



## **CONSULTANT AGREEMENT**

This Agreement, dated this 28<sup>th</sup> day of May, 2021 by and between Perspective Engineering, Inc. ("Consultant"), a Georgia corporation, having a principal place of business at 4255 Wade Green Road, Suite 625, Kennesaw, Georgia 30144 and The City of Cartersville Public Works ("Client"), a Georgia entity, having a principal place of business at 330 S. Erwin Street, Cartersville, Georgia 30120.

### **WITNESSETH**

WHEREAS, Consultant wishes to provide certain professional services and deliverables (the "Services" and the "Deliverables") as set forth in Exhibit 'A', which is attached hereto and made a part hereof; and

WHEREAS, Client wishes to procure the Services and Deliverables from Consultant, for good and valuable consideration, as more fully described in Exhibit 'A' attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the parties hereto agree as follows:

#### **1. SCOPE OF WORK.**

- (a) Consultant agrees to provide the Services and supply the Deliverables described in Exhibit 'A' which is attached hereto.
- (b) In the event that additional assignments are agreed upon between the Consultant and the Client, the parties may execute addendums to this Agreement describing the additional assignments, including the fees, schedule and deliverables for that specific assignment. For additional assignments less than \$5,000.00, a verbal authorization may be issued by the Client to authorize fees to accrue at an hourly rate as shown in the hourly rate schedule in Exhibit 'A'.

#### **2. TERM/TERMINATION.**

This Agreement shall remain in effect until the completion by Consultant of all services specified in all Appendices hereto.

This Agreement may be terminated by either party on 30 days prior written notice. In the event of any such termination, Consultant shall be paid for all Services that it performed prior to such termination, including any authorized Services performed during the notice period. If certain services defined in Exhibit 'A' are incomplete

at the time of termination, then the Consultant shall be paid for the estimated percentage of work complete for each service proposed in Exhibit 'A'.

**3. PAYMENT FOR SERVICES.**

Client agrees to pay Consultant in accordance with the Proposed Fees set forth in Exhibit 'A'. Consultant shall submit to the Client an itemized invoice for the Services rendered as set forth on Exhibit 'A' along with authorized expenses incurred. Invoices not paid within 30 days shall be subject to immediate action to stop current work on the project and forward any outstanding amount for collections. The Client agrees that any expenses, including attorney fees, related to collection of any outstanding invoices shall be paid by the Client. The Client also agrees that after 30 days the outstanding fees shall be subject to a rate of interest equal to 2% per month or any portion thereof. The Client agrees that if the Consultant must file for collections, then the Client shall be responsible for paying the Consultant for time spent related to such filings or time spent in court based on the attached hourly rate schedule. The Client also agrees that if the client is in default of payment for services under this agreement, then the Client shall also reimburse the Consultant for all legal expenses related to the collection of said fees.

**4. INDEPENDENT CONTRACTOR.**

(a) Consultant shall perform all Services hereunder as an independent contractor, and nothing contained herein shall be deemed to create any association, partnership, joint venture, or relationship of principal and agent or master and servant, or employer and employee between the parties hereto or any affiliates or subsidiaries thereof, or to provide either party with the right, power or authority, whether express or implied, to create any such duty or obligation on behalf of the other party.

(b) Consultant also agrees not to be treated, or seek to be treated, as an employee of Client for any purpose, including for the purposes of fringe benefits provided by Client, or for disability income, social security taxes and benefits, Federal unemployment compensation taxes, State unemployment insurance benefits and Federal income tax withholding at sources.

**5. PROPRIETARY RIGHTS.**

Client agrees that all digital files and other intellectual material used to produce the deliverables described herein shall remain property of the Consultant. However, the Consultant shall share this information with the Client or sub-contractors of the Client upon request. The Client agrees that use of any digital files or data is strictly at the Client's risk and the Consultant assumes no liability for damages arising from use of digital files. Furthermore, it is the responsibility of the Client to verify that other sub-contractors have the most current information when using digital data provided by the Consultant.

