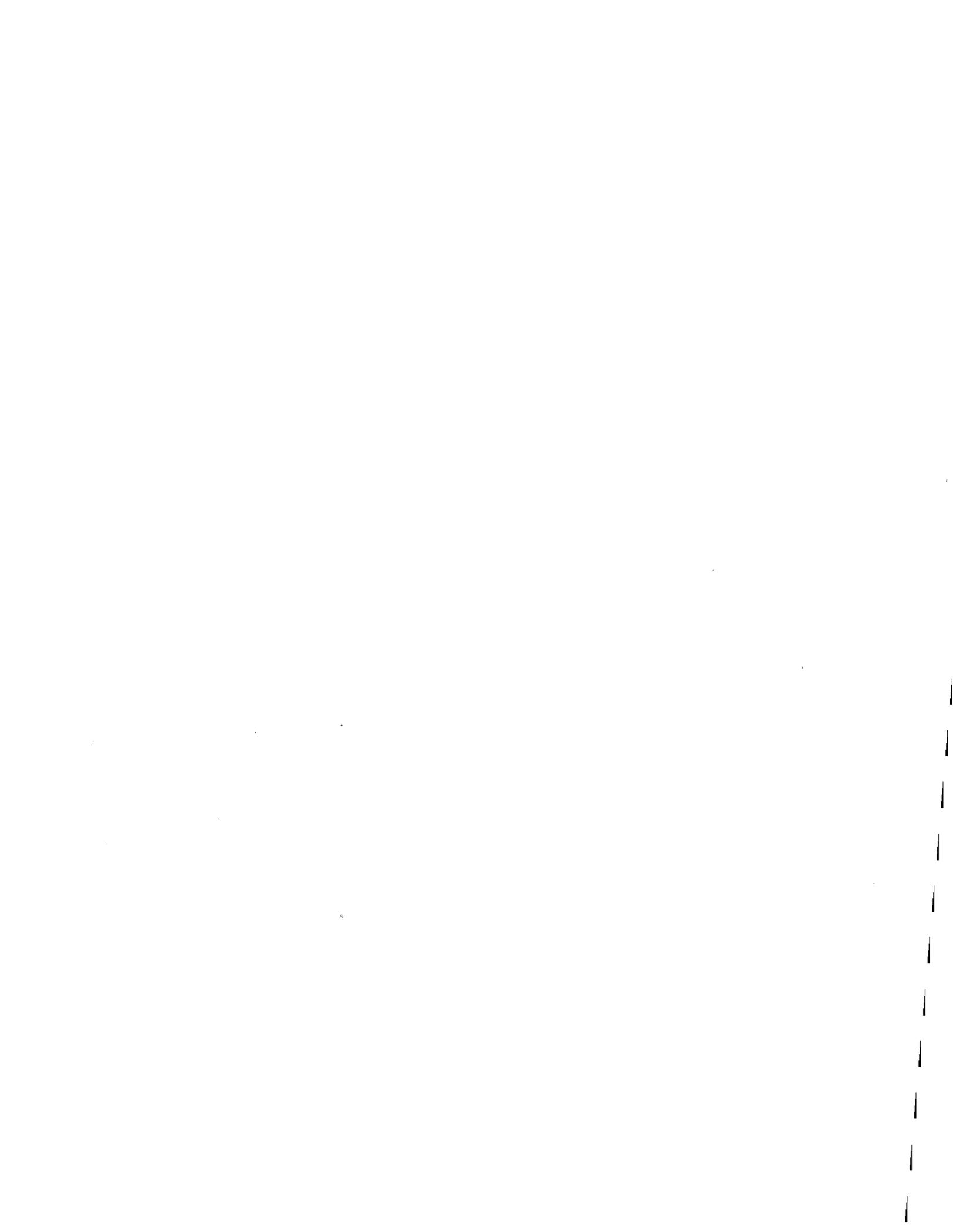


COUNTY ATTORNEY:



COUNTY MANAGER:

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AGENDA

Cherokee County Board of Commissioners

November 1, 2011 REGULAR MEETING CHEROKEE HALL 6:00 P.M.

CALL TO ORDER

CHAIRMAN AHRENS

PLEDGE OF ALLEGIANCE

"Veterans of U.S. military service may proudly salute the flag while not in uniform based on a change in the governing law on 25 July 2007"

AMENDMENTS TO AGENDA

1. Budget Amendment under Consent Agenda.

PRESENTATION

FBI to present Lt. Mike Painter and Deputy Alex Rivera commendations for their work in a public corruption case, and whose efforts were instrumental in the successful conclusion of the case.

PROCLAMATION

Proclaiming November as Lung Cancer Awareness Month, presented by Commissioner Bosch.

Proclaiming Sunday, December 4th as "Johnny Hunt Day" in celebration of Pastor Hunt's 25th year at First Baptist Woodstock.

ANNOUNCEMENTS

1. Northwest Corridor Project Update
2. The outdoor Burn Ban is lifted until May 2012. Must obtain daily burn permit. For more information, call 1-800-GA TREES.
3. The road closure for Old Mill Road between SR20 and Arbor Hill Road will be closed to through traffic for reconstruction has been extended to November 4 at 5:00 p.m. For more details, contact Roads and Bridges at 770-345-5842.

APPROVAL OF WORK SESSION MINUTES FROM October 18, 2011.

APPROVAL OF REGULAR MEETING MINUTES FROM October 18, 2011.

PUBLIC COMMENT

PUBLIC HEARING

To afford the public in the Comcast franchise area appropriate notice and participation for the purpose of a) identifying future cable related community needs and interests, and b) reviewing the performance of the cable operator under the franchise during the then franchise term.

COMMISSION BUSINESS

CHAIRMAN

L. B. AHRENS

- A. BOC Meeting schedule for 2012.

COMMISSION POST 1

HARRY B. JOHNSTON

VICE CHAIR/COMMISSION POST 2

JIM HUBBARD

COMMISSION POST 3

KAREN BOSCH

- A. Announcement of Thanksgiving Food Drive on Saturday, November 5th at Starbucks on Sixes Road from 9:00 am. to 11:00 a.m.

COMMISSION POST 4

JASON NELMS

CONSENT AGENDA

1. Consider approval of budget amendment for Patton Mold Settlement in the amount of \$1,076,662.50 to SPLOST V – Fire.
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COUNTY MANAGER

2. Consider approval to purchase new squads from Ten-8 / Medtec. Requesting an initial purchase of 5 units be made, funded by SPLOST V, and that a contract with 3 each 1-year extensions be approved to allow for a time-phased purchase of additional units, until the entire fleet is replaced. Purchases in 2012 and subsequent years would be from SPLOST VI. A tiered fleet replacement would keep the County from having an entire fleet with high mileage or low mileage, and provide Fire-ES some flexibility to move units around to balance maintenance and in-service time. Medtec / Ten-8 had a bid of \$141,355 per unit and a final score of 90.55. The total amount requested is \$710,000.
3. Consider approval to rescind the award of Cherokee Youth Basketball Uniform bid to Atlanta Hawks and award bid to Chandler Graphics. The Atlanta Hawks submitted the low bid of \$22.50 per uniform but have requested multiple changes to the standard professional services agreement and bid a different uniform than the one specified in the request for bid packet.
4. Consider approval of Wellness Program Compliance Guidelines contingent upon recommendation of the Cherokee County Benefits Committee.
5. Consider approving a resolution requesting the relocation of E-911 Public Safety RF receiver site from Reinhardt University to the Georgia Forestry Commission site at Pine Log Mountain.
6. Consider approval of Business Associate Agreement with both Gallagher Benefits Services, Inc. and Communit-Y Health Network (CHN) outlining responsibilities regarding the use and/or disclosure of Protected Health Information in Compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
7. Requesting approval of final draft agreement with Communit-Y Health Network of Northeast Georgia (CHN) for period of November 1, 2011 to September 30, 2012, in the amount of \$336 per employee enrolled in the county health plan with guaranteed rate for period of 2 years and guaranteed savings in one year. Contingent upon approval of County Attorney and Benefits Committee recommendation.
8. Consider approval of an amendment to the CDBG PY2010 (\$55,300) and PY 2011 (\$98,576) CDBG Annual Action Plans to award funds that had been set

aside for an Activity to Be Determined to MUST Ministries for the acquisition of property located at 111 Brown Industrial Parkway, Canton, GA.

COUNTY ATTORNEY

9. Notice of annexation from the City of Woodstock, #0060-11, for parcels 15N18-153, .5 acres off Neese Road just north of Edinburgh Lane.
10. Notice of annexation from the City of Woodstock, #059-11, for parcels 15N24-145, 6.32 acres off Hwy. 92 east of Trickum Road.

ADJOURN

**Cherokee County Planning Commission
Public Hearing Agenda
Tuesday, November 1, 2011
7:00 PM**

Old Cases

Case #11-09-011 RaceTrac Petroleum, Inc. requesting to rezone 2.45 acres from NC to GC. If rezoned, the property will be utilized as a convenience store with gasoline sales. The property owned by Harrison Huynh is located at the intersection of Cumming Highway and Scott Road in Land Lot 274 of the 14th District, 2nd Section of Cherokee County, Georgia and indicated as part of Parcel 025 on Tax Map 14N29.

New Cases

Case #11-11-015 Canton Property Group, LLC requesting to rezone 1.1 acres from NC to GC. If rezoned, the property will be utilized for commercial uses. The property owned by Canton Property Group, LLC is located along Waleska Road in Land Lot 169 of the 14th District, 2nd Section of Cherokee County, Georgia and indicated as Parcel 018 on Tax Map 91N28.

Other Items

Approval of October 4, 2011 Minutes.

The FBI would like to present Lt. Mike Painter and Deputy Alex Rivera commendations for their work in a public corruption case. The case involved the arrests of a number of Fulton County Sheriff's Office employees who were providing protection for drug dealers. Lt. Painter and Deputy Rivera were instrumental in the successful conclusion of the case.

Cherokee County Proclamation

Whereas, Lung cancer is the leading cause of cancer death in both men and women in the United States; and

Whereas, Lung cancer takes the lives of more Americans each year than breast, prostate, colon, liver, kidney cancers combined; and

Whereas, Former smokers and people who have never smoked comprise the majority of new cases of lung cancer each year; and

Whereas, early lung cancer diagnosis and management protocols exist, yet have not been embraced as the standard of care; and

Whereas, funding for lung cancer research falls short of that for other less fatal diseases; and

Whereas, the Lung Cancer Awareness Alliance is the only national non-profit organization dedicated solely to patient support and advocacy for people living with lung cancer and those at risk for the disease;

Therefore, We, The Cherokee County Board of Commissioners, do hereby officially proclaim the month of November

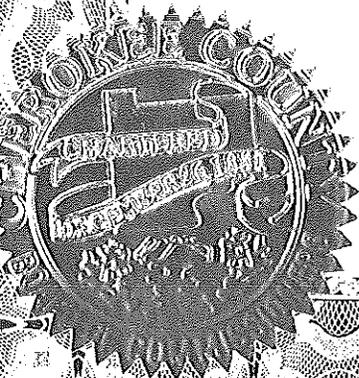
LUNG CANCER AWARENESS MONTH

In Cherokee County.

FURTHERMORE, We urge all citizens of our State to do all we can to make lung cancer a national public health priority and offer compassion to people with lung cancer.

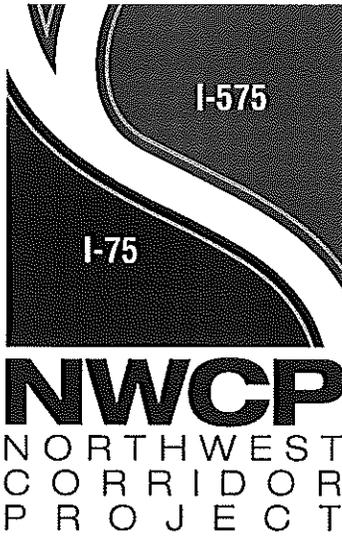
Proclaimed this 1st day of November, 2011.

L.B. Ahrens, Jr.
Chairman, Board of Commissioners



ANNOUNCEMENTS

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NORTHWEST CORRIDOR PROJECT NEWS

Northwest Corridor (I-75/I-575) Project Newsletter

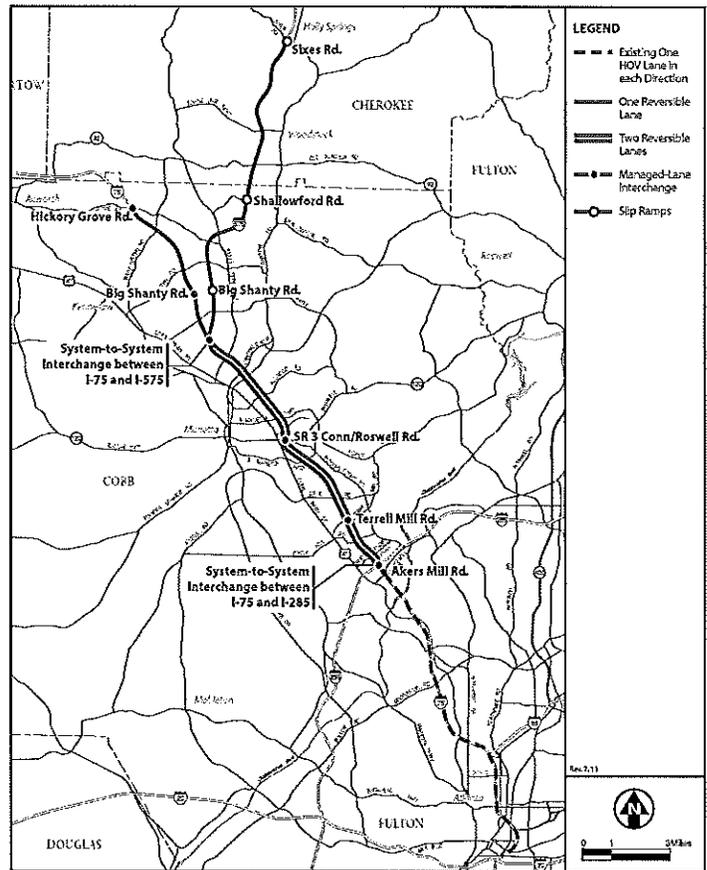
Final Environmental Impact Statement is Complete!

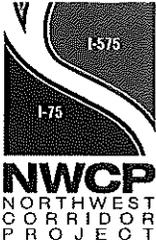
The completion of the Final Environmental Impact Statement (FEIS) is a major project milestone for the Northwest Corridor Project (NWCP). It is the latest effort in the continuation of compliance with the federal environmental process which began in early 2004. The Notice of Availability (NOA), used to advertise the date when the document is ready for public review, was published in the Federal Register. A thirty (30) day public comment period begins when the FEIS is available. (See page three for information on where to review the various documents associated with the FEIS).

For the last ten months, the Georgia Department of Transportation (Georgia DOT) has been working with the Federal Highway Administration (FHWA) to develop the Final Environmental Impact Statement (FEIS) for the Northwest Corridor Project. The FEIS documents the project technical analyses, agency consultation and public involvement activities conducted since the publication of the Supplemental Draft Environmental Impact Statement (SDEIS) and public hearings last fall.

Several activities have led up to the completion of the FEIS. In May 2007, the Northwest I-75/I-575 Corridor Alternatives Analysis/Draft Environmental Impact Statement (AA/DEIS) was published. The AA/DEIS evaluated four build alternatives that included different combinations of transportation system management, high-occupancy vehicle (HOV) (i.e., carpool) lanes, truck only lanes, and bus rapid transit (buses operating similar to a train servicing a limited number of bus stops) improvements.

Following the public review of the AA/DEIS, a number of changes occurred that called for the preparation of a Supplemental Draft Environmental Impact Statement (SDEIS). The SDEIS issued on September 18, 2010 addressed the changed conditions affecting the project as well as evaluation of a new alternative that more closely matched the financial resources available to GDOT for construction of this project. Under the new alternative, tolled reversible managed lanes would be constructed in the project corridor. Following the public review of the SDEIS, minor





changes were made to the alternative to minimize environmental impacts, address traffic congestion and further reduce costs. This modified alternative was selected by GDOT as the Preferred Alternative and is evaluated in the FEIS.

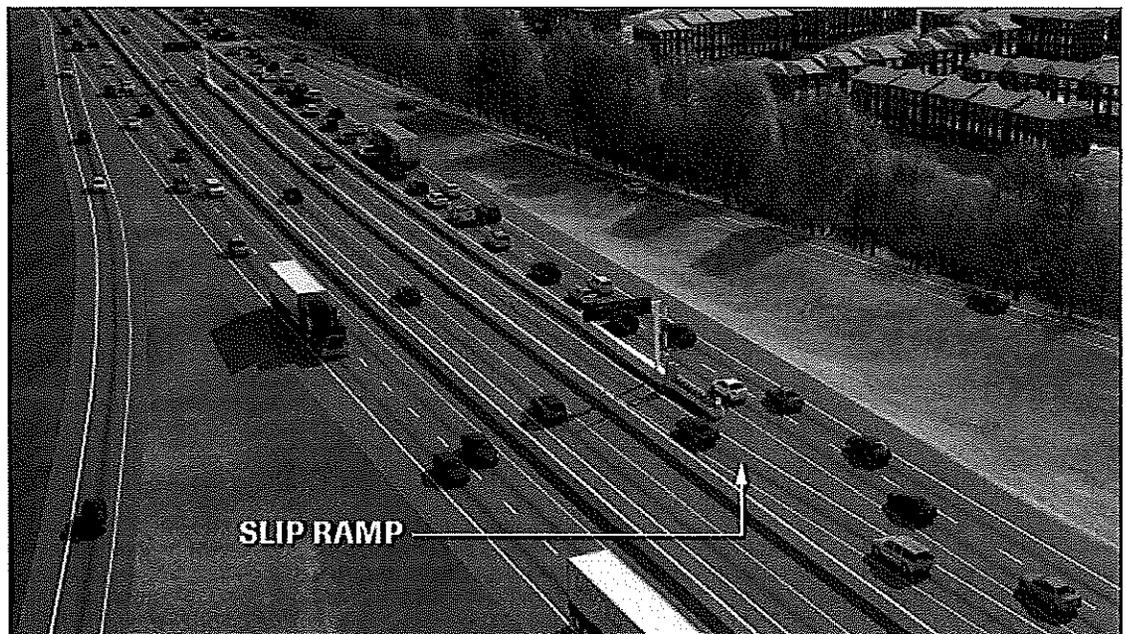
NWCP and the I-85 Express Lanes

Managed lanes have been a topic in the Atlanta area media recently with the opening of the I-85 Express Lanes from Chamblee-Tucker Road in DeKalb County to Old Peachtree Road in Gwinnett County. While both the Northwest Corridor Project and the I-85 Express Lanes are intended to provide increased mobility and traffic relief in two of the region's most congested corridors, the scope and operation of the two projects vary greatly.

The I-85 project converted the existing High Occupancy Vehicle (HOV) lanes, one in each direction, into High Occupancy Toll (HOT) lanes. Vehicles with three or more riders can access the lanes for free; vehicles with one or two riders can access the Express Lanes for a fee. To use the I-85 Express Lanes, motorists must register for a Peach Pass account and obtain a transponder. Users may switch between a toll and a toll-free status, depending on their vehicle's occupancy, prior to their use of the lanes.

Some of the key differences between the I-85 project and the NWCP include:

- **NWCP adds additional lanes to I-75 and I-575.** Two new lanes would be added to I-75 between I-285 and I-575. One new lane would be added to I-75 between I-575 and north of Hickory Grove Road, and one new lane would be added to I-575 between I-75 and Sixes Road. The project does not convert or change any of the existing lanes on I-75 or I-575. The reversible feature would help minimize traffic congestion in the direction with the most demand, e.g. southbound in the morning commute period and northbound in the afternoon commute period.
- **NWCP utilizes dedicated entrance and exit points on I-75.** Six new managed lane interchanges are proposed on I-75. This would provide system-only access to and from the managed lanes to local streets, eliminating the need to cross over multiple lanes of traffic to enter or exit the system. The access locations would be separate from the general purpose interchanges. For I-575, users will continue to use the existing interchanges to enter and exit I-575, and access the managed lanes through three new pairs of slip ramps.





- NWCP is barrier separated. The managed lanes system is separate from the existing I-75 and I-575 facilities, allowing enforcement of proper use of the lanes and management of incidents such as traffic accidents and vehicle breakdowns.
- NWCP will toll all users. All motorists, regardless of how many passengers are in the car would be charged the same toll rate (excluding registered transit vehicles, military vehicles, emergency vehicles and school buses). Motorcycles must pay the toll to use the NWCP.
- NWCP is a Public Private Partnership (P3) project. Final design and construction of the project will be conducted with private industry partners, which will greatly expand the options for innovative technology and funding.

Tolls for the Northwest Corridor Project will be collected electronically and toll amounts will vary by time of day and congestion level. Users will have the opportunity to pay by transponder or by license plate. Registration for a Peach Pass account will not be required, though existing Peach Pass account holders will be able to utilize their transponders to access the facility.

How to Review and Comment on the FEIS

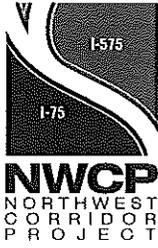
A thirty (30) day public comment period begins when the FEIS is available for review. As your comments are valuable to us, we have made the FEIS accessible in a number of ways:

1. On the project website, www.nwcpproject.com;
2. At the following area libraries and Georgia DOT Offices:
 - Atlanta-Fulton County Library, One Margaret Mitchell Square, Atlanta GA 30303,
 - Cobb County Central Library, 266 Roswell St, Marietta GA 30060,
 - RT Jones Memorial Library, 116 Brown Industrial Pkwy, Canton GA 30114,
 - Georgia Department of Transportation, Office of Environmental Services, 600 West Peachtree Street, NW., 16th Floor, Atlanta, GA 30308,
 - GDOT District 6 Main Office, 500 Joe Frank Harris Parkway, Cartersville, GA 30120,
 - GDOT District 6 Cherokee Area Engineer's Office, 874 Peoples Valley Road, NW, Cartersville, GA 30120,
 - GDOT District 7 Main Office, 5025 New Peachtree Road, Chamblee, GA 30341, and GDOT District 7 Office, Cobb Area Engineer's Office, 1269 Kennestone Circle, Marietta, Georgia 30066
3. You may also request a DVD and additional content through the "Contact Us" tab on the website, by calling our Voice Mail Hotline at (404) 377-4012 or emailing us at nwcpcomments@projectsolve.com.
4. Paper copies may be requested by contacting Darryl VanMeter at Georgia Department of Transportation using the phone number or email address on the back of this newsletter.
5. Project informational displays, or kiosks, will be held in the vicinity of the corridor depicting project information and allowing the opportunity for public comment. A separate flyer announcing the kiosk locations, dates and times will be distributed electronically and in hard copy, and posted on the project website.

After review of the FEIS, you may submit your comments by email, phone or mail with the contact information listed on the back page of this newsletter. *To be included in the official project record, please submit your comments by November 21, 2011.*

The Preferred Alternative

After careful consideration of several different alternatives for how the NWCP would operate most efficiently, public comment and cost considerations have contributed to Georgia DOT's selection of a preferred alternative for the project.



NORTHWEST CORRIDOR PROJECT NEWS

Northwest Corridor (I-75/I-575) Project Newsletter

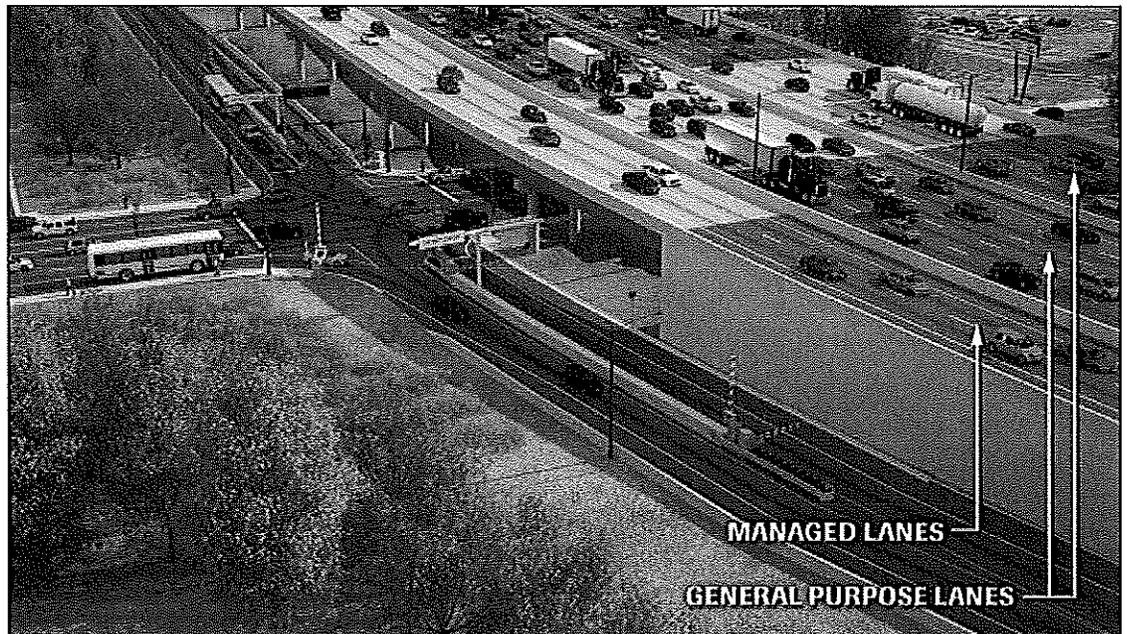
The Preferred Alternative extends the existing two I-75 HOV lanes, one in each direction, that currently end at Akers Mill Road, south of the I-75/I-285 interchange. Two new managed lanes would be added on elevated structures on the west side of I-75 between Akers Mill Road and I-575. A single managed lane would then continue north on I-75 from the I-75/I-575 interchange to just beyond Hickory Grove Road. A single managed lane would also continue north on I-575 from the I-75/I-575 interchange to a point north of Ridgewalk Parkway and south of the Sixes Road interchange.

The proposed new managed lanes on I-75 and I-575 would be reversible, only serving the traffic flow during morning and afternoon peak commute periods. During the morning peak commute period, both lanes would accommodate heavier southbound traffic. During the evening peak commute period, the lanes would be reversed to accommodate heavier northbound traffic.

To access the reversible lanes, vehicles would use the managed lane interchanges and slip ramps. The new managed lane interchanges would be separate from the existing general-purpose interchanges. Slip ramps would provide access to the reversible lane on I-575, allowing traffic in the inside general-purpose lanes to merge to the highway median where the new reversible would be constructed. Separate slip ramps would be used for northbound and southbound traffic.

A total of six managed-lane interchanges would be constructed on I-75 at the following locations: I-285, Terrell Mill Road, Roswell Road, I-575, Big Shanty Road and Hickory Grove Road. On I-575, three pairs of slip ramps would be constructed near the existing general-purpose interchanges at Barrett Parkway, Shallowford Road and Sixes Road. The exact location will be slightly different for southbound and northbound accesses in order to fit everything within the existing median.

Safety is a key concern with the reversible managed lane system. Features will be put in place to ensure only vehicles travelling in the appropriate direction can access the system. The managed lane slip ramps on I-575 would only allow vehicles to enter the system and travel southbound during the morning peak period and northbound in the evening peak period. At those interchanges on I-75 that allow access in both directions of travel, mechanical gates would be lowered to prevent use by the northbound travelers during the morning southbound operation and would change to prevent use by the southbound travellers



I-75 Managed Lane Interchange (South of I-575) – Simulation Looking North at Roswell Road



during evening northbound operation. Access to the managed lane system would also be closed for a period of time during the day when traffic is light for changing direction.

Every vehicle using the managed lanes will pay a toll, including single driver vehicles, carpools and certified alternative-fuel vehicles. The only exceptions will be registered transit vehicles (buses and vanpools), military vehicles, and emergency vehicles. Heavy and medium trucks, such as those with more than two axles, will not be allowed to use the managed lanes at all. Tolls will be collected electronically and priced so that traffic in the lanes will maintain a minimum average speed of 45 miles per hour (mph). Known as dynamic pricing, the toll will be adjusted by such factors as the time of day and congestion level to ensure traffic keeps moving at the desired rate.

The I-75/ I-575 corridor is challenged by high traffic congestion and the proposed managed lanes system is anticipated to provide great benefit. Traffic analysis conducted for the FEIS for the year 2035, show that the managed lanes on the I-75 segment from Akers Mill to Hickory Grove Road could save travelers more than half their average commute time in the morning and evening. The same savings are also forecast for those travelling the Akers Mill to Sixes Road segment. Transit utilizing the managed lanes could also benefit from the reduced travel time. Additionally, by maintaining a minimum average speed of 45 mph in the managed lanes, users can more accurately predict how long their trip will take.

Community Outreach

Community Noise Wall Meetings

Analyzing noise level impacts to residents in construction project areas is one of the environmental concerns addressed by Georgia DOT. In early 2011, Georgia DOT adopted a new Noise Abatement Policy which changed the guidelines for how the effects of roadway noise are measured and applied to the design of noise walls on the corridors. When these guidelines were applied to the preferred alternative in the FEIS, additional properties beyond those listed in the SDEIS and shown at the public hearings, met the criteria for receiving noise walls.

In November, two public meetings are scheduled to discuss the noise wall plans with those newly identified affected property owners and to seek their comments. While the focus of the meeting is to present information to this group, the general public is welcome to attend. All comments are welcome and will be recorded. Similar information will be presented at both meetings, so it is not necessary to attend both. There will be a recorded presentation for general information about the project. In addition, the FEIS will be available for review. Please feel free to stop by any time between the published meeting hours.

November 8, 2011

5:00pm - 7:00pm
DoubleTree Hotel
2055 South Park Place
Atlanta, GA 30339

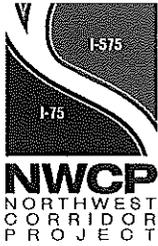
November 10, 2011

6:00pm - 8:00pm
Embassy Suites Hotel
620 Chastain Road
Kennesaw, GA 30144

Additionally, from November 8, 2011 to November 21, 2011 an online version of the meetings and a survey will be available on the project website www.nwcproject.com.

2010 SDEIS Public Hearings

In October 2010, two public hearing open houses were held in Cobb and Cherokee counties in support of the publication of the SDEIS. At the open houses, the public could view project displays and a video presentation, speak with project staff, and review the SDEIS document. The public could also submit a verbal comment to a court reporter or a written comment card. Spanish and Portuguese interpreters were



available. In total, 205 people attended the meetings, with over 35 comments received at the meetings.

During the entire comment period over 100 agencies, organizations, and individuals submitted comments, both positive and negative about the project. Comments include general support or opposition of the proposed managed lane system, engineering design, need for additional transit, tolling, funding, concern over visual and noise impacts, and concerns about safety of the reversible system. Comments from the public are important to Georgia DOT and to our process. All of the comments were reviewed and considered; some are reflected in the Preferred Alternative and other comments have been used to refine how the alternative is evaluated.



Public hearing at Woodstock High School

What's Next?

A Record of Decision (ROD) is expected to be issued by FHWA in the first quarter of 2012. The ROD will identify the selected alternative, list and describe any measures needed to minimize effects to the natural, human and built environments, and contain the comments received on the FEIS and the responses. Following the issuance of the ROD, FHWA and Georgia DOT will make a final decision regarding the implementation of the Northwest Corridor Project. If the decision is made to move the project forward, Georgia DOT will select a Public Private Partnership (P3) team to implement the final design, construction and operation of the managed lane system. For more information on the P3 program, please visit www.georgiap3.com. Stay tuned for project updates!

Thank you for your continued participation! 📧

Get Involved!

For project updates and to join the mailing list or provide feedback:

Voice Mail Hotline: (404) 377-4012

Email: nwcpcomments@projectsolvemail.com

Website: www.nwcpproject.com

To submit written comments, or for more information please contact:

Darryl D. VanMeter, P.E.

State Innovative Program Delivery Engineer
Georgia Department of Transportation
One Georgia Center
600 West Peachtree NW, 27th Floor
Atlanta, Georgia 30308

ACRONYMS

DEIS: Draft Environmental Impact Statement

ETL: Express Toll Lanes

FEIS: Final Environmental Impact Statement

FHWA: Federal Highway Administration

GDOT: Georgia Department of Transportation

HOT Lanes: High Occupancy Toll Lanes

HOV Lanes: High Occupancy Vehicle Lanes

LPA: Locally Preferred Alternative

MARTA: Metropolitan Atlanta Rapid Transit Authority

NOA: Notice of Availability

PPP: Public Private Partnership

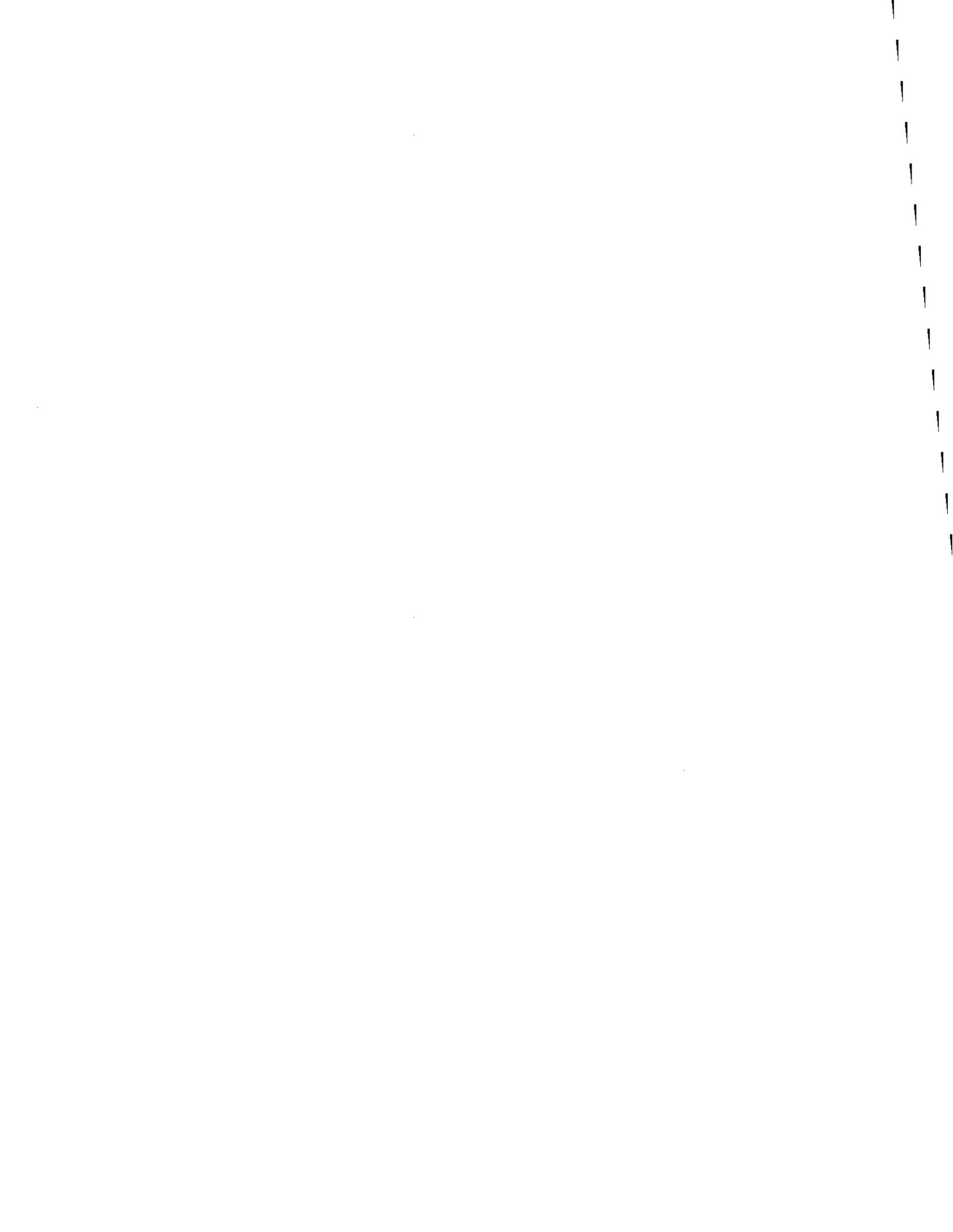
RFP: Request for Proposals

RFQ: Request for Qualifications

ROD: Record of Decision

SDEIS: Supplemental Draft Environmental Impact Statement

TOL: Truck Only Lanes



By policy, minutes are not official until approved by the Board of Commissioners at a future regular meeting.

CHEROKEE COUNTY
BOARD OF COMMISSIONERS
Work Session
October 18, 2011
3:00 p.m.
Cherokee Hall
MINUTES

The Chairman began the meeting at 3:10 with all board members present. He started by reading several motivational quotes from *Succesories / Perseverance* by Mac Anderson.

1. Financial Update by Janelle Funk

Janelle presented the September financials review, concentrating on where we are now. She reported Development Services and Landfill fees were below budget but could be offset by Prisoner Housing Funds and Fines and Forfeitures which were higher than expected. She said that the sale of Blalock Landfill added 1.5 million added to the General Fund and that the raise in the millage rate generated more revenue than expected.

Commissioner Bosch asked if the increase in prisoner housing fees was due to state money they were expecting. Janelle replied that she did not know, but that she would follow-up with Stacey Williams with the Sheriff's Office to find out.

Chairman Ahrens asked if we were seeing a pickup in the fines and forfeitures collections. Janelle replied that we were seeing an increase in that area.

Janelle then reported that we were seeing a decrease in budgeted revenues in E-911Fund due to the decrease in land line telephones. She said that we would use

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E911 Fund reserves to cover this but that we will begin receiving revenue for the pre-paid wireless in October of next year and would be able to stop using reserves. Janelle said that population increased so we saw an increase in the Insurance Premium Tax Fund which will first be used to cover the negative balance in this fund, and then be transferred to the General Fund to help build reserves and avoid a negative cash position. She said that after careful review, it appears that the Transportation Fund will be under their revenue budget by \$111,000. This will cause the Canton bus route results to be negative. The Transportation fund was also impacted by the increase in fuel costs. She said overall it looks like we will achieve our Total County revenue budget. She went through the expenditures budget and stated that the County should meet the 2011 Total Expenditure budget despite unbudgeted increases in fuel and electricity, and the timing of worker's compensation claim payments.

Commissioner Bosch asked about the effect of the new fiscal year. Janelle replied that the fiscal year for next year will be January 1 to September 30. Janelle said that basically if every department was at 75% of their 2011 budget for 2012 that we would achieve budget.

