



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 10/07/2024

**Agenda Item:** 502 West Walnut Avenue Temporary Construction Easement

**Department:** Public Works

**Requested By:** Chad Townsend

**Reviewed/Approved by City Attorney?** Yes

**Cost:** N/A

**Funding Source if Not in Budget** -----

**Please Provide A Summary of Your Request, Including Background Information to Explain the Request:**

This request is to authorize the Temporary Construction Easement for constructing elements of the Valley Drive Channel Stabilization Project located within the property of 520 West Walnut Avenue.

The work is to be completed within 6 months from the date of easement authorization granted delays from weather or other conditions specified within the easement do not occur.

See attached temporary construction easement for additional information about the scope of work being performed.

[Space above this line for recording data.]

Please Record and Return To:

Jonathan Bledsoe  
The Minor Firm  
P.O. Box 2586  
Dalton, GA 30722-2586

## TEMPORARY CONSTRUCTION EASEMENT

Georgia, Whitfield County

This Temporary Construction Easement (this "Agreement") made this 19 day of September, 2024, between Valeria W. Watts Dynasty Trust, Grantor, the City of Dalton, Georgia, a municipal corporation of the State of Georgia, Grantee.

### WITNESSETH:

**WHEREAS**, Grantor is the owner of certain real property and improvements in the City of Dalton, Whitfield County, Georgia, as being more particularly described in Exhibit "A," attached hereto and made a part hereof by reference (the "Servient Property"); and

**WHEREAS**, Grantee is the owner of certain real property adjacent to the Servient Property and being more particularly described that certain public roadway known as **Valley Drive** (the "City Property"); and

**WHEREAS**, Grantee has constructed, or will construct, a stream bank stabilization on the located on the Servient Property (collectively the "Municipal Storm Sewer") and being located on that certain portion of the Servient Property more particularly described as the "Construction Easement" on the aerial drawing attached hereto as Exhibit "B," attached hereto and made a part hereof by reference (the "Storm Drainage Easement"); and

**WHEREAS**, Grantee desires non-exclusive temporary access and use of a portion of the Servient Property for a period set forth herein to perform certain construction activities for the public good and welfare and Grantor is willing to grant the requested access and use and subject to the terms hereof; and

**WHEREAS**, upon completion of the construction identified therein said construction easement

shall cease;

**NOW THEREFORE**, for and in consideration of the sum of Ten Dollars and other good and valuable considerations, in hand paid at and before the sealing and delivering of these presents, the receipt of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. *Recitals.* The parties hereto acknowledge that the above recitals to this Agreement are true and correct, and agree that the same are incorporated by reference into the body of this Agreement.

2. *Temporary Construction Easement.* Grantor, for and on behalf of his heirs, administrators, executors, legal representatives, and assigns, does hereby grant unto Grantee, a temporary, non-exclusive easement in, on, over, under, across, and through that Property shown on Exhibit "A" (the "Temporary Construction Easement"). The rights, benefits, privileges, and easement granted herein are for the purpose of the construction of the Municipal Storm Sewer (the "Construction Project"). Said Easement is temporary and shall begin upon execution of this Agreement and expire upon the earlier of six (6) months from the date of this Agreement or completion of the Construction Project ("Term").

3. *Extension of Term of Construction Easement.* The parties contemplate that the Construction Project can be completed during the Term. However, the parties acknowledge that the time for completion may be delayed due to weather or other conditions. Grantee shall have the right upon written notice to Grantor to extend the Temporary Construction Easement up to one additional Term in the event of delays in the Construction Project. Grantee shall notify Grantor of any reasonable delay in commencement or delay in completion due to weather or other delays as soon as reasonably possible. The parties shall reasonably cooperate to complete the project in a timely manner.

4. *Rights to Maintain.* Grantee shall have all rights, benefits, privileges, and easements necessary or convenient for the full enjoyment and use of the Temporary Construction Easement for the purposes described herein, including the right of entry into and upon the Servient Property for the purpose of access and ingress to and egress from the Storm Drainage Easement in order to effect the rights, privileges and easements set forth herein. Grantee shall have the right to cut away and keep clear, remove and dispose of all trees, undergrowth or other obstructions now or as may exist on the Temporary Construction Easement or Storm Drainage Easement, which removal is necessary for Grantee's use and enjoyment of easements, rights and privileges granted herein, and Grantee shall also have the right to conduct scientific, geotechnical, archaeological or other studies, investigation or other testing on or below the ground surface of the Temporary Construction Easement or Storm Drainage Easement. However, nothing in this Agreement shall obligate Grantee to take any such action, and Grantor hereby releases Grantee from any and all claims which in any way pertain to construction or maintenance of the Municipal Storm Sewer, Temporary Construction Easement, or Storm Drainage Easement.