**6. INDEMNIFICATION.**

It is agreed that the consultant's professional services under this agreement do not extend to or include the review or site observation of the construction contractor's work or performance. The consultant recommends that the client enter into a separate agreement with the consultant to provide these services to reduce liability and to ensure that the project is constructed as intended by the construction drawings. It is further agreed that the client will defend, indemnify, and hold harmless the consultant from any claim or suit whatsoever, including but not limited to all payments and expenses, including all attorney fees and cost of defense or other cost involved arising from or alleged to have arisen from the contractor's performance or the failure of the contractor's work to conform to the design intent and the contract documents. The consultant agrees to be responsible for the negligent acts, error or omissions of the consultant's own employees.

**7. LIMITATION OF LIABILITIES.**

The liability of the Consultant shall be limited to the amount of fees paid under this agreement.

**8. GENERAL PROVISIONS.**

- (a) Paragraph Headings. Paragraph headings are for convenience only and shall not be a part of the Terms and Conditions of this Agreement.
- (b) Waiver. Failure by either party at any time to enforce any obligation by the other party, to claim a breach of any term of this Agreement or to exercise any power agreed to hereunder will not be construed as a waiver of any right, power or obligation under this Agreement, will not affect any subsequent breach, and will not prejudice either party as regards any subsequent action.
- (c) Severability. If any term or provision of this Agreement should be declared invalid by a court of competent jurisdiction, the remaining terms and provisions of this Agreement shall remain unimpaired and in full force and effect.
- (d) Subcontractors. Client reserves the right of approval of all subcontractors, which approval will not be unreasonably withheld by Client. Approval of any subcontractor by Client shall not constitute the superseding or waiver of any right of Client to reject work which is not in conformance with its standards or this Agreement. Consultant shall be fully responsible for its subcontractors. Nothing in this Agreement shall be construed to create any contractual relationship between Client and any subcontractor, nor any obligation on the part of Client to pay or to see to the payment of any money due any subcontractor as may otherwise be required by law.
- (e) Assignment. Neither party may assign any rights or obligations under this Agreement without the prior consent of the other; provided, however, that Consultant may assign any rights or obligations to a subsidiary or affiliate or to any third party assuming all or part of the business function of the

Consultant unit which will produce the Services and Deliverables provided hereunder upon notice to Client.

- (f) Modification. No modification, waiver or amendment of any term or conditions of this Agreement shall be effective unless and until it shall be reduced to writing and signed by both of the parties hereto or their legal representatives. All legally required amendments will automatically become part of this Agreement ten days after notification to both parties.
- (g) Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the substantive laws of the State of Georgia. Both parties consent to jurisdiction and venue in the state and federal courts of the State of Georgia.
- (h) Complete Agreement. This Agreement together with Exhibit 'A' constitutes the entire agreement of the parties with respect to its subject matter and may not be modified in any way except by written agreement signed by both parties. There are no other agreements either express or implied with regard to this subject matter.


IN WITNESS WHEREOF, the parties hereto, through their duly authorized officers, have executed this Agreement as of the day and year first set forth below.

If you are in agreement with the terms, conditions, scope of service, and proposed fees please sign below and initial each page of this agreement. One original copy should be returned to The Consultant.

Client

Consultant

By: \_\_\_\_\_  
Print Name: Matt Santini

By:   
Print Name: Jerry L. Johnson

Title: Mayor  
Date: 6/3/2021

Title: President  
Date: 05/28/21

Attest: \_\_\_\_\_

Date: 6/03/2021

## Exhibit 'A'

### Scope of Work:

The scope of work proposed below is in reference to a proposed development located along the western right of way of Cartergrove Boulevard and south of the intersection with Old Alabama Road located in The City of Cartersville, Bartow County, Georgia. Exhibit 'B' shows a general location based on the previously approved preliminary plat for the proposed development. The total area of the proposed development is approximately 2.0 acres.

### **Task 1 – Preliminary Site Plan**

**\$950.00**

The scope of work proposed includes preparing a preliminary site plan based on the layout provided by the Client and attached as Exhibit C. The layout will be placed in the area shown on Exhibit B and will be laid out to access Cartergrove Boulevard. This layout will be based on existing survey data that was previously used to design the roadway. The client shall provide 2-foot contour data based on the latest Bartow County GIS system.