Chairman Ahrens asked if the cause of the transportation decrease in funds was due to a drop in ridership. Janelle replied that it was partially due to a federal grant that was received in 2009, but did not exist for 2010 or 2011 as budgeted. Also, ridership revenue collected was much less than the expenses involved.

Commissioner Johnston asked if it would help to decrease the number of routes. She replied that the impact to the community must be considered, but the County is taking a look into the two fixed routes in Canton.

Commissioner Bosch asked about opportunities for public/private partnerships since it benefits the businesses. Janelle said that it was worth pursuing.

Commissioner Hubbard said that he'd like to see the routes and ridership to see what we can do.

Chairman Ahrens said that we need to sit down with the city because of the dramatic increase in the population growth headed this way.

2. Presentation by Bryce Holcomb w/Citibank – Parks Bond Update / Drawdown Options

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Bryce Holcomb gave a presentation on the balance of the park bond that included the following:

The County has \$34.2 million of the original \$90 million voter approved G.O. Bond authorization remaining. He went over projected bond proceeds with no millage cap, with 0.85 millage cap and 0.75 millage cap.

Commissioner Johnston said that if he understood correctly, that we could proceed with 2012 and 2013 without committing ourselves to raise the millage rate above 0.75 and the hard call wouldn't come until 2015 to see if we were willing to go above the 0.75.

Mr. Holcomb then covered the process of issuing new debt in 2012.

After more discussion, it was decided to try to work on issuing \$11.4 million of new debt to begin in December 2011 for BOC approval and a final close on January 17, 2012.

3. Discussion of Regular Agenda Items

Zoning Cases:

Commissioner Nelms said that one case was in his post and that he would recommend approval with a couple of revisions that he would define in the regular meeting.

Commissioner Johnston and Commissioner Hubbard reviewed the remaining cases that were in their respective posts and had no questions on any of them.

Chairman Ahrens said that he was going to add to his portion an update on the TSPLOST. He also announced the final candidate for the Executive Director of the Atlanta Regional Commission as Doug Hooker. Mr. Hooker still has to be approved by the majority of ARC so if approved, he will be announced as director at the November 5 Regional Breakfast.

Commission Johnston said that due to only getting 55% of residents wanting the all-way signs on Water Tank Road rather than the 95% they had hope for, there would be no more discussion on the issue. Brett Buchannon added that they were approved to have the Sheriff's Office run radar on that road now, so having that capability may help with the speeding.

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The Chairman asked Mr. Cooper if he had anything on the **Consent Agenda** that they needed to discuss and he replied that there was not.

Mr. Cooper then went over the five items on his section:

- Agreement with City of Ball Ground for radio equipment. He said that it was basically the same language as used with the City of Woodstock Agreement. He asked that it be approved contingent upon the review and approval of the County Attorney.
- Requesting acceptance of Home Funds Grant from the GA Urban County Consortium in the amount of \$261,884 and to issue a subrecipient grant.
- Requesting approval of continuation application for Stop VAWA Criminal Justice System Improvement Grant.
- Approval of Professional Services Agreement with CHN for the Wellness Program after finalizing language. Asking contingent approval until he can run the final agreement by the Board.

Commissioner Bosch asked if participation was results based and answer was that it was not, that it was based on participation.

Angie Davis added that the agreement was vague, particularly the guarantee. She would like to see the coaching time / services required for different risk levels more clearly defined.

Mr. Cooper suggested either postponing a decision until November 2 or approve contingent upon receiving the clarification requested.

- Consideration of amendment to the City of Nelson Fire Services Agreement to remove the 3 mill cap on the fire district rate.

County Attorney

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Angie Davis said that the pouring license application seemed to meet the criteria for approval and that she recalled the event was approved last year.

Chairman Ahrens said that early voting began on Monday and two items for Unincorporated Cherokee County were on the ballot.

Commissioner Johnston brought up setting the 2012 meeting schedule. He asked to consider shifting a couple of dates with conflicts, particularly the

July 3 meeting to July 10 and the July 17 meeting to July 24. It was decided to vote on the adjustments at the next meeting.

Chairman Ahrens made the comment that we recently made two appointments to the Ethics Board. He said that he had a draft of the Cobb Ethics Board Ordinance and has since obtained a copy of ACCG's Ordinance. He would like to see the topic discussed at a Work Session at the beginning of the year or possibly at the retreat.

The Chairman asked if there was anything else. Hearing none, Vice Chair Commissioner Hubbard made a motion to adjourn to Executive Session at 5:00 p.m. to discuss personnel issues, pending litigation and property acquisition. Commissioner Bosch seconded and the motion carried unanimously.

Executive Session to Follow

MINUTES

Cherokee County Board of Commissioners

October 18, 2011 REGULAR MEETING CHEROKEE HALL 6:00 P.M.

INVOCATION

Mr. Lynn Eynon of Woodstock Christian Church gave the invocation.

CALL TO ORDER

CHAIRMAN AHRENS

Chairman Ahrens called the regular meeting to order at 6:02 p.m. Those present include Commissioner Harry B. Johnston; Vice Chair/Commissioner Jim Hubbard; Commissioner Karen Bosch; Commissioner Jason Nelms; County Manager Jerry Cooper; County Attorney Angie Davis; County Clerk Christy Black. Also present were Agency Directors/Department Heads; the media; and the public.

PLEDGE OF ALLEGIANCE

"Veterans of U.S. military service may proudly salute the flag while not in uniform based on a change in the governing law on 25 July 2007"

AMENDMENTS TO AGENDA

1. Remove Presentation from FBI; 2. Add proclamation for National Community Planning Month; 3. Add announcement of Health Department Flu Shot Clinic; Three items Under Chairman's portion: 4. Update on Transportation Referendum 2012; 5. Announcement of ARC Executive Director Candidate; 6. Announcement of early voting that started on Monday, October 17.

Commissioner Bosch made a motion to approve the amendments; Commissioner Hubbard seconded and the motion was unanimously approved.

PROCLAMATION

Proclaiming October 29, 2011 as DUI / Drug Court day in honor of the contributions made and profound results in reducing drug usage and crime.

Chairman Ahrens read the proclamation and presented it to Judge Gober. Also present were Lynn Epps, David Cannon, Jr., Dee Morris and Don Stevens.

AMENDED: Proclaiming October as National Community Planning Month.

Chairman Ahrens read the proclamation and presented it to Jeff Watkins.

ANNOUNCEMENTS

By policy, minutes are not official until approved by the Board of Commissioners at a future regular meeting.

1. The outdoor Burn Ban is lifted until May 2012. Must obtain daily burn permit. For more information, call 1-800-GA TREES.
2. AMENDED: CHEROKEE COUNTY HEALTH DEPARTMENT STAFF WILL CONDUCT A FLU SHOT CLINIC ON WEDNESDAY, OCTOBER 19TH FROM 12 TO 3 PM AT CHEROKEE RECREATION AND PARKS AGENCY AT 7545 NORTH MAIN STREET IN WOODSTOCK. REGULAR FLU VACCINE WILL BE OFFERED FOR \$20 AND HIGH DOSE FLU VACCINE WILL BE OFFERED TO PEOPLE AGE 65 AND OLDER FOR \$52. CALL FOR MORE INFORMATION AT (770) 345-7371.
3. Old Mill Road between SR20 and Arbor Hill Road will be closed to through traffic for reconstruction from Monday 10/10/11 at 8am - Friday 10/21/11 at 5pm. RESIDENTS ONLY WILL BE ALLOWED IN CONSTRUCTION AREA
There will be a posted detour. Questions regarding the road closure should be directed to the Roads & Bridges Department at 770-345-5842.
4. Cherokee Friends of Recovery is hosting their 2nd annual 5K fun run (Twilight Run F.O.R. Cherokee) at Hobgood Park on Saturday, October 29 at 8:00 p.m. The event is to promote public awareness of the DUI/Drug Treatment Court which helps rehabilitate habitual drunk drivers. Proceeds to benefit Cherokee Friends of Recovery Foundation, Inc.
5. The Georgia Department of Transportation announces that Water Tank Road will be closed to through traffic at the western intersection with SR 20 from September 5 to October 26, 2011, for intersection reconstruction and realignment associated with the SR 20 improvement project. Questions regarding the detour should be directed to the Georgia Department of Transportation at 770-387-3680.
6. **Electronics Recycling Day is coming!** On Saturday, October 29, 2011 from 9 a.m. to 1 p.m. at the Cherokee County Administration Building located at 1130 Bluffs Parkway. This event is made possible by Cherokee County, RecycleTronics, and Waste Management. For more information, please call (404) 394-9601.

APPROVAL OF WORK SESSION MINUTES FROM October 4, 2011.

Commissioner Johnston made a motion to approve the minutes; Commissioner Hubbard seconded and the motion was approved unanimously.

APPROVAL OF REGULAR MEETING MINUTES FROM October 4, 2011.

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Commissioner Bosch made a motion to approve the minutes; Commissioner Nelms seconded and the motion was approved unanimously.

PUBLIC COMMENT

1. Carolyn Cosby of Ball Ground, Chairman of the Citizen's Committee, read a presentation by the committee to the Board and encouraged public input to weigh in on the recommendations made by the committee. She said the county was being hurt by the incremental tax increases and that they wanted to see some maintenance projects completed before using funds for projects like pools and parks.

2. Tate Bradford of Hickory Flat spoke about the Aquatics Center project. He said he attended the October 4 meeting and left confused on the subject of the Aquatic Center. He referenced Conrad Quagliaroli's comment that he had no idea of the number of visitors expected at the Aquatic Center. He said that he had concerns about Commissioner Bosch's comment to Mr. Quagliaroli that Blankets Creek received 10,000 visitors a month. He said that he visited Blankets Creek on October 10, 14 and 18 and there was no pool there and that there were no more than 27 cars there each time and that nearly half of them were from other counties. Mr. Tate commented also that the YMCA's swimming facility participation was down by 35% due to the economy. Chairman Ahrens added that it could also be due to their fees. Mr. Bradford said he didn't ask what the fees were when he visited the facility. Mr. Bradford also added that he thought it was wrong that the county would be taking business away from a Christian organization. He asked for clarification of Commissioner Bosch's comment on how many visitors Blankets Creek receives a month. Commissioner Bosch clarified by saying when she was approached by Mr. Quagliaroli and asked the name of the facility, she said it was a bike trail. The Chairman stated that he was right there when it was said. She referenced it received 10,000 visitors a month because it is just down the road from the proposed Aquatic Center and she did not feel that it was a stretch to say how many people visited an area. She further clarified that her comment on the number of visitors came from a recent SORBA report. Chairman Ahrens read from the SORBA report that Blankets Creek received 10,000 visitors in May 2011 according to the counter buried there. He also said that he has the utmost respect for Mr. Quagliaroli, but he expected that he had done his homework but he had not. He said that Mr. Quagliaroli questioned the data and the data is available. Commissioner Bosch added that there were thousands of homes near Blankets Creek and that she has seen countless visitors ride their bikes to the facility. She also said that it was encouraging to hear that so many of the visitors were from out of county because it shows we are attracting people to the area.

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At some point in the discussion, Commissioner Hubbard asked what SORBA was. Several people answered that it stood for "Southern Off-Road Bicycle Association."

3. John Highland of Woodstock signed up to speak about the Cherokee County Health Department's flu shot clinic. Chairman Ahrens stated that the Health Department was a state agency.

4. Jack Staver apologized for running late and missing the meeting with Chairman Ahrens earlier. The Chairman said it could be rescheduled. Mr. Staver then said there was a significant detail that needed clarification regarding Commissioner Bosch's remarks at the last meeting. He said according to Mr. Quagliaroli, he came up to her after the meeting and asked what the name of the pool facility was that received 10,000 visitors a month and that she said Blankets Creek. Commissioner Bosch then replied to Mr. Staver, "No I did not, I told him it was a bike trail." He said that Mr. Quagliaroli sent him an email stating that she said it was a pool. Commissioner Bosch said absolutely not, she didn't care what the email said, that it was not true and Chairman Ahrens again concurred that he was right there when this conversation took place. Commissioner Bosch said that that was the problem with taking information out of here and disseminating it inaccurately.... Mr. Staver interrupted her, stating that "there is not a problem with us' attending the meeting". Commissioner Bosch said to listen for the record to what she said, which was "the problem is taking information out of the meeting and inaccurately disseminating it." When Mr. Staver continued to argue over what the email said, Chairman Ahrens said that he would not go on hearsay and to have Conrad come to a meeting. The Chairman went on to say that he has the basic assumption that if a group or individual has a question about our parks, that they should know what we have.

Janice Luck of Canton had not signed up but spoke about the economy and said she is not saying never but felt that the Board needed to relook at the Aquatic Center project in 12 months.

PUBLIC HEARING

None

ZONING CASES

CASE NUMBER	: 11-10-012
APPLICANT	: Northwest Investments, Inc.
ZONING CHANGE	: R-40 to GC

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LOCATION : Parkbrooke Drive & Bus Shop Road
MAP & PARCEL NUMBER : 15N05, 216
ACRES : 0.97
PROPOSED DEVELOPMENT : Auto Mechanic Business
COMMISSION DISTRICT : 4
FUTURE DEVELOPMENT MAP : Suburban Growth

PLANNING COMMISSION RECOMMENDATION : Approval with the condition that there shall be no storage of junk vehicles

Commissioner Nelms made the motion to approve with the following revisions: 1. No vehicles may be parked more than 30 days after completion of work. 2. All petroleum based products must be stored in approved EPD storage containers. 3. All unused old car batteries must be recycled. Commissioner Bosch seconded and the motion was approved unanimously.

CASE NUMBER : 11-10-013
APPLICANT : Valentina Caldwell
ZONING CHANGE : OI to GC
LOCATION : 9220 Hickory Flat Hwy
MAP & PARCEL NUMBER : 02N03, 167
ACRES : 0.87
PROPOSED DEVELOPMENT : Commercial Uses
COMMISSION DISTRICT : 2
FUTURE DEVELOPMENT MAP : Neighborhood Village

PLANNING COMMISSION RECOMMENDATION : Approval of NC (Neighborhood Commercial)

Commissioner Hubbard made the motion to approve; Commissioner Johnston second and the motion was approved unanimously.

CASE NUMBER : 11-10-014
APPLICANT : Thomas O. Owens
ZONING CHANGE : GC to R-40
LOCATION : 266 Charles Cox Drive
MAP & PARCEL NUMBER : 02N02, 081
ACRES : 1.0 +/-
PROPOSED DEVELOPMENT : Single Family Residential Use
COMMISSION DISTRICT : 2
FUTURE DEVELOPMENT MAP : Community Village Node Over Suburban

Growth

PLANNING COMMISSION RECOMMENDATION : Approval

Commissioner Hubbard made the motion to approve; Commissioner Johnston seconded and the motion was approved unanimously.

COMMISSION BUSINESS

CHAIRMAN

L. B. AHRENS

- A. Requesting adoption of a resolution of recognition supporting the relocation of Northside Hospital Cherokee.

Commissioner Hubbard made the motion to approve; Commissioner Nelms seconded and the motion received unanimous approval.

Commissioner Johnston commented that this was exactly the kind of economical development needed in Cherokee County and that this would create about 2,000 good jobs.

- B. Recommendation of appointment of Tambra Mackey to the Region 1 DBHDD Planning Committee.

Chairman Ahrens made the motion to approve; Commissioner Nelms seconded and the motion received unanimous approval.

- C. AMENDMENT: Announcement that early voting began on Monday, October 17, 2011. He mentioned that Sunday sales in unincorporated Cherokee County and the School Penny was on the ballot.
- D. AMENDMENT: Update on Transportation Referendum 2012.

Chairman Ahrens announced that at its final meeting the Atlanta Regional Roundtable, a committee on which he serves, approved the Final Investment List and its final report to the state legislature.

- E. AMENDMENT: Announcement of Douglas Hooker as the candidate for Executive Director of the Atlanta Regional Commission (ARC).

COMMISSION POST 1

HARRY B. JOHNSTON

A. All-way Stops on Water Tank Road

Only about 55% of residents responded in favor of installing these all-way stops. Since this did not meet the 90% majority we wanted before doing so, no further action is proposed on these signs.

VICE CHAIR/COMMISSION POST 2

JIM HUBBARD

COMMISSION POST 3

KAREN BOSCH

COMMISSION POST 4

JASON NELMS

CONSENT AGENDA

1. Consideration of a proposal from Martin-Robbins Fence Company, Inc. for the installation of guardrail along portions of Soap Creek Road in the amount of \$34,901.20. Two bids received, the other was for \$57,272.20.

Commissioner Nelms asked if the company selected was local and Mr. Morton replied that no local company provided this product.

2. Consideration of an agreement regarding exchange of right-of-way areas between Cherokee County and Advance Holdings/Holly Springs, LLC for East Rope Mill Lane and consideration of Development Agreement between Cherokee County and Advance Holdings/Holly Springs, LLC for reconstruction of East Rope Mill Lane.
3. Consideration of a proposal from Atlanta Hawks for Cherokee Youth Basketball uniforms. Atlanta Hawks provided the lowest of five proposals in the amount of \$22.50 per uniform. The second lowest proposal was for \$23.49 per uniform from Chandler Graphics. Mr. Cooper commented that local vendor Chandler Graphics was given the opportunity to meet the winning bid but could not.
4. Requesting authorization to transfer funds of \$16,022.50 from Insurance Recovery to Fire Operations Vehicle Maintenance.
5. Requesting approval of the first amendment to the ARC FY2012 budget contract. Cherokee County Senior Services received newly allocated no-match funding in the amount of \$10,000. Requesting a budget transfer to

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assign newly allocated funding and to transfer existing funding between services in the amount of \$11,000.

6. Requesting a budget amendment in the amount of \$7,500 for Purchase of Services Juvenile Offenders Program Grant awarded to the County. This is a non-matching grant to be used for psychological evaluations for the grant year October 1, 2011 to September 30, 2012.
7. Requesting approval of a budget amendment to include new grant monies for FY2011. The Sheriff's Office was awarded a 50/50 grant from the Bureau of Justice in the amount of \$10,527.44 for the purchase of bullet proof vests with \$5,263.72 being reimbursable from the granting agency. Requesting to increase the budget by \$5,263.72 to include the grant revenue.

Commissioner Hubbard made the motion to approve; Commissioner Johnston seconded and the motion received unanimous approval.

COUNTY MANAGER

8. Requesting approval of Intergovernmental Agreement with the City of Ball Ground to install radio equipment on the Ball Ground water tank to improve coverage in Ball Ground and surrounding areas. The amount budgeted for the installation is \$68,799.72 from SPLOST funds. Agreement is contingent upon review and approval of County Attorney.

Commissioner Johnston made the motion to approve; Commissioner Hubbard seconded and the motion received unanimous approval.

9. Requesting acceptance of the PY 2010 Home Investment Partnership Act Grant Funds from the Georgia Urban County Consortium (GUCC) in the amount of \$261,884 and to issue a Subrecipient Agreement to Cherokee County's Community Housing Development Corporation (CHDO), North Georgia Community Housing Development Corporation in the amount of \$55,134 for the development of Affordable Housing.

Commissioner Hubbard made the motion to approve; Commissioner Johnston seconded and the motion received unanimous approval.

10. Requesting approval of a continuation application for Stop VAWA Criminal Justice System Improvement (CJSI) Grant. Federal award is \$80,000 for

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2012 with a required match of \$26,666 which is satisfied with existing personnel; match will not require any new county funds.

Commissioner Johnston made the motion to approve; Commissioner Hubbard seconded and the motion received unanimous approval.

11. Consider approval of Professional Services Agreement (PSA) with CHN for Wellness Program.

Mr. Cooper suggested a decision be made contingent upon his approval and Angie Davis's after the contract had verbiage added by CHN to clarify some details, particularly to have risk groups and employee participation terms more clearly defined.

Commissioner Nelms made the motion to approve; Commissioner Hubbard seconded and the motion received unanimous approval.

12. Consider amendment to the City of Nelson Fire Services Agreement to remove the 3 mill cap on the Fire District rate to a rate not to exceed the fire district millage rate for unincorporated Cherokee County.

Commissioner Hubbard made the motion to approve; Commissioner Johnston seconded and the motion received unanimous approval.

COUNTY ATTORNEY

13. Requesting final approval for a non-profit event temporary alcohol pouring license for "Tomorrow's Luminaries Foundation" on Sunday, October 30, 2011 from noon to 4:00 p.m. at the Chuckkar Farm Polo Club located on Little River Way.

Angie Davis said that her recommendation would be to approve the license based on the fact that the event was reviewed and approved last year.

Commissioner Hubbard made the motion to approve; Commissioner Nelms seconded and the motion received unanimous approval.

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ADJOURN

The Chairman asked if there was any further business. Hearing none, Vice Chair/Commissioner Hubbard made the motion to adjourn at 7:18 p.m.; Commissioner Nelms seconded and the motion received unanimous approval.



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PUBLIC HEARING: Franchise Agreement w/ Comcast

published: October 07 2011

Event Dates

November 01, 2011 (6:00PM - 7:00PM)

Contact Information

Jerry Cooper
678-493-6000

Location

1130 Bluffs Parkway
Canton, Ga 30114

Event Description

Notice of public hearing to be held at the County Administration Building, Cherokee Hall, 1130 Bluffs Parkway, Canton, at 6:00 PM, November 1 under 47 U.S.C. §546 (a) preserving Cherokee County's rights to formal negotiations under federal and state law in the event that no agreement can be reached through informal negotiations with Comcast.

The public hearing will afford the public in the Comcast franchise area appropriate notice and participation for the purpose of (a) identifying the future cable-related community needs and interests, and (b) reviewing the performance of the cable operator under the franchise during the then current franchise term.

A copy of the draft franchise agreement is posted on the county web site at www.cherokeega.com, and in the County Clerk's Office. Questions can be directed to Jerry W. Cooper, County Manager, via email at jcooper@cherokeega.com

[Comcast Franchise Agreement](#)

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Franchise Agreement

Between the

Cherokee County, Georgia

And

Comcast of Georgia/Virginia, Inc.

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APPENDICES

- A. Defined Terms
- B. Customer Service Standards

AGREEMENT

This **AGREEMENT**, executed as of the ____ day of _____, 2011 (the "Effective Date"), by and between Cherokee County, GA (hereinafter referred to as the "Franchising Authority"), and Comcast of Georgia/Virginia, Inc, whose principal place of business is located at 2925 Courtyards Drive, Norcross, Georgia 30071 , (hereinafter referred to as the "Company"). For purposes of this Agreement, unless otherwise defined in this Agreement the capitalized terms, phrases, words, and their derivations shall have the meanings set forth in Appendix A.

WITNESSETH:

The Franchising Authority, having determined that the financial, legal and technical ability of the Company is reasonably sufficient to provide the services, facilities and equipment necessary to meet the current and future cable-related needs of the community, desires to enter into this Franchise Agreement with the Company for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein. In consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

SECTION 1 GRANT OF AUTHORITY

- 1.1 Grant of Franchise. The Franchising Authority hereby grants under the Cable Act a nonexclusive franchise (the "Franchise") to occupy and use the Streets within the Franchise Area in order to construct operate, maintain, upgrade, repair and remove the System, and provide Cable Services through the System, subject to the terms and conditions of this Agreement. This franchise authorizes Cable Service only and it does not grant or prohibit the right(s) of the company to provide other services.
- 1.2 Term of Franchise. This Franchise shall begin on the Effective Date and expire seven (7) years thereafter, unless renewed or terminated earlier pursuant to the terms of this Franchise Agreement or the Consumer Choice for Television Act (O.G.C.A. 36-76-1 et seq.), provided however, if mutually acceptable, this Agreement may be renewed for one (1) additional five (5) year term.
- 1.3 Renewal. Subject to Section 626 of the Cable Act (47 U.S.C. § 546) and such terms and conditions as may lawfully be established by the Franchising Authority, the Franchising Authority reserves the right to grant or deny renewal of the Franchise.
- 1.4 Reservation of Authority. Nothing in this Agreement shall (i) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description, (ii) be construed as a waiver of any codes or ordinances of the Franchising Authority or of the Franchising Authority's right to require the Company or any Person utilizing the System to secure the appropriate permits or authorizations for such use, or (iii) be construed as a waiver or release of the rights of the Franchising Authority in and to

the Streets. Notwithstanding the above, in the event of any conflict between this Franchise and any ordinance adopted by the Franchising Authority or any said regulation, the terms and conditions of this Franchise Agreement shall prevail.

1.5 Competitive Equity and Subsequent Action Provisions

1.5.1 Company and the Franchising Authority acknowledge that there is increasing competition in the video marketplace among cable operators, direct broadcast satellite providers, telephone companies, broadband content providers and others; new technologies are emerging that enable the provision of new and advanced services to County residents; and changes in the scope and application of the traditional regulatory framework governing the provision of video services are being considered in a variety of federal, state and local venues.

1.5.2 Purposes. To foster an environment where video service providers using the Public Ways can compete on a competitively neutral and nondiscriminatory basis; encourage the provision of new and advanced services to County residents; promote local communications infrastructure investments and economic opportunities in the County; and provide flexibility in the event of subsequent changes in the Law, the Company and the Franchising Authority have agreed to the provisions in this Section 1.5, and they should be interpreted and applied with such purposes in mind.

1.5.3 New Video Service Provider or Cable Service Provider. Notwithstanding any other provision of this Agreement or any other provision of Law, if any Video Service Provider ("VSP") or Cable Service Provider ("CSP") utilizing the public right-of-way enters into any agreement with the Franchising Authority to provide video services or cable services to subscribers in the County, subsequent to the Effective date of this Agreement, or otherwise begins to provide video services or cable services to subscribers in the County (with or without entering into an agreement with the Franchising authority), the Franchising Authority, upon written request of the Company, shall permit the Company to construct and operate its Cable System and to provide video services or cable services to subscribers in the County under substantially the same agreement and/or under substantially the same terms and conditions as apply to the new VSP or CSP. The Company and the Franchising Authority shall enter into an agreement or other appropriate authorization containing substantially the same terms and conditions as are applicable to the VSP or CSP within sixty (60) days after the Company submits a written request to the Franchising Authority.

If there is no written agreement or other authorization between the new VSP or CSP and the Franchising Authority, the Company and the Franchising Authority shall use the sixty (60) day period to develop and enter into an agreement or other appropriate authorization that to the maximum extent possible contains provisions that will ensure competitive equity between the Company and other VSPs or CSPs, taking into account the terms and conditions under which other VSPs or CSPs are allowed to provide video services or cable services to subscribers in the County.

1.5.4 Subsequent Change in Law. If there is a change in federal, state or local Law that provides for a new or alternative form of authorization, subsequent to the Effective date of this Franchise Agreement, for a VSP or CSP utilizing the public right-of-way to provide video or cable services to subscribers in the County, or that otherwise changes the nature or extent of the obligations that the Franchising Authority may request from or impose on a VSP or CSP providing video services or cable services to subscribers in the County, the Franchising Authority agrees that, notwithstanding any other provision of Law, upon the written request and at the option of the Company, the Franchising Authority shall: (i) permit the Company to provide video services or cable services to subscribers in the County on substantially the same terms and conditions as are applicable to a VSP under the changed Law; (ii) modify this Agreement to comply with the changed Law; or (iii) modify this Agreement to ensure competitive equity between the Company and other VSPs or CSPs, taking into account the conditions under which other VSPs or CSPs are permitted to provide video services to subscribers in the County. The Franchising Authority and the Company shall implement the provisions of this Section 1.5.4 within sixty (60) days after the Company submits a written request to the Franchising Authority. Notwithstanding any provision of Law that imposes a time or other limitation on the Company's ability to take advantage of the changed law's provisions, the Company may exercise its rights under this Section 1.5.4 at any time, but not sooner than thirty (30) days after the changed law goes into effect. Notwithstanding the above, the parties agree that Company may at any time, in its sole discretion, terminate this agreement and opt into a state issued franchise pursuant to the Consumer Choice for Television Act (O.C.G.A. 36-76-1, et. al.).

1.5.5. Effect on This Agreement. Any agreement, authorization, right or determination to provide video services to subscribers in the County under the preceding sections shall supersede this Agreement, and the Company, at its option, may terminate this Agreement or portions thereof, upon written notice to the Franchising Authority, without penalty or damages.

SECTION 2 THE SYSTEM

2.1 The System and Its Operations

2.1.1. Service Area. As of the Effective Date of this Agreement, the Company's operates a System within the Franchise Area.

2.1.2. System. The Company, as of the Effective Date of this Franchise Agreement, maintains and operates a 750 MHz system providing over two hundred channels of video programming.

2.1.3. System Technical Standards. Throughout the term of this Agreement, the System shall be designed, maintained and operated such that quality and reliability of System Signal will be in compliance with Section 624A (Consumer Electronics

Equipment Compatibility Standards) of the Cable Act as may be amended from time to time.

2.1.4. Testing Procedures; Technical Performance. Throughout the term of this Agreement, the Company shall operate and maintain the System in accordance with the testing procedures and the technical performance standards of the FCC detailed in Title 47 Telecommunication, Chapter 1 Federal Communications Commission, Part 76, Subpart K, 76.601, 76.605, 76.609, 76.610, and 76.611 which may change from time to time.

2.2 Requirements With Respect to Work on the System

2.2.1 General Requirements. The Company shall comply with ordinances and/or rules and regulations established by the Franchising Authority pursuant to the lawful exercise of its police powers and generally applicable to all users of the Streets. Notwithstanding the above, the Company shall not be responsible for the cost of relocating facilities to accommodate a public streetscape, sidewalk or private development project. To the extent such local laws, ordinances or regulations clearly conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail, except where such conflict arises from the Franchising Authority's lawful exercise of its police powers.

2.2.2 Protection of Underground Utilities. Both the Company and the Franchising Authority shall comply with Title 25, Chapter 9 of the Official Code of Georgia Annotated, relating to notification prior to excavation near underground utilities, as now or hereafter amended.

SECTION 3 PEG ACCESS

3.1 Use of Channel Position. Within one hundred twenty (120) days of its receipt of a written request from the Franchising Authority, The Company will provide capacity, up to one (1) channel for the purpose of showing educational and governmental Access programming ("EG Access") in accordance with the Cable Act, Section 611, and as further set forth below. The channel capacity may be delivered by analog, digital or other transmission technologies as determined by the Company in its sole discretion.

3.2 The Company does not relinquish its ownership of or ultimate right of control over channel capacity by designating it for EG Access use and the Franchising Authority or EG Access user acquires no property or other interest by virtue of the use of a Channel Position so designated. Additionally, the Franchising Authority may not rely on the continued use of a particular channel position throughout the term of this Franchise Agreement no matter how long such channel position may have been designated for such use.

- 3.3 The Company shall not exercise editorial control over any EG Access, except the Company may refuse to transmit any EG Access program or portion of an EG Access program that contains obscenity, indecency or nudity as provided by applicable law. The Franchising Authority shall be responsible for developing, implementing, interpreting, and enforcing rules for EG Access use.
- 3.4 Education and Government Access. Channel capacity designated for EG Access shall be for a) non-commercial use by the Franchising Authority for the purpose of showing local government at work,. Unused time on the Channel Position may be utilized by The Company subject to the provisions for “fallow time” below.
- 3.5 Programming Requirements. Upon fully dedicating a channel for EG use, the Franchising Authority certifies and commits to providing fifteen (15) hours per month of programming for three consecutive months on each of the activated PEG channels. Should the Franchising Authority fail to maintain fifteen (15) hours of programming per month threshold for any three (3) consecutive month period, then the Company may reclaim the channel capacity for its own use.

SECTION 4 CUSTOMER SERVICE AND PRIVACY PROTECTION

- 4.1 Customer Service. The Company shall comply in all respects with the requirements set forth in Appendix B. Individual violations of the standards do not constitute a breach of this Franchise Agreement.

SECTION 5 COMPENSATION AND OTHER PAYMENTS

- 5.1 Compensation to the Franchising Authority. As compensation for the Franchise, the Company shall pay, or cause to be paid, to the Franchising Authority the amounts set forth in this Section 5.1.
- 5.1.1 Franchise Fees - Amount. The Company shall pay to the Franchising Authority franchise fees in an amount equal to five percent (5%) of Gross Revenue derived from the operation of the System to provide Cable Services in the Franchise Area.
- 5.1.2 Franchise Fees - Payment. All such payments of franchise fees shall be made on a quarterly basis and shall be remitted simultaneously with the submission of the Company's franchise fee report required pursuant to Section 5.1.3.

5.1.3 Company to Submit Franchise Fee Report. The Company shall submit to the Franchising Authority a report not later than thirty (30) days after the last day of March, June, September and December throughout the term of this Agreement setting forth the Gross Revenue for the period ending on said last day.

5.1.4 Franchise Fee Payments Subject to Audit; Remedy for Underpayment. No acceptance of any franchise fee payment by the Franchising Authority shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount or a release of any claim that the Franchising Authority may have for further or additional sums payable under this Agreement. Franchising Authority may conduct audits no more than once annually to ensure payments in accordance with the terms and conditions of the franchise agreement and may go back up to thirty-six months from the date the payment was made. The audit of the Company's records shall take place at a location, in the State of Georgia, determined by the Company. The Franchising Authority is prohibited from removing any records, files, spreadsheets or any other documents from the site of the audit. In the event, the Franchising Authority takes notes of any documents, records or files of the Company used to prepare an audit report, all notes shall be returned to the Company upon completion of the audit. The Audit period shall be limited to three years prior to the most recent franchise fee payment was made. Once any audited period of the Company has been the subject of a requested audit, such audited period shall not again be the subject of any audit.

Franchising Authority shall provide the Company with a written notice of audit results and a copy of the final report presented to the franchising authority. Moreover, any undisputed amounts owed to the Franchising Authority as the result of the audit shall be paid within 60 days, or other mutually acceptable timeframe from the date of the executed settlement agreement

5.2 Payments Not To Be Set Off Against Taxes or Vice Versa. The parties agree that the compensation and other payments to be made pursuant to this Section 5 of this Agreement are not a tax and are not in the nature of a tax and are in addition to any and all taxes of general applicability or other fees or charges (including any fees or charges which may be imposed on the Company for the use of poles, conduits or similar facilities that may be owned or Controlled by the Franchising Authority) which the Company or any Affiliated Person shall be required to pay to the Franchising Authority. Company and Franchising Authority further agree that franchise fee payments required under 5.1.1 of this Agreement shall be in lieu of permit fees, business licenses, and occupational license taxes as required by Cherokee County. The Franchising Authority and the Company further agree that no additional taxes, licenses, fees, surcharges, or other assessments shall be assessed by Cherokee County on the Company for or with respect to the use of

the Streets nor shall the Franchising Authority levy any other tax, license, fee or assessment on the Company or its Subscribers that is not generally imposed and applicable to a majority of all other businesses.

5.3 Interest on Late Payments. If any payment required by this Agreement is not actually received by the Franchising Authority on or before the applicable date fixed in this Agreement, the Company shall pay interest thereon, from the due date to the date paid at rates published by the Internal Revenue Service for tax refunds and additional tax payments for the period of delinquency.

5.4 Service to Governmental and Institutional Facilities.

5.4.1 Complimentary Installation. The Company, shall, upon written request by the Franchising Authority, provide Standard Installation of one service outlet for each of the Franchising Authorities facilities, public primary or secondary school and library, which will be located no more than 125 feet from the Company's activated distribution plant. If the facility is located more than 125 feet from the Company's activated distribution plant, then the Company shall within thirty (30) days of receipt of written request from the Franchising Authority, provide a written estimate for the cost of extending plant to the school, library or government facility as well as any necessary inside wiring costs.

5.4.2 Complimentary Service Within thirty (30) days of receipt of written notice by the Franchising Authority, the Company shall provide one outlet of basic and expanded basic tier Service to each public primary or secondary school and public library located in the Franchise Area.

5.4.3 The Company may provide a government discount rate if the Franchising Authority requests additional outlets at a public school, public library or to a government facility.

SECTION 6 COMPLIANCE REPORTS

6.1 Reports. Upon written request by the Franchising Authority and subject to Section 631 of the Cable Act, the Company shall promptly submit to the Franchising Authority such information as maybe necessary to reasonably demonstrate the Company's compliance with any term or condition of this Agreement

6.2 File for Public Inspection. Throughout the term of this Agreement, the Company shall maintain, in a file available for public inspection during normal business hours, those documents required pursuant to the FCC's rules and regulations.

6.3 Treatment of Proprietary Information. The Franchising Authority agrees to treat as confidential any requested documents submitted to the Franchising Authority that are labeled as Confidential or Trade Secret by the Company prior to submission, while at all times complying with the Georgia Open Records Act

(O.C.G.A. § 50-18-70 et seq.). In the event that any other Person requests such documents, including requests pursuant to the Georgia Open Records Act, the Franchising Authority shall notify the Company of such request as soon as practicable, and in any case prior to the release of such information, by email or facsimile to the addresses provided in Section 10.6 hereof, so that the Company may take appropriate steps to protect its interests in the Requested Records, including seeking an injunction against the release of such Requested Records. Upon receipt of said notice, the Company may review the Requested Records in the Franchising Authority's possession and designate as "Confidential" or "Trade Secret" such additional portions of the requested documents as contain confidential or proprietary information.

The Company agrees to indemnify and hold harmless, including the payment of attorney fees, the Franchising Authority, its employees, agents, consultants and elected officials, for any claim arising out of the Franchising Authority's refusal to produce, in response to a request by any Person or entity other than the Company, documents the Company has designated as "Confidential" or "Trade Secret." The Company further agrees to indemnify and hold harmless, including the payment of attorney fees, the Franchising Authority, its employees, agents, consultants and elected officials for any claim arising out of the Franchising Authority's production, in response to a request by any person or entity, documents the Company has not designated as "Confidential" or "Trade Secret." The Franchising Authority will not disclose to any other Person any Requested Records labeled by the Company as "Confidential" or "Trade Secret" unless such disclosure is required by law or compelled by court order.

6.4 Emergency Alert System. Company shall install and maintain an Emergency Alert System in the County only as required under applicable Federal and State laws. Additionally, Franchising Authority shall permit only appropriately trained and authorized Persons to operate the Emergency Alert System equipment and shall take reasonable precautions to prevent any use of the Company's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System.

6.4.1 Liability. The Company shall have no liability nor shall be required to provide indemnification to Franchising Authority for its use of the Emergency Alert System.

SECTION 7 ENFORCEMENT

7.1 Notice of Violation. If the Franchising Authority believes that the Company has not complied with any material term of this Franchise Agreement, the Franchising Authority shall first informally discuss the matter with the Company. If such discussions do not lead to a resolution of the problem satisfactory to the Franchising Authority, the Franchising

Authority shall notify the Company in writing of the nature of the alleged non-compliance. (Violation Notice).

