

BOARD OF COUNTY COMMISSIONERS

Lee Hearn, Chairman
Edward Gibbons, Vice Chairman
Eric K. Maxwell
Charles D. Rousseau
Charles W. Oddo



FAYETTE COUNTY, GEORGIA

Steve Rapson, County Administrator
Dennis A. Davenport, County Attorney
Tameca P. Smith, County Clerk
Marlena Edwards, Chief Deputy County Clerk

140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

AGENDA

April 11, 2024

5:00 p.m.

Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2nd and 4th Thursday of each month at 5:00 p.m.

OFFICIAL SESSION:

Call to Order
Invocation and Pledge of Allegiance by Commissioner Eric Maxwell
Acceptance of Agenda

PROCLAMATION/RECOGNITION:

1. Recognition from the Veterans of Foreign Wars (VFW) of the Fayette County Fire & Emergency Services 2024 EMT of the Year, Captain Eric Williams, and Fayette County 911 2024 Communications Officer of the Year, Lauren Patterson. (page 3)

PUBLIC HEARING:

PUBLIC COMMENT:

Speakers will be given a five (5) minute maximum time limit to speak before the Board of Commissioners about various topics, issues, and concerns. Speakers must direct comments to the Board. Responses are reserved at the discretion of the Board.

CONSENT AGENDA:

2. Approval for staff to acquire all fee simple right-of-way, easements, and appraisals for the proposed 2017 SPLOST; Stormwater Category II, Tier II Project 168 Cross Creek Trail Culvert Replacement (21SAJ). (pages 4-6)
3. Approval for staff to acquire all fee simple right-of-way and easements for the proposed signalized intersection of Highway 85 and Highway 85 Connector (2004 SPLOST R-19/R-20). (pages 7-9)
4. Approval of the proposed 2024 Supplemental Local Maintenance & Improvement Grant (LMIG) project list for unincorporated Fayette County and for the Chairman to sign the LMIG Application and related documents.(pages 10-15)
5. Approval of the "List of Roadways" in Fayette County. (pages 16-29)
6. Approval of the March 28, 2024 Board of Commissioners Meeting Minutes. (pages 30-39)

OLD BUSINESS:

NEW BUSINESS:

7. Request to approve updates to Fayette County Policy 200.03, Use of Federal Funds and the subsequent ordinance regarding this policy. (pages 40-95)
8. Request to approve Ordinance 2024-02 amending Fayette County Code; Chapter 28-Utilities; Article III. - Water Restrictions to establish provisions pertaining to water restriction requirements. (pages 96-113)

ADMINISTRATOR'S REPORTS:

ATTORNEY'S REPORTS:

COMMISSIONERS' REPORTS:

EXECUTIVE SESSION:

ADJOURNMENT:

COUNTY AGENDA REQUEST

Department:

Presenter(s):

Meeting Date:

Type of Request:

Wording for the Agenda:

Recognition from the Veterans of Foreign Wars (VFW) of the Fayette County Fire & Emergency Services 2024 EMT of the Year, Captain Eric Williams, and Fayette County 911 2024 Communications Officer of the Year, Lauren Patterson.

Background/History/Details:

The Fayetteville chapter of the Veterans of Foreign Wars (VFW) has requested to make a presentation to the Fire & Emergency Services 2024 EMT of the Year, Capt. Eric Williams, and Fayette County 911 2024 Communications Officer of the Year, Lauren Patterson.

The local VFW submitted Capt. Williams and Shift Supervisor Patterson to the State-level public safety employee of the year based on nominations from their peers. Capt. Williams' and Supervisor Patterson's dedication and service to this community are paramount to the successful operations of emergency response to the citizens of Fayette County.

What action are you seeking from the Board of Commissioners?

Recognition from the Veterans of Foreign Wars (VFW) of the Fayette County Fire & Emergency Services 2024 EMT of the Year, Captain Eric Williams, and Fayette County 911 2024 Communications Officer of the Year, Lauren Patterson.

If this item requires funding, please describe:

Not applicable.

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?*

Backup Provided with Request?

*** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

Staff Notes:

COUNTY AGENDA REQUEST

Department:

Presenter(s):

Meeting Date:

Type of Request:

Wording for the Agenda:

Approval for staff to acquire all fee simple right-of-way, easements, and appraisals for the proposed 2017 SPLOST; Stormwater Category II, Tier II Project 168 Cross Creek Trail Culvert Replacement (21SAJ).

Background/History/Details:

This project consists of the removal of the existing deteriorated Quadruple 72-inch diameter Corrugated Metal Pipe (CMP) beneath Cross Creek Trail. The failing system will be replaced with Double 9-ft by 9-ft Concrete Box Culvert.

The agenda item helps provide the appropriate basis from which the land acquisition activities can be concluded.

What action are you seeking from the Board of Commissioners?

Approval for staff to acquire all fee simple right-of-way, easements, and appraisals for the proposed 2017 SPLOST; Stormwater Category II, Tier II Project 168 Cross Creek Trail Culvert Replacement (21SAJ).

If this item requires funding, please describe:

Funding is available from the 2017 SPLOST, Stormwater Category II, Tier II Project 168 Cross Creek Trail Culvert Replacement (21SAJ) account 322 40320, in the amount of \$520,162.

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?*

Backup Provided with Request?

*** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

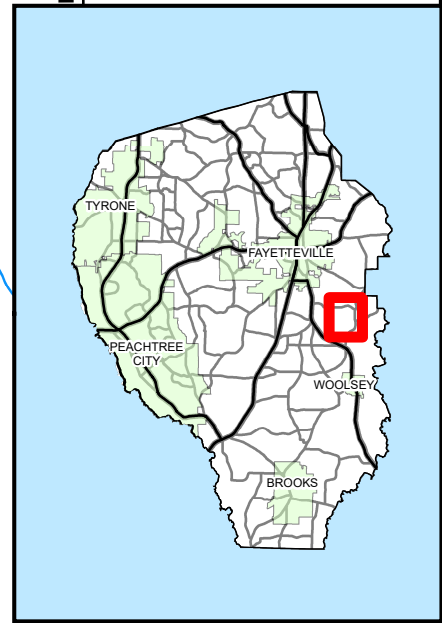
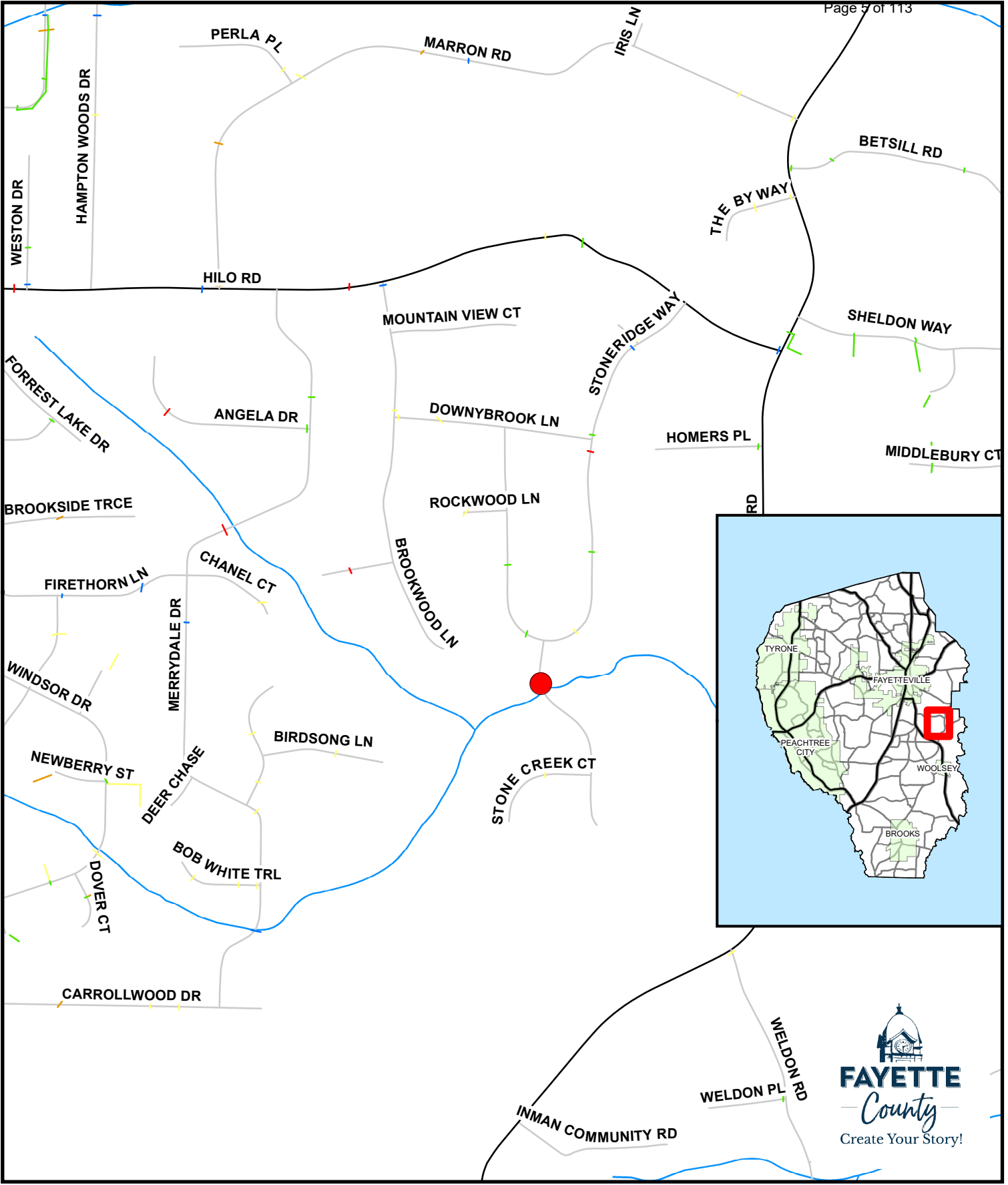
Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