### **Proposed Fees and Payments**

The total lump sum fee proposed for consulting services under this is **\$950.00**. Additional fees may be approved on an hourly basis for work not specifically mentioned in these tasks but must be agreed to by both parties in writing prior to beginning additional work. Email notification and response acknowledging receipt of additional proposed fees will be sufficient written agreement of additional fees under this agreement.

The Consultant shall submit invoices monthly for the work completed. If a task is incomplete at the end of a month, then the Consultant shall estimate the percent completed during that month and the invoice shall include a proportionate amount of the partially completed task.

### **Exclusions / Assumptions**

1. Geotechnical testing is not included in this proposal.
2. Stormwater monitoring is not included in this proposal.
3. Stormwater sampling is not included in this proposal.
4. The Client shall reimburse the consultant for all cost associated with reprographics at a rate of 1.15 times the cost if performed with outside consultants. In house reprographics for wide format copies shall be reimbursed to the consultant at a rate equal to \$0.35 per square foot of media for 20# bond.
5. Permit fees are not included. The owner shall reimburse the consultant for all cost associated with permit and/or review fees charged by each reviewing entity at a rate of 1.15 times the cost.
6. Delineation of wetlands and state waters is not included in this proposal. Permitting related to the disturbance of USACOE wetlands or areas identified to be State Waters of the State of Georgia is not included in this permit. This proposal assumes that the impacts to wetlands on this site will be less than 0.1

acres and will not require additional permitting under a nationwide or individual permit through the Army Corp of Engineers. Should there be proposed impacts to wetlands greater than 0.1 acres, the Consultant can provide a separate proposal for providing services related to permitting these impacts.

7. Construction oversight is not included in this proposal. These services shall be provided under a separate agreement if requested by Client.
8. Stream Buffer variance applications to the Georgia EPD and/or Cherokee County are not included in this proposal. This proposal assumes that the site improvements will not exceed 100 linear feet at a single road crossing or 300 feet of cumulative impact to stream beds on site. If a variance for stream buffers is required, fees for that scope can be provided under a separate agreement.
9. Pre-Construction Notifications (PCN) to the ACOE are not included in this proposal. The Client is responsible for fees associated with any PCN that is required.
10. Identification and assessment of historic structures and/or archeological resources is not included in this proposal.
11. Surveying is not included in this proposal. The Client shall provide all necessary survey data required for the Consultant to complete the scope of work identified within this agreement.
12. Land disturbance permit drawings are not included in this submittal.
13. Any other service not specifically mentioned in this agreement is not included in this agreement.
14. As-built drawings are not included in this proposal. As-built certifications are not included.
15. GIS contour data is not included. Should the Consultant need to purchase this data from Bartow County, the Consultant shall be reimbursed for the cost plus 15%.