7.1.2 Company's Right to Cure or Respond. Company shall have forty-five (45) days from the receipt of the Violation Notice, or a longer period of time as the Franchising Authority may specify, to either respond, cure the alleged noncompliance, or if by the nature of the complained of event it cannot be cured within a forty-five (45) day period, Company shall in writing initiate reasonable steps to remedy the matter and provide Franchising Authority a projected resolution date.

7.1.3 Meeting with Officials. In the event the Company fails to respond to the Franchising Authority's notice described in Section 7.1, above, or in the event that the alleged default is not remedied within forty-five (45) days or the date projected by the Company pursuant to Section 7.2, above, the Franchising Authority shall schedule a meeting with representatives of both the Company and the Franchising Authority to resolve the matter. Such meeting shall be scheduled at a time that is reasonably convenient to both parties.

7.1.4 Enforcement. Subject to applicable federal and State law, in the event the Franchising Authority, after the hearing set forth above, determines that the Company is in default of the provisions addressed in the Violation Notice, the Franchising Authority may:

(a) Seek specific performance damages; or

(b) Commence an action at law for monetary damages or seek other equitable relief; or

(c) In the case of a substantial default of a material provision of the Franchise, the Franchising Authority may revoke the Franchise itself in accordance with subsection 7.1.5 below.

7.1.5 Revocation

(a) Prior to the revocation or termination of the Franchise, the Franchising Authority shall give written notice to the Company of its intent to revoke the Franchise Agreement on the basis of noncompliance, by the Company, with a material provision of the Franchise Agreement. The notice shall set forth the exact nature of the noncompliance. The Company shall have forty-five (45) days from such notice to either object in writing and to state its reasons for such objection and provide an explanation or to cure the alleged noncompliance. If the Franchising Authority has not received a satisfactory response from the Company within such forty-five (45) day period, it may then seek to revoke the Franchise at a public hearing. The Company shall be given at least ten (10) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the franchise.

(b) At the hearing, each party shall have an opportunity to state its position on the matter, present evidence and question witnesses, after which the Franchising Authority's governing board shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Company within ten (10) business days. The decision of the Franchising Authority's governing board shall be made in writing and shall be delivered to the Company. The Company may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority's Governing Board de novo. The Company may continue to operate the Cable System until all legal appeals procedures have been exhausted. Notwithstanding the above provisions, the Company does not waive any of its rights under federal law or regulation.

7.1.6 Technical Violation

The Franchising Authority agrees that it is not its intention to subject the Company to penalties, fines, forfeitures or revocation of the Franchise for so-called "technical" breach(es) or violation(s) of the Franchise, which shall include, but are not limited to the following:

(a) Instances or matters involving a violation or a breach of the Franchise by the Company was good faith error that resulted in no or minimal negative impact on the Customers within the Franchise Area; or

(b) Circumstances reasonably beyond the control of the Company and which precipitated a violation by the Company of the Franchise, or which were deemed to have prevented the Company from complying with a term or condition of the Franchise.

SECTION 8 ASSIGNMENTS AND OTHER TRANSFERS

8.1 The Franchise shall be fully transferable to any successor in interest to the Company. A notice of transfer shall be filed by the Company with the County Manager within 45 days of such transfer the transfer notification shall consist of an affidavit signed by an officer or general partner of the transferee that contains the following:

(a) An affirmative declaration that the applicant shall comply with the terms and conditions of this Agreement, all applicable federal, state laws and regulations, including municipal and county ordinances regarding the placement and maintenance of facilities in the public rights-of-way that are generally applicable to users of the public right of way specifically including Chapter 8 of Title 25, the Georgia utility Facility Protection Act;

(b) A description of transferee's service area; and

(c) The location of the transferee's principal place of business and the names or names of the principal executive officer or officers of the transferee.

SECTION 9 INSURANCE and INDEMNITY

9.1 Insurance

9.1.1 Specifications.

(a) Liability Insurance. Throughout the term of this Franchise Agreement, the Company shall, at its own cost and expense, maintain Comprehensive General Liability Insurance and provide the Franchising Authority, certificates of insurance demonstrating that the Company has obtained the insurance required in this Section 9.1. Such policy or policies shall be in the minimum amount of One Million Dollars (\$1,000,000.00) for bodily injury or death to any one person, and One Million Dollars (\$1,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and One Million Dollars (\$1,000,000.00) for property damage resulting from any one accident. Such policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to the Franchising Authority.

(b) Workers' Compensation. The Company shall ensure its compliance with the Georgia Workers' Compensation Act.

9.2 Liability and Indemnity

9.2.1 No Liability and Indemnity. In accordance with Section 635A of the Cable Act, the Franchising Authority, its officials, employees, members or agents shall have no liability to the Company arising from the regulation of Cable Service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Franchise. Any relief to the extent such relief is required by any other provision of Federal State, or local law, shall be limited to injunctive relief and declaratory relief.

SECTION 10 MISCELLANEOUS

10.1 Controlling Authorities. This Agreement is made with the understanding that its provisions are controlled by the Cable Act, other federal laws, state laws, and all applicable local laws, ordinances, and regulations. To the extent such local laws, ordinances or regulations clearly conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail, except

where such conflict arises from the Franchising Authority's lawful exercise of its police powers.

- 10.2 Appendices. The Appendices to this Agreement, attached hereto, and all portions thereof and exhibits thereto, are, except as otherwise specified in such Appendices, incorporated herein by reference and expressly made a part of this Agreement.
- 10.3 Enforceability of Agreement; No Opposition. By execution of this Agreement, the Company and the Franchising Authority acknowledge the validity of the terms and conditions of this Agreement under applicable law in existence on the Effective Date and pledge that they will not assert in any manner at any time or in any forum that this Agreement, the Franchise, or the processes and procedures pursuant to which this Agreement was entered into and the Franchise was granted are not consistent with the applicable law in existence on the Effective Date.
- 10.4 Governmental Powers. The Franchising Authority expressly reserves the right to exercise the full scope of its powers, including both its police power and contracting authority, to promote the public interest and to protect the health, safety and welfare of the citizens of Cherokee County, Georgia.
- 10.5 Entire Agreement. This Agreement, including all Appendices, embodies the entire understanding and agreement of the Franchising Authority and the Company with respect to the subject matter hereof and merges and supersedes all prior representations, agreements, and understandings, whether oral or written, between the Franchising Authority and the Company with respect to the subject matter hereof, including, without limitation, all prior drafts of this Agreement and any Appendix to this Agreement and any and all written or oral statements or representations by any official, employee, agent, attorney, consultant or independent contractor of the Franchising Authority or the Company. All ordinances or parts of ordinances or other agreements between the Company and the Franchising Authority that are in conflict with the provisions of this Agreement are hereby declared invalid and superseded.
- 10.6 Notices. All notices shall be in writing and shall be sufficiently given and served upon the other party by first class mail, registered or certified, return receipt requested, postage prepaid, or via facsimile (with confirmation of transmission) and addressed as follows:

THE FRANCHISING AUTHORITY:
Cherokee County, Georgia
Attn: County Manager
1130 Bluffs Parkway
Canton, Georgia 30114

COMPANY:

Comcast of Georgia/ Virginia, Inc.
Attn: Vice President, Government and Community Affairs
2925 Courtyards Drive
Norcross, Georgia 30071

With a copy to: Comcast Cable Communications, Inc.
Comcast Cable Communications, Inc.
Attn: Vice President, Government Affairs
600 Galleria Parkway, Suite 1100
Atlanta, Georgia 30339

And: Comcast Cable Communications, Inc.
Attn: Legal Dept.

Attn: Legal Dept.
1701 John F Kennedy Blvd
Philadelphia, PA 19103

Facsimile: 215-286-3572

10.7 Additional Representations and Warranties. In addition to the representations, warranties, and covenants of the Company to the Franchising Authority set forth elsewhere herein, the Company represents and warrants to the Franchising Authority and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the Franchising Authority) that, as of the Effective Date:

10.7.1 Organization, Standing, and Authorization. The Company is a corporation validly existing and in good standing under the laws of the State of Georgia and is duly authorized to do business in the State of Georgia and in the Franchise Area.

10.7.2 Compliance with Law. The Company, to the best of its knowledge, is in substantial compliance with all material laws, ordinances, decrees and governmental rules and regulations applicable to the System and has obtained all government licenses, permits, and authorizations necessary for the operation and maintenance of the System.

10.8 Maintenance of System in Good Working Order. Until the termination of this Agreement and the satisfaction in full by the Company of its obligations under this Agreement, in consideration of the Franchise, the Company agrees that it will maintain all of the material properties, assets and equipment of the System, and all such items added in connection with any upgrade, in good repair and proper working order and condition throughout the term of this Agreement.

10.9 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted transferees and assigns. All of the provisions of this Agreement apply to the Company, its successors, and assigns.

10.10 No Waiver; Cumulative Remedies. No failure on the part of the Franchising Authority or the Company to exercise, and no delay in exercising, any right or remedy hereunder including, without limitation, the rights and remedies set forth in the preceding sections of this Agreement, shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other right or remedy, all subject to the conditions and limitations established in this Agreement. The rights and remedies provided herein including, without limitation, the rights and remedies set forth in Section 8 of this Agreement, are cumulative and not exclusive of any remedies provided by law, and nothing contained in this Agreement shall impair any of the rights or remedies of the Franchising Authority or Company under applicable law, subject in each case to the terms and conditions of this Agreement.

10.11 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

10.12 No Agency. The Company shall conduct the work to be performed pursuant to this Agreement as an independent entity and not as an agent of the Franchising Authority.

10.13 Governing Law. This Agreement shall be deemed to be executed in Cherokee County, State of Georgia, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Georgia, as applicable to contracts entered into and to be performed entirely within that State.

10.14 Claims Under Agreement. The Franchising Authority and the Company, agree that, except to the extent inconsistent with Section 635 of the Cable Act (47 U.S.C. § 555), any and all claims asserted by or against the Franchising Authority arising under this Agreement or related thereto shall be heard and determined either in a court of the United States located in Georgia ("Federal Court") or in a court of the State of Georgia of appropriate jurisdiction. To effectuate this Agreement and intent, the Company agrees that if the Franchising Authority initiates any action against the Company in Federal Court or in Georgia State Court, service of process may be made on the Company either in person or by registered mail addressed to the Company at its offices as defined in Section 10.7, or to such other address as the Company may provide to the Franchising Authority in writing.

10.15 Modification. The Company may at any time during the term of this Agreement seek a modification, amendment or waiver of any term or condition of this agreement. No provision of this Agreement nor any Appendix to this Agreement, shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed

by the Franchising Authority and the Company, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution, letter of agreement, or order by the Franchising Authority, as required by applicable law.

10.16 Delays and Failures Beyond Control of Company. Notwithstanding any other provision of this Agreement, the Company shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Agreement due to strike, war, or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, technical failure, sabotage or other events, where the Company has exercised all due care in the prevention thereof, to the extent that such causes or other events are beyond the control of the Company and such causes or events are without the fault or negligence of the Company. In the event that any such delay in performance or failure to perform affects only part of the Company's capacity to perform, the Company shall perform to the maximum extent it is able to do so and shall take all steps within its power to correct such cause(s). The Company agrees that in correcting such cause(s), it shall take all reasonable steps to do so in as expeditious a manner as possible. The Company shall promptly notify the Franchising Authority in writing of the occurrence of an event covered by this Section 10.16.

10.17 Duty to Act Reasonably and in Good Faith. The Company and the Franchising Authority shall fulfill their obligations and exercise their rights under this Agreement in a reasonable manner and in good faith. Notwithstanding the omission of the words "reasonable," "good faith," or similar terms in the provisions of this Agreement, every provision of this Agreement shall be deemed subject to this section.

10.18 Contractual Rights Retained. Nothing in this Agreement is intended to impair the contractual rights of the Franchising Authority or the Company under this Agreement.

10.19 Third Party Beneficiaries. Nothing in this Franchise or any prior agreement, is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

IN WITNESS WHEREOF, the party of the first part, by its Chairman, thereunto duly authorized by the County Board of Commissioners of said Franchising Authority, has caused the name of said Franchising Authority to be hereunto signed and the corporate seal of said Franchising Authority to be hereunto affixed and the Company, the party of the second part, by its officers thereunto duly authorized, has caused its name to be hereunto signed and its seal to be hereunto affixed as of the date and year first above written.

Cherokee County, Georgia

By: _____

Name: L.B. Ahrens, Jr.

Title: Chairman

(Seal)

By: _____.

Name: Jerry Cooper

Title: County Manager

Attest: _____

Date: _____

Comcast of Georgia/Virginia, Inc.

By: _____

Name: Bill Connors

Title: President

Attest: _____

Date: _____

APPENDIX A DEFINED TERMS

For purposes of the Agreement to which this Appendix A is appended, the following terms, phrases, words, and their derivations shall have the meanings set forth herein, unless the context clearly indicates that another meaning is intended.

"Abandonment" means: (i) the cessation, by act or failure to act of the Company of the provision of all, or substantially all, of the Services then being provided over the System to Subscribers or the Franchising Authority for twenty-four (24) or more consecutive hours, except if due to an event beyond the control of the Company.

"Affiliated Person" means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with the Company.

"Agreement" means the Agreement to which this Appendix A is appended, together with all Appendices attached thereto and all amendments or modifications thereto.

"Basic Service" means any service tier, which includes the retransmission of local television broadcast signals and any equipment or installation used in connection with Basic Service.

"Cable Act" means Title VI of the Communications Act of 1934 as amended, 47 U.S.C. §§ 521 et seq.

"Cable service" means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. "Cable service" does not include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. §332(d).

"Cable service provider" means any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

"Cable system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

- (A) A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
- (B) A facility that serves subscribers without using any public right-of-way as defined herein;

(C) A facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§201 - 276, except that such facility shall be considered a cable system, other than for purposes of 47 U.S.C. 541(c), to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(D) An open video system that complies with 47 U.S.C. 573; or

(E) Any facilities of any electric utility used solely for operating its electric utility system.

"Channel" means a "Channel" or "cable Channel" as defined in the Cable Act.

"Company" means Comcast of Georgia/Virginia, Inc. a corporation validly existing under the laws of the State of Georgia, whose principal place of business is located at 2925 Courtyards Drive, Norcross 30071.

"Control" or **"Controlling Interest"** means actual working Control in whatever manner exercised, including, without limitation, working Control through ownership, management, debt instruments, or negative Control, as the case may be, and of the System, the Franchise, or the Company.

"FCC" means the Federal Communications Commission, its designee, or any successor thereto.

"Franchise Area" means the unincorporated areas of the County.

"Franchising Authority" means Cherokee County, Georgia, or lawful successor, transferee, designee or assignee thereof.

"Gross Revenues" means all revenues received from subscribers for the provision of cable service or video service, including franchise fees for cable service providers and video service providers, and advertising and home shopping services and shall be determined in accordance with Generally Accepted accounting Principles ("GAAP"). Gross revenues shall not include:

(A) Amounts billed and collected as a line item on the subscriber's bill to recover any taxes, surcharges, or governmental fees that are imposed on or with respect to the services provided or measured by the charges, receipts, or payments therefore; provided, however, that for purposes of this definition of "Gross Revenue", such tax, surcharge, or governmental fee shall not include any ad valorem taxes, net income taxes, or generally applicable business or occupation taxes not measured exclusively as a percentage of the charges, receipts, or payments for services to

the extent such charges are passed through as a separate line item on Subscriber's bills;

(B) Any revenue not actually received, even if billed, such as bad debt;

(C) Any revenue received by any affiliate or any other person in exchange for supplying goods or services used by the provider to provide cable or video programming;

(D) Any amounts attributable to refunds, rebates, or discounts;

(E) Any revenue from services provided over the network that are associated with or classified as non-cable or non-video services under federal law, including, without limitation, revenues received from telecommunications services, information services other than cable or video services, Internet access services, directory or Internet advertising revenue including, without limitation, yellow pages, white pages, banner advertisements, and electronic publishing advertising. Where the sale of any such non-cable or non-video service is bundled with the sale of one or more cable or video services and sold for a single non-itemized price, the term "gross revenues" shall include only those revenues that are attributable to cable or video services based on the provider's books and records, such revenues to be allocated in a manner consistent with generally accepted accounting principles;

(F) Any revenue from late fees not initially booked as revenues, returned check fees or interest;

(G) Any revenue from sales or rental of property, except such property as the subscriber is required to buy or rent exclusively from the cable or video service provider to receive cable or video service;

(H) Any revenue received from providing or maintaining inside wiring;

(I) Any revenue from sales for resale with respect to which the purchaser is required to pay a franchise fee, provided the purchaser certifies in writing that it will resell the service and pay a franchise fee with respect thereto; or

(J) Any amounts attributable to a reimbursement of costs including, but not limited to, the reimbursements by programmers of marketing costs incurred for the promotion or introduction of video programming.

"Normal Business Hours" The term "normal business hours" means those hours during which most other businesses in the community are usually and customarily accessible to customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

“Normal Operating Conditions” The term "normal operating conditions" means those service conditions, which are within the control of the Company. Those conditions, which are not within the control of the Company, include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions, which are ordinarily within the control of the Company, include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

"Person" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit, but shall not mean the Franchising Authority.

"Responsible Franchising Official" means the body, organization or official to whom the applicable rights or obligations have been delegated by the Franchising Authority pursuant to applicable law.

“Service Area” means the geographic territory within a municipality or unincorporated area of a county where a cable operator or video service provider provides or has proposed to offer cable service or video services pursuant to a franchise.

"Signal" means any transmission of radio frequency energy or of optical information.

“Standard Installation.” The term “standard installations” means installations that are located within 125 feet of the existing Cable System

"Streets" means the surface of, and the space above and below, any and all Streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks, bulkheads, wharves, piers, public grounds and public places or waters within and belonging to the Franchising Authority and any other property within the Franchise Area to the extent to which there exist public easements or public rights of way.

"Subscriber" means any Person lawfully receiving any Service provided by the Company by means of or in connection with the System, whether or not a fee is paid for such Service.

“Video Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in 47 U.S.C. §522(20).

“Video Service” means the provision of Video Programming through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any Video Programming provided by a commercial mobile service provider as defined in 47 U.S.C. Section 332(d) or Video Programming provided as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

"Video Service Provider" means an entity providing video service, as defined herein. This term does not include a cable service provider.

APPENDIX B
CUSTOMER SERVICE STANDARDS

SECTION 1.1 – FEDERAL CUSTOMER SERVICE STANDARDS

SECTION 1.1.1 The Franchising Authority adopts the customer service standards and rules set forth in Part 76, §76.309(c)(2) and Part 76§ 309(c)(3) of the FCC’s rules and regulations, as amended and detailed below:

- a. The cable operator will maintain a local, toll-free or collect call telephone access line, which will be available to its subscribers 24 hours a day, seven days a week.
- b. Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.
 - (ii) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.
- c. Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located. Company shall maintain a list with the County of the three closest bill payment centers or cable stores to the franchise area.
- d After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.
- e. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.
 - (i) The Company will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

- f. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:
1. Standard installations will be performed within seven (7) business days after an order has been placed. ``Standard" installations are those that are located up to 125 feet from the existing distribution system.
 2. Excluding conditions beyond the control of the operator, the cable operator will begin working on ``service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.
 3. The ``appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)
 4. An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
 - a. If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time, which is convenient for the customer.
- g. Refund checks will be issued promptly, but no later than either--
1. The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or
 2. The return of the equipment supplied by the cable operator if service is terminated.
- h. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

SECTION 1.2 – GENERAL INFORMATION

- a. Company shall provide written information on each of the following areas at the time of installation of service, at least annually to all customers, at least annually to the local franchising authority and at any time upon request:
 1. Products and services offered;
 2. Prices and options for programming services and conditions of subscription to programming and other services;
 3. Installation and service maintenance policies;
 4. Instructions on how to use the cable service;
 5. Channel positions of programming carried on the system; and
 6. Billing and complaint procedures, including the address and telephone number of the local Franchising Authority's cable office.
- b. Subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by the cable system operator, including the address of the responsible officer of the local franchising authority.
- c. Credit and refund policy relative to outages, missed appointments and other service related issues as such exist and are provided to customers.

SECTION 1.3 -- RATES AND SERVICE CHANGES

- a. Customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers 30 days in advance of any significant changes in the other information required by Sec. 76.1602. Company shall provide Franchising Authority with a copy of correspondence issued to the customer regarding an adjustment in rates, products or services.
- b. In addition to the requirement of paragraph (A) of this section regarding advance notification to customers of any changes in rates, programming services or channel positions, cable systems shall give 30 days written notice to both subscribers and local franchising authorities before implementing any rate or service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified. For purposes of the carriage of digital

broadcast signals, the operator need only identify for subscribers, the television signal added and not whether that signal may be multiplexed during certain day parts.

- c. A cable operator shall provide written notice to a subscriber of any increase in the price to be charged for the basic service tier or associated equipment at least 30 days before any proposed increase is effective. The notice should include the name and address of the local franchising authority.
- d. To the extent the operator is required to provide notice of service and rate changes to subscribers, the operator may provide such notice using any reasonable written means at its sole discretion.
- e. Notwithstanding any other provision of part 76 of this chapter, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

SECTION 1.3 – INFORMATION ON SUBSCRIBER'S BILLS

- a. Bills must be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
- b. In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

CHEROKEE TRIBUNE

521 East Main Street · Canton, Georgia 30114

PUBLISHER'S AFFIDAVIT

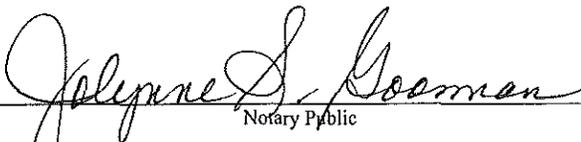
STATE OF GEORGIA – County of Cherokee

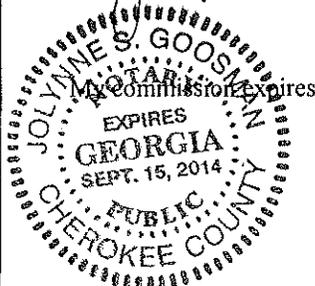
Before me, the undersigned; a Notary Public, this day personally came **Otis Brumby III**, who, being duly sworn, according to law, says that he is the **General Manager** of *Times Journal, Inc.*, publishers of the *Cherokee Tribune*, official newspaper published in said county and State, and that the publication, of which the annexed is a true copy, was published in said paper on the 14th day(s) of October 2011, and on the _____ day(s) of _____ 20____, as provided by law.



Subscribed and sworn to before me this

14th day of October, 2011


Notary Public



Sept. 15, 2014

M-1131
NOTICE OF PUBLIC HEARING

Notice of public hearing to be held at the County Administration Building, Cherokee Hall, 1130 Bluffs Parkway, Canton, at 6:00 PM, November 1 under 47 U.S.C. §546 (a) preserving Cherokee County's rights to formal negotiations under federal and state law in the event that no agreement can be reached through informal negotiations with Comcast. The public hearing will afford the public in the Comcast franchise area appropriate notice and participation for the purpose of (a) identifying the future cable-related community needs and interests, and (b) reviewing the performance of the cable operator under the franchise during the then current franchise term. A copy of the draft franchise agreement is posted on the county web site at www.cherokee.ga.gov, and in the County Clerk's Office. Questions can be directed to Jerry W. Cooper, County Manager, via email at jcooper@cherokee.ga.gov.

10:14

CHEROKEE COUNTY BOARD OF COMMISSIONERS

2012 MEETING SCHEDULE

Regularly scheduled meetings are held the first and third Tuesdays of each month at 6:00 p.m. in Cherokee Hall, located on the lower level at the Cherokee County Administrative Building and Conference Center at 1130 Bluffs Parkway, Canton, GA 30114.

Work Sessions are held at 3:00 p.m. in Cherokee Hall on each commission meeting day.

January 3

January 17

February 7

February 21

March 6

March 20

April 3

April 17

May 1

May 15

June 5

June 19

July 10 (Moved from July 3)

July 24 (Moved from July 17)

August 7

August 21

September 4

September 18

October 2

October 16

November 6

November 20

December 4

December 18

HOSTED BY:

Cherokee County Commissioner Karen Bosch

The following items are needed to prepare
Thanksgiving bags for needy families in
Cherokee County. Bags will be distributed by
Hopewell Baptist Church:

Corn	Green beans
Cranberry Sauce	Cornbread Mix
Small bag of rice	Small bag of coffee
Small bag of sugar	Instant box of potatoes
Tea	Packets of gravy
Instant Pudding	Canned fruit

Thanksgiving Food Drive

Saturday, Nov. 5th
between 9am - 11am
Starbucks on Sixes Road

Receive a coupon for a
free tall Brewed coffee
with your donation

**Cherokee County Board of Commissioners
Budget Transfer/ Amendment Form**

Amendment 1

Instructions:

- * For budget amendments increasing or decreasing the budget revenues must equal expenditures.
- * For budget transfers the net total should equal zero.
- * Budget transfers within a department within the same fund are allowed with the approval of the County Manager.
- * Any change in the budgeted amounts which would result in an increase or decrease to the budget must be approved by the Board of Commissioners.
- * The budgeted amounts for salaries and benefits for each department may not be transferred, increased or decreased without the approval of the Board of Commissioners.

REVENUES:

Department Org Code	Object	Account Name	Amount
		SPL0ST V - Fire	1,000,000.00
		SPL0ST V - Fire	71,662.50
		SPL0ST V - Fire	5,000.00

EXPENDITURES:

Department Org Code	Object	Account Name	Amount
		SPL0ST V - Fire	1,076,662.50

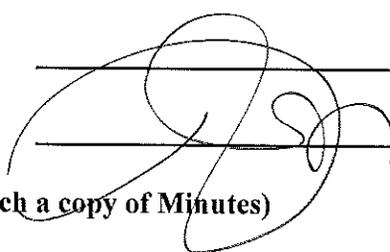
PURPOSE OF TRANSFER/ AMENDMENT

Patton Mold Settlement

Department Head Approval: _____

County Manager Approval: _____

Date Approved by BOC (please attach a copy of Minutes)



11/1/2011



CMI

Cherokee County, Georgia
Agenda Request

SUBJECT: Purchase of New Squads (Ambulances)

MEETING DATE: 11/1/11

SUBMITTED BY: Chief Tim Prather

COMMISSION ACTION REQUESTED:

Fire and Emergency Services is requesting approval to purchase new squads from Ten-8 / Medtec. We'd like to request that an initial purchase of 5 units be made, funded by SPLOST V, and request that a contract with 3 each 1-year extensions be approved to allow for a time-phased purchase of additional units, until the entire fleet is replaced. Purchases in 2012 and subsequent years would be from SPLOST VI. A tiered fleet replacement would keep the County from having an entire fleet with high mileage or low mileage, and provide Fire-ES some flexibility to move units around to balance maintenance and in-service time.

FACTS AND ISSUES:

Several months ago, a cross-functional specifications committee was formed by Fire-ES, and a set of specifications for new squads was provided to Procurement for generation of a Request for Proposals (RFP), with selection criteria comprised of price, technical specifications and other factors.

The RFP (#2011-22) was issued on 8/26/11 and closed on 9/22/11. We received 4 proposals, and an RFP review committee was formed with representatives from Fire-ES, Fleet Maintenance and Procurement.

Proposals were received and reviewed from:

Company	Final Score (out of 100 max)	Best & Final Unit Price
Medtec / Ten-8	90.55	\$141,355
Braun / Ten-8	80.39	\$164,212
Peach State Ambulance	76.60	\$138,340

The committee opted to reject the proposal from Custom Truck and Body Works due to multiple reference calls that appeared to reflect poor product quality (paint, electrical systems, etc.) from this firm. The remaining three proposals were reviewed and scored for a GM chassis, as provided in the specifications. Additionally, we requested best and final proposals from all three to 1) lower pricing, 2) provide clarity for lead time from order through delivery, and 3) provide alternate proposal pricing if a Ford chassis was available. All three proposals came back with lower pricing, and the scores were revised accordingly to arrive at the final score.

Notes:

- The original and the best and final scoring are both attached, and reflect each firm's ranking in each selection criteria and in the aggregate.
- Ten-8 is a distributor and represents both the Medtec and Braun manufacturers.
- The last new squads (5 each) were purchased in late 2006 from Braun Industries at a unit price of \$159,633.

BUDGET:

Budgeted Amount:
Amount Encumbered:

Account Name:
Account #:

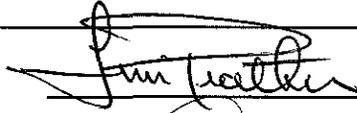
Amount Spent to Date:
Amount Requested: \$710,000
Remaining Budget:

Budget Adjustment Necessary: None required.

ADMINISTRATIVE RECOMMENDATION:

REVIEWED BY:

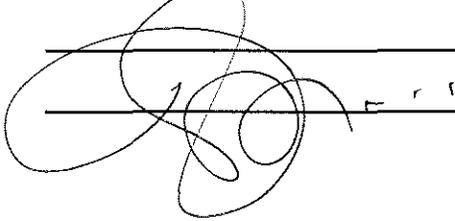
DEPARTMENT HEAD:



A handwritten signature in black ink, appearing to read "Jim Walker", is written over a horizontal line.

COUNTY ATTORNEY:

COUNTY MANAGER:



A large, complex handwritten signature in black ink is written over a horizontal line.

**RFP2011-22: Cherokee County Fire & Emergency Services
Purchase of New Ambulances (Squads)
Proposal Review Committee Ranking Form**

Aggregate & Average Scoring

10/6/2011

	383					397.8					447.5				
Aggregate Score----> (500 pts max)	76.6					79.56					89.5				
Average Score----> (100 pts max)	Peach State Ambulance					Ten-8/Braun					Ten-8/Medtec				
	Dodgen	Dupuis	Gibbs	Hege	West	Dodgen	Dupuis	Gibbs	Hege	West	Dodgen	Dupuis	Gibbs	Hege	West
Conformance with RFP guidelines (10 pts max) :	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5
Experience and Qualifications of Consultant (20 pts max):	18	10	20	2	18	20	15	20	10	19	20	18	20	20	19
Cost to Cherokee County (30 pts max):	30.00	30.00	30.00	30.00	30.00	23.56	23.56	23.56	23.56	23.56	28.30	28.30	28.30	28.30	28.30
Proposal Compared to Tehnical Specifications/Guidelines (30 pts max):	22	20	16	5	27	28	25	20	20	28	26	28	22	30	28
Agreement to Professional Services Agreement (10 pts max):	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
TOTALS (100 pts max)	85	75	81	52	90	86.56	78.56	78.56	68.56	85.56	89.3	89.3	85.3	93.3	90.3

Notes: Original Pricing

Peach State: \$139,175 = lowest price = 30.0 points

Braun: \$169,037 = delta of \$29,862 = 21.46% of lowest = 30*.7854 = 23.56

Medtec: \$147,085 = delta of \$7,910 = 5.68% of lowest = 30*.9432 = 28.30

**RFP2011-22: Cherokee County Fire & Emergency Services
Purchase of New Ambulances (Squads)
Proposal Review Committee Ranking Form**

Aggregate & Average Scoring

10/13/2011

	Peach State Ambulance					Ten-8/Braun					Ten-8/Medtec				
	Dodgen	Dupuis	Gibbs	Hege	West	Dodgen	Dupuis	Gibbs	Hege	West	Dodgen	Dupuis	Gibbs	Hege	West
Aggregate Score----> (500 pts max)	383					401.95					452.75				
Average Score----> (100 pts max)	76.6					80.39					90.55				
	Peach State Ambulance					Ten-8/Braun					Ten-8/Medtec				
Conformance with RFP guidelines (10 pts max) :	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5
Experience and Qualifications of Consultant (20 pts max):	18	10	20	2	18	20	15	20	10	19	20	18	20	20	19
Cost to Cherokee County (30 pts max):	30.00	30.00	30.00	30.00	30.00	24.39	24.39	24.39	24.39	24.39	29.35	29.35	29.35	29.35	29.35
Proposal Compared to Tehnical Specifications/Guidelines (30 pts max):	22	20	16	5	27	28	25	20	20	28	26	28	22	30	28
Agreement to Professional Services Agreement (10 pts max):	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
TOTALS (100 pts max)	85	75	81	52	90	87.39	79.39	79.39	69.39	86.39	90.4	90.4	86.4	94.4	91.4

Notes: Best & Final Pricing

Peach State: \$138,340 = lowest price = 30.0 points

Braun: \$164,212 = delta of \$25,872 = 18.70% of lowest = 30*.813 = 24.39

Medtec: \$141,355 = delta of \$3,015 = 2.18% of lowest = 30*.9782 = 29.35



CHEROKEE COUNTY BOARD OF COMMISSIONERS

FINANCE DEPARTMENT

1130 Bluffs Parkway • Canton, Georgia 30114

678-493-6000 • Fax 678-493-6035

www.cherokeega.com

October 10, 2011

Peach State Ambulance, Inc.
Attn: Mr. Richard Manning
130 Peach State Court
Tyrone, Georgia 30290
Via e-mail to rmanning@peachstateambulance.com

Re: RFP2011-22 Cherokee County Fire & Emergency Services Ambulances (Squads)

Mr. Manning:

Based upon review of your firm's proposal to Cherokee County for this project and its inclusion in a short-list for final review and recommendation to the Board of Commissioners, the selection and review committee has requested additional information as follows. We would request that you respond to my attention via e-mail to gdodgen@cherokeega.com by 5PM on Wednesday, October 12, 2011.

1. What is the best lead time your firm can provide for an initial order of 5 units? If a staggered lead time allows Cherokee County to get its first 1, 2 or 3 units more quickly, the County is open to that. (Example: if you can shorten a standard lead time from 180 days to 150 days, that is beneficial. Or, if a standard lead time of 180 days would apply for the last couple of units, but you could deliver 1-3 units within 90 days, that would also be beneficial.)
2. Please provide best and final pricing for your current proposal, based upon an initial order of 5 units (lead times and specific unit delivery dates to be determined by your response to question 1), and assuming a replacement of the entire fleet (15 total units, with 9 active at this time) of Cherokee County squads over the next 2-3 years. The current funding in SPLOST V should allow us to purchase 5 units now. There is a new SPLOST (VI) starting in mid 2012, so additional units would be funded from that source, which has ample value to replace the balance of the fleet.
3. Please also provide best and final pricing for an alternate proposal, if your firm has the capability, for the currently specified ambulance/squad "box" sitting on a Ford F-chassis with a diesel engine. The County would prefer that this alternate proposal include air



CHEROKEE COUNTY BOARD OF COMMISSIONERS

FINANCE DEPARTMENT

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conditioning provisioned with 2 compressors, but requires that, if provisioned with only 1 compressor, that the A/C system **MUST** have 2 condensers.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Dodgen", written over a horizontal line.

Greg Dodgen

Director, Procurement & Risk Management



CHEROKEE COUNTY BOARD OF COMMISSIONERS

FINANCE DEPARTMENT

1130 Bluffs Parkway • Canton, Georgia 30114
678-493-6000 • Fax 678-493-6035
www.cherokeega.com

October 10, 2011

TEN-8

Attn: Mr. Guy Binion
1591 Collier Road
Forsyth, Georgia 32019
Via e-mail to ggbinion03@aol.com

Re: RFP2011-22 Cherokee County Fire & Emergency Services Ambulances (Squads)

Mr. Binion:

Based upon review of your firm's proposals to Cherokee County for this project and its inclusion in a short-list for final review and recommendation to the Board of Commissioners, the selection and review committee has requested additional information as follows. In the interest of brevity, I'm sending one request to you to cover both the Braun and Medtec proposals that you submitted. Please provide answers, as appropriate, for each of those two proposals. We would request that you respond to my attention via e-mail to gdogden@cherokeega.com by 5PM on Wednesday, October 12, 2011.

1. What is the best lead time your firm can provide for an initial order of 5 units? If a staggered lead time allows Cherokee County to get its first 1, 2 or 3 units more quickly, the County is open to that. (Example: if you can shorten a standard lead time from 180 days to 150 days, that is beneficial. Or, if a standard lead time of 180 days would apply for the last couple of units, but you could deliver 1-3 units within 90 days, that would also be beneficial.)
2. Please provide best and final pricing for your current proposal, based upon an initial order of 5 units (lead times and specific unit delivery dates to be determined by your response to question 1), and assuming a replacement of the entire fleet (15 total units, with 9 active at this time) of Cherokee County squads over the next 2-3 years. The current funding in SPLOST V should allow us to purchase 5 units now. There is a new SPLOST (VI) starting in mid 2012, so additional units would be funded from that source, which has ample value to replace the balance of the fleet.



CHEROKEE COUNTY BOARD OF COMMISSIONERS

FINANCE DEPARTMENT

1130 Bluffs Parkway • Canton, Georgia 30114

678-493-6000 • Fax 678-493-6035

www.cherokeega.com

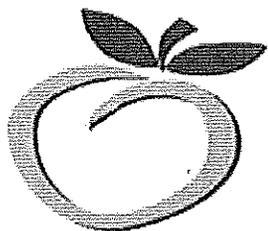
3. Please also provide best and final pricing for an alternate proposal, if your firm has the capability, for the currently specified ambulance/squad "box" sitting on a Ford F-chassis with a diesel engine. The County would prefer that this alternate proposal include air conditioning provisioned with 2 compressors, but requires that, if provisioned with only 1 compressor, that the A/C system MUST have 2 condensers.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Dodgen", with a long, sweeping underline.

Greg Dodgen

Director, Procurement & Risk Management



Peach State Ambulance, Inc.

Sales and Service

*130 Peach State Court
Tyrone, Georgia 30290
800-553-7724 / 770-486-7410*



10/12/11

Cherokee County Board of Commissioners
Finance Department – Procurement and Risk Management
Attn: Greg Dodgen, Director
1130 Bluffs Parkway
Canton, GA 30114

Re: RFP 2011-22 Cherokee County Fire / EMS Ambulances (Squads)

Sir:

Thank you for allowing us to compete for your business. We are pleased to have made the short list of vendors for Cherokee County's new ambulances.

Our responses to your questions are detailed below:

1. Delivery times would be as follows:

We can deliver the first five (5) units in ninety (90) days from the date of the order. These chassis will 2011 model year from our current inventory of in-stock chassis.

At this time, we have seventeen 2011 chassis that will meet your specifications in stock. The 2011 Chevrolet model year has closed and no more 2011's can be ordered. Once these are gone, the any remaining orders would have to be filled with 2012 model year chassis.