Staff Notes:



 Project Location

Fayette County 2017 SPLOST
 21SAJ Cross Creek Trail
 Vicinity Map



POND
 3500 Parkway Lane
 Suite 500
 Peachtree Corners
 Georgia 30092
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FOR REVIEW ONLY

CLIENT INFORMATION

FAYETTE COUNTY
 140 STONEWALL AVE W, STE 203
 FAYETTEVILLE, GA, 30214

PROJECT NAME
**CROSS CREEK TRAIL
 CULVERT REPLACEMENT**
 FAYETTE COUNTY, GA

DRAWING ISSUE

DATE	DESCRIPTION	MARK

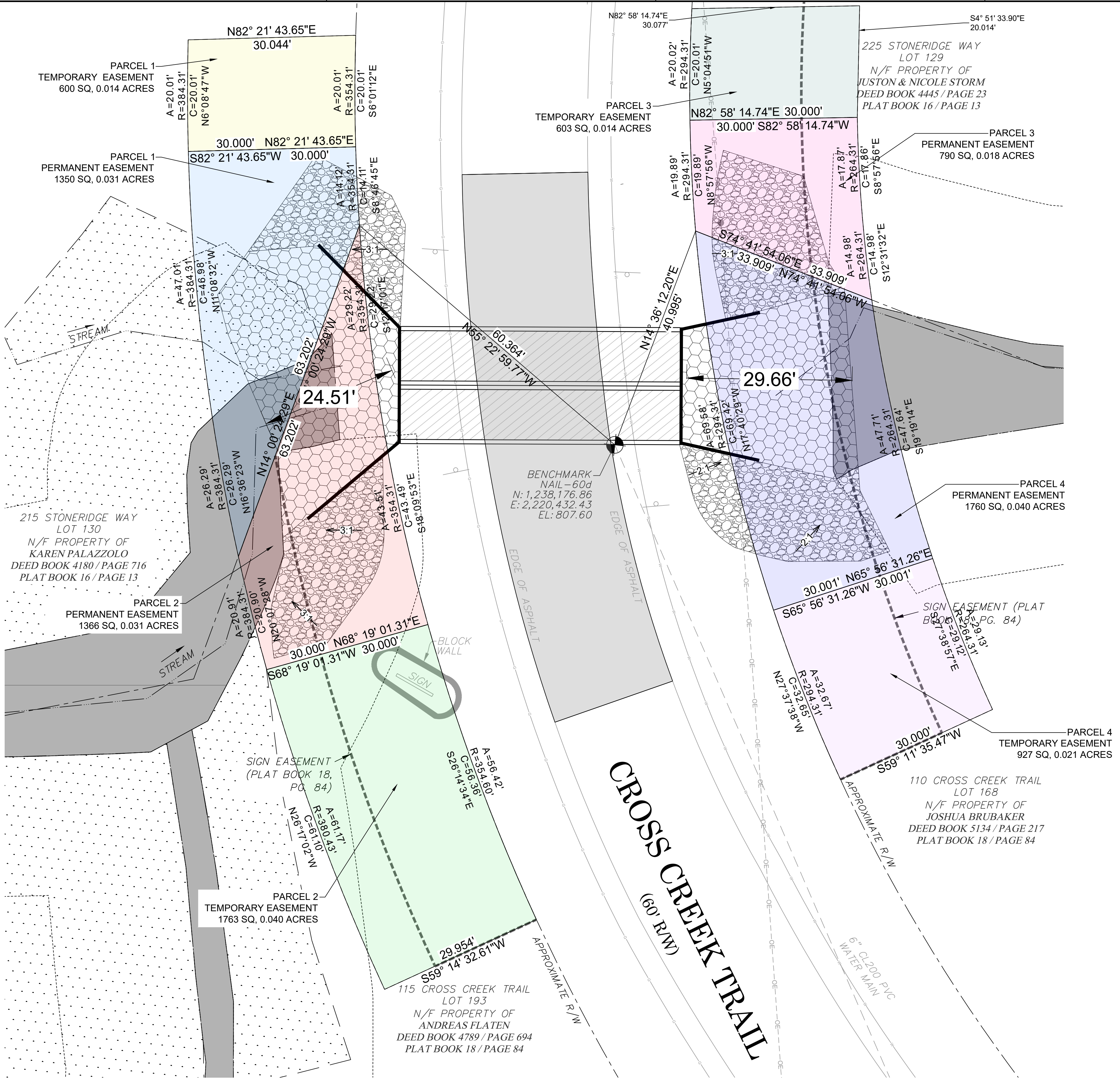
DESIGNED BY: MDW/MIA
 DRAWN BY: MDW
 CHECKED BY: DMM/MDM
 SUBMITTED BY: DMM
 DATE: JANUARY 25, 2024
 PROJECT #: 1210496

SHEET TITLE
EASEMENT EXHIBIT

SHEET NUMBER
CG301
 SHEET 8 OF 20
 ORIGINAL SHEET SIZE:
 22" X 34"

SHEET LEGEND

- 25 FOOT STATE BUFFER
- WETLANDS
- APPROXIMATE RIGHT-OF-WAY PROPERTY LINE
- EXISTING STREAM LIMITS
- PARCEL 1 TEMPORARY EASEMENT
- PARCEL 1 PERMANENT EASEMENT
- PARCEL 2 TEMPORARY EASEMENT
- PARCEL 2 PERMANENT EASEMENT
- PARCEL 3 TEMPORARY EASEMENT
- PARCEL 3 PERMANENT EASEMENT
- PARCEL 4 TEMPORARY EASEMENT
- PARCEL PERMANENT EASEMENT



A1 EASEMENT EXHIBIT
 SCALE: 1" = 10'

FILE PATH: X:\FY21\1210496\04_CAD_BIM\04_02_CAD\CG-101_PLOTTED BY: URUETA, JUAN DATE: 1/25/24

COUNTY AGENDA REQUEST

Department:

Presenter(s):

Meeting Date:

Type of Request:

Wording for the Agenda:

Approval for staff to acquire all fee simple right-of-way and easements for the proposed signalized intersection of Highway 85 and Highway 85 Connector (2004 SPLOST R-19/R-20).

Background/History/Details:

Croy received Notice to Proceed for design work on September 1, 2021. Design work is nearing completion and right-of-way (ROW) exhibit is completed. This agenda item helps provide the appropriate basis from which the land acquisition activities can be concluded.

This agenda item seeks approval for staff to acquire the land necessary for future construction.

A copy of Croy's ROW exhibit is provided as back-up to this request.

What action are you seeking from the Board of Commissioners?

Approval for staff to acquire all fee simple right-of-way and easements for the proposed signalized intersection of Highway 85 and Highway 85 Connector (2004 SPLOST R-19/R-20).

If this item requires funding, please describe:

Funding is available from the 2004 SPLOST (R-19/R-20), in the amount of \$382,575.

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?*

Backup Provided with Request?

*** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

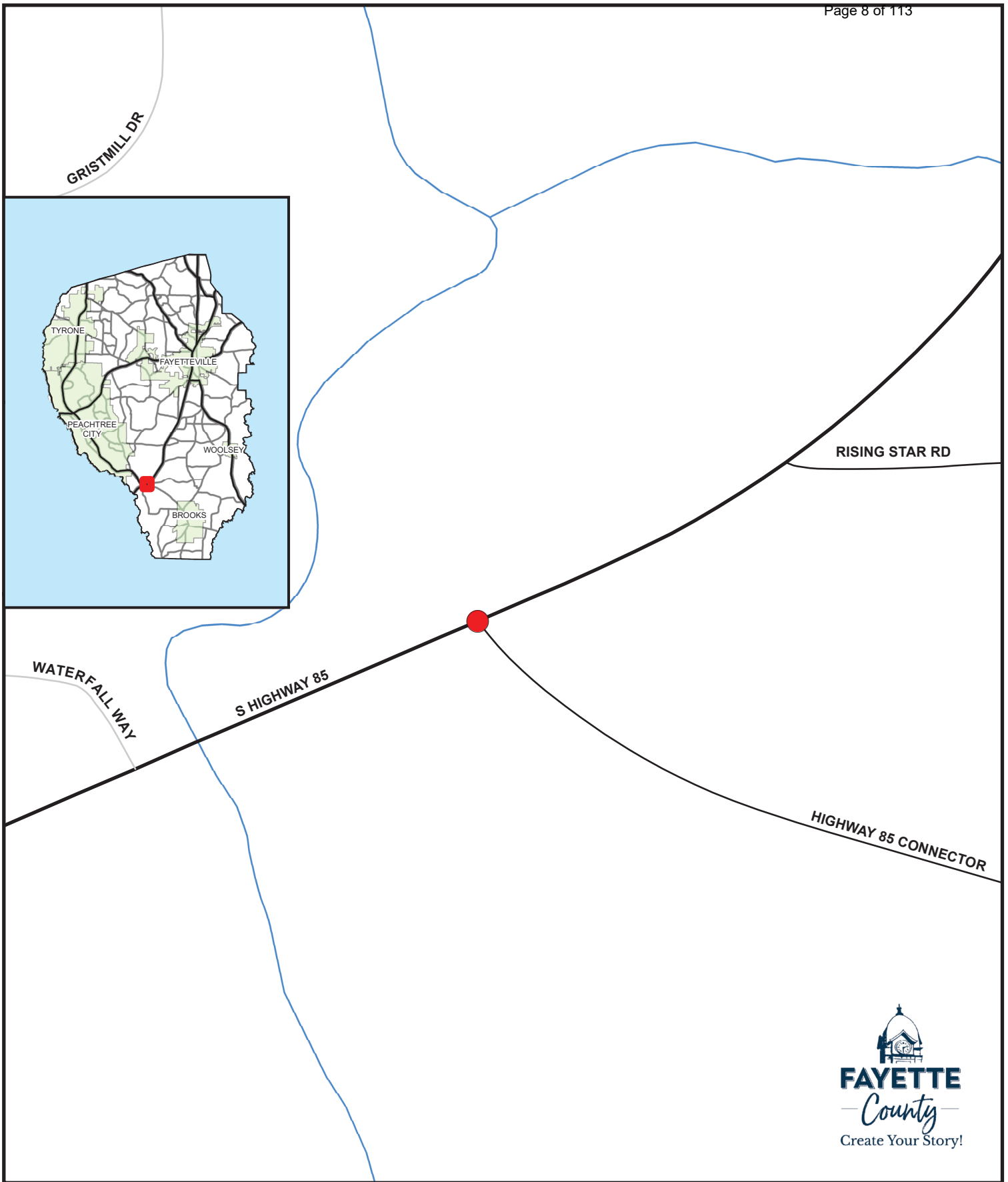
Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

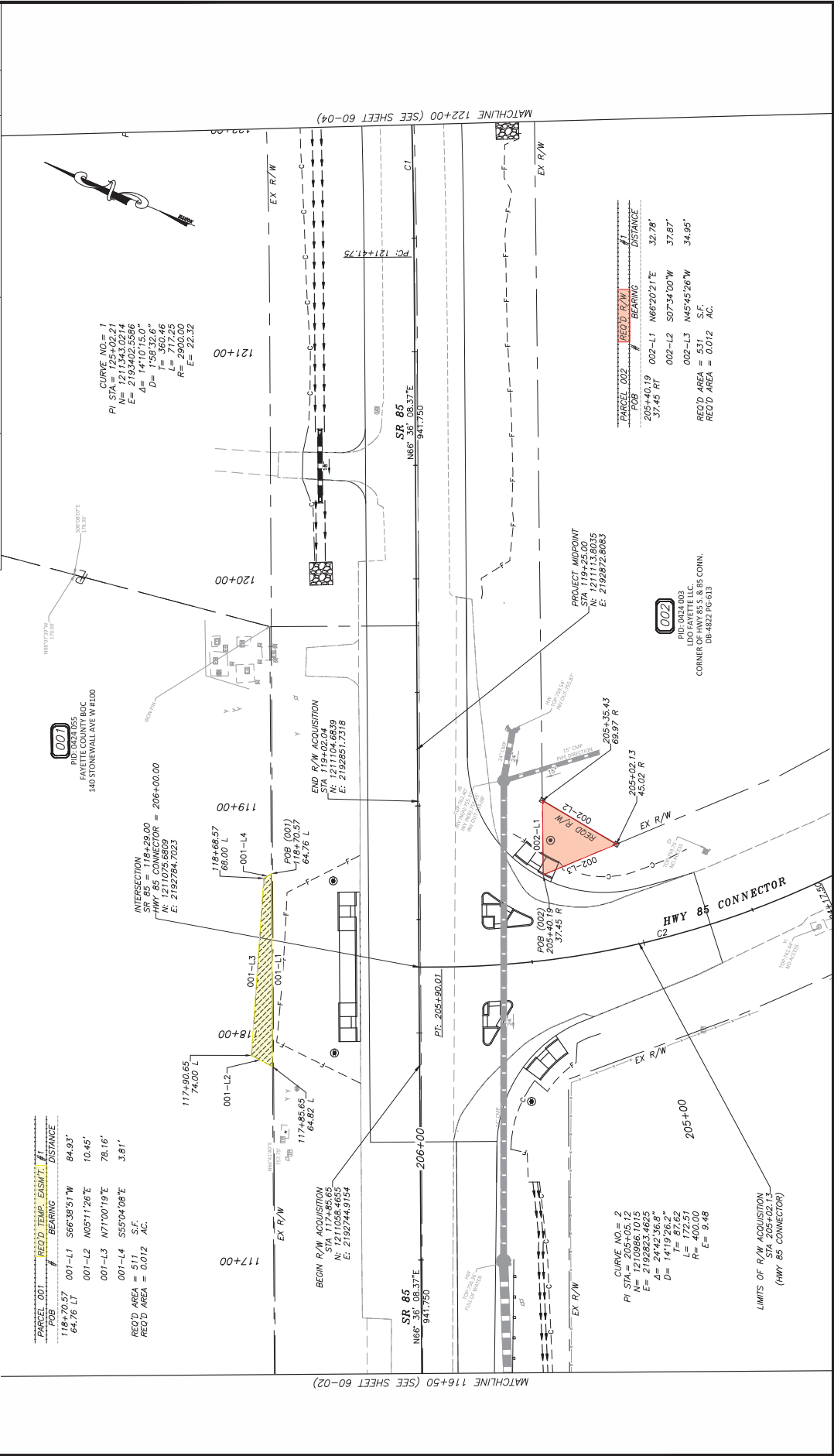
Staff Notes:



● Project Location

Fayette County 2004 SPLOST
R-19/R-20 Hwy 85 and Hwy 85 Connector
Inventory Map





LEGEND

- PROPERTY AND EXISTING R/W LINE
- REQUIRED R/W LINE
- CONSTRUCTION LIMITS
- EASEMENT FOR CONSTR
- EASEMENT FOR CONSTR OF SLOPES
- EASEMENT FOR CONSTR OF DRIVES
- BEGIN LIMIT OF ACCESS
- END LIMIT OF ACCESS
- LIMIT OF ACCESS
- RECD R/W & LIMIT OF ACCESS
- ORANGE BARRIER FENCE
- ESA - ENV. SENSITIVE AREA

SCALE IN FEET

0 20 40 60 80

CROY

200 NORTH CORNHILL AVENUE, SUITE 400, SUITE 413
 PHONE: (770) 971-3407 FAX: (770) 971-9820

FAYETTE COUNTY
 SR 85 AT HWY 85 CONNECTOR
 INTERSECTION IMPROVEMENTS
 RIGHT OF WAY PLANS
 DRAWING NO. 60-03113

REVISION DATES

COUNTY AGENDA REQUEST

Department:

Presenter(s):

Meeting Date:

Type of Request:

Wording for the Agenda:

Approval of the proposed 2024 Supplemental Local Maintenance & Improvement Grant (LMIG) project list for unincorporated Fayette County and for the Chairman to sign the LMIG Application and related documents.

Background/History/Details:

The Georgia Department of Transportation's (GDOT) LMIG program is designed to help local governments make needed improvements to local and state roads. Fayette County received \$950,853.04 in LMIG funds for calendar year (CY) 2024. In March, the Governor and Legislature have amended the state budget for Fayette County to receive an additional \$1,177,594.80 in CY 2024. Also, these funds will require no local match.

In accordance with LMIG program guidelines, County staff has prepared a project list in excess of this amount. The continued focus of the 2024 list is on roadway pavement maintenance; including asphalt resurfacing, milling, patching, micro surfacing and striping.