**Perspective Engineering - Hourly Rate Schedule\***

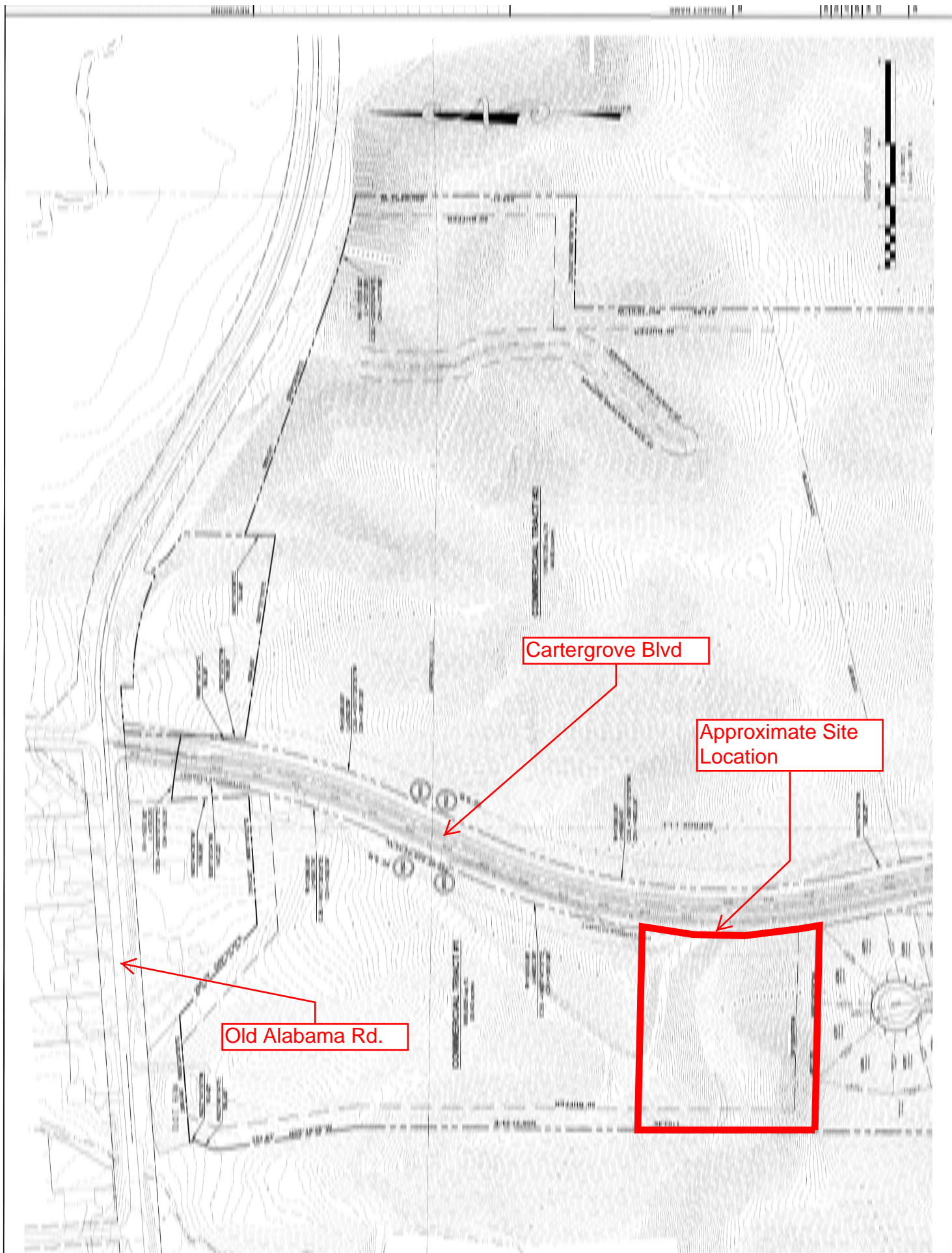
Professional Engineering Services for 2021

(For work authorized outside the scope of this agreement)

Principal Professional Engineer	\$ 195.00/Hr.
Registered Professional Engineer	\$ 165.00/Hr.
Engineer Intern (E.I.T.)	\$ 105.00/Hr.
Senior CAD Technician / Designer	\$ 95.00/Hr.
CAD Drafter	\$ 55.00/Hr.
Clerical / Admin Staff	\$ 45.00/Hr.

\*Proposed hourly rates are subject to change on an annual basis by no more than 10%. Consultant shall notify Client 30 days prior to any rate change.