2012 Chassis are expected to be delivered to us toward the end of December. With that in mind, we would anticipate the delivery of completed 2012 units to be delivered to your approximately mid to late February 2012, or about 90 days from receipt of chassis.

2. Best and Final pricing for our current proposal

Assuming we will use the 2011 chassis in stock, our final price on any 2011 model year units will be \$138,340.00 each. This price is good for as long as I have 2011 model year chassis available.

As stated in our initial proposal, we can supply 2012 model year units for \$139,175.00 each.

We can hold the price on these units for the same specs and chassis model year for 6 months.

After 6 months –

- A. Any chassis increase will be passed on to the County for additional units. This increase will be documented with a chassis invoice with VIN from the first purchase and an invoice for subsequent units by VIN.
- B. 2.5 % conversion price increase for the next 12 month period.
- C. Any changes in the specifications requirements bid on subsequent orders will be addressed and passed on to the County based on their changes.

3. Ford F-Series option

We can manufacture this ambulance on a Ford F-450 chassis. The box length would have to change to 170" in length. All other dimensions would remain the same.

Additionally, this chassis option will require the addition of an air ride suspension system with kneeling feature to meet federally mandate loading height.

We cannot provide a second air conditioning compressor. Chassis for ambulance conversion are equipped with two alternators to insure enough electrical power to operate all the lighting, electrical outlets, and associated equipment on the vehicle. This 2nd alternator takes up the space where a second A/C compressor would be mounted.

Our price does not include a second A/C compressor, but does include the dual condensers as per your email.

The price for this Ford F-450 option will be \$142,725.00 per unit.

Again, thank you for allowing us to participate in your RFP. Please do not hesitate to contact us if you have any additional questions, or if I can be of further service to you in any way.

Sincerely,



Richard J. Manning, EMT-P
National Sales Manager

cc: James L. Olson, President



Ten-8 Fire and Safety Equipment
1591 Collier Road
Forsyth, GA 31029

October 12, 2011.

Cherokee County
Board of Commissioners
Finance Department
1130 Bluffs Parkway
Canton, Ga. 30114
Attn: Greg Dodgen

Mr. Dodgen,

Ten-8 Fire and Safety Equipment, representing Medtec Ambulance, would like to offer our revised proposal listed below, per your recent request.

1) Units 1-3 of current specifications to be delivered 150 days after receipt of order and chassis. Additional units to be delivered 180 days after receipt of order and chassis. Current lead time on our chassis' is 8-10 weeks, however certain phases of production can begin prior to chassis arrival (i.e; body fabrication, cabinet production, etc.) to shorten overall lead time.

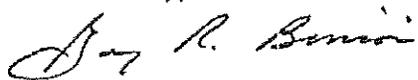
2) Additional concessions have been provided by all parties involved, chassis supplier, manufacturer, dealer and sales representative, in order for us to provide revised pricing. Best and final offer for the initial five units based on the current G-4500 specifications, will be **\$141,355.00** each. This includes any discounts offered through GM. Subsequent units through Dec. 31st, 2012, will be **\$141,355.00** each, plus any additional chassis price increase as documented by chassis invoice provided. We also propose a pre-pay discount in the amount of **\$5,172.00** per

each unit, for a revised total of **\$136,183.00** each. Full payment at time of contract signing is required to obtain this discount.

3) An alternate proposal for the currently specified ambulance with an F-450 chassis will be **\$154,618.00**. This price includes the air ride suspension and the increased opening between the cab and body (crawl – thru). Also included are any discounts provided by Ford. Second A/C compressor provision is not included, but the A/C system will have two condensers. We also propose a pre-pay discount in the amount of **\$5,566.00** per each unit for a revised total of **\$149,052.00** each. Full payment at time of contract signing is required to obtain this discount.

We thank you for the opportunity to provide this revised proposal, and look forward to your response. Please contact me anytime via cell @ 706 302-7218 or e-mail @ gobinion03@aol.com if you have any questions or need additional information.

Sincerely,



Guy R. Binion



Ten-8 Fire and Safety Equipment
1591 Collier Road
Forsyth, GA 31029

October 12, 2011

Cherokee County
Board of Commissioners
Finance Department
1130 Bluffs Parkway
Canton, Ga. 30114
Attn: Greg Dodgen

Mr. Dodgen,

Ten-8 Fire and Safety Equipment, representing Braun Ambulance, would like to offer our revised proposal listed below, per your recent request.

1) Delivery of units 1-3 for current specifications will be 100 days after receipt of order and chassis. Additional units to be delivered 130 days after receipt of order and chassis. Anticipated chassis arrival for initial units will be the first of Sept. 2011.

2) Braun has reviewed our pricing submitted with the original RFP and would like to propose a revised price for the initial five units of **\$164,212.00** each. This includes any discounts offered through GM. Subsequent units to be priced under the "Multi-Year Price Protection Plan" below:

Anticipated price adjustments for ambulances purchased within 3 years after the original purchase order date are as follows:

- Chassis price adjustments: the chassis cost increase for each additional ambulance ordered, after the original purchase order, will be the chassis cost at the time each new ambulance order is placed, as documented by the new OEM chassis invoice, less the actual chassis cost at the beginning of this contract of **\$40,323.00**.

- Conversion price adjustment: There will be an increase not to exceed 4.9%, on the conversion cost per each (12) month period from original purchase order date. Current conversion cost is **\$123,889.00**.
- Federally mandated chassis or conversion modifications will be added to the total ambulance price at actual invoice costs.
- This multi-year contract may be extended in increments of (1) year upon written agreement of both parties.
- This multi-year contract may be terminated upon 120 days written notice from Braun Industries, Inc. to the customer.

3) Braun Industries provides an alternate proposal for the currently specified ambulance with an F-450 chassis in the amount of **\$178,729.00**. This price includes the secondary A/C compressor, auxiliary condenser, air ride suspension, and increased opening between cab and body. Also included are any discounts provided by Ford.

Modified Proposals:

Please note that Braun Industries, Inc. is a high end ambulance manufacturer, meaning that we incorporate many features in our pricing that allow us to not only meet but exceed specifications. Such features as Solid Body construction, Multiplex electrical system, composite floors, aluminum cabinets, etc. that become our standard and provide increased longevity under harsh environments. This is evident of the Braun products you have been using in your department for a number of years. We have provided a modified proposal below for your consideration and opportunity to operate the higher quality Braun product:

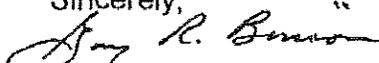
Modified G-4500 **\$160,573.00**
 Modified F-450 **\$173,283.00**

Modifications:

- LED dome lights replaced with halogen lights due to Braun's standard fluorescent lights
- Front and rear light bars replaced with surface mount LED light heads
- Undercoating changed from Ziebart to Braun standard
- Counter tops changed to laminate surface

We thank you for the opportunity to provide this revised proposal and look forward to your response. Please contact me anytime via cell @ 706 302-7218, or e-mail @ ggbinion03@aol.com if you have any questions or need additional information.

Sincerely,


 Guy R. Binion

CM 2

**Cherokee County, Georgia
Agenda Request**

SUBJECT: CRPA Uniforms

MEETING DATE: November 1, 2011

SUBMITTED BY: Jerry W. Cooper, County Manager

COMMISSION ACTION REQUESTED:

Consider rescinding award of Cherokee Youth Basketball uniform bid to Atlanta Hawks and award bid to Chandler Graphics.

FACTS AND ISSUES:

The Atlanta Hawks submitted a bid in the amount of \$22.50 per uniform but requested multiple changes to the standard professional services agreement and bid a different uniform (Score) than the one specified in the request for bid packet. While the uniforms are similar, Chandler Graphics submitted a bid in the amount of \$23.49 for the uniform specified and has agreed to execute the Professional Services Agreement with no modifications.

BUDGET:

Budgeted Amount:	Account Name:
Amount Encumbered:	Account #:
Amount Spent to Date:	
Amount Requested:	
Remaining Budget	

Budget Adjustment Necessary:

ADMINISTRATIVE RECOMMENDATION:

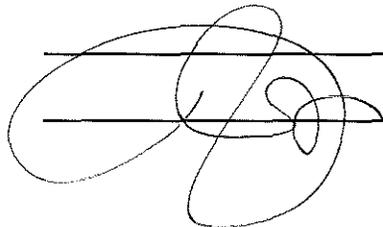
Rescind award of bid to Atlanta Hawks and award uniform bid to Chandler Graphics.

REVIEWED BY:

DEPARTMENT HEAD: _____

AGENCY DIRECTOR: _____

COUNTY MANAGER _____



This is the Standard Professional Services Agreement of Cherokee County. Any consultant doing business with the County must enter into this Agreement.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is effective as of this 24th day of October, 2011, by and between CHEROKEE COUNTY, a political subdivision of the State of Georgia, acting by and through its governing authority, the Cherokee County Board of Commissioners ("County"), and Atlanta Hawks LP, a limited partnership ("Consultant"), collectively referred to as the "Parties".

WITNESSETH THAT:

WHEREAS, the County desires to retain Consultant to provide certain services generally described as _____ (the "Work"); and

WHEREAS, the County finds that specialized knowledge, skills, and training are necessary to perform the Work contemplated under this Agreement; and

WHEREAS, the Consultant has represented that it is qualified by training and experience to perform the Work; and

WHEREAS, the Consultant desires to perform the Work under the terms and conditions set forth in this Agreement; and

WHEREAS, the public interest will be served by this Agreement; and

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES AND TERMINATION DATE

A. Project Description

B. The Work

The Work to be completed under this Agreement (the "Work") consists of _____

C. Schedule, Completion Date, and Term of Agreement

Consultant warrants and represents that it will perform its services in a prompt and timely manner, which shall not impose delays on the progress of the Work. This Agreement shall commence as of the date first written above, and the Work shall be completed on or before the end of the 2011-12 NBA Season.

II. WORK CHANGES

A. The County reserves the right to order changes in the Work to be performed under this Agreement by altering, adding to, or deducting from the Work. All such changes shall be incorporated in written change orders executed by the Consultant and the County. Such change orders shall specify the changes ordered and any necessary adjustment of compensation and completion time. If the Parties cannot reach an agreement on the terms for performing the changed work within a reasonable time to avoid delay or other unfavorable impacts as determined by the County in its sole discretion, the County shall have the right to determine reasonable terms and the Consultant shall proceed with the changed work.

B. Any work added to the scope of this Agreement by a change order shall be executed under all the applicable conditions of this Agreement. No claim for additional compensation or extension of time shall be recognized, unless contained in a written change order duly executed on behalf of the County and the Consultant.

C. The County Manager has authority to execute without further action of the Cherokee County Board of Commissioners, any number of change orders so long as their total effect does not materially alter the terms of this Agreement or materially increase the total amount to be paid under this Agreement, as set forth in Section III(B) below. Any such change orders materially altering the terms of this Agreement or increasing the total amount to be paid under this Agreement in excess of \$25,000 must be approved by resolution of the Cherokee County Board of Commissioners.

III. COMPENSATION AND METHOD OF PAYMENT

A. County agrees to pay the Consultant for the services performed and costs incurred by Consultant upon certification by the County that the services were actually performed and costs actually incurred in accordance with the Agreement. Compensation for services performed and reimbursement for costs incurred shall be paid to the Consultant upon receipt and approval by the County of invoices setting forth in detail the services performed and costs incurred. Invoices shall be submitted on a monthly basis, and such invoices shall reflect charges incurred versus charges budgeted. Any material deviations in tests or inspections performed, times or locations required to complete such tests or inspections and like deviations from the Work described in this Agreement shall be clearly communicated to the County *before charges are incurred* and shall be handled through change orders as described in Section II above. The County shall pay the Consultant within thirty (30) days after approval of the invoice by County staff. *However, no tickets shall be activated until payment is received for such.*

B. The total amount paid under this Agreement as compensation for services performed and reimbursement for costs incurred shall not, in any case, exceed _____, except as outlined in Section II(C) above. The compensation for services performed shall be based upon number [specify hourly rate, flat fee, or other basis] _____.

C. Reimbursement for costs incurred shall be limited as follows. Long distance telephone and telecommunications, facsimile transmission, normal postage and express mail

of jerseys/tickets ordered by County as described in the Services.

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charges, photocopying time shall be at cost. Supplies and outside services, transportation, lodging, meals and authorized subcontracts shall be at cost plus no more than a 10% administrative burden. Automobile mileage shall be no more than the current deductible rate set by the Internal Revenue Service.

IV. COVENANTS OF CONSULTANT

A. Expertise of Consultant

Consultant accepts the relationship of trust and confidence established between it and the County, recognizing that the County's intention and purpose in entering into this Agreement is to engage an entity with the requisite capacity, experience, and professional skill and judgment to provide the services in pursuit of the timely and competent completion of the Work undertaken by Consultant under this Agreement.

B. Budgetary Limitations

Consultant agrees and acknowledges that budgetary limitations are not a justification for breach of sound principals of Consultant's profession and industry. Consultant shall take no calculated risk in the performance of the Work. Specifically, Consultant agrees that, in the event it cannot perform the Work within the budgetary limitations established without disregarding sound principals of Consultant's profession and industry, Consultant will give written notice immediately to the County.

C. County's Reliance on the Work

The Consultant acknowledges and agrees that the County does not undertake to approve or pass upon matters of expertise of the Consultant and that, therefore, the County bears no responsibility for Consultant's services performed under this Agreement. The Consultant acknowledges and agrees that the acceptance of designs, plans, and specifications by the County is limited to the function of determining whether there has been compliance with what is required to be produced under this Agreement. The County will not, and need not, inquire into adequacy, fitness, suitability or correctness of Consultant's performance. Consultant further agrees that no approval of designs, plans, or specifications by any person, body or agency shall relieve Consultant of the responsibility for adequacy, fitness, suitability, and correctness of Consultant's professional and industry standards or for performing services under this Agreement in accordance with sound and accepted professional and industry principals.

D. Consultant's Reliance of Submissions by the County

Consultant must have timely information and input from the County in order to perform the services required under this Agreement. Consultant is entitled to rely upon information provided by the County, but Consultant shall be required to provide immediate written notice to the County if Consultant knows or reasonably should know that any information provided by the County is erroneous, inconsistent, or otherwise problematic.

E. Consultant's Representative

_____ shall be authorized to act on Consultant's behalf with respect to the Work as Consultant's designated representative.

F. Assignment of Agreement

The Consultant covenants and agrees not to assign or transfer any interest in, nor delegate any duties of this Agreement, without the prior express written consent of the County. As to any approved subcontractors, the Consultant shall be solely responsible for reimbursing them and the County shall have no obligation to them.

G. Responsibility of Consultant and Indemnification of County

The Consultant covenants and agrees to take and assume all responsibility for the services rendered in connection with this Agreement. The Consultant shall bear all losses and damages directly or indirectly resulting to it on account of the performance or character of the services rendered pursuant to this Agreement. Consultant shall defend, indemnify and hold harmless the County, its officers, boards, commissions, elected officials, employees and agents from and against any and all claims, suits, actions, liability, judgments, damages, losses, and expenses, including but not limited to, attorney's fees, which may be the result of willful, negligent or tortious conduct arising out of the Work, performance of contracted services, or operations by the Consultant, any subcontractor, anyone directly or indirectly employed by the Consultant or subcontractor or anyone for whose acts the Consultant or subcontractor may be liable, ~~regardless of whether or not the negligent act is caused in part by a party indemnified hereunder.~~ Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this provision. In any and all claims against the County or any of its agents or employees, by any employee of the Consultant, any subcontractor, anyone directly or indirectly employed by the Consultant or subcontractor or anyone for whose acts the Consultant or subcontractor may be liable, the indemnification obligation set forth in this provision shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. This obligation to indemnify and defend the County, its members, officers, agents, employees and volunteers shall survive termination of this Agreement.

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H. Independent Contractor

Consultant hereby covenants and declares that it is engaged in an independent business and agrees to perform the services as an independent contractor and not as the agent or employee of the County. The Consultant agrees to be solely responsible for its own matters relating to the time and place the services are performed; the instrumentalities, tools, supplies and/or materials necessary to complete the services; hiring of Consultants, agents or employees to complete the services; and the payment of employees, including compliance with Social Security, withholding and all other regulations governing such matters. The Consultant agrees to be solely responsible

for its own acts and those of its subordinates, employees, and subcontractors during the life of this Agreement. Any provisions of this Agreement that may appear to give the County the right to direct Consultant as to the details of the services to be performed by Consultant or to exercise a measure of control over such services will be deemed to mean that Consultant shall follow the directions of the County with regard to the results of such services only.

I. Insurance

(1) Requirements:

The Consultant shall have and maintain in full force and effect for the duration of this Agreement, insurance insuring against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work by the Consultant, its agents, representatives, employees or subcontractors. All policies shall be subject to approval by the County Attorney to form and content. These requirements are subject to amendment or waiver if so approved in writing by the County Manager.

(2) Minimum Limits of Insurance:

Consultant shall maintain limits no less than:

- (a) Comprehensive General Liability of \$1,000,000 combined single limit per occurrence for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.
- (b) Comprehensive Automobile Liability (owned, non-owned, hired) of \$1,000,000 combined single limit per occurrence for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.
- (c) ~~Professional Liability of \$1,000,000 limit for claims arising out of professional services caused by the Consultant's errors, omissions, or negligent acts.~~
- (d) Workers' Compensation limits as required by the State of Georgia and employers Liability limits of \$1,000,000 per accident.

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KB initial NA

(3) Deductibles and Self-Insured Retentions:

Any deductibles or self-insured retentions must be declared to and approved by the County.

(4) Other Insurance Provisions:

The policy is to contain, or be endorsed to contain, the following provisions:

(a) General Liability and Automobile Liability Coverage.

(i) The County, its officials, employees, agents and volunteers are to be covered ~~as insured~~ as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, leased, or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the County, its officials, employees, agents or volunteers.

as additional insureds (except workers compensation)

*KB
KB initial*

(ii) The Consultant's insurance coverage shall be primary noncontributing insurance as respects to any other insurance or self-insurance available to the County, its officials, employees, agents or volunteers. Any insurance or self-insurance maintained by the County, its officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

(iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its officials, employees, agents or volunteers.

(iv) Coverage shall state that the Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(v) Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion.

(vi) The insurer agrees to waive all rights of subrogation against the County, its officials, employees, agents and volunteers for losses arising from work performed by the Consultant for the County.

(vii) All endorsements to policies shall be executed by an authorized representative of the insurer.

(b) Workers' Compensation Coverage.

The insurer will agree to waive all rights of subrogation against the County, its officials, employees, agents and volunteers for losses arising from work performed by the Consultant for the County.

(c) All Coverages.

(i) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the County.

(ii) Policies shall have concurrent starting and ending dates.

(5) Acceptability of Insurers:

Insurance is to be placed with insurers with an A.M. Best's rating of no less than A:VII.

(6) Verification of Coverage:

Consultant shall furnish the County with certificates of insurance and endorsements to the policies evidencing coverage required by this clause prior to the start of work. The certificates of insurance and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate of insurance and endorsements shall be on a form utilized by Consultant's insurer in its normal course of business and shall be received and approved by the County prior to execution of this Agreement by the County. The County reserves the right to require complete, certified copies of all required insurance policies, at any time. The Consultant shall provide proof that any expiring coverage has been renewed or replaced at least two (2) weeks prior to the expiration of the coverage.

(7) Subcontractors:

Consultant shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming the parties as additional insured.

(8) Claims-Made Policies:

Consultant shall extend any claims-made insurance policy for at least six (6) years

after termination or final payment under the Agreement, whichever is later.

(9) County as Additional Insured and Loss Payee:

liability VB
KB Initial

The County shall be named as an additional insured and loss payee on all policies required by this Agreement.

J. Employment of Unauthorized Aliens Prohibited

It is the policy of County that unauthorized aliens shall not be employed to perform work on County contracts involving the physical performance of services. Therefore, the County shall not enter into a contract for the physical performance of services within the State of Georgia, unless the Contractor shall provide evidence on County-provided forms, attached hereto as Exhibits "E" and "F" that it and Contractor's subcontractors have within the previous twelve (12) month period conducted a verification of the social security numbers of all employees who will perform work on the County contract to ensure that no unauthorized aliens will be employed. The County Manager or his/her designee shall be authorized to conduct an inspection of the Contractor's and Contractor's subcontractors' verification process to determine that the verification was correct and complete. The Contractor and Contractor's subcontractors shall retain all documents and records of its verification process for a period of three (3) years following completion of the contract. This requirement shall apply to all contracts for the physical performance of services where more than three (3) persons are employed on the County contract.

The County Manager or his/her designee shall further be authorized to conduct periodic inspections to ensure that no County Contractor or Contractor's subcontractors employ unauthorized aliens on County contracts. By entering into a contract with the County, the Contractor and Contractor's subcontractors agree to cooperate with any such investigation by making its records and personnel available upon reasonable notice for inspection and questioning. Where a Contractor or Contractor's subcontractors are found to have employed an unauthorized alien, the County Manager or his/her designee may order the Contractor to terminate or require its subcontractor to terminate that person's employment immediately and to report same to the Department of Homeland Security. The Contractor's failure to terminate the employee, or otherwise cooperate with the investigation may be sanctioned by termination of the contract, and the Contractor shall be liable for all damages and delays occasioned by the County thereby.

Compliance with the requirements of O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 is mandatory.

Contractor agrees that the employee-number category designated below is applicable to the contractor.

500 or more employees.

100 or more employees.

___ Fewer than 100 employees.

Contractor agrees that, in the event the Contractor employs or contracts with any subcontractor(s) in connection with this Agreement, the Contractor will secure from the subcontractor(s) such subcontractor(s)' indication of the above employee-number category that is applicable to the subcontractor.

Contractor's compliance with the requirements of O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 shall be attested by the execution of the contractor's affidavit attached as Exhibit "E."

The above requirements shall be in addition to the requirements of State and federal law, and shall be construed to be in conformity with those laws.

K. Records, Reports and Audits

(1) Records:

(a) Records shall be established and maintained by the Consultant in accordance with requirements prescribed by the County with respect to all matters covered by this Agreement. Except as otherwise authorized, such records shall be maintained for a period of three years from the date that final payment is made under this Agreement. Furthermore, records that are the subject of audit findings shall be retained for three years or until such audit findings have been resolved, whichever is later.

Records required by the County will be limited to ticket invoices & uniform invoices.

KB initial

(b) All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.

(2) Reports and Information:

Upon request, the Consultant shall furnish to the County ~~any and all statements, records, reports, data and information related to matters covered by this Agreement in the form requested by the County.~~

as described in KB initial
K(1) above. KB initial

(3) Audits and Inspections:

At any time during normal business hours and as often as the County may deem necessary, there shall be made available to the County for examination all records ~~with respect to all matters covered by this Agreement. The Consultant will permit the County to audit, examine, and make excerpts or transcripts from such records, and to audit all contracts, invoices, materials, payrolls, records of personnel,~~

as required by K(1) above.

KB initial

KB
KB Initial

~~conditions of employment and or data relating to all matters covered by this Agreement.~~

L. Conflicts of Interest

Consultant agrees that it shall not engage in any activity or conduct that would result in a violation of the Cherokee County Code of Ethics.

M. Confidentiality

Consultant acknowledges that it may receive confidential information of the County and that it will protect the confidentiality of any such confidential information and will require any of its subcontractors, consultants, and/or staff to likewise protect such confidential information. The Consultant agrees that confidential information it receives or such reports, information, opinions or conclusions that Consultant creates under this Agreement shall not be made available to, or discussed with, any individual or organization, including the news media, without prior written approval of the County. The Consultant shall exercise reasonable precautions to prevent the unauthorized disclosure and use of County information whether specifically deemed confidential or not.

N. Compliance with Laws Regulating Illegal Aliens

The United States Congress enacted the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, which required the former Immigration and Naturalization Service (now the Department of Homeland Security) to establish a system for verifying the immigration status of non-citizen applicants for, and recipients of, certain types of federally funded benefits, and to make the system available to Federal, State, and local benefit-issuing agencies and institutions that administer such benefits.

The Consultant covenants and declares that it is enrolled in the Basic Employment Verification Pilot Program, and that it has verified the employment eligibility of all its employees utilizing such program. Consultant shall likewise require all subcontractors or sub-consultants to verify the employment eligibility of all their respective employees utilizing the Basic Employment Verification Pilot Program. Consultant shall provide documentation prior to commencing work under this Agreement, in a form acceptable to Cherokee County, affirming the Consultant's compliance with this Section.

O. Licenses, Certifications and Permits

The Consultant covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of the Consultant by any and all national, state, regional, county, local boards, agencies, commissions, committees or other regulatory bodies in order to perform the services contracted for under this Agreement. All work performed by Consultant under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily expected of competent professionals.

P. Key Personnel

All of the individuals identified in Exhibit "B" are necessary for the successful prosecution of the Work due to their unique expertise and depth and breadth of experience. There shall be no change in Consultant's Project Manager or members of the project team, as listed in Exhibit "B", without written approval of the County. Consultant recognizes that the composition of this team was instrumental in the County's decision to award the work to Consultant and that compelling reasons for substituting these individuals must be demonstrated for the County's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Consultant's obligations under this Agreement and shall be grounds for termination. Consultant shall not subcontract with any third party for the performance of any portion of the Work without the prior written consent of the County. Consultant shall be solely responsible for any such subcontractors in terms of performance and compensation.

Q. Authority to Contract

The Consultant covenants and declares that it has obtained all necessary approvals of its board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Consultant to the terms of this Agreement, if applicable.

R. Ownership of Work

as describe above,
All reports, designs, drawings, plans, specifications, schedules, work product and other materials prepared or in the process of being prepared for the services to be performed by the Consultant ("materials") shall be the property of the County and the County shall be entitled to full access and copies of all such materials. Any such materials remaining in the hands of the Consultant or subcontractor upon completion or termination of the work shall be delivered immediately to the County. The Consultant assumes all risk of loss, damage or destruction of or to such materials. If any materials are lost, damaged or destroyed before final delivery to the County, the Consultant shall replace them at its own expense. Any and all copyrightable subject matter in all materials is hereby assigned to the County and the Consultant agrees to execute any additional documents that may be necessary to evidence such assignment.

VB
KB
VB
initial

V. COVENANTS OF THE COUNTY

A. Right of Entry

The County shall provide for right of entry for Consultant and all necessary equipment to _____, in order for Consultant to complete the Work.

B. County's Representative

_____ shall be authorized to act on the County's behalf with respect to the Work as the County's designated representative

VI. TERMINATION

A. The County shall have the right to terminate this Agreement for any reason whatsoever by providing written notice thereof at least five (5) calendar days in advance of the termination date. The Consultant shall have no right to terminate this Agreement prior to completion of the Work, except in the event of the County's failure to pay the Consultant within thirty (30) days of Consultant providing the County with notice of a delinquent payment and an opportunity to cure.

B. Upon termination, County shall provide for payment to the Consultant for services rendered and expenses incurred prior to the termination date.

C. Upon termination, the Consultant shall: (1) promptly discontinue all services affected, unless the notice directs otherwise; and (2) promptly deliver to the County all data, drawings, reports, summaries, and such other information and materials as may have been generated or used by the Consultant in performing this Agreement, whether completed or in process, in the form specified by the County. *including tickets ordered*
described above

D. The rights and remedies of the County and the Consultant provided in this Section are in addition to any other rights and remedies provided under this Agreement or at law or in equity.

VII. NO PERSONAL LIABILITY

No member, official or employee of the County shall be personally liable to the Consultant or any successor in interest in the event of any default or breach by the County or for any amount which may become due to the Consultant or successor or on any obligation under the terms of this Agreement. Likewise, Consultant's performance of services under this Agreement shall not subject Consultant's individual employees, officers or directors to any personal liability. The Parties agree that their sole and exclusive remedy, claim, demand or suit shall be directed and/or asserted only against Consultant or the County, respectively, and not against any employee, officer, director, or elected or appointed official.

VIII. ENTIRE AGREEMENT

This Agreement constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Agreement not contained in this Agreement shall be valid or binding. This Agreement may be modified or amended only by a written document signed by representatives of both Parties with appropriate authorization.

IX. SUCCESSORS AND ASSIGNS

Subject to the provision of this Agreement regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties.

X. APPLICABLE LAW

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the rules, regulations, statutes and laws of the State of Georgia will control.

XI. CAPTIONS AND SEVERABILITY

The caption or headnote on articles or sections of this Agreement are intended for convenience and reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Agreement nor in any way affect this Agreement. Should any article(s) or section(s), or any part thereof, later be deemed unenforceable by a court of competent jurisdiction, the offending portion of the Agreement should be severed and the remainder of this Agreement shall remain in full force and effect to the extent possible.

XII. BUSINESS LICENSE

Prior to commencement of the services to be provided hereunder, Consultant shall apply to the County for a business license, pay the applicable business license fee, and maintain said business license during the term of this Agreement.

XIII. NOTICES

A. Communications Relating to Daily Activities

All communications relating to the day-to-day activities of the Work shall be exchanged between _____ for the County and _____ for the Consultant.

B. Official Notices

All other notices, writings or correspondence as required by this Agreement shall be in writing and shall be deemed received, and shall be effective, when: (1) personally delivered, or (2) on the third day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (3) upon actual delivery when sent via national overnight commercial carrier to the Parties at the addresses given below, unless a substitute address shall first be furnished to the other Parties by written notice in accordance herewith:

NOTICE TO THE COUNTY shall be sent to:

County Manager
Cherokee County Board of Commissioners
1130 Bluffs Parkway
Canton, Georgia 30114

NOTICE TO THE CONSULTANT shall be sent to:

XIV. WAIVER OF AGREEMENT

The County's failure to enforce any provision of this Agreement or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

XV. SOVEREIGN IMMUNITY

Nothing contained in this Agreement shall be construed to be a waiver of the County's sovereign immunity or any individual's qualified good faith or official immunities.

XVI. FORCE MAJEURE

Neither the County nor Consultant shall be liable for their respective non-negligent or non-willful failure to perform or shall be deemed in default with respect to the failure to perform (or cure a failure to perform) any of their respective duties or obligations under this Agreement or for any delay in such performance due to: (a) any cause beyond their respective reasonable control; (b) any act of God; (c) any change in applicable governmental rules or regulations rendering the performance of any portion of this Agreement legally impossible; (d) earthquake, fire, explosion or flood; (e) strike or labor dispute, excluding strikes or labor disputes by employees and/or agents of CONSULTANT; (f) delay or failure to act by any governmental or military authority; or (g) any war, hostility, embargo, sabotage, civil disturbance, riot, insurrection or invasion. In such event, the time for performance shall be extended by an amount of time equal to the period of delay caused by such acts and all other obligations shall remain intact.

IN WITNESS WHEREOF the County and the Consultant have executed this Agreement effective as of the date the County Manager executes this Agreement on behalf of the County.

[SIGNATURES ON FOLLOWING PAGE]

Approved as to form:

County Attorney

CONSULTANT:

By: *Kyle Brunson*
Its: *VP Ticket Sales & Service*

[CORPORATE SEAL]

SIGNED, SEALED, AND DELIVERED
in the presence of:

Eric Ratto
Witness *Carole Harding*
Notary Public

[NOTARY SEAL]

My Commission Expires:

CAROLE HARDING
NOTARY PUBLIC
FULTON COUNTY, GEORGIA
MY COMM. EXPIRES
1/24/2014

CHEROKEE COUNTY

By: _____
Its: _____

[COUNTY SEAL]

SIGNED, SEALED, AND DELIVERED
in the presence of:

Witness

Notary Public

[NOTARY SEAL]

My Commission Expires:

EXHIBIT "A"

STATE OF GEORGIA

COUNTY OF CHEROKEE

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with Cherokee County has registered with and is participating in a federal work authorization program, in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with Cherokee County, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. § 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 in the form attached hereto as Exhibit "1." Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to Cherokee County at the time the subcontractor(s) is retained to perform such service.

EEV / Basic Pilot Program User Identification Number

BY: Authorized Officer or Agent Date
(Contractor Name)

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
____ DAY OF _____, 200__

Notary Public
My Commission Expires:

EXHIBIT "B"

STATE OF GEORGIA

COUNTY OF CHEROKEE

SUBCONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with (name of contractor) on behalf of Cherokee County has registered with and is participating in a federal work authorization program, in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91.

EEV / Basic Pilot Program User Identification Number

BY: Authorized Officer or Agent Date
(Subcontractor Name)

Title of Authorized Officer or Agent of Subcontractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
____ DAY OF _____, 200__

Notary Public
My Commission Expires:

**Cherokee County, Georgia
Agenda Request**

CM 4

SUBJECT: Wellness Program Compliance Guidelines
SUBMITTED BY: Jerry W. Cooper, County Manager

MEETING DATE: November 1, 2011

COMMISSION ACTION REQUESTED:

Consider approval of Wellness Program Compliance Guidelines contingent upon recommendation of the Cherokee County Benefits Committee.

FACTS AND ISSUES:

The attached draft guidelines were developed by Scott Parker with Gallagher Benefit Services and modified by Brett Buchanan, Chair, Cherokee County Benefits Committee, to add Step 3. The Committee was scheduled to meet on Thursday, October 27 to review the guidelines and make their recommendation to the Board of Commissioners for consideration November 1, 2011.

BUDGET:

Budgeted Amount:	Account Name:
Amount Encumbered:	Account #:
Amount Spent to Date:	
Amount Requested:	
Remaining Budget	

Budget Adjustment Necessary:

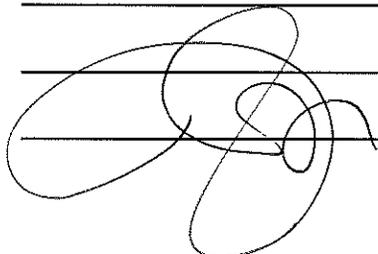
ADMINISTRATIVE RECOMMENDATION:

REVIEWED BY:

DEPARTMENT HEAD: _____

AGENCY DIRECTOR: _____

COUNTY MANAGER _____





Cherokee County Government
BENEFITS COMMITTEE
1130 Bluffs Parkway – Canton, Georgia 30114

October 28, 2011

Mr. Jerry Cooper, County Manager
and Board of Commissioners
1130 Bluffs Parkway
Canton, Georgia 30115

Dear Mr. Cooper and Commissioners,

Previously the Employee Benefits Committee made the recommendation to implement a Wellness Program for the employees of Cherokee County. We would like to thank the Board of Commissioners for adopting our recommendation. As a follow up, Compliance Guidelines for the program needed to be established.

On October 27th, 2011, the Employee Benefits Committee held a meeting to review a draft Compliance Guidelines. Our motion was to approve the Compliance Guidelines with an amended statement that Human Resources will review any situation where an employee is deemed non-compliant by CHN. The motion was approved with 13 in favor and 0 opposed. A copy of the Compliance Guidelines with the amended statement is included.

We hope our recommendations are approved and implemented for the Wellness Program.

Kind Regards,

Brett Buchanan, PE
Chairman, Employee Benefits Committee

Cc: Steve McClure, Director of Human Resources
Tracy Chambers, Benefits Administrator
Janelle Funk, Chief Financial Officer
Employee Benefits Committee

Cherokee County Wellness Program Compliance Guidelines 2011-12



Step 1: Personal Health Evaluation: Initial Screening & Results

- All employees on the health plan who choose the wellness plan are required to participate in the initial screening and complete a health risk assessment. Employees can also submit blood work (lipid profile and glucose) from their physician if they desire but the blood work must be less than 90 days old. Employees who submit blood work from their physician must attend the screening so that biometric measurements can be obtained (weight, height, blood pressure, waist circumference, and percent body fat) and all paperwork turned in.
- All employees on the health plan in the wellness plan are required to participate in the results coaching session. Accommodations will be made for employees who do not work the usual business hours. It is the responsibility of the employee to get in touch with the Health-Y-Coach to complete the results coaching session in the case of missed results coaching appointments.
- All employees with either a suspected unknown (discovered at screening) chronic illness (such as diabetes or hypertension) or uncontrolled illness (such as someone who knows they have hypertension but does not take their meds) will be referred to their doctor for diagnosis and treatment, and the physician must sign a Physician Release form before that person can participate in risk reduction programs.
- An employee will be considered "high risk" and required to participate in the weekly coaching if they have any of the following risk factors:
 - Tobacco Use
 - Obese classification for weight: BMI ≥ 35 (% body fat will also be considered)
 - Blood pressure $\geq 140/90$
 - Triglycerides ≥ 500
 - Glucose > 125
- If an employee has 5 or more moderate risk factors, they will be considered "high risk" and required to participate in weekly coaching. The moderate risk factors are as follows:
 - LDL ≥ 130
 - HDL ≤ 40 ,
 - Glucose ≥ 100 but ≤ 125
 - BMI 25-34.9 (% body fat will also be considered)
 - Pre-Hypertensive Blood Pressure ($>120/80$ and $<140/90$)
 - Triglycerides ≥ 150 but ≤ 499
 - Age (>45 males, >55 females)

Step 2: Personal Health Risk Reduction: One-on-One or Group Programs

- Employees with risk factors described above must complete at least one 12 week Risk Reduction Program and attend the follow-up screening. The follow-up screening includes blood work (lipid profile, glucose), biometric assessment and final review with the coach. All "high risk" employees will continue in programs for the entire year. A "high risk" employee will graduate from the program once they lower all risk factors.
- Employees who chose not to participate or who become non-compliant with the health management program at any stage will lose their incentive compensation and will consequently pay \$100/pay period more toward their health plan contribution. Employees who become non-compliant will not be able qualify for the incentive and enter the wellness program until the next annual screening.
- If an employee is deemed to be non-compliant, CHN will forward the name of the employee to Human Resources. Upon notification, Human Resources will contact the employee to determine if there are mitigating factors why the employee should not be removed from the Wellness Program.

Step 3: Program Compliance

In order for participants to receive the incentives offered by the Health Plan:

- 1) All employees who receive health care benefits through Cherokee County should complete the entire Personal Health Evaluation (Initial Screening and Health Risk Assessment).
- 2) All participants designated as "high risk" must go to a primary care physician if referred by the CHN Health-Y-Coach.
- 3) All "high risk" participants released by the primary care physician to CHN should participate in at least one Risk Reduction Program.
- 4) All "high risk" participants must attend 12 meetings within the 15 week time period for the Risk Reduction Program.
- 5) All "high risk" participants must complete the follow up screening at the end of the Risk Reduction Program.
- 6) All "high risk" participants who remain in the "high risk" category based on the follow up screening must continue with the program for the entire year as determined by the CHN Health-Y-Coach.

Cherokee County Wellness Program Compliance Guidelines 2011-12



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- 6) All "high risk" participants who remain in the "high risk" category based on the follow up screening must continue with the program for the entire year as determined by the CHN Health-Y-Coach.