Fayette County's LMIG application and project list must be submitted to GDOT by June 15, 2024. A check for the grant, up to \$1,177,594.80, will then be sent to Fayette County.

What action are you seeking from the Board of Commissioners?

Approval of the proposed 2024 Supplemental Local Maintenance & Improvement Grant (LMIG) project list for unincorporated Fayette County and for the Chairman to sign the LMIG Application and related documents.

If this item requires funding, please describe:

There is no matching funds required for this Grant

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?*

Backup Provided with Request?

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Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

Staff Notes:

2024 SUPPLEMENTAL LMIG PROJECT REPORT
COUNTY/CITY: FAYETTE COUNTY

ROAD NAME	BEGINNING	ENDING	LENGTH (Miles)	DESCRIPTION OF WORK	ESTIMATED PROJECT COST
GOZA ROAD	SR 92	SR 85	3.89	PATCHING, CRACK RELIEF LAYER AND MICRO	\$340,000.00
CALLAWAY ROAD	SR 54	S. JEFF DAVIS	1.60	PATCHING, CRACK RELIEF LAYER AND MICRO	\$145,000.00
MCDONOUGH ROAD	SR 54	CLAYTON COUNTY	2.14	CRACK SEALING	\$12,900.00
S. JEFF DAVIS DRIVE	FAYETTEVILLE	INMAN ROAD	2.10	CRACK SEALING & MICRO	\$138,600.00
KENWOOD ROAD	SR 85	NEW HOPE RD	3.26	CRACK SEALING AND RPM	\$30,000.00
MILAM ROAD	RIVERS ROAD	FULTON COUNTY	1.08	PATCHING AND RESURFACING	\$345,200.00
S. SANDY CREEK RD	FAYETTEVILLE	FAYETTEVILLE	0.60	PATCHING, 2FT WIDENING AND RESURFACING	\$384,000.00
AVON DRIVE	BROOKSHIRE DR	DEAD END	0.21	MILLING AND RESURFACING	\$54,600.00
BROWN ROAD	REDWINE RD	DEAD END	0.21	MILLING AND RESURFACING	\$26,000.00
OAK RIDGE TRAIL	PINE KNOTT RD	DEAD END	0.90	SCRUB SEAL AND MICRO	\$100,000.00
PINE KNOTT ROAD	BUCKEYE RD	OAK RIDGE TR	0.50	SCRUB SEAL AND MICRO	\$50,000.00
RIVER FOREST DRIVE	PINE KNOTT RD	DEAD END	0.70	SCRUB SEAL AND MICRO	\$70,000.00
BRIERWOOD DRIVE	CALLAWAY RD	SHELBY LN	0.41	CRACK RELIEF LAYER AND MICRO SURFACING	\$36,000.00
BRIERWOOD COURT	BRIERWOOD DR	DEAD END	0.11	CRACK RELIEF LAYER AND MICRO SURFACING	\$10,000.00
SHELBY LANE	CALLAWAY RD	DEAD END	0.56	CRACK RELIEF LAYER AND MICRO SURFACING	\$50,000.00
FLAT CREEK TRAIL	SR 54	SANDY CREEK RD	3.06	FDR AND RESURFACING	\$2,025,000.00
CORNITH ROAD	SR 85	SR 54	1.75	THERMOPLASTIC STRIPING AND RPMS	\$40,000.00
2024 Formula Amount	\$1,177,594.80		23.08	ESTIMATED TOTAL	\$3,857,300.00
2024 County Match	\$0.00				
2024 TOTAL	\$1,177,594.80				

SIGNATURE PAGE INSTRUCTIONS

1. For a Fiscal Year 2024 **Supplemental** Application, please sign and attach the Signature Page on Page 2 below, that says FISCAL YEAR 2024 SUPPLEMENTAL in the title.
2. For a Fiscal Year 2024 Application, please sign and attach the Signature Page on Page 3 below, that says Fiscal Year 2024 in the title.

**GEORGIA DEPARTMENT OF TRANSPORTATION LOCAL MAINTENANCE & IMPROVEMENT
GRANT (LMIG) APPLICATION FOR FISCAL YEAR 2024 SUPPLEMENTAL**
TYPE OR PRINT LEGIBLY. ALL SECTIONS MUST BE COMPLETED.

LOCAL GOVERNMENT AFFIDAVIT AND CERTIFICATION

I, _____ (Name), the _____ (Title), on behalf of _____ (Local Government), who being duly sworn do swear that the information given herein is true to the best of his/her knowledge and belief. Local Government swears and certifies that it has read and understands the LMIG General Guidelines and Rules and that it has complied with and will comply with the same.

Local government further swears and certifies that it has read and understands the regulations for the Georgia Planning Act (O.C.G.A. § 45-12-200, et seq.), Service Delivery Strategy Act (O.C.G.A. § 36-70-20, et seq.), Immigration Sanctuary Policies; prohibition; penalties (O.C.G.A. § 36-80-23), and the Local Government Budgets and Audits Act (O.C.G.A. § 36-81-7 et seq.) and will comply in full with said provisions. Local government further swears and certifies that the roads or sections of roads described and shown on the local government’s Project List are dedicated public roads and are part of the Public Road System in said county/city. Local government further swears and certifies that it complied with federal and/or state environmental protection laws and at the completion of the project(s), it met the match requirements as stated in the Transportation Investment Act (TIA) (O.C.G.A. § 48-8-240).

Further, the local government shall be responsible for any claim, damage, loss or expense that is attributable to negligent acts, errors, or omissions related to the designs, drawings, specifications, work and other services furnished by or on behalf of the local government pursuant to this Application (“Loss”). To the extent provided by law, the local government further agrees to hold harmless and indemnify the DEPARTMENT and the State of Georgia from all suits or claims that may arise from said Loss.

If the local government fails to comply with these General Guidelines and Rules, or fails to comply with its Application and Certification, or fails to cooperate with the auditor(s) or fails to maintain and retain sufficient records, the DEPARTMENT may, at its discretion, prohibit the local government from participating in the LMIG program in the future and may pursue any available legal remedy to obtain reimbursement of the LMIG funds. Furthermore, if in the estimation of the DEPARTMENT, a project shows evidence of failure(s) due to poor workmanship, the use of substandard materials, or the failure to follow the required design and construction guidelines as set forth herein, the Department may pursue any available legal remedy to obtain reimbursement of the allocated LMIG funds or prohibit local government from participating in the LMIG program until such time as corrections are made to address the deficiencies or reimbursement is made. All projects identified on the Project list shall be constructed in accordance with the Department’s Standard Specifications of Transportation Systems (Current Edition), Supplemental Specifications (Current Edition), and Special Provisions.

Local Government:

(Signature)

(Print)
Mayor / Commission Chairperson

(Date)

E-Verify Number

Sworn to and subscribed before me,

This ____ day of _____, 20 ____.
In the presence of:

NOTARY PUBLIC

My Commission Expires:

LOCAL GOVERNMENT SEAL:

NOTARY PUBLIC SEAL:

**GEORGIA DEPARTMENT OF TRANSPORTATION LOCAL MAINTENANCE & IMPROVEMENT
GRANT (LMIG) APPLICATION FOR FISCAL YEAR 2024
TYPE OR PRINT LEGIBLY. ALL SECTIONS MUST BE COMPLETED.**

LOCAL GOVERNMENT AFFIDAVIT AND CERTIFICATION

I, _____ (Name), the _____ (Title), on behalf of _____ (Local Government), who being duly sworn do swear that the information given herein is true to the best of his/her knowledge and belief. Local Government swears and certifies that it has read and understands the LMIG General Guidelines and Rules and that it has complied with and will comply with the same.

Local government further swears and certifies that it has read and understands the regulations for the Georgia Planning Act (O.C.G.A. § 45-12-200, et seq.), Service Delivery Strategy Act (O.C.G.A. § 36-70-20, et seq.), Immigration Sanctuary Policies; prohibition; penalties (O.C.G.A. § 36-80-23), and the Local Government Budgets and Audits Act (O.C.G.A. § 36-81-7 et seq.) and will comply in full with said provisions. Local government further swears and certifies that the roads or sections of roads described and shown on the local government’s Project List are dedicated public roads and are part of the Public Road System in said county/city. Local government further swears and certifies that it complied with federal and/or state environmental protection laws and at the completion of the project(s), it met the match requirements as stated in the Transportation Investment Act (TIA) (O.C.G.A. § 48-8-240).

Further, the local government shall be responsible for any claim, damage, loss or expense that is attributable to negligent acts, errors, or omissions related to the designs, drawings, specifications, work and other services furnished by or on behalf of the local government pursuant to this Application (“Loss”). To the extent provided by law, the local government further agrees to hold harmless and indemnify the DEPARTMENT and the State of Georgia from all suits or claims that may arise from said Loss.