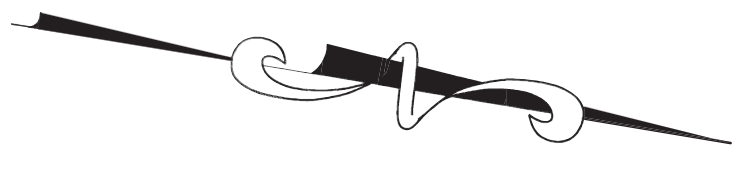
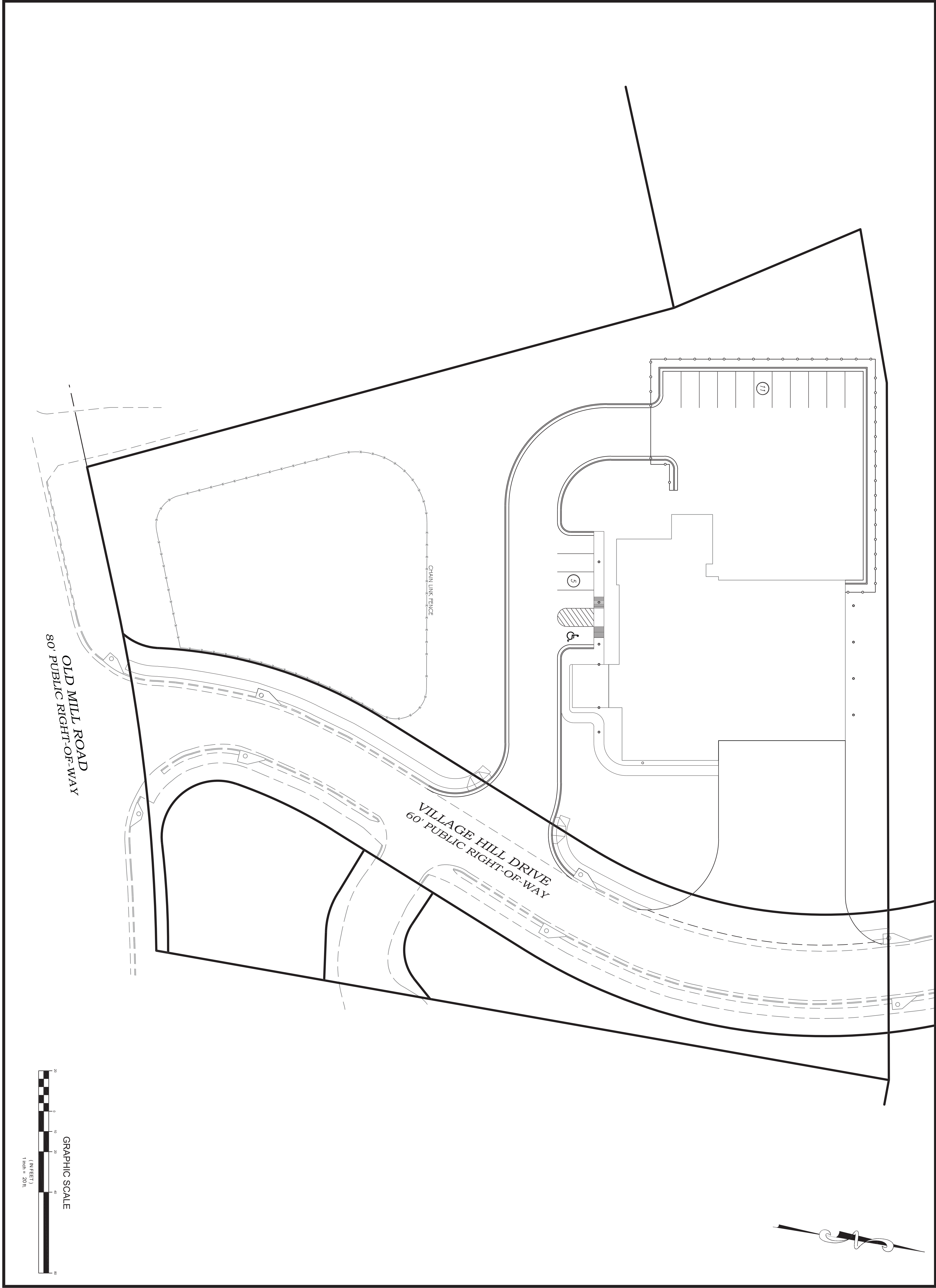
EXHIBIT B





# EXHIBIT C

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<p>SHEET TITLE: <b>SITE PLAN</b></p> <p>SHEET NO.: <b>C201</b></p>	<p><b>CARTERSVILLE FIRE STATION #3</b> LOCATED IN LAND LOTS 593 &amp; 594 4TH DISTRICT, 3RD SECTION CARTERSVILLE, GEORGIA</p>	<p>REVISIONS:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">NO.</th> <th style="width: 10%;">DATE</th> <th style="width: 85%;">DESCRIPTION</th> </tr> </thead> <tbody> <tr><td>1</td><td></td><td></td></tr> <tr><td>2</td><td></td><td></td></tr> <tr><td>3</td><td></td><td></td></tr> <tr><td>4</td><td></td><td></td></tr> <tr><td>5</td><td></td><td></td></tr> <tr><td>6</td><td></td><td></td></tr> </tbody> </table>	NO.	DATE	DESCRIPTION	1			2			3			4			5			6			<p>PROJECT NO.: 18095</p> <p>DATE: 8/3/18</p>
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