**Cherokee County, Georgia
Agenda Request**

Agenda No.
cm 4

SUBJECT: *Request for resolution*

MEETING DATE: *November 1, 2011*

SUBMITTED BY: *Chris Collett*

COMMISSION ACTION REQUESTED:

A resolution requesting the relocation of E-911 Public Safety RF receiver site from Reinhardt University to the Georgia Forestry Commission site at Pine Log Mountain.

FACTS AND ISSUES:

The FCC has issued a mandate that requires narrow banding of all public safety radios by January 1, 2013. This change will only decrease coverage that is already minimal in the Waleska area. Our studies show that moving the receiver from Reinhardt to Pine Log Mountain will significantly increase the radio coverage for public safety. Without this move, the risks to public safety will be substantial.

BUDGET:

Budget Amount:	\$	Account Name:
Amount Encumbered:	\$	Account #:
Amount Spent to Date:	\$	
Amount Requested:	\$	
Remaining Budget:	\$	

Budget Adjustment Necessary: *None*

ADMINISTRATIVE RECOMMENDATION:

Approve Resolution.

REVIEWED BY:

Department Head: *Chris Collett*

County Attorney: _____

County Manager: *[Signature]*

Chairman
L. B. Ahrens, Jr.

Western District
Karen Bosch
Jason A. Nelms



Eastern District
Jim Hubbard
Harry B. Johnston

County Manager
Jerry W. Cooper

CHEROKEE COUNTY BOARD OF COMMISSIONERS

1130 Bluffs Parkway • Canton, Georgia 30114
678-493-6000 • Fax 678-493-6013
www.cherokeeega.com

October 25, 2011

Mr. Steve Stancil
State Property Officer
1 Martin Luther King Jr. Drive
Atlanta, Georgia 30334

Dear Mr. Stancil,

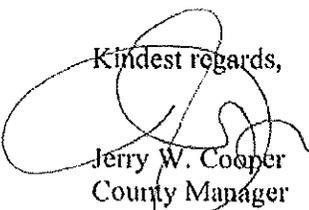
I am writing to you in reference to relocating the Cherokee County E9-1-1 public safety RF receiver site from Reinhardt University, Waleska, Georgia, to the Georgia Forestry Commission site at Pine Log Mountain, which is located about five miles west of Waleska.

The FCC has issued a mandate that requires narrow banding of all public safety radios by January 1, 2013. This change will only decrease coverage that is already minimal in the Waleska area. Our studies show that moving the receiver from Reinhardt to Pine Log Mountain will significantly increase the radio coverage for public safety. Without this move, the risks to public safety will be substantial.

The Board of Commissioners will pass a resolution at their next meeting on Tuesday, November 1, 2011 stating that they are requesting the relocation of the above mentioned 9-1-1 equipment and will request your assistance in this matter.

Please feel free to contact me with any questions you may have. Thank you in advance for your assistance.

Kindest regards,


Jerry W. Cooper
County Manager

C: Cherokee County Board of Commissioners
Chris Collett, Chief Marshal

RESOLUTION _____

A resolution requesting the relocation of E-911 public safety RF receiver site to the Georgia Forestry Commission site at Pine Long Mountain

WHEREAS, the Federal Communications Commission has mandated narrow banding of all public safety radios by January 1, 2013; and

WHEREAS, the Cherokee County Board of Commissioners desire to relocate the Cherokee County E-911 public safety RF receiver site from Reinhardt University to the Georgia Forestry Commission at Pine Log Mountain; and

WHEREAS, the relocation of the RF receiver site will allow the County to meet the FCC mandate but also significantly increase the radio coverage for public safety; and

WHEREAS, it is believed that without the relocation of the RF receiver site to the Forestry Commission at Pine Log Mountain will increase the risks to public safety; and

WHEREAS, the Cherokee County Board of Commissioners respectfully request authorization from the State of Georgia to relocate RF receiver site to the Forestry Commission site at Pine Log Mountain.

ADOPTED, THIS 1ST DAY OF NOVEMBER, 2011

CHEROKEE COUNTY BOARD OF COMMISSIONERS

L.B. Ahrens, Jr., Chairman

Harry Johnston, Commissioner, Post 1

Jim Hubbard, Commissioner, Post 2

Karen Bosch, Commissioner, Post 3

Jason Nelms, Commissioner, Post 4

ATTEST:

Christy Black, County Clerk

Chairman
L. B. Ahrens, Jr.

Western District
Karen Bosch
Jason A. Nelms



Eastern District
Jim Hubbard
Harry B. Johnston

County Manager
Jerry W. Cooper

CHEROKEE COUNTY BOARD OF COMMISSIONERS

1130 Bluffs Parkway • Canton, Georgia 30114
678-493-6000 • Fax 678-493-6013
www.cherokeega.com

October 25, 2011

Mr. Steve Stancil
State Property Officer
1 Martin Luther King Jr. Drive
Atlanta, Georgia 30334

Dear Mr. Stancil,

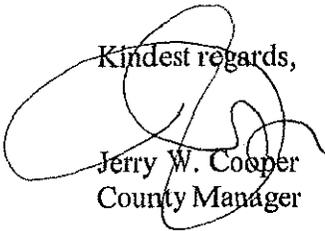
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County Manager

C: Cherokee County Board of Commissioners
Chris Collett, Chief Marshal

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Karen Bosch, Commissioner, Post 3

Jason Nelms, Commissioner, Post 4

ATTEST:

Christy Black, County Clerk

Chairman
L. B. Ahrens, Jr.

Western District
Karen Bosch
Jason A. Nelms



Eastern District
Jim Hubbard
Harry B. Johnston

County Manager
Jerry W. Cooper

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678-493-6000 • Fax 678-493-6013
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October 25, 2011

Mr. Steve Stancil
State Property Officer
1 Martin Luther King Jr. Drive
Atlanta, Georgia 30334

Dear Mr. Stancil,

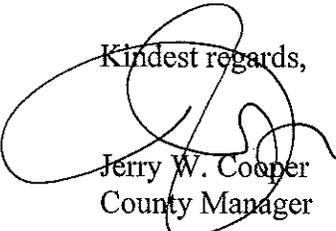
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Please feel free to contact me with any questions you may have. Thank you in advance for your assistance.

Kindest regards,


Jerry W. Cooper
County Manager

C: Cherokee County Board of Commissioners
Chris Collett, Chief Marshal

Cherokee County, Georgia
Agenda Request

CM5

SUBJECT: Business Associate Agreement – Gallagher and CHN MEETING DATE: 11/1/2011
SUBMITTED BY: Jerry W. Cooper, County Manager

COMMISSION ACTION REQUESTED:

Approve Business Associate Agreement with both Gallagher Benefit Services, Inc. and Communit-Y Health Network (CHN) outlining responsibilities regarding the use and/or disclosure of Protected Health Information in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

FACTS AND ISSUES:

Both Gallagher Benefit Services, Inc. and CHN (referred to as Business Associate) understand and agree that the HIPAA Privacy Rules and Security Standards require Cherokee County and the Business Associate to enter into a Business Associate Agreement which shall govern the use and/or disclosure of PHI (Protected Health Information) and the security of PHI and electronic PHI.

BUDGET:

Budgeted Amount:	Account Name:
Amount Encumbered:	Account #:
Amount Spent to Date:	
Amount Requested:	
Remaining Budget	

Budget Adjustment Necessary:

ADMINISTRATIVE RECOMMENDATION:

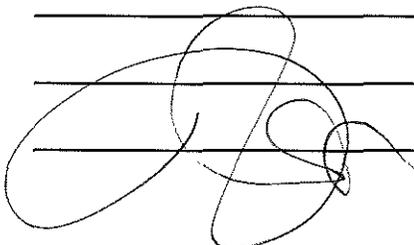
Approval of Business Associate agreements with both Gallagher Benefit Services, Inc. and CHN.

REVIEWED BY:

DEPARTMENT HEAD: _____

AGENCY DIRECTOR: _____

COUNTY MANAGER _____



A large, handwritten signature in black ink is written over the signature lines for the Department Head, Agency Director, and County Manager. The signature is highly stylized and appears to be 'J. Cooper'.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("*Agreement*") is entered into on this _____ day of _____, 2011 _____ (the "*Effective Date*"), by and between Cherokee County, Georgia by and through its Board of Commissioners ("*Covered Entity*") and Gallagher Benefit Services, Inc. ("*Business Associate*").

RECITALS:

WHEREAS, Covered Entity and Business Associate mutually desire to outline their individual responsibilities with respect to the use and/or disclosure of Protected Health Information ("*PHI*") as mandated by the Privacy Rule promulgated under the Administrative Simplifications subtitle of the Health Insurance Portability and Accountability Act of 1996 ("*HIPAA*") including all pertinent regulations issued by the U.S. Department of Health and Human Services as outlined in 45 C.F.R. Parts 160, 162 and 164 ("*HIPAA Privacy Rules and Security Standards*"); and

WHEREAS, Covered Entity and Business Associate understand and agree that the HIPAA Privacy Rules and Security Standards require the Covered Entity and Business Associate to enter into a Business Associate Agreement which shall govern the use and/or disclosure of PHI and the security of PHI and ePHI.

NOW, THEREFORE, the parties hereto agree as follows:

1. Definitions. When used in this Agreement and capitalized, the following terms have the following meanings:

(a) "*Breach*" shall mean the unauthorized acquisition, access, use, or disclosure of PHI which compromises the security or privacy of such information. However, the term 'breach' shall not include: (1) any unintentional acquisition, access, or use of PHI by an employee or individual acting under the authority of a covered entity or business associate if such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual, respectively, with the covered entity or business associate, and such information is not further acquired, accessed, used, or disclosed by any person; or (2) any inadvertent disclosure from an individual who is otherwise authorized to access protected health information at a facility operated by a covered entity or business associate to another similarly situated individual at same facility; and (3) any such information received as a result of such disclosure is not further acquired, accessed, used, or disclosed without authorization by any person.

(b) "*Electronic Protected Health Information*" or "*ePHI*" shall mean Protected Health Information transmitted by electronic media or maintained in electronic media.

(c) "*Individual*" shall have the same meaning as the term "Individual" in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).

(d) "*Privacy Rule*" shall mean the Standards for Privacy of Individual Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164 Subparts A and E.

(e) "*Protected Health Information*" or "*PHI*" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

(f) "*Required by Law*" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.

(g) "*Secretary*" shall mean the Secretary of the Department of Health and Human Services or his or her designee.

(h) "*Security Incident*" shall mean any attempted or successful unauthorized access, use, disclosure, modification or destruction of information or systems operations in an electronic information system.

(i) "*Security Rule*" shall mean the Standards for Security of PHI, including ePHI, as set forth at 45 C.F.R. Parts 160 and 164 Subparts A and C.

(j) "*Unsecured Protected Health Information*" shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary.

Terms used but not defined in this Agreement shall have the same meaning as those terms in the HIPAA regulations.

2. Obligations and Activities of Business Associate Regarding PHI.

(a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.

(c) Business Associate agrees to ensure that any agents, including sub-contractors, to whom it provides PHI agree to the same restrictions and conditions that apply to Business Associate with respect to such information.

(d) Business Associate agrees to provide access, at the request of Covered Entity, and in a reasonable time and manner designated by Covered Entity, to PHI in a Designated Record Set that is not also in Covered Entity's possession, to Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.524.

(e) Business Associate agrees to make any amendment to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 in a reasonable time and manner designated by Covered Entity.

(f) Business Associate agrees to make internal practices books and records relating to the use and disclosure of PHI available to the Secretary, in a reasonable time and manner as designated by the Covered Entity or Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule. Business Associate shall immediately notify Covered Entity upon receipt or notice of any request by the Secretary to conduct an investigation with respect to PHI received from the Covered Entity.

(g) Business Associate agrees to document any disclosures of PHI that are not excepted under 45 C.F.R. § 164.528(a)(1) as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

(h) Business Associate agrees to provide to Covered Entity or an Individual, in a time and manner designated by Covered Entity, information collected in accordance with paragraph (g) above, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

(i) Business Associate agrees to use or disclose PHI pursuant to the request of Covered Entity; provided, however, that Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

3. Permitted Uses and Disclosures of PHI by Business Associate.

(a) Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, Covered Entity provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

(b) Business Associate may use PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate.

(c) Business Associate may disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate if:

(i) such disclosure is Required by Law, or

(ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that such information will remain confidential and used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person agrees to notify Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

(d) Business Associate shall limit the PHI to the extent practicable, to the limited data set or if needed by the Business Associate, to the minimum necessary to accomplish the intended purpose of such use, disclosure or request subject to exceptions set forth in the Privacy Rule.

(e) Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B).

4. Obligations of Covered Entity Regarding PHI.

(a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice.

(b) Covered Entity shall provide Business Associate with any changes in, or revocation of, authorization by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, if such restrictions affect Business Associate's permitted or required uses and disclosures.

(d) Covered Entity shall require all of its employees, agents and representatives to be appropriately informed of its legal obligations pursuant to this Agreement and the Privacy Rule and Security Standards required by HIPAA and will reasonably cooperate with Business Associate in the performance of the mutual obligations under this Agreement.

5. Security of Protected Health Information.

(a) Business Associate has implemented policies and procedures to ensure that its receipt, maintenance, or transmission of all PHI, either electronic or otherwise, on behalf of Covered Entity complies with the applicable administrative, physical, and technical safeguards required protecting the confidentiality, availability and integrity of PHI as required by the HIPAA Privacy Rules and Security Standards.

(b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality, availability and integrity of PHI as required by HIPAA Privacy Rules and Security Standards.

(c) Business Associate agrees to report to Covered Entity any Security Incident (as defined 45 C.F.R. Part 164.304) of which it becomes aware. Business Associate agrees to report the Security Incident to the Covered Entity as soon as reasonably practicable, but not later than 10 business days from the date the Business Associate becomes aware of the incident.

(d) Business Associate agrees to establish procedures to mitigate, to the extent possible, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement.

(e) Business Associate agrees to immediately notify Covered Entity upon discovery of any Breach of Unsecured Protected Health Information (as defined in 45 C.F.R. §§ 164.402 and 164.410) and provide to Covered Entity, to the extent available to Business Associate, all information required to permit Covered Entity to comply with the requirements of 45 C.F.R. Part 164 Subpart D.

(f) Covered Entity agrees and understands that the Covered Entity is independently responsible for the security of all PHI in its possession (electronic or otherwise), including all PHI that it receives from outside sources including the Business Associate.

6. Term and Termination.

(a) *Term.* This Agreement shall be effective as of the Effective Date and shall remain in effect until the Business Associate relationship with the Covered Entity is terminated and all PHI is returned, destroyed or is otherwise protected as set forth in Section 6(d).

(b) *Termination for Cause by Covered Entity.* Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach. If Business Associate does not cure the breach within 30 days from the date that Covered Entity provides notice of such breach to Business Associate, Covered Entity shall have the right to immediately terminate this Agreement and the underlying services agreement between Covered Entity and Business Associate.

(c) *Termination by Business Associate.* This Agreement may be terminated by Business Associate upon 30 days prior written notice to Covered Entity in the event that Business Associate, acting in good faith, believes that the requirements of any law, legislation, consent decree, judicial action, governmental regulation or agency opinion, enacted, issued, or otherwise effective after the date of this Agreement and applicable to PHI or to this Agreement, cannot be met by Business Associate in a commercially reasonable manner and without significant additional expense.

(d) *Effect of Termination.* Upon termination of this Agreement for any reason, at the request of Covered Entity, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall not retain any copies of the PHI unless necessary for proper document retention/archival purposes only or if such PHI is stored as a result of backup email systems that store emails for emergency backup purposes. If the return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

7. Amendment.

The parties may agree to amend this Agreement from time to time in any other respect that they deem appropriate. This Agreement shall not be amended except by written instrument executed by the parties.

8. Indemnification.

Business Associate shall indemnify and hold harmless Covered Entity from and against any and all costs, expenses, claims, demands, causes of action, damages, attorneys' fees and judgments that arise out of or that may be imposed upon, incurred by, or brought against Covered Entity to the extent directly resulting from a breach of this Agreement or any violation of the Privacy Rule or other applicable HIPAA regulations by Business Associate. The indemnification obligations provided for in this Section will commence on the effective date of this Agreement and will survive its termination.

Covered Entity shall, to the extent if any allowed by law, indemnify and hold harmless Business Associate from and against any and all costs, expenses, claims, demands, causes of action, damages, attorneys' fees and judgments that arise out of or are imposed upon, incurred by, or brought against Business Associate to the extent directly resulting from a breach of this Agreement or any violation of the Privacy Rule or other applicable HIPAA regulations by Covered Entity. The indemnification obligations provided for in this Section will commence on the effective date of this Agreement and will survive its termination.

9. Severability.

The parties intend this Agreement to be enforced as written. However: (i) if any portion or provision of this Agreement is to any extent declared illegal or unenforceable by a duly authorized court having jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, will not be affected thereby, and each portion and provision of this Agreement will be valid and enforceable to the fullest extent permitted by law; and (ii) if any provision, or part thereof, is held to be unenforceable because of the duration of such provision, the Covered Entity and the Business Associate agree that the court making such determination will have the power to modify such provision, and such modified provision will then be enforceable to the fullest extent permitted by law.

10. Notices.

All notices, requests, consents and other communications hereunder will be in writing, will be addressed to the receiving party's address set forth below or to such other address as a party may designate by notice hereunder, and will be either: (i) delivered by hand, (ii) made facsimile transmission, (iii) sent by overnight courier, or (iv) sent by registered mail or certified mail, return receipt requested, postage prepaid.

If to the Covered Entity:

Cherokee County BOC
ATTN: Mr. Jerry Cooper
1130 Bluffs Parkway
Canton, GA, 30114
678.493.6001

If to the Business Associate:

Gallagher Benefit Services, Inc.
ATTN: William Parker, CLU,
ChFC
1117 Perimeter Center West, STE
W-201
Atlanta, GA 30338
678.393.5253

11. Regulatory References.

A reference in this Agreement to a section in the Privacy Rule means the referenced section or its successor, and for which compliance is required.

12. Headings and Captions.

The headings and captions of the various subdivisions of the Agreement are for convenience of reference only and will in no way modify or affect the meaning or construction of any of the terms or provisions hereof.

13. Entire Agreement.

This Agreement sets forth the entire understanding of the parties with respect to the subject matter set forth herein and supersedes all prior agreements, arrangements and communications, whether oral or written, pertaining to the subject matter hereof.

14. Binding Effect. The provisions of this Agreement shall be binding upon and shall inure to the benefit of both Parties and their respective successors and assigns.

15. No Waiver of Rights, Powers and Remedies.

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure therefrom granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

16. Governing Law.

This Agreement will be governed by and construed in accordance with the laws of the State of Georgia.

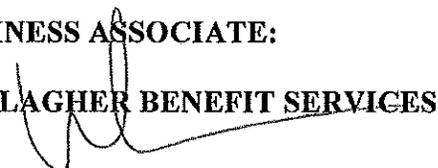
17. Interpretation.

It is the Parties' intent to comply strictly with all applicable laws, including without limitation, HIPAA, state statutes, or regulations (collectively, the "Regulatory Laws"), in connection with this Agreement. In the event there shall be a change in the Regulatory Laws, or in the reasoned interpretation of any of the Regulatory Laws or the adoption of new federal or state legislation, any of which are reasonably likely to materially and adversely affect the manner in which either Party may perform or be compensated under this Agreement or which shall make this Agreement unlawful, the Parties shall immediately enter into good faith negotiations regarding a new arrangement or basis for compensation pursuant to this Agreement that complies with the law, regulation or policy and that approximates as closely as possible the economic position of the Parties prior to the change. In addition, the Parties hereto have negotiated and prepared the terms of this Agreement in good faith with the intent that each and every one of the terms, covenants and conditions herein be binding upon and inure to the benefit of the respective Parties. To the extent this Agreement is in violation of applicable law, then the Parties agree to negotiate in good faith to amend this Agreement, to the extent possible consistent with its purposes, to conform to law.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

BUSINESS ASSOCIATE:

GALLAGHER BENEFIT SERVICES, INC.

By: 
Name: William S. Parker
Title: Area Senior VP/Practice Leader

[AFFIX CORPORATE SEAL]

COVERED ENTITY:

By: _____
Name: _____
Title: _____

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("*Agreement*") is entered into on this _____ day of _____, 2011 (the "*Effective Date*"), by and between Cherokee County, Georgia by and through its Board of Commissioners ("*Covered Entity*") and Communit-Y Health Network ("*Business Associate*").

RECITALS:

WHEREAS, Covered Entity and Business Associate mutually desire to outline their individual responsibilities with respect to the use and/or disclosure of Protected Health Information ("*PHI*") as mandated by the Privacy Rule promulgated under the Administrative Simplifications subtitle of the Health Insurance Portability and Accountability Act of 1996 ("*HIPAA*") including all pertinent regulations issued by the U.S. Department of Health and Human Services as outlined in 45 C.F.R. Parts 160, 162 and 164 ("*HIPAA Privacy Rules and Security Standards*"); and

WHEREAS, Covered Entity and Business Associate understand and agree that the HIPAA Privacy Rules and Security Standards require the Covered Entity and Business Associate to enter into a Business Associate Agreement which shall govern the use and/or disclosure of PHI and the security of PHI and ePHI.

NOW, THEREFORE, the parties hereto agree as follows:

1. **Definitions.** When used in this Agreement and capitalized, the following terms have the following meanings:

(a) "**Breach**" shall mean the unauthorized acquisition, access, use, or disclosure of PHI which compromises the security or privacy of such information. However, the term 'breach' shall not include: (1) any unintentional acquisition, access, or use of PHI by an employee or individual acting under the authority of a covered entity or business associate if such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual, respectively, with the covered entity or business associate, and such information is not further acquired, accessed, used, or disclosed by any person; or (2) any inadvertent disclosure from an individual who is otherwise authorized to access protected health information at a facility operated by a covered entity or business associate to another similarly situated individual at same facility; and (3) any such information received as a result of such disclosure is not further acquired, accessed, used, or disclosed without authorization by any person.

(b) "**Electronic Protected Health Information**" or "**ePHI**" shall mean Protected Health Information transmitted by electronic media or maintained in electronic media.

(c) "*Individual*" shall have the same meaning as the term "Individual" in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).

(d) "*Privacy Rule*" shall mean the Standards for Privacy of Individual Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164 Subparts A and B.

(e) "*Protected Health Information*" or "*PHI*" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

(f) "*Required by Law*" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.

(g) "*Secretary*" shall mean the Secretary of the Department of Health and Human Services or his or her designee.

(h) "*Security Incident*" shall mean any attempted or successful unauthorized access, use, disclosure, modification or destruction of information or systems operations in an electronic information system.

(i) "*Security Rule*" shall mean the Standards for Security of PHI, including ePHI, as set forth at 45 C.F.R. Parts 160 and 164 Subparts A and C.

(j) "*Unsecured Protected Health Information*" shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary.

Terms used but not defined in this Agreement shall have the same meaning as those terms in the HIPAA regulations.

2. Obligations and Activities of Business Associate Regarding PHI.

(a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.

(c) Business Associate agrees to ensure that any agents, including sub-contractors, to whom it provides PHI agree to the same restrictions and conditions that apply to Business Associate with respect to such information.

(d) Business Associate agrees to provide access, at the request of Covered Entity, and in a reasonable time and manner designated by Covered Entity, to PHI in a Designated Record Set that is not also in Covered Entity's possession, to Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.524.

(e) Business Associate agrees to make any amendment to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 in a reasonable time and manner designated by Covered Entity.

(f) Business Associate agrees to make internal practices books and records relating to the use and disclosure of PHI available to the Secretary, in a reasonable time and manner as designated by the Covered Entity or Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule. Business Associate shall immediately notify Covered Entity upon receipt or notice of any request by the Secretary to conduct an investigation with respect to PHI received from the Covered Entity.

(g) Business Associate agrees to document any disclosures of PHI that are not excepted under 45 C.F.R. § 164.528(a)(1) as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

(h) Business Associate agrees to provide to Covered Entity or an Individual, in a time and manner designated by Covered Entity, information collected in accordance with paragraph (g) above, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

(i) Business Associate agrees to use or disclose PHI pursuant to the request of Covered Entity; provided, however, that Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

3. Permitted Uses and Disclosures of PHI by Business Associate.

(a) Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, Covered Entity provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

(b) Business Associate may use PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate.

(c) Business Associate may disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate if:

(i) such disclosure is Required by Law, or

(ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that such information will remain confidential and used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person agrees to notify Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

(d) Business Associate shall limit the PHI to the extent practicable, to the limited data set or if needed by the Business Associate, to the minimum necessary to accomplish the intended purpose of such use, disclosure or request subject to exceptions set forth in the Privacy Rule.

(e) Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B).

4. Obligations of Covered Entity Regarding PHI.

(a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice.

(b) Covered Entity shall provide Business Associate with any changes in, or revocation of, authorization by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, if such restrictions affect Business Associate's permitted or required uses and disclosures.

(d) Covered Entity shall require all of its employees, agents and representatives to be appropriately informed of its legal obligations pursuant to this Agreement and the Privacy Rule and Security Standards required by HIPAA and will reasonably cooperate with Business Associate in the performance of the mutual obligations under this Agreement.

5. Security of Protected Health Information.

(a) Business Associate has implemented policies and procedures to ensure that its receipt, maintenance, or transmission of all PHI, either electronic or otherwise, on behalf of Covered Entity complies with the applicable administrative, physical, and technical safeguards required protecting the confidentiality, availability and integrity of PHI as required by the HIPAA Privacy Rules and Security Standards.

(b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality, availability and integrity of PHI as required by HIPAA Privacy Rules and Security Standards.

(c) Business Associate agrees to report to Covered Entity any Security Incident (as defined 45 C.F.R. Part 164.304) of which it becomes aware. Business Associate agrees to report the Security Incident to the Covered Entity as soon as reasonably practicable, but not later than 10 business days from the date the Business Associate becomes aware of the incident.

(d) Business Associate agrees to establish procedures to mitigate, to the extent possible, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement.

(e) Business Associate agrees to immediately notify Covered Entity upon discovery of any Breach of Unsecured Protected Health Information (as defined in 45 C.F.R. §§ 164.402 and 164.410) and provide to Covered Entity, to the extent available to Business Associate, all information required to permit Covered Entity to comply with the requirements of 45 C.F.R. Part 164 Subpart D.

(f) Covered Entity agrees and understands that the Covered Entity is independently responsible for the security of all PHI in its possession (electronic or otherwise), including all PHI that it receives from outside sources including the Business Associate.

6. Term and Termination.

(a) *Term.* This Agreement shall be effective as of the Effective Date and shall remain in effect until the Business Associate relationship with the Covered Entity is terminated and all PHI is returned, destroyed or is otherwise protected as set forth in Section 6(d).

(b) *Termination for Cause by Covered Entity.* Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach. If Business Associate does not cure the breach within 30 days from the date that Covered Entity provides notice of such breach to Business Associate, Covered Entity shall have the right to immediately terminate this Agreement and the underlying services agreement between Covered Entity and Business Associate.

(c) *Termination by Business Associate.* This Agreement may be terminated by Business Associate upon 30 days prior written notice to Covered Entity in the event that Business Associate, acting in good faith, believes that the requirements of any law, legislation, consent decree, judicial action, governmental regulation or agency opinion, enacted, issued, or otherwise effective after the date of this Agreement and applicable to PHI or to this Agreement, cannot be met by Business Associate in a commercially reasonable manner and without significant additional expense.

(d) *Effect of Termination.* Upon termination of this Agreement for any reason, at the request of Covered Entity, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall not retain any copies of the PHI unless necessary for proper document retention/archival purposes only or if such PHI is stored as a result of backup email systems that store emails for emergency backup purposes. If the return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

7. **Amendment.**

The parties may agree to amend this Agreement from time to time in any other respect that they deem appropriate. This Agreement shall not be amended except by written instrument executed by the parties.

8. **Indemnification.**

Business Associate shall indemnify and hold harmless Covered Entity from and against any and all costs, expenses, claims, demands, causes of action, damages, attorneys' fees and judgments that arise out of or that may be imposed upon, incurred by, or brought against Covered Entity to the extent directly resulting from a breach of this Agreement or any violation of the Privacy Rule or other applicable HIPAA regulations by Business Associate. The indemnification obligations provided for in this Section will commence on the effective date of this Agreement and will survive its termination.

Covered Entity shall, to the extent if any allowed by law, indemnify and hold harmless Business Associate from and against any and all costs, expenses, claims, demands, causes of action, damages, attorneys' fees and judgments that arise out of or are imposed upon, incurred by, or brought against Business Associate to the extent directly resulting from a breach of this Agreement or any violation of the Privacy Rule or other applicable HIPAA regulations by Covered Entity. The indemnification obligations provided for in this Section will commence on the effective date of this Agreement and will survive its termination.

9. Severability.

The parties intend this Agreement to be enforced as written. However; (i) if any portion or provision of this Agreement is to any extent declared illegal or unenforceable by a duly authorized court having jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, will not be affected thereby, and each portion and provision of this Agreement will be valid and enforceable to the fullest extent permitted by law; and (ii) if any provision, or part thereof, is held to be unenforceable because of the duration of such provision, the Covered Entity and the Business Associate agree that the court making such determination will have the power to modify such provision, and such modified provision will then be enforceable to the fullest extent permitted by law.

10. Notices.

All notices, requests, consents and other communications hereunder will be in writing, will be addressed to the receiving party's address set forth below or to such other address as a party may designate by notice hereunder, and will be either: (i) delivered by hand, (ii) made facsimile transmission, (iii) sent by overnight courier, or (iv) sent by registered mail or certified mail, return receipt requested, postage prepaid.

If to the Covered Entity:

Cherokee County BOC
ATTN: Mr. Jerry Cooper
1130 Bluffs Parkway
Canton, GA, 30114
678.493.6001

If to the Business Associate:

Communit-Y Health Network
ATTN: John Giles, CEO
1 North Tennessee St. Cartersville,
GA 30120
770.334.2498

11. Regulatory References.

A reference in this Agreement to a section in the Privacy Rule means the referenced section or its successor, and for which compliance is required.

12. Headings and Captions.

The headings and captions of the various subdivisions of the Agreement are for convenience of reference only and will in no way modify or affect the meaning or construction of any of the terms or provisions hereof.

13. Entire Agreement.

This Agreement sets forth the entire understanding of the parties with respect to the subject matter set forth herein and supersedes all prior agreements, arrangements and communications, whether oral or written, pertaining to the subject matter hereof.

14. Binding Effect. The provisions of this Agreement shall be binding upon and shall inure to the benefit of both Parties and their respective successors and assigns.

15. No Waiver of Rights, Powers and Remedies.

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure therefrom granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

16. Governing Law.

This Agreement will be governed by and construed in accordance with the laws of the State of Georgia.

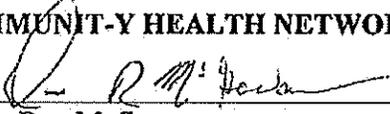
17. Interpretation.

It is the Parties' intent to comply strictly with all applicable laws, including without limitation, HIPAA, state statutes, or regulations (collectively, the "Regulatory Laws"), in connection with this Agreement. In the event there shall be a change in the Regulatory Laws, or in the reasoned interpretation of any of the Regulatory Laws or the adoption of new federal or state legislation, any of which are reasonably likely to materially and adversely affect the manner in which either Party may perform or be compensated under this Agreement or which shall make this Agreement unlawful, the Parties shall immediately enter into good faith negotiations regarding a new arrangement or basis for compensation pursuant to this Agreement that complies with the law, regulation or policy and that approximates as closely as possible the economic position of the Parties prior to the change. In addition, the Parties hereto have negotiated and prepared the terms of this Agreement in good faith with the intent that each and every one of the terms, covenants and conditions herein be binding upon and inure to the benefit of the respective Parties. To the extent this Agreement is in violation of applicable law, then the Parties agree to negotiate in good faith to amend this Agreement, to the extent possible consistent with its purposes, to conform to law.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

BUSINESS ASSOCIATE:

COMMUNITY HEALTH NETWORK

By: 

Name: Don McGowan

Title: COO

[AFFIX CORPORATE SEAL]

COVERED ENTITY:

By: _____

Name: _____

Title: _____

CM 6

Cherokee County, Georgia Agenda Request

SUBJECT: CHN Wellness Program Agreement
SUBMITTED BY: Jerry W. Cooper, County Manager

MEETING DATE: November 1, 2011

COMMISSION ACTION REQUESTED:

Approve final draft agreement with Communit-Y Health Network of Northeast Georgia (CHN) for period of November 1, 2011 through September 30, 2012, in the amount of \$336 per employee enrolled in the county health plan with guaranteed rate for period of two (2) years and guaranteed savings in year 1. Contingent upon approval of county attorney and Benefits Committee recommendation.

FACTS AND ISSUES:

Pricing and Payment Terms

The price for CHN services is \$336 annually for each County employee enrolled in the County health plan. This price per employee is guaranteed for two years. For Year 1 of the contract, the \$336 annual fee will be based on the number of employees enrolled in the plan as of November 1, 2011, and will be paid as follows: \$168 per participating employee due within 10 business days after this Agreement is signed, followed by two (2) payments of \$84 per County employee health plan participate due March 1, 2012 and June 1, 2012. Employees hired subsequently who participate in the County health plan will be billed one time at a rate of \$168 as of the next billing quarter after which they are hired. The County Chief Financial Officer, or appointee, on behalf of the County shall self-bill.

Guarantee of Savings

CHN guarantees the average per county health plan employee participate per month (PEPM) claims costs shall be less than or equal to \$578.54 PEPM. If CHN fails to meet this reduction for the period of January 1, 2012 through September 30, 2012, CHN will refund the County \$168.00 per county health plan employee participate. The refund shall be payable by CHN to the County in cash within 30 days of January 31, 2013. The PEPM claim amount for the period of January 1, 2012 through September 30, 2012 shall be calculated in accordance with the Methodology set forth below. The guarantee shall not apply if the contract is terminated by the County prior to September 30, 2012.

BUDGET:

Budgeted Amount:	Account Name:
Amount Encumbered:	Account #:
Amount Spent to Date:	
Amount Requested:	
Remaining Budget	
Budget Adjustment Necessary:	

ADMINISTRATIVE RECOMMENDATION:

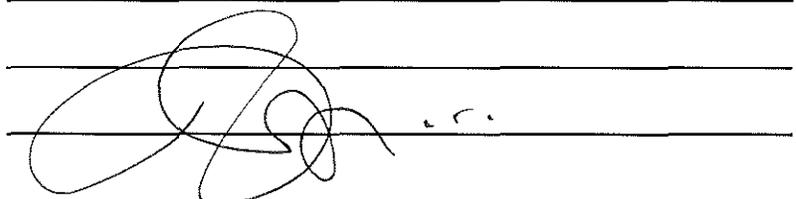
Approve agreement contingent upon Benefits Committee Recommendation. County Attorney has reviewed the agreement, with exception of redrafted pricing and payment terms and guarantee savings language.

REVIEWED BY:

DEPARTMENT HEAD: _____

AGENCY DIRECTOR: _____

COUNTY MANAGER _____



This is the Standard Professional Services Agreement of Cherokee County. Any consultant doing business with the County must enter into this Agreement.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is effective as of this 1st day of November, 2011, by and between **CHEROKEE COUNTY**, a political subdivision of the State of Georgia, acting by and through its governing authority, the Cherokee County ("County"), and **Communit-Y Health Network of Northeast Georgia, LLC**, a Georgia limited liability company, ("Consultant," also referred to herein from time to time as "CHN"), collectively referred to as the "Parties".

WITNESSETH THAT:

WHEREAS, the County desires to retain Consultant to provide certain services generally described as Wellness Program Administration (the "Work"); and

WHEREAS, the County finds that specialized knowledge, skills, and training are necessary to perform the Work contemplated under this Agreement; and

WHEREAS, the Consultant has represented that it is qualified by training and experience to perform the Work; and

WHEREAS, the Consultant has agreed to provide a results-related guarantee of savings to the County; and

WHEREAS, the Consultant desires to perform the Work under the terms and conditions set forth in this Agreement; and

WHEREAS, the public interest will be served by this Agreement; and

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES AND TERMINATION DATE

A. Project Description

Consultant shall provide Wellness Program Administration Services as described in more detail herein.

B. The Work

1. Description of Program

The CHN Health Management Program described herein (the "Program") is a scientifically-based program of services clinically proven to improve the health of the participating population and reduce the costs of health plan claims. It includes the following 3-steps:

Step-1 Personal Health Evaluation. This comprehensive evaluation is a multi-part annual process. It includes both data collection and data reporting. Data collection includes a blood draw (lipid profile and glucose), biometric measurements (blood pressure, resting pulse rate, height, weight, waist and hip circumference), and a Health Risk Assessment questionnaire whereby the participant reports certain health-related information. All data collected is entered and stored on the Health Insurance Portability and Accountability Act (“HIPAA”) compliant CHN *Health-Y-Trax* web-enabled Health Information and Tracking System. The database is encrypted and username/password protected to ensure maximum security and privacy. Each participant receives a Personal Health Report which is personally delivered and coached in a 30 minute private one-on-one session at which time the individual’s risk profile and all other information is fully explained. An organizational report of non-personal, aggregate data is also generated, delivered, and explained by the CHN Clinical Manager.

Step-2 Personal Health Risk Reduction. The focus of Risk Reduction Programs is participants at “high risk”. These participants are the ones who are at most jeopardy for serious illness and claims associated with those illnesses. However, subject to Coach availability, participants at “moderate risk” or “low risk” are encouraged to engage in program activities. These program activities are personally coached face-to-face (whenever desired and wherever possible) by CHN degreed Health Professionals called *Health-Y-Coaches*. Coaches shall hold 4-year college degrees and shall be trained health professionals. Coached program activities are delivered in 12-week cycles and coached once per week, usually at the job site. Telephone and/or Internet delivery are available, if necessary or desired. At each coaching session, additional data is collected, and at the end of the first 12-week cycle, an end-of-cycle evaluation is conducted and outcomes report generated in order to prove clinical results of the Program. Employees will be provided one-on-one results coaching sessions with a Health-Y Coach to develop an individualized plan to manage health risks, including: nutrition and weight management, stress management, exercise, and tobacco cessation. Employees will also be provided group programs to address weight loss, tobacco cessation, and diabetes management. Employees with high or moderate risk factors will be provided at least one 12 week wellness program coaching cycle, and attend a follow-up screening. The follow-up screening shall include blood work (lipid profile, glucose), biometric assessment and final review with the Health-Y Coach. All “high risk” employees will additionally continue in wellness program activities for one year. Step 2 will also include 12-week Aggregate Outcomes Reports.