If the local government fails to comply with these General Guidelines and Rules, or fails to comply with its Application and Certification, or fails to cooperate with the auditor(s) or fails to maintain and retain sufficient records, the DEPARTMENT may, at its discretion, prohibit the local government from participating in the LMIG program in the future and may pursue any available legal remedy to obtain reimbursement of the LMIG funds. Furthermore, if in the estimation of the DEPARTMENT, a project shows evidence of failure(s) due to poor workmanship, the use of substandard materials, or the failure to follow the required design and construction guidelines as set forth herein, the Department may pursue any available legal remedy to obtain reimbursement of the allocated LMIG funds or prohibit local government from participating in the LMIG program until such time as corrections are made to address the deficiencies or reimbursement is made. All projects identified on the Project list shall be constructed in accordance with the Department’s Standard Specifications of Transportation Systems (Current Edition), Supplemental Specifications (Current Edition), and Special Provisions.

Local Government:

_____ (Signature)

_____ (Print)

Mayor / Commission Chairperson

_____ (Date)

E-Verify Number

Sworn to and subscribed before me,

This ____ day of _____, 20____.

In the presence of:

NOTARY PUBLIC

My Commission Expires:

LOCAL GOVERNMENT SEAL:

NOTARY PUBLIC SEAL:



LEE HEARN, Chairman
BOARD OF COMMISSIONERS
140 Stonewall Avenue West, Ste. 100
Fayetteville, Georgia 30214
770-305-5100
lhearn@fayettecountyga.gov

April 11, 2024

Ms. Brandy Spiller
Local Government Coordinator
115 Transportation Blvd
Thomaston, GA 30286

RE: Fayette County – 2024 Supplemental LMIG request and status update of 2024 LMIG Project

Dear Ms. Spiller:

Enclosed is Fayette County's Supplemental Local Maintenance & improvement Grant (LMIG) application package for 2024. Our project list (attached) includes asphalt resurfacing, micro surfacing and mill patching.

2022 and 2023 LMIG have been completed by the County and the *Statement of Final Expenditures* have been emailed to you.

2024 LMIG Status Update – Fayette County is currently working on 2024 LMIG projects and when completed in the next few months, the *Statement of Final Expenditures* will be sent to your attention.

Please call Bradley Klinger at 770-320-6039 or bklinger@fayettecountyga.gov if you need any additional information pertaining to this request.

Fayette County remains appreciative of the LMIG program. It is administered well and the money it provides to local governments is essential for maintaining off-system infrastructure.

Sincerely,

Lee Hearn, Chairman
Fayette County Board of Commissioners

Enclosures

COUNTY AGENDA REQUEST

Department:

Presenter(s):

Meeting Date:

Type of Request:

Wording for the Agenda:

Approval of the "List of Roadways" in Fayette County.

Background/History/Details:

The Georgia Department of Transportation has requested that we submit an updated list of roadways for Fayette County signed by the County Commission. The list consist of roadways and their approved speed limits. There are no changes from the previous list.

What action are you seeking from the Board of Commissioners?

Approval of the "List of Roadways" in Fayette County.

If this item requires funding, please describe:

Not applicable.

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?*

Backup Provided with Request?

*** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

Staff Notes:

LIST NUMBER 0623-113

The Fayette County Board of Commissioners is hereby requesting that the following roadways be approved for the use of speed detection devices:

**LIST OF ROADWAYS
for
FAYETTE COUNTY**

ON-SYSTEM ROADWAYS

**ALL ON-SYSTEM ROUTES HAVE BEEN VERIFIED BY GEORGIA DEPARTMENT OF
TRANSPORTATION**

STATE ROUTE	WITHIN THE CITY / TOWN LIMITS OF and/or School Name	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
S.R. 54		300 feet south of Genevieve Ct	4.33	Oak Ridge Drive	5.00	0.67	50
S.R. 54		Oak Ridge Drive	5.00	0.28 miles west of Togwatee Village Pkwy. (Fayetteville City Limits)	7.31	2.31	55
S.R.54		1000 feet west of Old Norton Road	7.73	520 feet west of Ginger Cake Rd (Fayetteville City Limits)	8.85	1.12	55
S.R. 54		100 feet east of Williams Road (East City Limits of Fayetteville)	12.02	Clayton County Line	15.28	3.26	55
S.R. 74		Fulton County Line	0.00	635 feet north of Kirkley Road (North City Limits of Tyrone)	0.70	0.70	55
S.R. 74		Redwine Road (South City Limits of Peachtree City)	15.2	Coweta County Line	17.29	2.09	55
S.R. 74 SCHOOL ZONE	<i>Rising Starr Middle, Peeples Elementary & Starr's Mill High School - 7:00 to 8:45 a.m. 2:00 to 4:00 p.m. SCHOOL DAYS ONLY</i>	1300 feet north of school entrance	15.06	750 feet south of school entrance	15.45	0.39	45
S.R. 85		<i>This segment of roadway runs common with State Route 74 from M.P. 0.00 to M.P. 0.83.</i>					

LIST NUMBER 0623-113

STATE ROUTE	WITHIN THE CITY / TOWN LIMITS OF and/or School Name	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
S.R. 85		S.R. 74	0.83	100 feet south of Price Road	8.43	7.60	55
S.R. 85 SCHOOL ZONE	<i>Whitewater Middle and High School, Minter Elem.</i> 7:00 to 8:45 a.m. 2:00 to 4:00 p.m. SCHOOL DAYS ONLY	300 feet south of Lisbon Road	5.04	350 feet south of Shamrock Drive	5.92	0.88	35
S.R. 85		100 feet south of Price Road	8.43	100 feet south of State Route 92 / Ramah Road (South City Limits of Fayetteville)	8.70	0.27	45
S.R. 85		50 feet south of Roberts Road (North City Limits of Fayetteville)	13.03	Clayton County Line	15.16	2.13	55
S.R. 92		Spalding County Line	0.00	580 feet north of Mud Bridge Road (South Town Limits of Woolsey)	3.45	3.45	55
S.R. 92	Town of Woolsey	580 feet north of Mud Bridge Road (South Town Limits of Woolsey)	3.45	1270 feet north of Old Farm Road (North Town Limits of Woolsey)	4.28	0.83	45
S.R. 92		1270 feet north of Old Farm Road (North Town Limits of Woolsey)	4.28	200 feet south of Keaton Drive (South City Limits of Fayetteville)	9.28	5.00	55
S.R. 92		790 feet north of Winona Drive (North City Limits of Fayetteville)	12.49	Fulton County Line	19.48	6.99	55
S.R. 138		Fulton County Line	0.00	Clayton County Line	1.13	1.13	55
S.R. 279		State Route 85	0.00	Fulton County Line	3.80	3.80	55
S.R. 279 SCHOOL ZONE	<i>Our Lady of Mercy Catholic High School</i> 7:00 to 8:00 a.m. 2:00 to 3:00 p.m. SCHOOL DAYS ONLY	1100 feet south of the Fulton County Line	3.59	50 feet south of the Fulton County Line	3.79	0.20	45

LIST NUMBER 0623-113

STATE ROUTE	WITHIN THE CITY / TOWN LIMITS OF and/or School Name	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
S.R. 314		50 feet south of New Hope Road (City Limits of Fayetteville)	0.93	Clayton County Line	5.99	5.06	50

SCHOOL ZONES ARE EFFECTIVE

A.M. from 30 minutes prior to commencement time to 30 minutes after commencement time

—
SCHOOL DAYS ONLY.

P.M. from 30 minutes prior to dismissal time to 30 minutes after dismissal time —
SCHOOL DAYS ONLY.