5. *Covenants of Grantor.* Grantor waives all right to any further compensation for the use and enjoyment of the rights and privileges granted herein. Grantor does hereby covenant with the Grantee that Grantor is lawfully seized and possessed of the Servient Property, that it has a good and lawful right to convey said easement, rights and privileges granted herein. Grantor irrevocably binds itself to refrain from making any claim or demand, or to commence, cause, or permit to be prosecuted any action in law or equity against Grantee, or any other person, firm or entity claiming by or through Grantee on account of any damage that may occur or resulting from the installation or the operation of the Temporary Construction Easement.

6. *Running with the Land.* It is intended that each of the Easements, covenants, conditions, rights, and obligations set forth herein shall run with the land and create equitable servitudes in favor of the City Property benefited thereby, shall bind every person having any fee, leasehold, or other interest therein and

shall inure to the benefit of the respective Parties and their successors, assigns, heirs, and personal representatives.

7. *Jurisdiction and Venue* The laws of the State of Georgia shall govern the interpretation, validity, performance, and enforcement of this Agreement. The exclusive jurisdiction and venue for any action arising out of this Agreement shall be the Superior Court of Whitfield County, Georgia, and the parties hereby waive any and all objections or defenses to said jurisdiction and venue.

8. *Severability*. The invalidity of any one of the covenants, agreements, conditions or provisions of this Agreement, or any portion thereof, shall not affect the remaining portions thereof, or any part thereof, and this Agreement shall be modified to substitute in lieu of the invalid provision, a like and valid provision which reflects the agreement of the parties with respect to the covenant, agreement, condition or provision which has been deemed invalid.

9. *Time of Essence*. Except as otherwise specifically provided herein, time is of the essence of this Agreement.

10. *Entire Agreement*. This Agreement and any permanent Storm Drainage Easement executed in connection herewith contain the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby. In the event of any conflict between this Agreement and the permanent Storm Drainage Easement, the terms of the permanent Storm Drainage Easement shall control.

11. *Successors and Assigns*. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns.

12. *Counterparts*. This Agreement may be executed in several counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

**IN WITNESS WHEREOF**, this Agreement has been duly executed and sealed by Grantor the day and year first above written.

Signed, sealed and delivered  
In the presence of:

S. Graham Sheppard

Unofficial Witness

Brianne Cullen

Notary Public

My commission expires: August 15, 2028  
[Notarial Seal]

**GRANTOR:**

Valeria W. Watts

(Seal)

**Valeria W. Watts Dynasty Trust**



**RECEIPT ACKNOWLEDGED BY:**

Signed, sealed and delivered  
In the presence of:

\_\_\_\_\_

**GRANTEE:**

**City of Dalton, Georgia**

Unofficial Witness

\_\_\_\_\_  
Notary Public  
My commission expires:  
[Notarial Seal]

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

## EXHIBIT "A"

### Whitfield County Tax Parcel Information

#### Owner and Parcel Information

Parcel Number 12-237-06-014  
 Realkey 21705  
 Property Record Card [Click Here](#)  
 GIS Map [Map](#)  
 Owner Name WATTS VALERIA W MRS G H  
 Owner Address P O BOX 682  
 Owner Address 2  
 Owner Address 3  
 Owner City DALTON  
 Owner State GA  
 Owner Zip 30722  
 Latitude  
 Longitude

#### Property Information

Class Residential  
 Strata Lot  
 Tax District City of Dalton  
 Neighborhood 100000  
 Legal Description 502 WALNUT AVE  
 Total Acres 0.48  
 Zoning See GIS Map  
 GMD\Map Number 063  
 Subdivision  
 Subdivision Phase  
 Subdivision Section 0003  
 Subdivision Block  
 Subdivision Lot  
 Comments:

#### Appeals Information

Appeal Year 2008  
 Appeal Status Withdrawn  
 Appeal Year 2017  
 Appeal Status Resolved

#### Parcel Address

Parcel House Number 502  
 Parcel Street Extension  
 Parcel Street Direction W  
 Parcel Street Name WALNUT  
 Parcel Street Units  
 Parcel Street Type AVE

#### Current Fair Market Value Information

Previous 99361  
 Current 99361  
 Land 48000  
 Residential Improvement 51361  
 Commercial Improvement  
 Accessory Improvement  
 Conservation Use Value

#### Historical Fair Market Value Information

2019 99361  
 2018 99361  
 2017 95561

#### Exemption Information

Homestead 50  
 Preferential Year  
 Conservation Use Year  
 Historical Year  
 Historical Val 0  
 EZ year  
 EZ Val 0

### GIS Quickmap



**EXHIBIT "B"**