For the purposes of this Agreement, the terms “high risk” and “moderate risk” shall be defined as set forth below, with all Program participants not falling in either of those two (2) levels instead falling within the “low risk” level:

DEFINING HEALTH RISKS AND RISK LEVELS

<u>Health Risk Measure</u>	<u>High Risk Factor</u>	<u>Moderate Risk Factor</u>
Blood pressure	≥140/90	>120/80 and <140/90
BMI	≥35	≥25
Glucose	>125	≥100
Tobacco Use	Current User	
Triglycerides	≥500	≥150

LDL	≥130
HDL	≤40
Age	>45 Males, >55 Females

High Risk: 5 moderate risk factors or any 1 high risk factor
 Moderate Risk: 2-4 moderate risk factors
 Low Risk: 0-1 moderate risk factors

In general, CHN strives to assign Health-Y-Coaches that match the personality of the County and its employee population. Coaches will be assigned with the intention of keeping the same coach onsite for at least one, 12-week Program Cycle, but all parties recognize that business circumstances may dictate a change in personnel more or less often, as necessary.

Step-3 Personal Health Maintenance. This step is provision of typical health education and wellness activities. Monthly group educational 45-minute seminars called *Health-Y-Breaks* are conducted at County locations by trained CHN *Health-Y-Educators* who cover topics of interest requested by the group. CHN also interfaces with events and activities of other health-related community providers such as hospitals and non-profit groups. Each participant also receives an annual subscription to access the CHN *Health-Y-Trax* System where they can access a voluminous health information database, log daily activities, read current published articles on health-related topics, communicate with their *Health-Y-Coach*, view their personal CHN Health Management information, and take advantage of many other useful and interactive features.

2. Program Eligibility

The Program is available to County employees who participate in the County’s Health Plan through Blue Cross & Blue Shield of Georgia, Inc (“BCBSGA”). The County encourages participation through an incentive that reduces health plan contribution rates for employees who participate and remain in compliance, as defined below.

3. Program Compliance

Employee Compliance Requirements for the Program (the “Compliance Requirements”) will be determined by the County, with support from the County’s Benefits Committee, in the County’s sole discretion and provided to CHN for implementation. CHN agrees to recognize these compliance guidelines for purposes of tracking, reporting, and evaluating the results-based success of the County participants for reimbursement purposes under the guaranteed savings provisions of this Agreement.

CHN will track and report to the County compliance of County employees with the County’s compliance Requirements for the duration of the Program, and CHN shall provide quarterly written reports to the Cherokee County Human Resources Department, such reports to state, as to each County employee participating in the Program, solely that the employee either is “in compliance” or “out of compliance” with the Compliance Requirements, without the disclosure of any additional private health information to the County.

4. Responsibilities of CHN

The following are the basic responsibilities of CHN:

- 1) Assist the County to promote the program;
- 2) Deliver all products and services described herein in a timely and professional manner;
- 3) Report to and communicate with the County and participants in a timely manner.

5. Responsibilities of the County

The County must commit to:

- 1) Management support of the Program with encouragement of employee participation;
- 2) Assist CHN in promoting the Program, enrolling employees, and setting up initial and subsequent screening appointments;
- 3) Providing appropriate, reasonable incentives to promote the Program in order to maximize participation;
- 4) Allowing employees to participate in the Program on paid time;
- 5) Providing necessary employee information to CHN, consistent with the requirements of HIPAA;
- 6) Making available facilities for CHN employees to use when onsite:
 - a) appropriate screening and office space
 - b) computer and internet access
- 7) Establishing and enforcing Compliance Requirements for participants;
- 8) Modifying the Health Plan Document as necessary to support the Program.

6. Pricing and Payment Terms

The price for CHN services is \$336.00 per County employee health plan ~~participate~~ participant enrolled as of November 1, 2011, per year, which price is guaranteed for two years and shall be paid as follows: \$168 per participating employee due within 10 business days after this Agreement is signed, followed by two (2) payments of \$84 per County employee health plan ~~participate-participant~~ participant due March 1, 2012 and June 1, 2012. Employees hired subsequently who participate in the County health plan will be billed one time at a rate of \$168 as of the next billing quarter after which they are hired. The County Chief Financial Officer, or appointee, on behalf of the County shall self-bill.

7. Schedule of Services

The following services will be delivered by CHN to County employees participating in the Program on the following frequency in accordance with the three (3) Program Steps outlined above:

Personal Health Evaluation - one / participant	Annually
Coaching of Evaluation Report, face-to-face	Annually
Organizational Report of Aggregate Data	Annually
12-week coached Risk Reduction Programs*	As Required
Follow-up Program Evaluations – High Risk*	As Required
Program Outcomes Reports *	As Required
Group Risk Reduction Programs – Supplementary	As Required
Group Health Promotion Seminars – 45 minutes	1 / Month

Periodic Events and Competitions
Health-Y-Trax Health Information Website

1/ Quarter
24/7

* Employees classified "high risk" will receive face-to-face, one-on-one Healthy-Y Coach coaching sessions once per week for twelve weeks, fifteen minutes per session. "High Risk" personnel will receive a Follow-up Program Evaluation, and an Aggregate Program Outcomes Report will be generated. Employees who remain "high risk" after the initial 12-weeks of coaching will continue to receive coaching as recommended by their CHN Health-Y-Coach. Participating employees who are "low- or moderate- risk" may engage at their option in coaching as resources are available, usually after the initial 12-week coaching period is complete.

8.-Guarantee of Savings

CHN guarantees the average per county health plan employee participate per month (PEPM) claims costs shall be less than or equal to \$582.53 PEPM. If CHN fails to meet this reduction for the period of January 1, 2012 through September 30, 2012, CHN will refund the County \$168.00 per county health plan employee ~~participate~~ participant. The refund shall be payable by CHN to the County in cash within 30 days of January 31, 2013. The PEPM claim amount for the period of January 1, 2012 through September 30, 2012 shall be calculated in accordance with the Methodology set forth below. The guarantee shall not apply if the contract is terminated by the County prior to September 30, 2012.

Methodology:

All Medical claims and prescription drug claims (except as excluded below) of employees participating in the Program shall be included in the determination of the average PEPM claim analysis for the evaluation period.

Individual claimant amounts in excess of \$125,000.00 are excluded from the determination.

PEPM claim amounts are based on claims invoices provided by BCBSGA, from January 1, 2012 through September 30, 2012.

Actual employee enrollment in the Program shall be as reported by BCBSGA.

The determination of the average PEPM claim amount for the period of January 1, 2012 through September 30, 2012 will be conducted by the County or its agents in January of 2013.

The County or its agents will provide to CHN a written report providing detailed results and an explanation of its determination of any refund due the County, or the absence of a refund.

Requirements for Reimbursement:

90% minimum participation of eligible County employees enrolled in the County health plan.

The Program will be for employees only during the first contract year, and dependants shall not be entitled to participate in the Program or be considered in the guarantee of saving calculations.

The County shall cooperate fully in assisting in planning and introduction of the Program to employees.

The County shall allow participants "paid" time during business days to attend Program coaching and education events.

The Cherokee County Board of Commissioners shall have the right to waive the guarantee of savings.

9. Non-Interference

County agrees not to use CHN protocols nor to hire CHN personnel for 2-years after termination of Program.

10. Clarification of Delivery of Services

It is understood that pricing under the PEPY rate of \$336 is possible because higher risk participants will receive a higher level of personal services than lower risk participants. Every employee who wishes to participate will receive a base level of services which includes a comprehensive Personal Health Evaluation and personally coached Health Status Report; all participants will be eligible to participate in group health information seminars, competitions and certain internet-based services at their option; and some participants will receive coached programs at their option, based on their risk profile and subject to Coach availability.

C. Schedule, Completion Date, and Term of Agreement

Consultant warrants and represents that it will perform its services in a prompt and timely manner, which shall not impose delays on the progress of the Work. This Agreement shall commence as of the date first written above, and the Work and this Agreement shall be completed according to a mutually agreed schedule, unless terminated earlier as provided for herein.

II. WORK CHANGES

A. The County reserves the right to order changes in the Work to be performed under this Agreement by altering, adding to, or deducting from the Work. All such changes shall be incorporated in written change orders executed by the Consultant and the County. Such change orders shall specify the changes ordered and any necessary adjustment of compensation and completion time. If the Parties cannot reach an agreement on the terms for performing the changed work within a reasonable time to avoid delay or other unfavorable impacts as determined by the County in its sole discretion, the County shall have the right to determine reasonable terms and the Consultant shall proceed with the changed work.

B. Any work added to the scope of this Agreement by a change order shall be

executed under all the applicable conditions of this Agreement. No claim for additional compensation or extension of time shall be recognized, unless contained in a written change order duly executed on behalf of the County and the Consultant.

C. The County Manager has authority to execute without further action of the Cherokee County Board of Commissioners, any number of change orders so long as their total effect does not materially alter the terms of this Agreement or materially increase the total amount to be paid under this Agreement, as set forth in Section III(B) below. Any such change orders materially altering the terms of this Agreement or increasing the total amount to be paid under this Agreement in excess of \$25,000 must be approved by resolution of the Cherokee County Board of Commissioners.

III. COMPENSATION AND METHOD OF PAYMENT

A. County agrees to pay the Consultant as described above for the services performed and costs incurred by Consultant upon certification by the County that the services were actually performed and costs actually incurred in accordance with the Agreement. ~~Compensation for services performed and reimbursement for costs incurred shall be paid to the Consultant upon receipt and approval by the County of invoices setting forth in detail the services performed and costs incurred.~~

B. The total amount paid under this Agreement as compensation for services performed and reimbursement for costs incurred shall not, in any case, exceed \$336 per County employee enrolled in the ~~Program~~ County's health plan per year.

IV. COVENANTS OF CONSULTANT

A. Expertise of the Consultant

Consultant accepts the relationship of trust and confidence established between it and the County, recognizing that the County's intention and purpose in entering into this Agreement is to engage an entity with the requisite capacity, experience, and professional skill and judgment to provide the services in pursuit of the timely and competent completion of the Work undertaken by Consultant under this Agreement.

B. Budgetary Limitations

Consultant agrees and acknowledges that budgetary limitations are not a justification for breach of sound principals of Consultant's profession and industry. Consultant shall take no calculated risk in the performance of the Work. Specifically, Consultant agrees that, in the event it cannot perform the Work within the budgetary limitations established without disregarding sound principals of Consultant's profession and industry, Consultant will give written notice immediately to the County.

C. County's Reliance on the Work

The Consultant acknowledges and agrees that the County does not undertake to approve or pass upon matters of expertise of the Consultant and that, therefore, the County bears no responsibility for Consultant's services performed under this Agreement. The Consultant acknowledges and agrees that the acceptance of designs, plans, and specifications by the County is limited to the function of determining whether there has been compliance with what is required to be produced under this Agreement. The County will not, and need not, inquire into adequacy, fitness, suitability or correctness of Consultant's performance. Consultant further agrees that no approval of designs, plans, or specifications by any person, body or agency shall relieve Consultant of the responsibility for adequacy, fitness, suitability, and correctness of Consultant's professional and industry standards or for performing services under this Agreement in accordance with sound and accepted professional and industry principals.

D. Consultant's Reliance of Submissions by the County

Consultant must have timely information and input from the County in order to perform the services required under this Agreement. Consultant is entitled to rely upon information provided by the County, but Consultant shall be required to provide immediate written notice to the County if Consultant knows or reasonably should know that any information provided by the County is erroneous, inconsistent, or otherwise problematic.

E. Consultant's Representative

John Giles shall be authorized to act on Consultant's behalf with respect to the Work as Consultant's designated representative.

F. Assignment of Agreement

The Consultant covenants and agrees not to assign or transfer any interest in, nor delegate any duties of this Agreement, without the prior express written consent of the County. As to any approved subcontractors, the Consultant shall be solely responsible for reimbursing them and the County shall have no obligation to them.

G. Responsibility of Consultant and Indemnification of County

The Consultant covenants and agrees to take and assume all responsibility for the services rendered in connection with this Agreement. The Consultant shall bear all losses and damages directly or indirectly resulting to it on account of the performance or character of the services rendered pursuant to this Agreement. Consultant shall defend, indemnify and hold harmless the County, its officers, boards, commissions, elected officials, employees and agents from and against any and all claims, suits, actions, liability, judgments, damages, losses, and expenses, including but not limited to, attorney's fees, which may be the result of willful, negligent or tortious conduct arising out of the Work, performance of contracted services, or operations by the Consultant, any subcontractor, anyone directly or indirectly employed by the Consultant or subcontractor or anyone for whose acts the Consultant or subcontractor may be liable, regardless of whether or not the negligent act is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any

other right or obligation of indemnity which would otherwise exist as to any party or person described in this provision. In any and all claims against the County or any of its agents or employees, by any employee of the Consultant, any subcontractor, anyone directly or indirectly employed by the Consultant or subcontractor or anyone for whose acts the Consultant or subcontractor may be liable, the indemnification obligation set forth in this provision shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. This obligation to indemnify and defend the County, its members, officers, agents, employees and volunteers shall survive termination of this Agreement.

CHN also agrees to indemnify and hold the County harmless from any and all claims, losses, causes of action and damages, including attorney's fees, resulting from its actions under or pursuant to this contract, including but not limited to, any violations of HIPAA, any negligence, willful misconduct, invasion of privacy, or other torts, wrongs or violations of law, statute or ordinance, committed by CHN or its agents, servants, officers, employees, subcontractors or independent contractors. In the event the County has to sue to enforce this indemnification provision, CHN shall be liable for attorney's fees incurred by the County.

H. Independent Contractor

Consultant hereby covenants and declares that it is engaged in an independent business and agrees to perform the services as an independent contractor and not as the agent or employee of the County. The Consultant agrees to be solely responsible for its own matters relating to the time and place the services are performed; the instrumentalities, tools, supplies and/or materials necessary to complete the services; hiring of Consultants, agents or employees to complete the services; and the payment of employees, including compliance with Social Security, withholding and all other regulations governing such matters. The Consultant agrees to be solely responsible for its own acts and those of its subordinates, employees, and subcontractors during the life of this Agreement. Any provisions of this Agreement that may appear to give the County the right to direct Consultant as to the details of the services to be performed by Consultant or to exercise a measure of control over such services will be deemed to mean that Consultant shall follow the directions of the County with regard to the results of such services only.

I. Insurance

(1) Requirements:

The Consultant shall have and maintain in full force and effect for the duration of this Agreement, insurance insuring against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work by the Consultant, its agents, representatives, employees or subcontractors. All policies shall be subject to approval by the County Attorney to form and content. These requirements are subject to amendment or waiver if so approved in writing by the County Manager.

(2) Minimum Limits of Insurance:

Consultant shall maintain limits no less than:

- (a) Comprehensive General Liability of \$1,000,000 combined single limit per occurrence for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.
- (b) Comprehensive Automobile Liability (owned, non-owned, hired) of \$1,000,000 combined single limit per occurrence for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.
- (c) Professional Liability of \$1,000,000 limit for claims arising out of professional services caused by the Consultant's errors, omissions, or negligent acts.
- (d) Workers' Compensation limits as required by the State of Georgia and employers Liability limits of \$1,000,000 per accident.

(3) Deductibles and Self-Insured Retentions:

Any deductibles or self-insured retentions must be declared to and approved by the County.

(4) Other Insurance Provisions:

The policy is to contain, or be endorsed to contain, the following provisions:

(a) General Liability and Automobile Liability Coverage.

- (i) The County, its officials, employees, agents and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, leased, or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the County, its officials, employees, agents or volunteers.
- (ii) The Consultant's insurance coverage shall be primary noncontributing insurance as respects to any other insurance or self-insurance available to the County, its officials, employees, agents or volunteers. Any insurance or self-insurance maintained by the County, its officials, employees or volunteers shall be

excess of the Consultant's insurance and shall not contribute with it.

- (iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its officials, employees, agents or volunteers.
- (iv) Coverage shall state that the Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (v) Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion.
- (vi) The insurer agrees to waive all rights of subrogation against the County, its officials, employees, agents and volunteers for losses arising from work performed by the Consultant for the County.
- (vii) All endorsements to policies shall be executed by an authorized representative of the insurer.

(b) Workers' Compensation Coverage.

The insurer will agree to waive all rights of subrogation against the County, its officials, employees, agents and volunteers for losses arising from work performed by the Consultant for the County.

(c) All Coverages.

- (i) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the County.
- (ii) Policies shall have concurrent starting and ending dates.

(5) Acceptability of Insurers:

Insurance is to be placed with insurers with an A.M. Best's rating of no less than A:VII.

(6) Verification of Coverage:

Consultant shall furnish the County with certificates of insurance and

endorsements to the policies evidencing coverage required by this clause prior to the start of work. The certificates of insurance and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate of insurance and endorsements shall be on a form utilized by Consultant's insurer in its normal course of business and shall be received and approved by the County prior to execution of this Agreement by the County. The County reserves the right to require complete, certified copies of all required insurance policies, at any time. The Consultant shall provide proof that any expiring coverage has been renewed or replaced at least two (2) weeks prior to the expiration of the coverage.

(7) Subcontractors:

Consultant shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming the parties as additional insured.

(8) Claims-Made Policies:

Consultant shall extend any claims-made insurance policy for at least six (6) years after termination or final payment under the Agreement, whichever is later.

(9) County as Additional Insured and Loss Payee:

The County shall be named as an additional insured and loss payee on all policies required by this Agreement.

J. Employment of Unauthorized Aliens Prohibited

It is the policy of County that unauthorized aliens shall not be employed to perform work on County contracts involving the physical performance of services. Therefore, the County shall not enter into a contract for the physical performance of services within the State of Georgia, unless the Consultant shall provide evidence on County-provided forms, attached hereto as Exhibits "A" and "B" that it and Consultant's subcontractors have within the previous twelve (12) month period conducted a verification of the social security numbers of all employees who will perform work on the County contract to ensure that no unauthorized aliens will be employed. The County Manager or his/her designee shall be authorized to conduct an inspection of the Consultant's and Consultant's subcontractors' verification process to determine that the verification was correct and complete. The Consultant and Consultant's subcontractors shall retain all documents and records of its verification process for a period of three (3) years following completion of the contract. This requirement shall apply to all contracts for the physical performance of services where more than three (3) persons are employed on the County contract.

The County Manager or his/her designee shall further be authorized to conduct periodic inspections to ensure that no County Consultant or Consultant's subcontractors employ unauthorized aliens on County contracts. By entering into a contract with the County, the Consultant and Consultant's subcontractors agree to cooperate with any such investigation by making its records and personnel available upon reasonable notice for inspection and questioning. Where a Consultant or Consultant's subcontractors are found to have employed an unauthorized alien, the County Manager or his/her designee may order the Consultant to terminate or require its subcontractor to terminate that person's employment immediately and to report same to the Department of Homeland Security. The Consultant's failure to terminate the employee, or otherwise cooperate with the investigation may be sanctioned by termination of the contract, and the Consultant shall be liable for all damages and delays occasioned by the County thereby.

Compliance with the requirements of O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 is mandatory.

Consultant agrees that, in the event the Consultant employs or contracts with any subcontractor(s) in connection with this Agreement, the Consultant will secure from the subcontractor(s) such subcontractor(s)' indication of the above employee-number category that is applicable to the subcontractor.

Consultant's compliance with the requirements of O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 shall be attested by the execution of the contractor's affidavit attached as Exhibit "A."

The above requirements shall be in addition to the requirements of State and federal law, and shall be construed to be in conformity with those laws.

K. Records, Reports and Audits

(1) Records:

- (a) CHN agrees to keep detailed records of the services provided to the County and its employees. The records shall be sufficient to demonstrate compliance with applicable law and regulation. The County shall not be responsible for payment for any service for which records cannot be provided. CHN shall also make available to County and its assigned agents any and all data necessary to allow for the proper evaluation of the program progress and results and to allow for a review of CHN's performance under the terms of the Program. Such data shall be provided to County and its assigned agents in a format as determined by the County, and such information shall be provided upon request, within a reasonable period of time, to said parties at no charge. In accordance with privacy terms noted in this document, data shall be aggregated in a manner that does not disclose private or confidential personal elements that are otherwise not subject to disclosure to the County under HIPPA. It is the intent of County and its assigned agents that any such request for data is

intended to be used in the evaluation of the Program. . Except as otherwise authorized, such records shall be maintained for a period of three years from the date that final payment is made under this Agreement. Furthermore, records that are the subject of audit findings shall be retained for three years or until such audit findings have been resolved, whichever is later.

- (b) All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.

(2) Reports and Information:

Upon request, the Consultant shall furnish to the County any and all statements, records, reports, data and information related to matters covered by this Agreement in the form requested by the County.

(3) Audits and Inspections:

At any time during normal business hours and as often as the County may deem necessary, there shall be made available to the County for examination all records with respect to all matters covered by this Agreement. The Consultant will permit the County to audit, examine, and make excerpts or transcripts from such records, and to audit all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and or data relating to all matters covered by this Agreement.

L. Conflicts of Interest

Consultant agrees that it shall not engage in any activity or conduct that would result in a violation of the Cherokee County Code of Ethics.

M. Confidentiality

Consultant acknowledges that it may receive confidential information of the County and that it will protect the confidentiality of any such confidential information and will require any of its subcontractors, consultants, and/or staff to likewise protect such confidential information. The Consultant agrees that confidential information it receives or such reports, information, opinions or conclusions that Consultant creates under this Agreement shall not be made available to, or discussed with, any individual or organization, including the news media, without prior written approval of the County. The Consultant shall exercise reasonable precautions to prevent the unauthorized disclosure and use of County information whether specifically deemed confidential or not.

Notwithstanding anything herein to the contrary, in no event shall CHN disclose protected health information (or "PHI") (as such term is defined in 45 C.F.R. §160.103) to County officials not authorized to receive such information. CHN may disclose summary health information and de-identified health information to the County. CHN understands that it is subject to the requirements of HIPAA and agrees to conduct all its operations for the County in compliance with that Act. CHN agrees, prior to providing any services under this Agreement, to sign and abide by a current Business Associate Agreement in a form acceptable to the County in its sole discretion, which discretion shall be reasonably exercised.

N. Licenses, Certifications and Permits

The Consultant covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of the Consultant by any and all national, state, regional, county, local boards, agencies, commissions, committees or other regulatory bodies in order to perform the services contracted for under this Agreement. All work performed by Consultant under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily expected of competent professionals.

O. Key Personnel

Steve Herman is necessary for the successful prosecution of the Work due to his unique expertise and depth and breadth of experience. Steve Herman shall not be replaced without written approval of the County. Failure to comply with the provisions of this section shall constitute a material breach of Consultant's obligations under this Agreement and shall be grounds for termination. Consultant shall not subcontract with any third party for the performance of any portion of the Work without the prior written consent of the County. Consultant shall be solely responsible for any such subcontractors in terms of performance and compensation.

P. Authority to Contract

The Consultant covenants and declares that it has obtained all necessary approvals of its board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Consultant to the terms of this Agreement, if applicable.

Q. Ownership of Work

All reports, designs, drawings, plans, specifications, schedules, work product and other materials prepared or in the process of being prepared for the services to be performed by the Consultant ("materials") shall be the property of the County and the County shall be entitled to full access and copies of all such materials. Any such materials remaining in the hands of the Consultant or subcontractor upon completion or termination of the work shall be delivered immediately to the County. The Consultant assumes all risk of loss, damage or destruction of or to such materials. If any materials are lost, damaged or destroyed before final delivery to the County, the Consultant shall replace them at its own expense. Any and all copyrightable subject

matter in all materials is hereby assigned to the County and the Consultant agrees to execute any additional documents that may be necessary to evidence such assignment.

V. COVENANTS OF THE COUNTY

A. Right of Entry

The County shall provide for right of entry for Consultant and all necessary equipment to 1130 Bluffs Parkway, in order for Consultant to complete the Work.

B. County's Representative

Tracy Chambers shall be authorized to act on the County's behalf with respect to the Work as the County's designated representative

VI. TERMINATION

A. The County shall have the right to terminate this Agreement for convenience by providing written notice thereof at least thirty (30) calendar days in advance of the termination date. The Consultant shall have no right to terminate this Agreement prior to completion of the Work, except in the event of the County's failure to pay the Consultant within thirty (30) days of Consultant providing the County with notice of a delinquent payment and an opportunity to cure. In the event of termination for convenience by the County, CHN shall, within 14 calendar days, provide the County with a detailed accounting of services provided to date as well as releasing all aggregate and member specific data that has been collected and processed by CHN.

B. Upon termination, the Consultant shall: (1) promptly discontinue all services affected, unless the notice directs otherwise; and (2) promptly deliver to the County all data, reports, summaries, and such other information and materials as may have been generated or used by the Consultant in performing this Agreement, whether completed or in process, in the form specified by the County.

C. The rights and remedies of the County and the Consultant provided in this Section are in addition to any other rights and remedies provided under this Agreement or at law or in equity.

VII. NO PERSONAL LIABILITY

No member, official or employee of the County shall be personally liable to the Consultant or any successor in interest in the event of any default or breach by the County or for any amount which may become due to the Consultant or successor or on any obligation under the terms of this Agreement. Likewise, Consultant's performance of services under this Agreement shall not subject Consultant's individual employees, officers or directors to any personal liability. The Parties agree that their sole and exclusive remedy, claim, demand or suit shall be directed

and/or asserted only against Consultant or the County, respectively, and not against any employee, officer, director, or elected or appointed official.

VIII. ENTIRE AGREEMENT

This Agreement constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Agreement not contained in this Agreement shall be valid or binding. This Agreement may be modified or amended only by a written document signed by representatives of both Parties with appropriate authorization. In the event of any conflict among the terms of this Agreement, that provision operating most to the benefit of the County, as determined by the County in its sole discretion, shall govern.

IX. SUCCESSORS AND ASSIGNS

Subject to the provision of this Agreement regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties.

X. APPLICABLE LAW

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the rules, regulations, statutes and laws of the State of Georgia will control. The parties agree that venue for any dispute over this contract shall be Cherokee County Superior Court. CHN agrees to comply with all applicable federal, state and local laws, ordinances and regulations in the performance of its obligations under this Agreement.

XI. CAPTIONS AND SEVERABILITY

The caption or headnote on articles or sections of this Agreement are intended for convenience and reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Agreement nor in any way affect this Agreement. Should any article(s) or section(s), or any part thereof, later be deemed unenforceable by a court of competent jurisdiction, the offending portion of the Agreement should be severed and the remainder of this Agreement shall remain in full force and effect to the extent possible.

XII. NOTICES

A. Communications Relating to Daily Activities

All communications relating to the day-to-day activities of the Work shall be exchanged between Tracy Chambers for the County and Steve Herman for the Consultant.

B. Official Notices

All other notices, writings or correspondence as required by this Agreement shall be in writing and shall be deemed received, and shall be effective, when: (1) personally delivered, or (2) on the third day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (3) upon actual delivery when sent via national overnight commercial carrier to the Parties at the addresses given below, unless a substitute address shall first be furnished to the other Parties by written notice in accordance herewith:

NOTICE TO THE COUNTY shall be sent to:

Mr. Jerry Cooper, County Manager
Cherokee County Board of Commissioners
1130 Bluffs Parkway
Canton, Georgia 30114

NOTICE TO THE CONSULTANT shall be sent to:

Mr. John Giles
Chief Executive Officer
CHN Corporation
1 North Tennessee Street
Cartersville, GA 30120

XIII. WAIVER OF AGREEMENT

The County's failure to enforce any provision of this Agreement or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

XIV. SOVEREIGN IMMUNITY

Nothing contained in this Agreement shall be construed to be a waiver of the County's sovereign immunity or any individual's qualified good faith or official immunities.

XV. FORCE MAJEURE

Neither the County nor Consultant shall be liable for their respective non-negligent or non-willful failure to perform or shall be deemed in default with respect to the failure to perform (or cure a failure to perform) any of their respective duties or obligations under this Agreement or for any delay in such performance due to: (a) any cause beyond their respective reasonable control; (b) any act of God; (c) any change in applicable governmental rules or regulations rendering the performance of any portion of this Agreement legally impossible; (d) earthquake, fire, explosion or flood; (e) strike or labor dispute, excluding strikes or labor disputes by employees and/or agents of CONSULTANT; (f) delay or failure to act by any governmental or military authority; or (g) any war, hostility, embargo, sabotage, civil disturbance, riot, insurrection or invasion. In such event, the time for performance shall be extended by an amount of time equal to the period of delay caused by such acts and all other obligations shall remain intact.

IN WITNESS WHEREOF the County and the Consultant have executed this Agreement effective as of the date the County Manager executes this Agreement on behalf of the County.

[SIGNATURES ON FOLLOWING PAGE]

Approved as to form:

County Attorney

**COMMUNITY HEALTH NETWORK OF
NORTHEAST GEORGIA, LLC**

By: _____
Its: _____

[CORPORATE SEAL]

SIGNED, SEALED, AND DELIVERED
in the presence of:

Witness

Notary Public

[NOTARY SEAL]

My Commission Expires:

CHEROKEE COUNTY

By: _____
Its: _____

[COUNTY SEAL]

SIGNED, SEALED, AND DELIVERED
in the presence of:

Witness

Notary Public

[NOTARY SEAL]

My Commission Expires:

EXHIBIT "A"

STATE OF GEORGIA

COUNTY OF CHEROKEE

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with Cherokee County has registered with and is participating in a federal work authorization program, in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with Cherokee County, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. § 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 in the form attached hereto as Exhibit "1." Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to Cherokee County at the time the subcontractor(s) is retained to perform such service.

EEV / Basic Pilot Program User Identification Number

BY: Authorized Officer or Agent Date
Community Health Network of Northeast Georgia, LLC

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
____ DAY OF _____, 20__

Notary Public
My Commission Expires:

EXHIBIT "B"

STATE OF GEORGIA

COUNTY OF CHEROKEE

SUBCONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with (name of contractor) on behalf of Cherokee County has registered with and is participating in a federal work authorization program, in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91.

EEV / Basic Pilot Program User Identification Number

BY: Authorized Officer or Agent Date
(Insert Subcontractor Name)

Title of Authorized Officer or Agent of Subcontractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
____ DAY OF _____, 20__

Notary Public
My Commission Expires:



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/7/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER The PLEXUS Groupe LLC 21805 Field Parkway, Suite 300 Deer Park IL 60010	CONTACT NAME: Peter Solmo PHONE (A/C No. Ex): (847) 307-6100 FAX (A/C No.): (847) 307-6199 E-MAIL ADDRESS: certificates@plexusgroupe.com	
	INSURER(S) AFFORDING COVERAGE	
INSURED Community Health Network of NE GA, LLC, dba CHN Health Management, LLC; CHN Wellness, LLC 1 North Tennessee Street Cartersville GA 30120	INSURER A: CNA Insurance Companies	
	INSURER B: Lloyd's of London	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

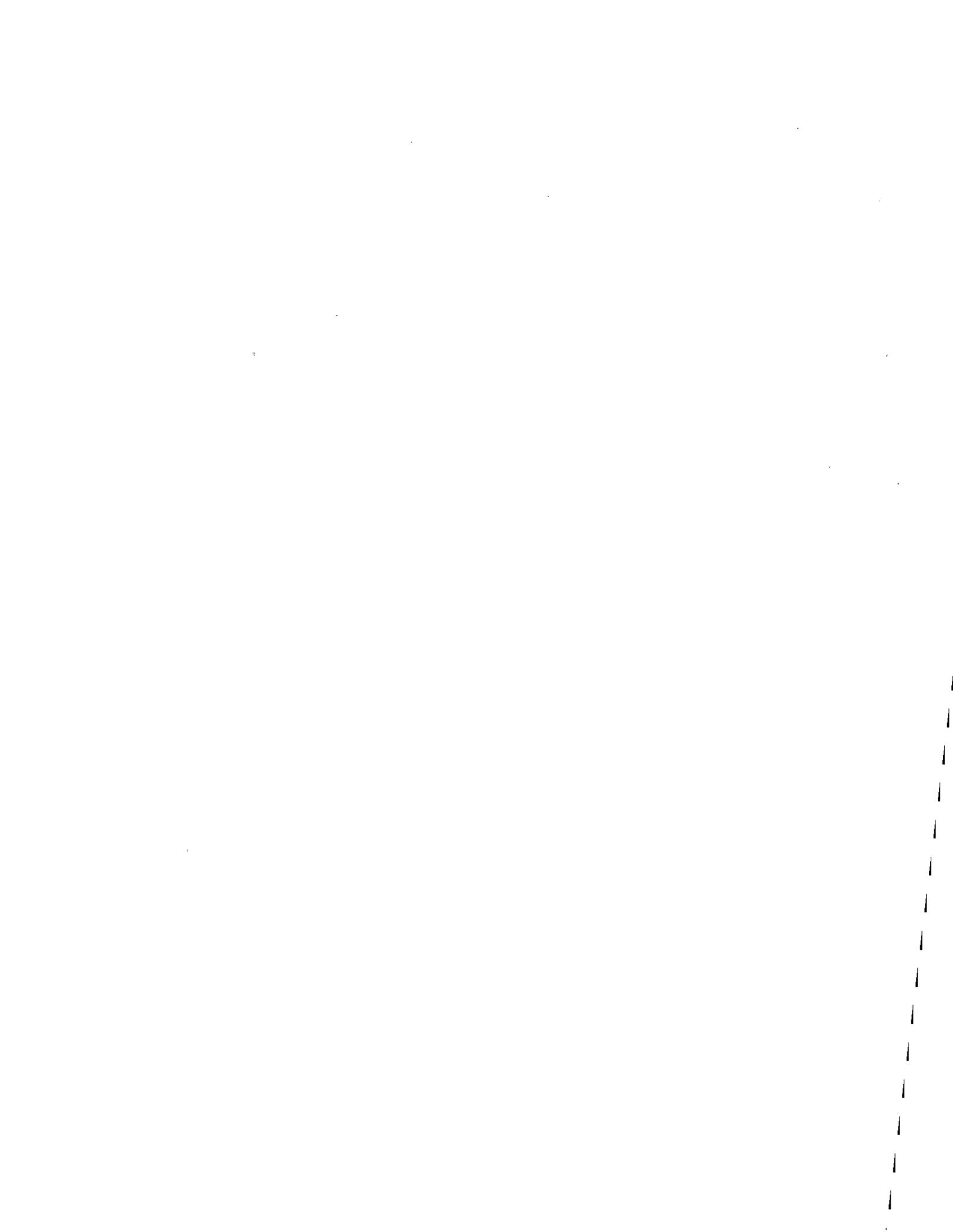
COVERAGES CERTIFICATE NUMBER: 11-12 GL, AL, WC, DMB REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR/RSR/WWV	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY					
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X	4030845749	7/12/2011	7/12/2012	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
A	AUTOMOBILE LIABILITY					
	<input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS		4030845749	7/12/2011	7/12/2012	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE					
	<input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		4029498835	7/12/2011	7/12/2012	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N				
		N/A	4030845895	7/12/2011	7/12/2012	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
B	Errors & Omissions		MRO1218215.11	7/12/2011	7/12/2012	Limit/Aggregate \$1MM/\$3MM

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Cherokee County Board of Commissioners are additional insured as required by written contract.
 It is agreed that such insurance as is afforded shall be Primary and Non-Contributory with any other insurance in force for or which may be purchased by Additional Insureds.
 It is understood and agreed that the company waives its rights of subrogation against the Additional Insureds which may arise by reason of a payment of claim under the General Liability and Workers' Compensation policies.

CERTIFICATE HOLDER Cherokee County Board of Commissioners 1130 Bluffs Parkway Canton, GA 30114	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE W Fawcett III/PSOLMO



cm7

Cherokee County, Georgia
Agenda Request

SUBJECT: Community Development Block Grant [CDBG] MEETING DATE: November 1, 2011
Amendment to PY 2010 and PY 2011 Annual Action Plan

SUBMITTED BY: Marianne Pieper, CDBG Coordinator

COMMISSION ACTION REQUESTED:

Consider approval of an amendment to the CDBG PY 2010 [\$55,300] and PY 2011[\$98,576] Annual Action Plans to award funds that had been set aside for an Activity To Be Determined to MUST Ministries for the acquisition of property located at 111 Brown Industrial Parkway, Canton, GA.

FACTS AND ISSUES:

Activities to be determined were identified in the PY 2010 [\$55,300] and PY 2011 [\$98,576] CDBG Annual Action Plans submitted to and approved by the United States Housing and Urban development [HUD] and require Board Action to make a substantial change to plans.

MUST Ministries identified a 9,080 square foot building on 1.11 acres located at 111 Brown Industrial Parkway. MUST Ministries will relocate from its existing location to expand the clothes closet, financial and employment counseling and food and clothes donation center. The property will also accommodate a 10,000 square foot addition that will allow for the expansion of current services, to add space for an outreach center for community meetings and activities and to add a community health clinic. The location is served by public transportation with good access to both State Route 20 and Interstate 575 and is located in close proximity to the newly announced relocation of Northside Hospital.

PY 2010	\$55,300
PY 2011	<u>\$98,576</u>
	\$153,876

No County funds are necessary.

BUDGET:

Budgeted Amount:	\$0.00	Account Name:
Federal:	\$0.00	Account #:
State:	\$0.00	
Local:	\$0.00	
Remaining Budget	\$0.00	

Budget Adjustment Necessary:

ADMINISTRATIVE RECOMMENDATION:

Approval to amend the PY 2010 and PY 2011 CDBG Annual Action Plans to reallocate \$153,876 from Activities to Be Determined to MUST Ministries.

REVIEWED BY:

DEPARTMENT HEAD: Marianne Pieper

AGENCY DIRECTOR: _____

COUNTY MANAGER: _____

**Cherokee County, Georgia
Agenda Request**

SUBJECT: Community Development Block Grant [CDBG] MEETING DATE: July 20, 2010

SUBMITTED BY: Marianne Pieper, CDBG/Community Services

COMMISSION ACTION REQUESTED:

Approval of Amendments to the PY 2009 and PY 2010 Annual Action Plans.

FACTS AND ISSUES:

Cherokee County submits an Annual Action Plan to the U.S. Dept. of Housing and Urban Development [HUD] each year which identifies activities for funding and requires approval by the BOC. Significant changes to this action plan require amendments to be approved by the BOC and submitted to HUD. This request covers four (4) amendments: two (2) for 2009 and two (2) for 2010 as follows:

PY 2009

Amendment #09-1 – Reallocation of \$20,000 and \$10,000 originally projected for My House and Appalachian Cherokee Learning Center respectively to the Senior Center expansion and renovation project. Applications requesting use of these funds were not received by the CDBG Program Office. Additional 2009 funds in the amount of \$4,820 from HUD allocated to Senior Center expansion and renovation project. – Total Amendment #09-1 Senior Center Funds - \$34,820.