LIST NUMBER 0623-113**OFF-SYSTEM ROADWAYS**

ALL OFF-SYSTEM ROUTES WILL NOT BE VERIFIED BY GEORGIA DEPARTMENT OF TRANSPORTATION

ROAD NAME	WITHIN THE CITY / TOWN LIMITS OF and/or School Name	FROM	TO	LENGTH IN MILES	SPEED LIMIT
1 st Manassas Mile		Bradford Square	1.11 miles West of Bradford Square	1.11	35
85 Conn		Spalding County Line	South City Limits of Brooks	1.64	45
85 Conn	Town of Brooks	South City Limits of Brooks	Butler Road	0.56	45
85 Conn	Town of Brooks	Butler Road	Gable Road	0.48	35
85 Conn	Town of Brooks	Gable Road	Price Road	0.41	25
85 Conn	Town of Brooks	Price Road	Woolsey-Brooks Road	0.72	35
85 Conn	Town of Brooks	Woolsey-Brooks Road	North City Limits of Brooks	0.60	45
85 Conn		North City Limits of Brooks	SR 85	2.26	45
Acton Drive		Woolsey- Brooks Road	0.56 mile East of Woolsey-Brooks Road	0.56	25
Adams Road		Tyrone Road	Sandy Creek	3.04	45
Addison Drive		Horsemen's Run	Summerfield Place	0.63	25
Allenwood Road		Banks Road	0.59 mile South of Banks Road	0.59	25
Annelise Park Drive		Flat Creek Trail	0.47 mile South of Flat Creek Trail	0.47	25
Antebellum Way		South Jeff Davis Drive	0.83 mile South of South Jeff Davis Drive	0.83	25
Antioch Road		SR 92	Woolsey-Brooks Road	3.90	45
Antioch Road		Woolsey-Brooks Road	0.40 mile south of Woolsey-Brooks Road	0.40	35
Antioch Road		0.40 mile south of Woolsey-Brooks Road	Dead end at Lake Horton	0.69	25
Antioch Road		S.R. 92	Dead end at Lake Horton	0.59	40
Autumn Lake Ct.		Village Lake Drive	Dead end	0.44	25
Banks Road East		SR 54	McElroy Road	0.50	25
Banks Road		SR 54	City Limits of Fayetteville	1.60	35
Bankstown Road		85 Conn	Morgan Mill Road	3.15	40
Benjamin Circle		Kenwood Road	Franklin Farms Circle	0.94	25
Bentley Way		Ashley Drive	0.69 mile West of Ashley Drive	0.69	25
Bernhard Road		Goza Road	Redwine Road	3.00	45
Blackberry Run		Yates Drive	0.51 mile East of Yates Drive	0.51	25
Blossom Ridge Trail		Rivers Road	0.50 mile North of Rivers Road	0.50	25
Bohannon Road		Fulton County Line	Fulton County Line	0.50	45
Brandenburg Way		Old Greenville Road	0.51 mile West of Old Greenville Road	0.51	25
Brandon Mill Circle		New Hope Road	1.22 miles south of New Hope Road	1.22	25
Brechin Drive		S.R. 74	0.62 mile South of S.R. 74	0.62	25

LIST NUMBER 0623-113

ROAD NAME	WITHIN THE CITY / TOWN LIMITS OF and/or School Name	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Briers Ridge		Westbridge Road	Dead end	0.45	25
Brittany Way		S.R. 54	0.47 mile North of S.R. 54	0.47	25
Brodgon Road		State Route 92	Longview Road	2.14	35
Brookshire Drive		Redwine Road	Ebenezer Church Road	1.37	25
Brooks Road	Town of Brooks	85 Conn	Brooks city limits	0.87	35
Brooks Road		City Limits of Brooks	Spalding County Line	1.04	45
Brookwood Lane		Hilo Road	0.57 mile South of Hilo Road	0.57	25
Brooks-Woolsey Road		Antioch Road	City Limits of Brooks	3.34	45
Brooks-Woolsey Road	Town of Brooks	85 Conn	City Limits of Brooks	0.83	45
Brown's Crossing		Woodmere Lane	Inverness Shores Drive	0.70	25
Buckeye Road		Rivers Road	0.46 mile South of Rivers Road	0.46	25
Burch Lake Road		Woolsey-Brooks Road	0.80 mile east of Woolsey-Brooks Road	0.80	35
Busbin Road		SR 85	1.07 miles west of SR 85	1.07	35
Butterfield Lane		Pepperdine Way	0.74 mile East of Pepperdine Way	0.74	25
Callaway Road		SR 54	South Jeff Davis Drive	1.59	45
Camelot Drive		Graves Road	Graves Road	1.54	25
Canal Place		0.12 mile South of Longshore Way	0.35 mile North of Longshore Way	0.47	25
Carrolls Way		Bernhard Road	1.17 mile South of Bernhard Road	1.17	25
Carrollwood Drive		S.R. 92	Merrydale Drive	0.72	25
Cedar Circle		Hickory Road	Hickory Road	0.46	25
Cedar Trail		Simpson Road	0.55 mile West of Simpson Road	0.55	25
Chandler Way		Marion Boulevard	Country Squire Drive	0.44	25
Chappell Road		Woolsey-Brooks Road	Old Greenville Road	1.66	45
Clark Road		Weldon Road	0.65 mile East of Weldon Road	0.65	25
Coastline Road		Sandy Creek Road	1.44 miles north of Sandy Creek Road	1.44	35
Compton Drive		Horsemen's Run	Summerfield Place	0.61	25
Corinth Road		State Route 85	Clayton County Line	0.56	35
Corinth Road		S. R. 54	Clayton County Line	1.11	35
Country Squire Drive		South Jeff Davis Drive	Chandler Way	0.71	25
County Line Road		McDonough Road	South Jeff Davis Drive	2.25	45
Crabapple Road		Lowery Road	1.74 mile south of Lowery Road	1.74	25
Creekview Trail		New Hope Road	0.54 mile North of New Hope Road	0.54	25
Darren Drive		Carrolls Way	0.86 mile South of Carrolls Way	0.86	25
Dawn Drive		Harp Road	0.45 mile North of Harp Road	0.45	25
Deer Forest Road		S.R. 54	Deer Forest Trail	0.60	25

LIST NUMBER 0623-113

ROAD NAME	WITHIN THE CITY / TOWN LIMITS OF and/or School Name	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Deer Forest Trail		S.R. 54	Banks Road	0.32	25
Deer Trail		Banks Road	0.47 mile South of Banks Road	0.47	25
Den Creek Trail		County Line Road	0.48 mile West of County Line Road	0.48	25
Derby Drive		Kingswood Drive	Essex Circle	0.64	25
DeVilla Trace		Ponderosa Court	1.06 miles West of Ponderosa Court	1.06	25
Diamond Pointe		Platinum Ridge Point	0.61 mile South of Platinum Ridge Point	0.61	25
Dixon Circle		South Jeff Davis Drive	0.74 mile South of South Jeff Davis Drive	0.74	25
Dogwood Trail		Tyrone Road	City Limits of Tyrone	1.66	45
Eastin Road		Sandy Creek Road	Graves Road	1.72	35
Ebenezer Road		S.R. 54	City Limits of Peachtree City	3.61	45
Ebenezer Church Road		Redwine Road	Ebenezer Road	2.92	45
Ellis Road		S.R. 85	Banks Road	0.45	35
Ellison Road		Sandy Creek Road	Swanson Road	0.90	45
Ellison Road		Swanson Road	Sun Road	0.92	35
Ellison Road		Sun Road	Dogwood Trail	1.38	45
Emerald Lake Drive		South Jeff Davis Drive	1.53 miles South of South Jeff Davis Drive	1.53	25
Essex Circle		Derby Drive	Derby Drive	0.62	25
Etowah Trace		0.40 mile North of Carnes Drive	0.32 mile South of Carnes Drive	0.72	25
Fairfield Circle		Westbridge Lane	0.97 mile South of Westbridge Lane	0.97	25
Felton Drive		McElroy Road	McDonough Road	0.70	25
Flat Creek Trail		S. R. 54	Sandy Creek Road	3.00	40
Franklin Farms Circle		Kenwood Road	0.60 mile North of Kenwood Road	0.60	25
Gadson Drive		Wagon Wheel Trail	Dead end	0.57	25
Gaelic Way		Jenkins Road	0.71 mile south of Jenkins Road	0.71	25
Gilbert Road		City Limits of Fayetteville	Banks Road	0.46	25
Gingercake Road		S. R. 92	City Limits of Fayetteville	2.88	45
Gingercake Trail		Gingercake Road	0.95 mile West of Gingercake Road	0.95	25
Goza Road		S. R. 85	Antioch Road	2.84	45
Goza Road SCHOOL ZONE	<i>Minter Elementary and Whitewater High School</i> 7:00 to 8:45 a.m. 2:00 to 4:00 p.m. SCHOOL DAYS ONLY	660 feet west of Wildcat Way	660 feet east of Wildcat Way	0.25	35
Goza Road		Antioch Road	S. R. 92	1.60	35
Grandchester Way		S.R. 85	Seay Road	0.82	25
Grant Road		Woolsey-Brooks Road	McIntosh Road	4.07	45

LIST NUMBER 0623-113

ROAD NAME	WITHIN THE CITY / TOWN LIMITS OF and/or School Name	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Graves Road		S. R. 92	Eastin Road	1.28	35
Greenfield Circle		Seay Road	Seay Road	0.79	25
Green Meadow Lane		Quarters Road	0.57 mile East of Quarters Road	0.57	25
Grooms Road		Porter Road	Evans Way	0.62	25
Hampstead Manor		S.R.314	0.46 mile West of S.R.314	0.46	25
Hampton Road		Antioch Road	Town Limits of Woolsey	0.35	35
Hampton Road	Town of Woolsey	S. R. 92	East Town Limits	0.45	35
Hampton Road	Town of Woolsey	S. R. 92	West Town Limits	0.37	35
Hampton Road		Town Limits of Woolsey	Clayton County Line	0.44	35
Hampton Woods Drive		Hilo Road	0.53 mile North of Hilo Road	0.53	25
Hardy Road		McIntosh Road	Mask Road	1.50	45
Harp Road		Seay Road	Redwine Road	3.33	40
Harris Road		Harp Road	Redwine Road	0.97	35
Hawn Road		Redwine Road	Old Senoia Road	0.58	25
Heath Way		Hampstead Manor	0.55 mile West of Hampstead Manor	0.55	25
Helmer Road		S. R. 279	Clayton County Line	0.77	35
Hewell Road		S.R. 54	0.56 mile South of S.R. 54	0.56	25
Hickory Road		S. R. 92	New Hope Road	0.72	35
Hidden Valley Road		Banks Road	0.53 mile South of Banks Road	0.53	25
Highgrove Drive		Quarters Road	Tarragon Drive	0.78	25
Highland Hills Road		S.R. 314	Old Highway 138	0.59	25
Hills Bridge Road		Goza Road	0.75 mile east of Goza Road	0.75	35
Hilo Road		S. R. 92	Inman Road	2.04	35
Hood Road		City Limits of Fayetteville	Gingercake Road	0.96	35
Hood Road		Gingercake Road	0.48 mile west of Gingercake Road	0.48	25
Hood Road		Veterans Pkwy	0.95 mile east of Veterans Pkwy	0.95	35
Horseshoe Circle		Redwine Road	Redwine Road	0.52	25
Huckaby Road	Town of Brooks	Woolsey-Brooks Road	City Limits of Brooks	0.26	35
Huckaby Road		City Limits of Brooks	Rising Star Road	1.23	45
Huiet Drive		S.R.54	Dead end	1.16	25
Huntcliff Court		Huntington Court	0.69 mile East of Huntington Court	0.69	25
Hunter's Glen		Redwine Road	City Limits of Fayetteville	0.61	25
Huntington Court		Pine Trail Road	0.54 mile South of Pine Trail Road	0.54	25
Inman Road		S. R. 92	South Jeff Davis Drive	2.99	35
Inman Road SCHOOL ZONE	<i>Inman Elementary School</i> 7:00 to 8:30 a.m. 2:00 to 3:30 p.m. SCHOOL DAYS ONLY	100 feet east of State Route 92	0.22 miles east of State Route 92	0.20	25
Inverness Shores		Peachtree Parkway	0.83 mile north of Peachtree Parkway	0.83	25

LIST NUMBER 0623-113

ROAD NAME	WITHIN THE CITY / TOWN LIMITS OF and/or School Name	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Jay Trail		Goza Road	0.46 mile South of Goza Road	0.46	25
Jefferson Woods Drive		Redwine Road	0.52 mile east of Redwine Road	0.52	25
Jenkins Road		S.R.74	Ellison Road	1.51	35
Jenkins Road SCHOOL ZONE	<i>Burch Elementary, Flat Rock Middle, Sandy Creek High School –</i> 7:00 to 8:45 a.m. 2:00 to 4:00 p.m. SCHOOL DAYS ONLY	300 feet east of S.R. 74	3,900 feet east of S.R. 74	0.68	25
Jones Circle		S. R. 85	Bernhard Road	0.73	30
Kenwood Road		S. R. 85	S. R. 279	0.53	25
Kenwood Road		S. R. 279	New Hope Road	2.68	35
Kenwood Road SCHOOL ZONE	<i>North Fayette Elementary School –</i> 7:00 to 8:30 a.m. 2:00 to 3:30 p.m. SCHOOL DAYS ONLY	0.14 mile east of Mercedes Trail	0.32 mile west of Mercedes Trail	0.46	25
Kimberly Court		Padgett Road	0.50 mile East of Padgett Road	0.50	25
Kirkley Road		S. R. 74	Bohannon Road	0.95	30
Kite Lake Road		Westbridge Road	1.58 miles east of Westbride Road	1.58	35
Lady Helen Court		Graves Road	0.49 mile North of Graves Road	0.49	25
Lamberth Lake Drive		Oxford Lane	Oxford Lane	0.61	25
Lee's Lake Road		Lee's Mill Road	Fulton County Line	2.70	35
Lee's Mill Road		S. R. 92	Sandy Creek Road	3.00	35
Lee's Overlook		Lee's Mill Road	0.45 mile North of Lee's Mill Road	0.45	25
Lester Road		S.R. 54	North City Limits of Fayetteville	0.39	45
Lester Road		South City Limits of Fayetteville	Ebenezer Church Road	1.22	35
Lockwood Road		S.R.92	0.47 mile East of S.R.92	0.47	25
Lodge Trail		S.R. 74	0.62 mile North of S.R. 74	0.62	25
Lone Oak Drive		Padgett Road	0.90 mile west of Padgett Road	0.90	25
Longmead Drive		Peachtree Parkway	0.41 mile south of Peachtree Parkway	0.41	25
Longshore Way		Lighthouse Court	0.57 mile North of Lighthouse Court	0.57	25
Longview Road		S. R. 314	Kenwood Road	1.69	25
Lowery Road		S. R. 92	Grant Road	1.64	35
Lynn Drive		Chappell Road	0.78 mile North of Chappell Road	0.78	25
McBride Road		S. R. 85	S.R. 92	3.22	35
McDonough Road		S. R. 54	Felton Drive	1.13	35
McDonough		Felton Drive	Clayton County Line	0.89	45

LIST NUMBER 0623-113

ROAD NAME	WITHIN THE CITY / TOWN LIMITS OF <i>and/or</i> School Name	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Road					
McElroy Road		S. R. 54	McDonough Road	0.87	35
McIntosh Road	Town of Brooks	85 Conn	0.25 miles east of 85 Conn	0.25	25
McIntosh Road	Town of Brooks	0.25 miles east of 85 Conn	City Limits of Brooks	0.75	35
McIntosh Road		City Limits of Brooks	Spalding County Line	1.11	45
Malone Road		Grant Road	1.03 miles north of Grant Road	1.03	35
Manor Drive		S.R. 74	0.48 mile North of S.R. 74	0.48	25
Marilyn Drive East		Gingercake Road	0.48 mile East of Gingercake Road	0.48	25
Marion Boulevard		S. R. 92	0.82 mile east of S.R. 92	0.82	25
Marron Road		Hilo Road	Inman Road	1.15	25
Mask Road		Harp Road	McBride Road	0.40	35
Mask Road		Brooks Road	Hardy Road	1.40	40
Melanie Lane		Old Ford Road	0.82 mile South of Old Ford Road	0.82	25
Mercedes Trail		Kenwood Road	0.51 mile South of Kenwood Road	0.51	25
Merrydale Drive		Hilo Road	Carrollwood Drive	1.24	25
Milam Road		Lee's Lake Road	Fulton County Line	1.10	45
Morgan Road		Inman Road	0.60 mile east of Inman Road	0.60	25
Morgan Mill Road	Town of Brooks	85 Conn	City Limits of Brooks	0.28	35
Morgan Mill Road		City Limits of Brooks	Padgett Road	2.07	40
Morning Road		S.R.279	Kenwood Road	0.45	25
Morning Springs Walk		S.R. 279	1.07 miles West of S.R. 279	1.07	25
Morris Drive		Chappell Road	0.54 mile North of Chappell Road	0.54	25
Murphy Creek Lane		Hilo Road	0.57 mile North of Hilo Road	0.57	25
Neely Road		Longview Road	New Hope Road	1.10	35
New Haven Drive		Redwine Road	0.91 mile East of Redwine Road	0.91	25
New Hope Road		S. R. 85	S.R. 314	0.48	35
New Hope Road		S. R. 314	S.R. 92	4.03	45
New Oak Ridge Trail		New Hope Road	0.50 east of New Hope Road	0.50	25
Nix Court		Pointer Ridge Trail	0.63 mile North of Pointer Ridge Trail	0.63	25
North Drive		S.R.279	1.29 miles West of S.R.279	1.29	25
North Fayette Drive		S.R.314	0.96 mile West of S.R.314	0.96	25
Oak Hill Drive		S.R. 85	Plantation Road	0.47	25
Oak Ridge Drive		S.R. 54	0.53 mile North of S.R. 54	0.53	25
Oak Ridge Trail		0.70 mile East of Buckeye Road	0.21 mile West of Buckeye Road	0.91	25
Olde Oak Drive		Corinth Road	0.45 mile East of Corinth Road	0.45	25
Old Farm Road		S.R. 92	0.96 mile East of S.R. 92	0.96	25
Old Ford Road		S. R. 279	Westbridge Road	1.44	35