Amendment #09-2 – Reallocation of \$85,178 requested by the City of Ball Ground from the City of Ball Ground Community Center Renovation Project to the City of Ball Ground Sidewalk Project to include the installation of approximately 2,270 linear feet of sidewalk connecting the new Ball Ground Elementary School to existing pedestrian areas.

PY 2010

Amendment #10-1 – Allocate increase of \$85,221 received from HUD as follows:

<u>Recipient</u>	<u>Project</u>	<u>Amount</u>
Anna Crawford Children's Center	Partial Staff Position Support	\$15,000
Cherokee County	Senior Center Vehicle	\$42,878
Cherokee County	Planning and Administrative Overhead	\$17,043
Activity to Be Determined		<u>\$10,300</u>
Total Funds		\$85,221

Amendment #10-2 – Reallocate \$300,000 originally approved for renovations for a Multi-purpose Active Adult Facility (City Club) to the Senior Center expansion and renovation project. Total Amendment #10-2 Senior Center Funds - \$300,000.

All requirements of the Citizens Participation Plan have been met and no public comment was received.

No County Funds are required.

BUDGET:

Budgeted Amount:	\$	Account Name:
Federal:	\$	Account #:
State:	\$	
Local:	\$	
Remaining Budget:	\$	

Budget Adjustment Necessary: \$

**PY 2010
CDBG AMENDED FUNDING
Effective 7/20/2010**

		Original	Increase/Decrease	Total
Public Facilities	Project			
City of Canton	Boling Park Improvements	\$65,000		\$65,000
City of Holly Springs	Multipurpose Facility	\$110,178		\$110,178
City of Woodstock	Senior Center Renovations	\$80,000		\$80,000
Cherokee County	Multi-purpose Center	\$300,000	(\$300,000)	\$0
Cherokee County	Senior Center Renovations		\$300,000	\$300,000
Activity To Be Determined	To Be Determined	45,000	\$10,300	\$55,300
Public Facilities Total		\$600,178	\$10,300	\$610,478
Public Services	Project			
Malon D. Mims Boys & Girls Club	After School Transportation	\$18,000		\$18,000
CASA for Children, Inc.	Volunteer Training	\$10,000		\$10,000
Cherokee Family Violence	Victim Liaison Program	\$20,000		\$20,000
Goshen Valley Boys Ranch	Summer Academy	\$15,000		\$15,000
MUST Ministries	Education and Employment Program Expansion	\$10,000		\$10,000
YMCA	Youth Fit for Life	\$10,000		\$10,000
Anna Crawford Community Center	Partial Staff Position Support		\$15,000	\$15,000
Cherokee County	Senior Center Vehicle		\$42,878	\$42,878
Public Services Total		\$83,000	\$57,878	\$140,878
Planning and Administration		\$170,795	\$17,043	\$187,838
TOTAL 2010 GRANT		\$853,973	\$85,221	\$939,194
CAPS				
Planning/Administration - 20%		\$170,794.60		\$187,838.80
Public Services - 15%		\$128,095.95		\$140,879.10

**Cherokee County, Georgia
Agenda Request**

SUBJECT: CDBG 2011 Amended Annual Action Plan to HUD MEETING DATE: 7/19/2011

SUBMITTED BY: Marlaine Pleper, CDBG Coordinator

COMMISSION ACTION REQUESTED:
Approval of CDBG 2011 Amended Annual Action Plan for submission to the U. S. Department of Housing and Urban Development [HUD].

FACTS AND ISSUES:
A Consolidated Plan and an Annual Action Plan are submitted to the U.S. Department of Housing and Urban Development [HUD] as a prerequisite to receiving Community Development Block Grant Program [CDBG] funds. The 2011 Annual Action Plan representing the third year of the five year Consolidated Plan was approved at the November 16, 2010 BOC Meeting which outlined the specific projects that were proposed for funding previously identified as priorities in Cherokee County's Consolidated Plan. Because Congress had not approved the CDBG funding in November, this Amendment represents the 16% decrease from PY 2010 funding for PY 2011. A revised proposed funding breakout is attached.

All required Citizen Participation for this amendment have been met with the June 14, 2011 Public Notice and June 30, 2011 Public Hearing. Public Comments were accepted through July 18, 2011.

BUDGET:

Budget Amount:		Account Name:	
Federal:	\$788,390	Account #:	
State:	\$		
Local:	\$		
Remaining Budget:	\$0		

Budget Adjustment Necessary:

ADMINISTRATIVE RECOMMENDATION:
Approval and submission of the 2011 Amended Annual Action Plan to HUD.

REVIEWED BY:

DEPARTMENT HEAD: Marianne Pleper

AGENCY DIRECTOR: Jackie McNamee

COUNTY MANAGER: _____

PY 2011 CDBG PROJECT REQUEST SUMMARY

Amended: 7/19/2011

Public Facilities	Project	Budget	Increase/Decrease	Revised Budget
City of Holly Springs	Multipurpose Facility	\$ 91,688		\$ 91,688
Cherokee County	Senior Center Renovations	\$ 300,000		\$ 300,000
North Georgia Angel House	Renovation of 1600 SF for Site School	\$ 40,000		\$ 40,000
Activity To Be Determined	To Be Determined	\$ 138,097	(\$39,521)	\$ 98,576
Public Facilities Total		\$ 569,785		\$ 530,264
Public Services	Project			
Anna Crawford Children's Center	Partial Staff Position Support	\$ 15,000		\$ 15,000
Boys & Girls Club of Metro Atlanta	Transportation Project	\$ 18,000		\$ 18,000
CASA	Volunteer Training		\$4,000	\$ 4,000
Cherokee Family Violence Center	Transportation Project	\$ 33,435		\$ 33,435
Goshen Valley Boys Ranch	Education Academy	\$ 20,000		\$ 20,000
YMCA	Youth Fit for Life	\$ 10,000	(\$10,000)	\$ -
YMCA	Building Success for Children of Family Violence	\$ 10,000		\$ 10,000
Public Services Total		\$ 106,435		\$ 100,435
Planning and Administration		\$169,055	(\$11,380)	\$157,675
2011 Funding Amount		\$ 845,275	(\$56,901)	\$ 788,374
CAPS				
Planning/Administration - 20%		\$169,055.00		
Public Services - 15%		\$126,791.25		

City Atty 8

October 18, 2011

Cherokee County Board of Commissioners
c/o Angie Davis
Jarrard & Davis
105 Pilgrim Village Drive
Suite 200
Cumming, GA 30040

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

**RE: A#060 -11 Annexation of ± 0.5 acres
Presently zoned: AG Cherokee County
Location: Neese Rd
Proposed Zoning: RD City of Woodstock Georgia**

Dear Mr. Watkins:

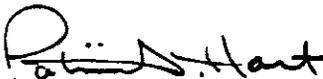
In accordance with O.C.G.A. 36-36-6, the governing authority of an annexing municipality is required to give notice of any proposed annexation to the governing authority of the County wherein the area proposed to be annexed is located. Pursuant to such requirement, the Mayor and City Council of the City of Woodstock hereby notify the Cherokee County Board of Commissioners of the proposed annexation of certain real property pursuant to O.C.G.A. 36-36-21 as follows:

**Applicant: City of Woodstock Georgia
Tax Parcel: 15N18 153 of ±0.5 acres**

A copy of the annexation application, applicant response, and zoning/tax map showing the location of the property are enclosed.

Should you have any further questions please call me at 770-592-6050.

Sincerely,



Patricia D. Hart
Zoning Administrator
Community Development

CC: Vicki Taylor Lee

Enclosure: Application, Applicant Response, Zoning/Tax Map.

RECEIVED

BY:.....

CITY of WOODSTOCK

Application for Public Hearing

Important Notes:

1. Please check all information supplied on the following pages to ensure that all spaces are filled out accurately before signing this form. This page should be the first page of your completed application package.
2. All documents required as part of the application package shall be submitted at the same time as the application. Incomplete application packages WILL NOT BE ACCEPTED.
3. Please contact the Zoning Administrator in the Community Development Department at 770.592.6039 if you have any questions regarding the application package, this application or the public hearing process.

Contact Person: PATTI HART Phone: (770) 592-6050 ext 1

Applicant's Information:

Name: City of Woodstock GA
Address: 12453 Hwy 92 Phone: _____
City, State, Zip: Woodstock GA 30188 Fax: _____

Property Owner's Information:

same as above

Name: SAME
Address: _____ Phone: _____
City, State, Zip: _____ Fax: _____

Requested Public Hearing (check all that apply):

- Annexation
 Rezoning
 Variance

- Comprehensive Plan Amendment
 Other: _____

STAFF USE ONLY:

Case: A #060 - 11
Received by: P. Hart
Fee Paid: \$ N/A
Date: 10.17.11

PUBLIC HEARING SCHEDULE:

Public Input Meeting: Nov. 16, 2011
Planning Commission: Dec. 7, 2011
Board of Appeals: N/A
City Council: Dec. 12, 2011
Other: _____

Property Information:

Location: Neese Rd.

Parcel Identification Number(s) (PIN): 15N18 153 Total Acreage: 0.5

Existing Zoning of Property: AG Future Development Map Designation: _____

Adjacent Zonings: North AG South AG East AG West City R-2

Applicant's Request (Itemize the Proposal):

- Annex parcel 15N18 153 owned by the City of Woodstock GA.
- Maintain existing use; water tower/well
- Rezone AG to closest compatible city zoning class R.D.
- Rural District.

Proposed Use(s) of Property:

Continuing existing use; water tower/well.

Infrastructure Information:

Is water available to this site? Yes No Jurisdiction: City of Woodstock (water tower)

How is sewage from this site to be managed? NA no sewer facilities needed

Will this proposal result in an increase in school enrollment? Yes No

If yes, what is the projected increase? _____ students

Proposed Use(s)	# of units	Multiplier	Number of Students
Single Family (Detached) Home		0.725	
Multi Family (Attached) Home		0.287	

Traffic Generation:

If a traffic study is not required as part of this application, complete the following charts to estimate traffic generated by the proposal. Information for additional residential and all commercial/industrial development shall follow the summary of ITE Trip Generation Rates published in the Transportation Planning Handbook by the Institute of Transportation Engineers.

What is the estimated number of trips generated? N/A trips

Code	Land Use(s)	# of units*	Daily Trip Ends	Number of Trips
210	Single Family Home/Townhome		9.57	
220	Apartment		6.63	

* A unit for residential purposes is equal to one residential unit. For commercial/industrial uses it is defined in the ITE table, but most often is equal to 1,000 square feet of floor area for the use specified.

Authorization:

Upon receipt of the completed application package, the Community Development Department shall notify the applicant of scheduled dates, times, and locations of the public meetings/hearings. The applicant or a representative must be present to answer any questions that may be asked. In the event that an application is not complete, the case may be delayed or postponed at the discretion of the department.

This form is to be executed under oath. I, Patscia D. Haer, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Application for Public Hearing is true and correct and contains no misleading information.

This 17th day of October, 2011.

Print Name Patscia D. Haer

APPLICANT RESPONSE STATEMENT ANNEXATIONS AND REZONINGS

The applicant finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to unrestricted use of property and shall govern the exercise of the zoning power.

If this application is in response to an annexation and/or rezoning, please respond to the following standards in the form of a written narrative:

1. Explain the intent of the requested zoning.

The City of Woodstock is seeking to annex ±0.5 acre parcel 15N24 145 and rezoning it from County AG, Agricultural to the closest compatible city zoning classification RD, Rural District. The property and the water tower are both owned by the City of Woodstock. Annexation was unavailable until the annexation of the property to the west in 2004 made this parcel contiguous to the city limits and therefore eligible for annexation.

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

There is not proposed change in the existing use of the property.

3. How the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property.

The proposed rezoning will not adversely affect the existing use or usability of adjacent or nearby property as the actual use will not change as a result of the annexation and rezoning.

4. Whether the property to be affected by a proposed zoning has a reasonable economic use as currently zoned.

The proposed rezoning will have no bearing on economic use.

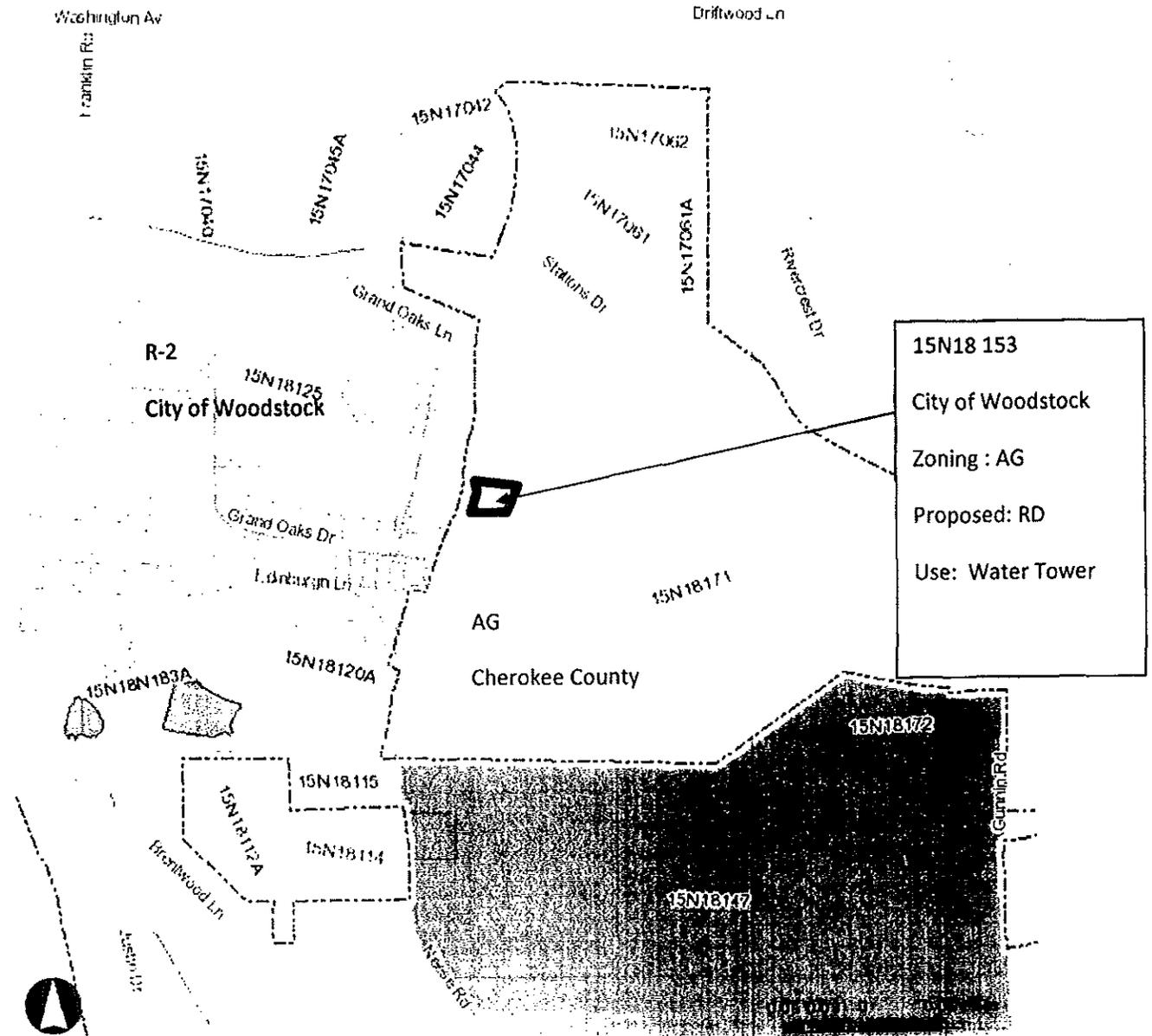
5. Whether the proposed zoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

This rezoning will cause no additional burden on streets, transportation facilities, utilities and school as the use of the property will not change the lot is undersized for residential development under RD.

6. Whether the proposed zoning is in conformity with the policy and interest of the land use plan.

The property proposed for annexation is identified as T4 Neighborhood Living and the current use as a municipal utility is in conformity with the land use plan.

A#060-11 Annexation







City Atty 9

City of Woodstock
12453 Highway 92
Woodstock, GA 30188
Website: www.woodstockga.gov

October 18, 2011

Cherokee County Board of Commissioners
c/o Angie Davis
Jarrard & Davis
105 Pilgrim Village Drive
Suite 200
Cumming, GA 30040

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: A#059 -11 Annexation of ± 6.32 acres
Presently zoned: R-80 Cherokee County
Location: Hwy 92 (east of Trickum Rd, west of S. Cherokee Lane)
Proposed Zoning: R-2 of 4.06 acres
GC of 2.26 acres

Dear Mr. Watkins:

In accordance with O.C.G.A. 36-36-6, the governing authority of an annexing municipality is required to give notice of any proposed annexation to the governing authority of the County wherein the area proposed to be annexed is located. Pursuant to such requirement, the Mayor and City Council of the City of Woodstock hereby notify the Cherokee County Board of Commissioners of the proposed annexation of certain real property pursuant to O.C.G.A. 36-36-21 as follows:

Applicant: City of Woodstock Georgia
Tax Parcel: 15N24 145of ±6.32 acres

A copy of the annexation application, applicant response and zoning/ tax map and site plan showing the location of the property are enclosed.

Should you have any further questions please call me at 770-592-6050.

Sincerely,

Patricia D. Hart
Zoning Administrator
Community Development

CC: Vicki Taylor Lee

Enclosure: Application, Applicant Response, Zoning/Tax Map, and Site Plan

RECEIVED

BY:.....

CITY of WOODSTOCK

Application for Public Hearing

Important Notes:

1. Please check all information supplied on the following pages to ensure that all spaces are filled out accurately before signing this form. This page should be the first page of your completed application package.
2. All documents required as part of the application package shall be submitted at the same time as the application. Incomplete application packages WILL NOT BE ACCEPTED.
3. Please contact the Zoning Administrator in the Community Development Department at 770.592.6039 if you have any questions regarding the application package, this application or the public hearing process.

Contact Person: Patti Hart - Zoning Administrator Phone: (770) 592-6050 ext 1

Applicant's Information:

Name: City of Woodstock Georgia
Address: 12453 Highway 92 Phone: (770) 592-6000
City, State, Zip: Woodstock Georgia 30188 Fax: _____

Property Owner's Information:

same as above

Name: South Cherokee LLC
Address: 4080 Mc Ginnis Ferry RD Phone: _____
City, State, Zip: Alpharetta, Georgia 30005 Fax: _____

Requested Public Hearing (check all that apply):

Annexation

Rezoning

Variance

Comprehensive Plan Amendment

Other: _____

STAFF USE ONLY:

Case: A #059 - 11

Received by: City Initiated

Fee Paid: \$ N/A

Date: 10.7.11

PUBLIC HEARING SCHEDULE:

Public Input Meeting: TBD - Nov. 16, 2011

Planning Commission: December 7, 2011

Board of Appeals: NA

City Council: December 19, 2011

Other: DPC

Property Information:

Location: ^{South side of} Highway 92 east of Trickum Rd, west of S. Cherokee Lane

Parcel Identification Number(s) (PIN): 15N24 145 Total Acreage: ± 6.32

Existing Zoning of Property: R-80 Future Development Map Designation:

Adjacent Zonings: North PUD city South R-2 city East R-80 County West GC City

Applicant's Request (Itemize the Proposal):

Annexation of ± 6.32 Acres
Re-zoning of ± 4.06 ac to R-2 - (platted w/ Lakeshore Subdivision in City Limits)
Re-zoning of ± 2.26 ac to GC - property fronts entirely onto Hwy 92 and does not have access to the Lakeshore subdivision

Proposed Use(s) of Property:

4.06 ac residential portion is currently being developed in Cherokee County as residential (SFR) and is included in the Lakeshore Subdivision

Infrastructure Information:

Is water available to this site? Yes No Jurisdiction: _____

How is sewage from this site to be managed?

Will this proposal result in an increase in school enrollment? Yes No Residential development has been approved by Cherokee County and annexation is being proposed as platted.
If yes, what is the projected increase? _____ students

Proposed Use(s)	# of units	Multiplier	Number of Students
Single Family (Detached) Home		0.725	
Multi Family (Attached) Home		0.287	

Traffic Generation:

If a traffic study is not required as part of this application, complete the following charts to estimate traffic generated by the proposal. Information for additional residential and all commercial/industrial development shall follow the summary of ITE Trip Generation Rates published in the Transportation Planning Handbook by the Institute of Transportation Engineers.

What is the estimated number of trips generated? 91 trips

Code	Land Use(s)	# of units*	Daily Trip Ends	Number of Trips
210	Single Family Home/Townhome	10	9.57	90.57
220	Apartment		6.63	

* A unit for residential purposes is equal to one residential unit. For commercial/industrial uses it is defined in the ITE table, but most often is equal to 1,000 square feet of floor area for the use specified.

Authorization:

Upon receipt of the completed application package, the Community Development Department shall notify the applicant of scheduled dates, times, and locations of the public meetings/hearings. The applicant or a representative must be present to answer any questions that may be asked. In the event that an application is not complete, the case may be delayed or postponed at the discretion of the department.

This form is to be executed under oath. I, _____, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Application for Public Hearing is true and correct and contains no misleading information.

This _____ day of _____, 20_____.

Print Name _____

APPLICANT RESPONSE STATEMENT ANNEXATIONS AND REZONINGS

The applicant finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to unrestricted use of property and shall govern the exercise of the zoning power.

If this application is in response to an annexation and/or rezoning, please respond to the following standards in the form of a written narrative:

1. Explain the intent of the requested zoning.

The City of Woodstock is seeking to annex a ±6.26 acre portion of parcel 15N24 145 omitted from the 2006 Annexation of a ±91 acre portion of parcel 15N24 145, and assign 4.06 acres to the R-2 zoning classification which is compatible with the portion of the Lakestone Subdivision currently being developed in the City Limits of Woodstock. The remaining 2.26 acre tract will be zoned General Commercial as it fronts entirely onto Highway 92. In order to accomplish the annexation without creating an unincorporated island of the abutting parcel to the east (15N24 149B) a ten (10) foot strip of Parcel 15N24 145 will remain in unincorporated Cherokee County. This annexation would allow all of the Lakestone subdivision to be developed under one jurisdiction and, once developed, improve service delivery.

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

The annexation and zoning of this additional section of the neighborhood will allow the uses as proposed on the county's approved development plans. There are no changes to the approved plans being proposed. The zoning is proposed as R-2, compatible with the rest of Lakestone.

3. How the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property.

The proposed rezoning will not adversely affect the existing use or usability of adjacent or nearby property as the actual use will not change as a result of the annexation and rezoning.

Whether the property to be affected by a proposed zoning has a reasonable economic use as currently zoned.

The proposed rezoning will have no bearing on economic use.

4. Whether the proposed zoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

This rezoning will cause no additional burden on streets, transportation facilities, utilities and schools as development has been approved in Cherokee County for 4.06 acre portion of parcel 15N24 145 proposed for annexation. No development is being proposed at this time for the 2.26 acre Commercial Portion.

5. Whether the proposed zoning is in conformity with the policy and interest of the land use plan.

The property proposed for annexation is identified as T4 Neighborhood Living. Residential and commercial use is in conformity with the land use plan.

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed zoning.

4 acres of the subject property has been approved for residential development by Cherokee County for inclusion in the 91 acre Lakestone Subdivision which was annexed into the city limits of Woodstock GA in 2006. For provision of efficient service delivery it makes sense to bring all of the residential units of a subdivision into one jurisdiction.



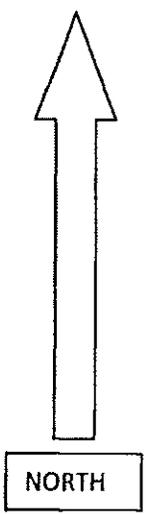
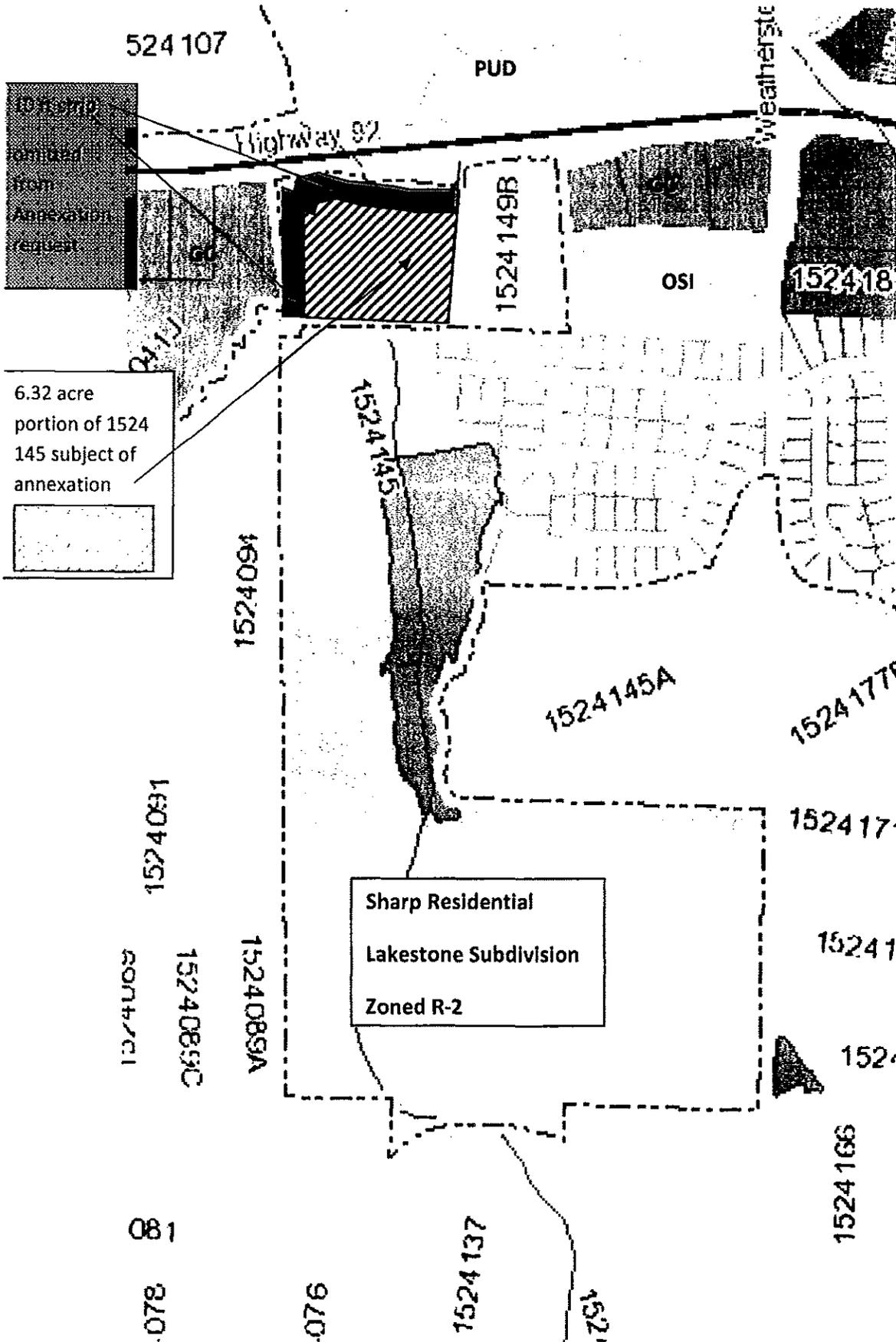
Legend

- City and County Boundaries
- Churches
- Schools
- Tax Parcels
- Zoning
 - AG
 - R80
 - R60
 - R40
 - R30
 - R20
 - R15
 - R10
 - RD3
 - RA
 - RZL
 - RTH
 - RM10
 - RM16
 - PUD
 - TND
 - OI
 - NC
 - GC
 - HC
 - LI
 - HI

Notes

Annexing 6.32 acre portion of 15N24 145 minus 10' strip to prevent creating unincorporated island of 15N24 149B

1,043.4 0 521.72 1,043.4 U.S. Survey Feet



Zoning Conditions added

GA HWY 92
VARIABLE R/W

Widened Lots 210-214
from 75' to 76'

N/F
G.W. SMITH
RACHEL M. SMITH
DB 144 PG 62
R-80

LIFT STATION
SUBMITTED UNDER
SEPARATE COVER

Proposed
GC

New Lot

Proposed
R-2

ANCRYS
1200 HWY 92
ROCKVILLE, GA 30158

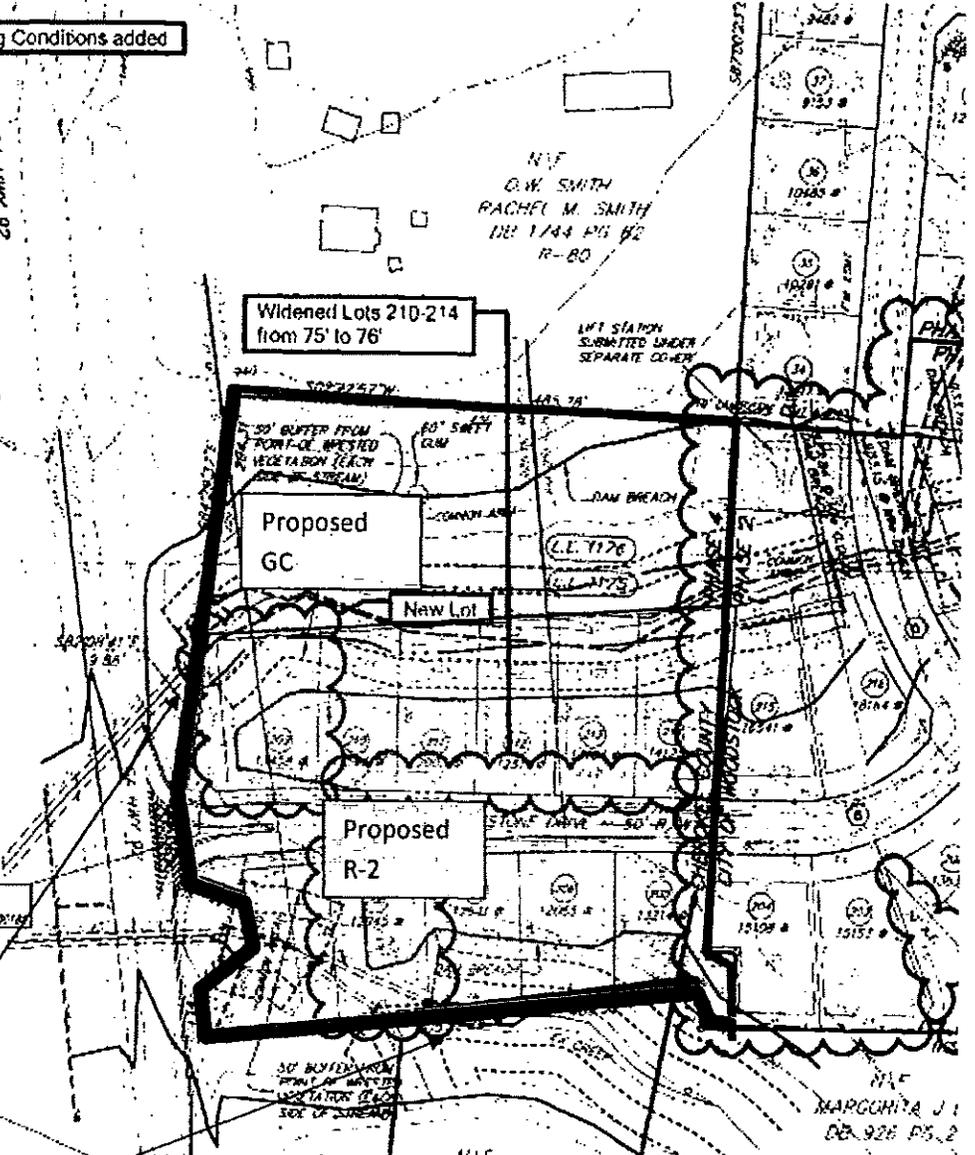
30' BUFFER FROM
POINT-OF-IMPACT
VEGETATION (EACH
SIDE OF STREAM)

N/F
LMC ASSOCIATES LLC
PH 1447 PG 359

New Lot

Phase 4 labeled as
Cherokee County
(note that phase 4
will be annexed
removed)

Minus 10"
strip



AUTHORIZATION OF PROPERTY OWNER

I, Tom Sharp, being duly sworn upon his/her oath, being of sound mind and legal age deposes and states; That he/she is the owner of the property which is subject matter of the attached application, as is shown in the records of Cherokee County/City of Woodstock, Georgia.

He/She authorizes the person named below to act as applicant in the pursuit of a request for:

- Annexation
- Rezoning
- Variance

- Comprehensive Plan Amendment
- Other: _____

I hereby authorize the staff of the City of Woodstock, Department of Planning and Economic Development to inspect the premises which are subject of this application.

Applicant's Information:

Name: Tom Sharp

Address: 4000 Main NIS Ferry Rd #101

City, State, Zip: Atlanta, Ga 30005

Phone: 770 5184896

Fax: _____

Signature of Owner: _____

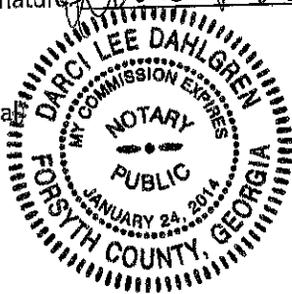
Date: 10/10/11

Print Name: Tom Sharp

Sworn to and Subscribed before me this 10 day of Oct, 2011

Notary Signature: _____

(Notary Seal)



**OPERATING AGREEMENT
OF
SOUTH CHEROKEE, LLC**

THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE GEORGIA SECURITIES ACT OF 1973, AS AMENDED, IN RELIANCE UPON THE EXEMPTION FROM REGISTRATION SET FORTH IN SECTION 10-5-9(13) OF SUCH ACT. IN ADDITION, THESE SECURITIES HAVE NOT BEEN REGISTERED WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION IN RELIANCE UPON AN EXEMPTION FROM SUCH REGISTRATION SET FORTH IN THE SECURITIES ACT OF 1933 PROVIDED BY SECTION 3(a)(11) or 4(2) THEREOF, NOR HAVE THEY BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OF ANY OTHER APPLICABLE STATES IN RELIANCE UPON CERTAIN SIMILAR EXEMPTIONS FROM REGISTRATION. THESE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT PURPOSES ONLY AND MAY NOT BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD OR TRANSFERRED EXCEPT IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT AND IN A TRANSACTION WHICH IS EITHER EXEMPT FROM REGISTRATION UNDER SUCH ACTS OR PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACTS.

ARTICLE I

DEFINITIONS

The following terms used in this Operating Agreement shall have the following meanings unless otherwise expressly provided herein:

Articles of Organization. The Articles of Organization of **SOUTH CHEROKEE, LLC**, as filed with the Secretary of State of Georgia as the same may be amended from time to time.

Book Value. With respect to any property, the property's adjusted basis for federal income tax purposes, except as follows:

(i) The initial Book Value of any property contributed by a Member to the Company shall be the gross fair market value of such property, as determined by the contributing Member and the Managers; provided that, if the contributing Member is also a Manager, the determination of the fair market value of the contributed property shall require the written consent of Members holding a Majority Interest;

(ii) The Book Values of all Company property shall be adjusted to equal their respective gross fair market values (taking Section 7701(g) of the Code into account), as determined by the Managers, as of the following times: (A) the acquisition of an additional Membership Interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution; (B) the distribution by the Company to a Member of more than a de minimis amount

of property as consideration for a Membership Interest; and (C) the Aliquidation@ of the Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations other than a liquidation described in Section 708(b)(1)(B) of the Code; provided, however, that adjustments pursuant to clauses (A) and (B) shall be made only if the Managers reasonably determine that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(iii) The Book Value of any Company property distributed to any Member shall be adjusted to equal the gross fair market value of such property on the date of distribution, as determined by the distributee Member and the Managers; provided that, if the distributee Member is also a Manager, the determination of the fair market value of the distributed property shall require the written consent of Members holding a Majority Interest; and

(iv) The Book Values of all Company property shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such property pursuant to Sections 732(d), 734(b) or 743(b) of the Code, but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Section 1.704-1(b)(2)(iv)(m) of the Regulations; provided, however, that Book Values shall not be adjusted pursuant to this clause (iv) to the extent the Managers determine that an adjustment pursuant to clause (ii) of this definition is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this clause (iv).

If the Book Value of any property has been determined or adjusted pursuant to clauses (i), (ii) or (iv) of this definition, such Book Value shall thereafter be adjusted in accordance with Section 10.04(a) hereof.

Capital Account. With respect to each Member, an account maintained on the books and records of the Company which is:

(i) increased (credited) for (A) the amount of any Capital Contribution made by the Member; (B) Net Profits allocated to such Member pursuant to Section 10.02 hereof; and (C) items of income or gain allocated to such Member pursuant to Section 10.03 hereof; and

(ii) decreased (debited) for (A) the amount of money distributed to such Member by the Company (exclusive of any amount paid to such Member and treated as a guaranteed payment within the meaning of Section 707(c) of the Code); (B) the Book Value of any property distributed to such Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Section 752 of the Code); (C) Net Losses allocated to such Member pursuant to Section 10.01 hereof; and (D) any items of loss or deduction allocated to such Member pursuant to Section 10.03 hereof.

The provisions hereof governing the maintenance of Capital Accounts are intended to satisfy the requirements of Section 1.704-1(b)(2)(iv) of the Regulations and shall be interpreted and applied in a manner consistent therewith.

Capital Contribution. Any contribution, as defined in O.C.G.A. '14-11-101(4), to the capital of the Company in cash or property by a Member.

Code. The Internal Revenue Code of 1986, as amended from time to time.

Company. SOUTH CHEROKEE, LLC.

Distributable Cash. All cash, revenues and funds received by the Company from Company operations, less the sum of the following to the extent paid or set aside by the Company: (i) all principal and interest payments on indebtedness of the Company and all other sums paid to lenders; (ii) all cash expenditures incurred incident to the normal operation of the Company's business; and (iii) such Reserves as the Members holding at least a Majority Interest deem reasonably necessary to proper operation of the Company's business.

Economic Interest. A Member's or Economic Interest Owner's share of one or more of the Company's Net Profits, Net Losses and distributions of the Company's assets pursuant to this Operating Agreement and the Georgia Act, but shall not include any right to vote on, consent to or otherwise participate in any decision of the Members or Managers.

Economic Interest Owner. The owner of an Economic Interest who is not a Member.

Entity. Any general partnership, limited partnership, limited liability company, corporation, joint venture, business trust, cooperative, association or any foreign trust or foreign business organization.

Fiscal Year. The Company's fiscal year, which shall be the calendar year.

Georgia Act. The Georgia Limited Liability Company Act at O.C.G.A. '14-11-100, et seq.

Initial Capital Contribution. The initial contribution to the capital of the Company made by a Member pursuant to this Operating Agreement.

Majority Interest. Ownership Interests of Members which, taken together, exceed fifty percent (50%) of the aggregate of all Ownership Interests.

Manager. One or more managers designated pursuant to this Agreement. Specifically, Manager(s) shall mean **DARCI DAHLGREN** and **THOMAS E. SHARP** or any other person(s) that succeed such person(s) in the capacity as Manager.

Member. Each of the parties who executes this Operating Agreement as a Member and each of the parties who may hereafter become Members. If a Person is a Member immediately prior to the purchase or other acquisition by such Person of an Economic Interest, such Person shall have all the rights of a Member with respect to such purchased or otherwise acquired Membership Interest or Economic Interest, as the case may be.

Membership Interest. A Member's entire interest in the Company including such Member's Economic Interest and the right to participate in the management of the business and affairs of the Company, including the right to vote on, consent to or otherwise participate in any decision or action of or by the Members granted pursuant to this Operating Agreement or the Georgia Act.

Member Nonrecourse Deduction. With respect to the Company, a Apartner nonrecourse deduction@ within the meaning of Section 1.704-2(i) of the Regulations.

Net Profits or Net Losses. For each Fiscal Year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Section 703(a) of the Code (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in taxable income or loss), with the following adjustments:

(i) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Profits or Net Losses pursuant to this definition shall be added to such taxable income or loss;

(ii) Any expenditures of the Company described in Section 705(a)(2)(B) of the Code or treated as such pursuant to Section 1.704-1(b)(2)(iv)(i) of the Regulations and not otherwise taken into account in computing Net Profits or Net Losses pursuant to this definition shall be subtracted from such taxable income or loss;

(iii) If the Book Value of Company property is revalued pursuant to clauses (ii), (iii) or (iv) of the definition herein of Book Value and such revaluation is not also subject to Section 10.03(c) hereof, then the net increase or net decrease in the Book Value of all Company property resulting therefrom shall be added to (with respect to a net increase) or subtracted from (with respect to a net decrease) such taxable income;

(iv) If any Company property has a Book Value which differs from the property's adjusted basis for federal income tax purposes, then Net Profits and Net Losses shall be determined with respect to items of income, gain, loss or deduction attributable to such property in accordance with Section 10.04(a) hereof; and

(v) Any item of Company income, gain, loss or deduction that is allocated to the Members under Section 10.03 hereof shall not be taken into account in computing Net Profits and Net Losses.

Nonrecourse Deduction. With respect to the Company, a Anonrecourse deduction@ within the meaning of Section 1.704-2(b)(1) of the Regulations.

Operating Agreement. This Operating Agreement as originally executed and as amended from time to time.

Ownership Interest. The proportion that a Member's positive Capital Account bears to the aggregate positive Capital Accounts of all Members whose Capital Accounts have positive balances as may be adjusted from time to time. The initial Ownership Interests of the Members are as follows:

MEMBER

OWNERSHIP INTEREST

SHARP LAND HOLDINGS, INC.

100%

Person. Any individual or Entity and the heirs, executors, administrators, legal representatives, successors and assigns of such APerson@ where the context so permits.

Regulations. The Federal Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

Reserves. With respect to any fiscal period, funds set aside or amounts allocated during such period to reserves which shall be maintained in amounts deemed sufficient by the affirmative vote of Members holding at least a Majority Interest for working capital and to pay taxes, insurance, debt service and or other costs or expenses incident to the ownership or operation of the Company's business.

Treasury Regulations or Regulations. The Federal Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time.

Withdrawal Event. With respect to any Member, the occurrence of any of the following events: (i) the withdrawal, removal, death, incompetency, dissolution, bankruptcy or insolvency of a Member; (ii) the transfer or redemption of the entire Membership Interest of a Member; or (iii) the occurrence of any other event that terminates the continued membership of the Member in the Company pursuant to O.C.G.A. ' 14-11-601.1.

ARTICLE II

FORMATION OF COMPANY

2.01 Formation. On June 9, 2006, Clayton O. Carmack (organizer) formed the Company as a Georgia Limited Liability Company by executing and delivering articles of organization to the Secretary of State of Georgia in accordance with the provisions of the Georgia Act.

2.02 Name. The name of the Company is SOUTH CHEROKEE, LLC.

2.03 Principal Place of Business. The principal place of business of the Company within the State of Georgia is 4080 McGinnis Ferry Road, Suite 701, Alpharetta, GA 30005. The Company may locate its places of business and registered office at any other place or places as the Members may from time to time deem advisable.

2.04 Registered Office and Registered Agent. The Company's initial registered office shall be at the office of its registered agent at 192 Anderson Street, Marietta, Georgia 30060 and the name of its initial registered agent at such address is ELDON L. BASHAM. The registered office and registered agent may be changed from time to time by filing the address of the new registered office and/or the name of the new registered agent with the Secretary of State of Georgia pursuant to the Georgia Act and the applicable rules promulgated thereunder.

2.05 Term. The term of the Company shall commence on the date the Articles of Organization were filed with the Secretary of State of Georgia and shall continue in perpetuity, unless earlier dissolved in accordance with the provisions of this Operating Agreement or the Georgia Act.

ARTICLE III

BUSINESS OF THE COMPANY

3.01 Permitted Businesses. The business of the Company shall be:

- (a) To acquire, develop, hold, own, lease, manage, maintain, improve, sell, finance and otherwise use real estate.
- (b) To exercise all other powers necessary to or reasonably connected with the Company's business which may be legally exercised by limited liability companies under the Georgia Act.
- (c) To engage in all activities necessary, customary, convenient or incident to any of the foregoing.

ARTICLE IV

NAMES AND ADDRESSES OF MEMBERS

The names and addresses of the Members are as follows:

Name	Address
SHARP LAND HOLDINGS, INC.	4080 McGinnis Ferry Road Suite 701 Alpharetta, GA 30005

ARTICLE V

RIGHTS AND DUTIES OF MEMBERS WITH RESPECT TO MANAGEMENT

5.01 Management. The business and affairs of the Company shall be managed by its Managers. Except for situations in which the approval of the Members is expressly required by this

Operating Agreement or by the Georgia Act, the Managers shall have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business. At any time when there is more than one Manager, any one Manager may take any action permitted to be taken by the Managers, unless the approval of more than one of the Managers is expressly required pursuant to this Operating Agreement or the Georgia Act.

5.02 Number, Tenure and Qualifications. The Company shall initially have two (2) Managers, **DARCI DAHLGRAN** and **THOMAS E. SHARP**. The number of Managers of the Company shall be fixed from time to time by the affirmative vote of Members holding a Majority Interest, but in no instance shall there be less than one (1) Manager. Each Manager shall hold office until the next annual meeting of Members or until his successor shall have been elected and qualified. Managers shall be elected by the affirmative vote of Members holding at least a Majority Interest. Managers need not be residents of the State of Georgia nor Members of the Company.

5.03 Certain Powers of Manager. Without limiting the generality of Section 5.01, each Manager shall individually have the power and authority, on behalf of the Company:

- (a) To acquire property from any Person as the Managers may determine. The fact that a Manager or a Member is directly or indirectly affiliated or connected with any such Person shall not prohibit the Managers from dealing with that Person.
- (b) To borrow money for the Company from banks, other lending institutions, the Managers, Members or affiliates of the Manager or Members on such terms as the Managers deem appropriate and in connection therewith, to hypothecate, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums. No debt shall be contracted or liability incurred by or on behalf of the Company except by the Managers or to the extent permitted under the Georgia Act, by agents or employees of the Company expressly authorized to contract such debt or incur such liability by the Managers.
- (c) To purchase liability and other insurance to protect the Company's property and business.
- (d) To hold and own any Company real and/or personal properties in the name of the Company.
- (e) To invest any Company funds temporarily in investments including, but not limited to, time deposits, short-term governmental obligations, commercial paper or other investments.
- (f) To sell or otherwise dispose of all or substantially all of the assets of the Company as part of a single transaction or plan. The affirmative vote of the Members shall not be required with respect to any sale or disposition of the Company's assets in the ordinary course of the Company's business.

- (g) To execute on behalf of the Company all instruments and documents, including without limitation, checks; drafts; notes and other negotiable instruments; mortgages, deeds of trust and deeds to secure debt; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company's property including all forms of deeds; assignments; bills of sale; leases; partnership agreements, operating agreements of other limited liability companies; and any other instruments or documents necessary, in the opinion of the Managers, to the business of the Company.
- (h) To employ accountants, legal counsel, managing agents or other experts to perform services for the Company and to compensate them from Company funds.
- (i) To enter into any and all other agreements on behalf of the Company, with any other Person for any purpose, in such forms as the Managers may approve.
- (j) To do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

Unless authorized to do so by this Operating Agreement or by the Managers of the Company, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable pecuniary for any purpose. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Managers to act as an agent of the Company in accordance with this provision.

5.04 Liability for Certain Acts. Each Manager shall act in a manner he believes in good faith to be in the best interest of the Company and with such care as an ordinarily prudent person in a like position would use under similar circumstances. A Manager is not liable to the Company, its Members or other Managers for any action taken in managing the business or affairs of the Company if he performs the duty of his office in compliance with the standard contained in this Section. No Manager has guaranteed nor shall have any obligation with respect to the return of a Member's Capital Contributions or profits from the operation of the Company. No Manager shall be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member except loss or damage resulting from intentional misconduct or knowing violation of law or a transaction for which such Manager received a personal benefit in violation or breach of the provisions of this Operating Agreement. Each Manager shall be entitled to rely on information, opinions, reports or statements, including but not limited to financial statements or other financial data prepared or presented in accordance with the provisions of O.C.G.A. '14-11-305.

5.05 Managers Have No Exclusive Duty to Company. The Managers shall not be required to manage the Company as their sole and exclusive function and the Managers may have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right, by virtue of this Operating Agreement, to share or participate in such other investments or activities of the Manager or to the income or proceeds derived therefrom. The Manager shall incur no liability to the Company or to any of the Members as a result of engaging in any other business or venture.

5.06 Bank Accounts. The Managers may from time to time open bank accounts in the name of the Company and the Manager(s) shall be the sole signatories thereon, unless the Managers determine otherwise.

5.07 Indemnity of the Managers. To the fullest extent permitted under O.C.G.A. ' 14-11-306, the Company shall indemnify the Managers and make advances for expenses to them with respect to such matters to the extent permitted under applicable law.

5.08 Resignation. Any Manager of the Company may resign at any time by giving written notice to the Members of the Company. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

5.09 Removal. At a meeting called expressly for that purpose, all or any lesser number of Managers may be removed at any time, with or without cause, by the affirmative vote of Members holding a Majority Interest. The removal of a Manager who is also a member shall not affect the Manager's right as a Member and shall not constitute a withdrawal of a Member.

5.10 Vacancies. Any vacancy occurring for any reason in the number of Managers of the Company shall be filled by the affirmative vote of Members holding a Majority Interest. Any Manager's position to be filled by reason of an increase in the number of Managers shall be filled by an election at an annual meeting or at a special meeting of Members called for that purpose or by the written consent of Members holding a Majority Interest. A Manager elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office and shall hold office until the expiration of such term and until his successor shall be elected and shall qualify or until his earlier death, resignation or removal. A Manager chosen to fill a position resulting from an increase in the number of Managers shall hold office until the next annual meeting of Members and until his successor shall be elected and shall qualify or until his earlier death, resignation or removal.

5.11 Salaries. No Manager shall receive a salary from the Company for services rendered to the Company hereunder without the written consent of Members holding a Majority Interest.

ARTICLE VI

RIGHTS AND OBLIGATIONS OF MEMBERS

6.01 Limitation on Liability. Each Member's liability shall be limited as set forth in this Operating Agreement, the Georgia Act and other applicable law.

6.02 No Liability for Company Obligations. No Member will have any personal liability for any debts, obligations, liabilities or losses of the Company beyond his respective Contributions, except as provided by law.

6.03 List of Members. Upon written request of any Member, the Members shall provide a list showing the names, addresses and Membership Interest and Economic Interest of all Members and the other information required by O.C.G.A. ' 14-11-313 and maintained pursuant to Section 11.02.

6.04 Priority and Return of Capital. Except as may be expressly provided in Article IX, no Member or Economic Interest Owner shall have priority over any other Member or Economic Interest Owner, either as to the return of Capital Contributions or as to Net Profits, Net Losses or distributions. This Section shall not apply to loans (as distinguished from Capital Contributions) which a Member has made to the Company.

ARTICLE VII

MEETINGS OF MEMBERS

7.01 Special Meetings. Special meetings of the Members, for any purpose or purposes, unless otherwise prescribed by the Georgia Act, may be called by Members holding at least twenty five percent (25%) of the Ownership Interest.

7.02 Place of Meetings. The Members may designate any place, within the State of Georgia, as the place of meeting for any meeting of the Members. If no designation is made or if a special meeting be otherwise called, the place of meeting shall be the principal executive office of the Company in the State of Georgia.

7.03 Notice of Meetings. Written notice stating the place, day and hour of the meeting and the purpose for which the meeting is called shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the Members calling the meeting, to each Member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered two (2) calendar days after being deposited in the United States mail, addressed to the Member at his address as it appears on the books of the Company, with postage thereon prepaid.

7.04 Meeting of all Members. If all the Members shall meet at any time and place, either within or outside the State of Georgia and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice and at such meeting any lawful action may be taken.

7.05 Record Date. For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof or Members entitled to receive payment of any distribution or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declaring such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof.

7.06 Quorum. Members holding a Majority Interest represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any such meeting, a majority of the Ownership Interests so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice. However, if at the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member of record entitled to vote at the meeting. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal during such meeting of that number of Ownership Interests whose absence would cause less than a quorum to be present.

7.07 Manner of Acting. If a quorum is present, the affirmative vote of Members holding a Majority Interest shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the Georgia Act, by the Articles of Organization or by this Operating Agreement. Unless otherwise expressly provided herein or required under applicable law, Members who have an interest (economic or otherwise) in the outcome of any particular matter upon which the Members vote, may vote upon any such matter and their Ownership Interest vote shall be counted in the determination of whether the requisite matter was approved by the Members.

7.08 Proxies. At all meetings of Members a Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact. Such proxy shall be filed with the Company before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

7.09 Action by Members Without a Meeting. Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by the necessary Members entitled to vote and required to approve such action and delivered to the Company for inclusion in the minutes or for filing with the Company records. Action taken under this Section is effective when the Members required to approve such action have signed the consent, unless the consent specifies a different effective date. The record date for determining Members entitled to take action without a meeting shall be the date the first Member signs a written consent.

7.10 Waiver of Notice. When any notice is required to be given to any Member, a waiver thereof in writing signed by the person entitled to such notice, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice.

ARTICLE VIII

CONTRIBUTIONS TO THE COMPANY AND CAPITAL ACCOUNTS

8.01 Members' Capital Contributions. Each Member shall contribute such amount as is set forth opposite their names below as its share of the Initial Capital Contribution.

<u>MEMBER</u>	<u>INITIAL CAPITAL CONTRIBUTION</u>
SHARP LAND HOLDINGS, INC.	\$1,000.00

8.02 Additional Contributions. Except as set forth in Section 8.01, no Member shall be required to make any Capital Contributions. To the extent unanimously approved by the Members, the Members may be permitted to make additional Capital Contributions if and to the extent they so desire and if the Members determine that such additional Capital Contributions are necessary or appropriate in connection with the conduct of the Company's business. In such event, the Members shall have the opportunity, but not the obligation, to participate in such additional Capital Contributions on a pro rata basis in accordance with their Ownership Interests. Any Member who contributes additional funds shall be entitled to be repaid said additional contributions, plus interest at the rate of twelve percent (12%) per annum, prior to any funds being distributed to the Members who have not made such additional Capital Contributions.

8.03 Withdrawal or Reduction of Members' Contributions to Capital.

- (a) A Member shall not receive out of the Company's property any part of such Member's Capital Contribution until all liabilities of the Company, except liabilities to Members on account of their Capital Contributions, have been paid or there remains property of the Company sufficient to pay them.
- (b) A Member, irrespective of the nature of such Member's Capital Contribution, has only the right to demand and receive cash in return for such Capital Contribution.

ARTICLE IX

DISTRIBUTIONS TO MEMBERS

9.01 Distributions. All distributions of cash or other property shall be made to the Members on a pro rata basis in accordance with the Ownership Interests of the Members.

9.02 Limitation Upon Distributions. No distribution shall be made to Members if prohibited by O.C.G.A. '14-11-407.

9.03 Interest On and Return of Capital Contributions. No Member shall be entitled to interest on its Capital Contribution or to return of its Capital Contribution, except as otherwise specifically provided for herein.

9.04 Loans to Company. Nothing in this Operating Agreement shall prevent any member from making secured or unsecured loans to the Company by agreement with the Company.

ARTICLE X

ALLOCATIONS

10.01 Net Losses. After making any allocations required by Section 10.03 hereof and subject to the last two sentences of this Section 10.01, Net Losses for each Fiscal Year shall be allocated among the Members in accordance with their respective Ownership Interests. Notwithstanding the foregoing, in no event shall the Net Losses allocated to any Member cause the Member to have a negative adjusted Capital Account balance or increase a negative adjusted Capital Account balance for any Member. All Net Losses in excess of the limitation set forth in this sentence shall be allocated to the other Members in accordance with their respective positive adjusted Capital Account balances.

10.02 Net Profits. After making any allocations required by Section 10.03 hereof, Net Profits for each Fiscal Year shall be allocated among the Members in accordance with their respective Ownership Interests.

10.03 Special Allocations. Prior to making any allocations pursuant to Section 10.01 or 10.02 hereof, the following special allocations shall be made each Fiscal Year, to the extent required, in the following order:

- (a) Minimum Gain Chargeback; Qualified Income Offset. Items of Company income and gain shall be allocated for any Fiscal Year to the extent and in an amount sufficient to satisfy, the Aminimum gain chargeback@ requirements of Section 1.704-(f) and (i)(4) of the Regulations and the Aqualified income offset@ requirement of Section 1.704-1(b)(2)(ii)(d)(3) of the Regulations.
- (b) Member Nonrecourse Deductions and Nonrecourse Deductions. Member Nonrecourse Deductions shall be allocated to the Member who bears the economic risk of loss associated with such deductions, in accordance with Section 1.704-2(i) of the Regulations. Nonrecourse Deductions shall be allocated in accordance with the Ownership Interest of the Member.
- (c) Certain Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Section 734(b) of the Code is required pursuant to Section 1.704-1(b)(2)(iv)(m)(4) of the Regulations to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with the requirements of Section 1.704(b)(2)(iv)(m)(4) of the Regulations.

- (d) Curative Allocations. The allocations set forth in the last sentence of Section 10.01 hereof and Sections 10.03(a) through 10.03(c) hereof (the Regulatory Allocations) are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to Section 10.03(d). Therefore, notwithstanding any other provision of this Article X (other than the Regulatory Allocations), such offsetting special allocations of Company income, gain, loss or deduction shall be made in whatever manner the Managers determine appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to Sections 10.01 (without regard to the last two sentences thereof), 10.02 and 10.03(e) hereof. In making such allocations, the Managers shall take into account future Regulatory Allocations under Section 10.03(a) hereof that, although not yet made, are likely to be made in the future and offset other Regulatory Allocations previously made under Section 10.03(b) hereof.
- (e) Special Allocations Upon Liquidation of the Company. With respect to the Fiscal Year in which occurs the final liquidation of the Company in accordance with Article XIV hereof or in which there is a sale or other disposition of all or substantially all of the assets of the Company, if, after tentatively making all allocations pursuant to this Agreement other than this Section 10.03(e), the positive adjusted Capital Account balances of the Members do not equal the amounts that the Members would receive if all remaining Company assets were distributed to them pursuant to Section 10.01 hereof, then items of Company income, gain, loss and deduction shall be specially allocated among the Members pursuant to this Section 10.03(e) in such amounts and priorities as are necessary so that after making all allocations pursuant to this Article X, the positive Adjusted Capital Account balances of the Members equal the amounts that would be so distributed to each Member.

10.04 Other Allocation Rules.

- (a) Tax/Book Differences. If the Book Value of any Company property, pursuant to Section 1.704-1(b)(2)(iv)(d) or (f) of the Regulations and the definition of Book Value in Article I hereof, differs from the adjusted tax basis of such property, then allocations with respect to such property for income tax purposes shall be made in a manner which takes into consideration differences between such Book Value and such adjusted tax basis in accordance with Section 704(c) of the Code, the Regulations promulgated thereunder and Section 1.704-1(b)(2)(iv)(f)(4) of the Regulations. Such allocations for income tax purposes shall be made using such method(s) permitted pursuant to such provisions which the Managers, in their sole and absolute discretion, select. Such tax allocations shall not affect or in any way be taken into account in computing, any Member's Capital Account or share of Net Profits, Net Losses or other items or distributions pursuant to any provision of this Agreement. Any allocations with respect to any such property for purposes of

maintaining the Members' Capital Accounts and the determination of Net Profits and Net Losses, shall be made by reference to the Book Value of such property and not its adjusted tax basis, all in accordance with Section 1.704-1(b)(2)(iv) (g) of the Regulations.

- (b) Allocations of Items. Any allocation to a Member of Net Profits or Net Losses shall be treated as an allocation to such Member of the same share of each item of income, gain, loss or deduction that is taken into account in computing Net Profits or Net Losses. Unless otherwise specified herein to the contrary, any allocation to a Member of items of Company income, gain, loss, deduction or credit (or item thereof) shall be treated as an allocation of a pro rata portion of each item of Company income, gain, loss, deduction or credit (or item thereof).
- (c) Consent and Tax Reporting. The Members are aware of the income tax consequences of the allocations made by this Article X and hereby agree to be bound by the provisions of this Article X in reporting their portion of Company income and loss for income tax purposes.
- (d) Treatment of the Company as a Disregarded Entity for Income Tax Purposes. The Members intend that the Company shall be treated as a disregarded entity for federal and state income tax purposes and neither the Members nor the Managers shall take any action to change such treatment, unless and until a unanimous vote of the Members determines that the tax status of the Company shall be changed.

ARTICLE XI

BOOKS AND RECORDS

11.01 Accounting Period. The Company's accounting period shall be the calendar year.

11.02 Records, Audits and Reports. At the expense of the Company, the Members shall maintain records and accounts of all operations and expenditures of the Company. The Company shall keep at its principal place of business the following records:

- (a) A current list of the full name and last known address of each Member and Economic Interest Owner;
- (b) Copies of records to enable a Member to determine the relative voting rights;
- (c) A copy of the Articles of Organization of the Company and all amendments thereto;
- (d) Copies of the Company's federal, state and local income tax returns and reports, if any, for the three most recent years;
- (e) Copies of the Company's written Operating Agreement, together with any amendments thereto; and

- (f) Copies of any financial statements of the Company for the three most recent years.

11.03 Tax Returns. The Members shall cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns or pertinent information therefrom, shall be furnished to the Members within a reasonable time after the end of the Fiscal Year.

ARTICLE XII

TRANSFERABILITY

12.01 General. Except as otherwise specifically provided herein, neither a Member nor an Economic Interest Owner shall have the right to:

- (a) sell, assign, pledge, hypothecate, transfer, exchange or otherwise transfer for consideration (collectively Asell@); or
- (b) gift, bequeath or otherwise transfer for no consideration (whether or not by operation of law, except in the case of bankruptcy)

all or any part of its Membership Interest or Economic Interest.

12.02 Transferee Not Member in Absence of Unanimous Consent.

- (a) Notwithstanding anything contained herein to the contrary, if all of the remaining Members do not approve by unanimous written consent the proposed sale or gift of a Member's Membership Interest or Economic Interest to a transferee or donee which is not a Member immediately prior to the sale or gift, then the proposed transferee or donee shall have no right to participate in the management of the business and affairs of the Company or to become a Member. The transferee or donee shall be merely an Economic Interest Owner. No transfer of a Member's Economic Interest which has not been approved by unanimous written consent of the Members, shall be effective unless and until written notice (including the name and address of the proposed transferee or donee and the date of such transfer) has been provided to the Company and the nontransferring Member(s).
- (b) Upon and contemporaneously with any sale or gift of a Member's Economic Interest in the Company which does not at the same time transfer the balance of the right associated with the Economic Interest transferred by the Member (including, without limitation, the rights of the Member to participate in the management of the business and affairs of the Company), the Company shall purchase from the Member and the Member shall sell to the company for a purchase price of One Hundred Dollars (\$100.00), all remaining rights and interest retained by the Member which immediately prior to such sale or gift were associated with the transferred Economic Interest.

ARTICLE XIII

ADDITIONAL MEMBERS

From the date of the formation of the Company, any Person or Entity acceptable to the Members by their unanimous vote thereof may become a Member of this Company either by the issuance of the Company of Membership Interests for such consideration as the Members by their unanimous votes shall determine or as a transferee of a Member's Membership Interest or any portion thereof, subject to the terms and conditions of this Operating Agreement. No new Members shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company. The Managers may, at their option, at the time a Member is admitted, close the Company books (as though the Company's tax year had ended) or make pro rata allocations of loss, income and expense deductions to a new Member for that portion of the Company's tax year in which a Member was admitted in accordance with the provisions of 706(d) of the Code and the Treasury Regulations promulgated thereunder.

ARTICLE XIV

DISSOLUTION AND TERMINATION

14.01 Dissolution.

- (a) The Company shall be dissolved upon the occurrence of any of the following events:
 - (1) when the period fixed for the duration of the Company shall expire pursuant to Section 2.05 hereof; or
 - (2) by the written agreement of Members holding a Majority Interest.
- (b) If a Member who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the Member's executor, administrator, guardian, conservator or other legal representative may exercise all of the Member's rights for the purpose of settling his estate or administering his property.
- (c) Except as expressly permitted in this Operating Agreement, a Member shall not voluntarily withdraw or take any other voluntary action which directly causes a Withdrawal Event. Unless otherwise approved by Members owning a Majority Interest, a Member who withdraws (a AWithdrawing Member@) or whose Membership Interest is otherwise terminated by virtue of a Withdrawal Event, regardless of whether such Withdrawal Event was the result of a voluntary act by such Member, shall not be entitled to receive any distributions to which such Member would not have been entitled had such Withdrawing Member remained a Member. Except as otherwise expressly provided herein, a Withdrawing Member shall become an Economic Interest Owner. Damages for breach of this Section 14.01

shall be monetary damages only and such damages may be offset against distributions by the Company to which the Withdrawing Member would otherwise be entitled.

14.02 Effect of Dissolution. Upon dissolution, the Company shall cease to carry on its business, except as permitted by O.C.G.A. ' 14-11-605. Upon dissolution, the Members shall file a statement of commencement of winding up pursuant to O.C.G.A. ' 14-11-606 and publish the notice permitted by O.C.G.A. ' 14-11-608.

14.03 Winding Up, Liquidation and Distribution of Assets.

- (a) Upon dissolution, an accounting shall be made by the Company's independent accountants of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Member(s) shall immediately proceed to wind up the affairs of the Company.
- (b) If the Company is dissolved and its affairs are to be wound up, the Member(s) shall:
 - (1) sell or otherwise liquidate all of the Company's assets as promptly as practicable (except to the extent the Member(s) may determine to distribute any assets to the Members in kind);
 - (2) allocate any profit or loss resulting from such sales to the Members and Economic Interest Owners in accordance with Article X hereof;
 - (3) discharge all liabilities of the Company, including liabilities to Members and Economic Interest Owners who are creditors, to the extent otherwise permitted by law, other than liabilities to Members and Economic Interest Owners for distributions and establish such reserves as may be reasonably necessary to provide for contingent liabilities of the Company; and
 - (4) distribute the remaining assets in the following order:
 - (i) If any assets of the Company are to be distributed in kind, the net fair market value of such assets as of the date of dissolution shall be determined by independent appraisal or by agreement of the Members. Such assets shall be deemed to have been sold as of the date of dissolution for their fair market value and the Capital Accounts of the Members and Economic Interest Owners shall be adjusted pursuant to the provisions of this Operating Agreement to reflect such deemed sale.
 - (ii) The positive balance (if any) of each Member's and Economic Interest Owner's Capital Account (as determined after taking into account all Capital Account adjustments for the Company's taxable year during which the liquidation occurs) shall be distributed to the Members,

either in cash or in kind, as determined by the Members, with any assets distributed in kind being valued for this purpose at their fair market value. Any such distributions to the Members in respect of their Capital Accounts shall be made in accordance with the time requirements set forth in Section 1.704-1(b)(2)(ii)(b)(2) of the Treasury Regulations.

- (c) Notwithstanding anything to the contrary in this Operating Agreement, upon a liquidation within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a deficit Capital Account (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Member shall have no obligation to make any Capital Contribution and the negative balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other Person for any purpose whatsoever.
- (d) Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.
- (e) The Members shall comply with any requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets.

14.04 Certificate of Termination. When all debts, liabilities and obligations have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets have been distributed to the Members, a Certificate of Termination may be executed and filed with the Secretary of State of Georgia in accordance with O.C.G.A. ' 14-11-610.

14.05 Return of Contribution Nonrecourse to Other Members. Except as provided by law or as expressly provided in this Operating Agreement, upon dissolution, each Member shall look solely to the assets of the Company for the return of its Capital Contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the cash contribution of one or more Members, such Member or Members shall have no recourse against any other Member.

ARTICLE XV

MISCELLANEOUS PROVISIONS

15.01 Investment Representations.

- (a) In connection with the purchase of the Membership Interests in the Company, each of the Members hereby represents and warrants as follows:
 - (1) The Membership Interests are being purchased for the Member's own account without the participation of any other person, with the intent of holding the Membership Interests for investment and without the intent of participating,

directly or indirectly, in a distribution of the Membership Interests and not with a view to or for resale in connection with, any distribution of the Membership Interests or any portion thereof, nor is the Member aware of the existence of any distribution of the Company's securities;

- (2) The Member is not acquiring the Membership Interests based upon any representation, oral or written, by any person with respect to the future value of or income from, the Membership Interests but rather upon an independent examination and judgment as to the prospects of the Company; and
 - (3) The Membership Interests were not offered to the Member by means of publicly disseminated advertisements or sales literature, nor is the Member aware of any offers made to other persons by such means.
- (b) Each of the Members acknowledges that he must continue to bear the economic risk of the investment in the Membership Interests for an indefinite period and recognizes that the Membership Interests will be (i) sold without registration under any state or federal law relating to the registration of securities for sale; (ii) issued and sold in reliance on the exemption from registration under the Georgia Securities Act provided by O.C.G.A. Section 10-5-9(13) of the Georgia Securities Act; (iii) issued and sold in reliance on similar exemptions under other State laws; and (iv) issued and sold in reliance upon the exemption from registration under the Securities Act of 1933 (the 1933 Act) provided by Section 4(2) of the 1933 Act.
- (c) Each of the Members agrees as follows:
- (1) The Membership Interests will not be offered for sale, sold or transferred other than pursuant to (i) an effective registration under the Georgia Securities Act or in a transaction which is otherwise in compliance with the Georgia Securities Act; (ii) an effective registration under the 1933 Act or in a transaction otherwise in compliance with the 1933 Act; and (iii) evidence satisfactory to the Company of compliance with the applicable securities laws of other jurisdictions. The Company shall be entitled to rely upon an opinion of counsel satisfactory to it with respect to compliance with the above laws;
 - (2) The Company will be under no obligation to register the Membership Interests or to comply with any exemption available for sale of the Membership Interests without registration and the information or conditions necessary to permit routine sales of securities of the Company under Rule 144 of the 1933 Act are not now available and no assurance has been given that they will become available. The Company is under no obligation to act in any manner so as to make Rule 144 available with respect to the Membership Interests;

- (3) The Company may, if it so desires, refuse to permit the transfer of the Membership Interests unless the request for transfer is accompanied by an opinion of counsel acceptable to the Company to the effect that neither the sale nor the proposed transfer will result in any violation of the 1933 Act or the securities laws of any other jurisdiction; and
- (4) A legend indicating that the Membership Interests have not been registered under such laws and referring to the restrictions on transferability and sale of the Membership Interests may be placed on any certificate or certificates delivered to the Members or any substitute therefor and any transfer agent of the Company may be instructed to require compliance therewith.

15.02 Books of Account and Records. Proper and complete records and books of account shall be kept or shall be caused to be kept by the Members in which shall be entered fully and accurately all transactions and other matters relating to the Company's business in such detail and completeness as is customary and usual for businesses of the type engaged in by the Company. The books and records shall be at all times maintained at the principal executive office of the Company and shall be open to the reasonable inspection and examination of the Members or Economic Interest Owners or their duly authorized representatives during reasonable business hours.

15.03 Application of Georgia Law. This Operating Agreement and the application or interpretation hereof, shall be governed exclusively by its terms and by the laws of the State of Georgia and specifically the Georgia Act.

15.04 No Action for Partition. No Member or Economic Interest Owner has any right to maintain any action for partition with respect to the property of the Company.

15.05 Execution of Additional Instruments. Each Member hereby agrees to execute such other and further statements of interest and holdings, designations, powers of attorney and other instruments necessary to comply with any laws, rules or regulations.

15.06 Construction. Whenever the singular number is used in this Operating Agreement and when required by the context, the same shall include the plural and vice versa and the masculine gender shall include the feminine and neuter genders and vice versa.

15.07 Headings. The headings in this Operating Agreement are inserted for convenience only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Operating Agreement or any provision hereof.

15.08 Waivers. The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Operating Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

15.09 Rights and Remedies Cumulative. The rights and remedies provided by this Operating Agreement are cumulative and the use of any one right or remedy by any party shall not

preclude or waive the right to use any or all other remedies. Such rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

15.10 Severability. If any provision of this Operating Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Operating Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

15.11 Heirs, Successors and Assigns. Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Operating Agreement, their respective heirs, legal representatives, successors and assigns.

15.12 Creditors. None of the provisions of this Operating Agreement shall be for the benefit of or enforceable by any creditors of the Company.

15.13 Counterparts. This Operating Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

15.14 Federal Income Tax Elections. All elections required or permitted to be made by the Company under the Code shall be made by the Members as determined in their sole discretion. For all purposes permitted or required by the Code, the Members shall constitute and appoint one (1) Member as the Tax Matters Member and if that Member should cease to be a Member, then such other Member as shall be designated by the Members by majority vote.

15.15 Certification of Non-Foreign Status. In order to comply with ' 1445 of the Code and the applicable Treasury Regulations thereunder, in the event of the disposition by the Company of a United States real property interest as defined in the Code and Treasury Regulations, each Member shall provide to the Company, an affidavit stating, under penalties of perjury, (i) the Member's address, (ii) United States taxpayer identification number, and (iii) that the Member is not a foreign person as that term is defined in the Code and Treasury Regulations. Failure by any Member to provide such affidavit by the date of such disposition shall authorize the Company to withhold ten percent (10%) of each such Member's distributive share of the amount realized by the Company on the disposition.

15.16 Notices. Any and all notices, offers, demands or elections required or permitted to be made under this Agreement (ANotices@) shall be in writing, signed by the party giving such Notice and shall be deemed given and effective (i) when hand-delivered, or (ii) on the third (3rd) business day (which term means a day when the United States Postal Service is making regular deliveries of mail on all of its regularly appointed week-day rounds in Georgia) following the day, as evidenced by proof of mailing, upon which such notice is deposited, postage prepaid, certified mail, return receipt requested, with the Postal Service and addressed to the other party at such party's respective address as set forth herein or at such other address as the other party may hereafter designate by Notice.

15.17 Amendments. Any amendment to this Operating Agreement shall only be made by the unanimous vote or consent of all of the Members of the Company and shall be made in writing and signed by all Members.

15.18 Invalidity. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and the Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted. If any particular provision herein is construed to be in conflict with the provisions of the Georgia Act, the Georgia Act shall control and such invalid or unenforceable provisions shall not affect or invalidate the other provisions hereof and this Agreement shall be construed in all respects as if such conflicting provision were omitted.

15.19 Banking. All funds of the Company shall be deposited in its name in an account or accounts as shall be designated from time to time by the Members. All funds of the Company shall be used solely for the business of the Company. All withdrawals from the Company bank accounts shall be made only upon check signed by the Members or by such other persons as the Members may designate from time to time.

15.20 Arbitration. Any dispute, controversy or claim arising out of or in connection with or relating to, this Agreement or any breach or alleged breach hereof shall, upon the request of any party involved, be submitted to and settled by, arbitration in the City of Atlanta, State of Georgia, before a single arbitrator, pursuant to the commercial arbitration rules then in effect of the American Arbitration Association or at any time or at any other place or under any other form of arbitration mutually acceptable to the parties so involved. Any award rendered shall be final and conclusive upon the parties and a judgment thereon may be entered in the highest court of the forum, state or federal, having jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the cost of its own experts, evidence and counsel's fees, except that in the discretion of the arbitrator, any award may include the cost of a party's counsel if the arbitrator expressly determines that the party against whom such award is entered has caused the dispute, controversy or claim to be submitted to arbitration as a dilatory tactic.

15.21 Determination of Matters Not Provided For In this Agreement. The Members shall decide any questions arising with respect to the Company and this Agreement which are not specifically or expressly provided for in this Agreement.

15.22 Further Assurances. The Members each agree to cooperate and to execute and deliver in a timely fashion any and all additional documents necessary to effectuate the purposes of the Company and this Operating Agreement.

15.23 Time. Time is of the essence of this Agreement and to any payments, allocations and distributions specified under this Operating Agreement.

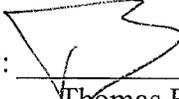
15.24 Entire Agreement. This Agreement supersedes all prior discussions, negotiations and agreements between the parties with respect to the subject matter hereof. This Agreement constitutes the entire agreement between the parties by which they agree to be bound.

IN WITNESS WHEREOF, the Members hereto have executed this Operating Agreement on the 20th day of October, 2009 to be effective as of the formation date of the Company on the 9th day of June, 2006. This Operating Agreement shall revoke and supersede the prior version of this Operating Agreement which contained a scrivener's error in that Sharp Holdings, Inc. was listed as the sole Member of the Company as opposed to Sharp Land Holdings, Inc.

MEMBERS:

SHARP LAND HOLDINGS, INC.

By: _____



Thomas E. Sharp,
President