LIST NUMBER 0623-113

ROAD NAME	WITHIN THE CITY / TOWN LIMITS OF and/or School Name	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Old Greenville Road		Sourwood Trail	Goza Road	0.50	35
Old Greenville Road		Goza Road	Rising Star Road	2.81	45
Old Norton Road		S. R. 54	Fayetteville City Limits	1.00	25
Old Plantation Way		Oak Ridge Drive	0.57 mile West of Oak Ridge Drive	0.57	25
Old Senoia Road		Redwine Road	Hawn Road	0.70	30
Old Senoia Road		Hawn Road	Harp Road	2.07	40
Oxford Lane		Tandy Trace	0.55 mile North of Tandy Trace	0.55	25
Padgett Road		S. R. 85	Morgan Mill Road	1.88	40
Palmetto Road		City Limits of Tyrone	Coweta County Line	1.00	45
Patricia Lane		Gingercake Road	0.54 mile West of Gingercake Road	0.54	25
Peachtree Parkway		Redwine Road	Peachtree City City Limits	0.33	35
Pepperdine Way		Eastin Road	0.52 mile North of Eastin Road	0.52	25
Peters Road		S. R. 92	Fulton County Line	0.58	30
Pine Knott Road		Buckeye Road	0.53 mile East of Buckeye Road	0.53	25
Pine Trail Road		Fayetteville City Limits	0.76 mile East of Fayetteville City Limits	0.76	25
Pinewood Drive		Lone Oak Drive	Lone Oak Drive	0.45	25
Platinum Ridge Point		Ebenezer Road	Spear Road	0.81	25
Pointer Ridge Trail		Gingercake Road	0.46 mile West of Gingercake Road	0.46	25
Ponderosa Court		Banks Road	0.47 mile North of Banks Road	0.47	25
Ponderosa Drive		Gingercake Road	Gingercake Trail	0.72	25
Porter Road		S. R. 85	Old Greenville Road	1.56	35
Postwood Drive		Idlewood lane	1.51 mile North of Idlewood Lane	1.51	25
Price Road		S. R. 85	0.45 mile east of S.R. 85	0.45	25
Price Road	Town of Brooks	85 Conn	0.40 mile west of 85 Conn	0.40	25
Price Road	Town of Brooks	0.40 west of 85 Conn	City Limits of Brooks	0.50	35
Price Road		City Limits of Brooks	Bankstown Road	0.92	35
Quarters Road		Redwine Road	0.85 mile West of Redwine Road	0.85	25
Redwine Road		City Limits of Fayetteville	North City Limits of Peachtree City	6.96	45
Redwine Road		South City Limits of Peachtree City	S.R. 74	1.01	35
Redwine Road SCHOOL ZONE	<i>Rising Starr Middle, Peoples Elementary & Starr's Mill High School – 7:00 to 8:45 a.m. 2:00 to 4:00 p.m. SCHOOL DAYS ONLY</i>	S. R. 74	750 feet north of Panther Path	0.25	25

LIST NUMBER 0623-113

ROAD NAME	WITHIN THE CITY / TOWN LIMITS OF and/or School Name	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Revenna Trail		0.19 mile North of Buckhorn Trail	0.37 mile South of Buckhorn Trail	0.56	25
Ridgemont Drive		Inman Road	Wendolyn Trace	1.47	25
Rising Star Road		S. R. 85	Woolsey-Brooks Road	3.76	40
River Forest Drive		Buckeye Road	0.76 mile West of Buckeye Road	0.76	25
Riveroak Drive		S.R.92	0.59 mile East of S.R. 92	0.59	25
Rivers Road		S. R. 92	Lee's Lake Road	2.78	45
Robinson Road		McIntosh Road	Grant Road	0.53	25
Rolling Meadows Trail		Hawn Road	0.45 mile South of Hawn Road	0.45	25
Royal Ridge Way		S. R. 85	1.08 miles east of S.R. 85	1.08	25
Sams Drive		Lee's Mill Road	Sandy Creek Road	0.98	35
Sandy Creek Road		S. R. 54	Veterans Parkway	0.79	45
Sandy Creek Road		Veterans Parkway	S.R. 74	4.61	45
Seay Road		S. R. 92	S.R. 85	1.26	35
Scott Boulevard		Tyrone Road	Ellison Road	0.67	25
Shamrock Drive		S.R. 85	0.45 mile East of S.R. 85	0.45	25
Shelby Lane		Callaway Road	0.55 mile East of Callaway Road	0.55	25
Sheldon Way		Inman Road	0.35 mile east of Inman Road	0.35	25
Sherwood Road		Brookshire Drive	1.60 miles west of Brookshire Drive	1.60	25
Shoreline Drive		County Line Road	0.47 mile West of County Line Road	0.47	25
Simpson Road		S. R. 54	Corinth Road	0.44	25
Smithstone Pass		S.R. 314	Plantation Circle	0.86	25
Snead Road		Old Greenville Road	Chappell Road	1.96	35
Sourwood Trail		Antioch Road	Old Greenville Road	0.65	35
South Jeff Davis Drive		City Limits of Fayetteville	Inman Road	2.34	45
South Kite Lake Road		Kenwood Road	Kite Lake Road	0.68	30
Spear Road		Ebenezer Road	City Limits of Peachtree City	0.73	35
Stable Creek Road		Chappell Road	0.61 mile South of Chappell Road	0.61	25
Stanley Road		S. R. 92	Gingercake Road	0.71	30
St. Gabriel Way		Weldon Road	0.57 mile East of Weldon Road	0.57	25
Stonehaven Drive		Redwine Road	1.48 miles east of Redwine Road	1.48	25
Stoneridge Way		Hilo Road	Downybrook Lane	0.93	25
Surry Park Drive		Harp Road	0.58 mile North of Harp Road	0.58	25
Tarragon Drive		Whitegate Drive	Quarters Road	0.51	25
Thompson Road		S.R.74	0.59 mile East of S.R. 74	0.59	25

LIST NUMBER 0623-113

ROAD NAME	WITHIN THE CITY / TOWN LIMITS OF and/or School Name	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Thornton Drive		Kenwood Road	0.96 mile South of Kenwood Road	0.96	25
Trotters Ridge		Quarters Road	0.45 mile North of Quarters Road	0.45	25
Tyrone Road		S.R. 54	City Limits of Tyrone	3.16	40
Veterans Pkwy		S.R. 54	Tillman Road	1.75	45
Vickery Lane		County Line Road	0.57 mile West of County Line Road	0.57	25
Waterlace Way		Lester Road	0.95 mile south of Lester Road	0.95	25
Watershed Way		Antioch Road	0.48 mile East of Antioch Road	0.48	25
Weldon Road		Inman Road	Hills Bridge Road	0.90	30
Wesley Forest Drive		Gingercake Road	0.50 mile West of Gingercake Road	0.50	25
Westbridge Drive		Westbridge Road	Covered Bridge Trail	0.56	25
Westbridge Road		S. R. 92	Old Jonesboro Road	2.56	45
White Road		S. R. 92	City Limits of Fayetteville	0.86	35
White Oak Way		S. R. 314	New Hope Road	1.00	25
Whitney Way		New Hope Road	0.61 mile South of New Hope Road	0.61	25
Wilkins Road		Kenwood Road	0.72 mile south of Kenwood Road	0.72	25
Windsor Drive		S. R. 92	Granby Lane	1.10	25
Woodcreek Lane		Redwine Road	0.97 mile east of Redwine Road	0.97	25
Woods Road	Town of Brooks	85 Conn	City Limits of Brooks	1.07	35
Woods Road		City Limits of Brooks	Grant Road	0.56	35
Youngs Circle		Harp Road	Harp Road	0.71	25
Zelkova Drive		Hawn Road	0.48 mile South of Hawn Road	0.48	25

SCHOOL ZONES ARE EFFECTIVE

A.M. from 30 minutes prior to commencement time to 30 minutes after commencement time

SCHOOL DAYS ONLY.

P.M. from 30 minutes prior to dismissal time to 30 minutes after dismissal time –

SCHOOL DAYS ONLY.

LIST NUMBER 0623-113

ALL LISTS AND PARTS OF LISTS IN CONFLICT WITH THIS LIST ARE HEREBY REPEALED.

Signature of Governing Authority:

Chairman, Board of Commissioners

Commissioner

Commissioner

Sworn and Subscribed before me
This _____ day of _____, _____.

Commissioner

Commissioner

NOTARY PUBLIC

BOARD OF COUNTY COMMISSIONERS

Lee Hearn, Chairman
Edward Gibbons, Vice Chairman
Eric K. Maxwell
Charles D. Rousseau
Charles W. Oddo

Consent #6

FAYETTE COUNTY, GEORGIA

Steve Rapson, County Administrator
Dennis A. Davenport, County Attorney
Tameca P. Smith, County Clerk
Marlena Edwards, Chief Deputy County Clerk



140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

MINUTES

March 28, 2024

5:00 p.m.

Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2nd and 4th Thursday of each month at 5:00 p.m.

OFFICIAL SESSION:

Call to Order

Chairman Lee Hearn called the March 28, 2024 Board of Commissioners meeting to order at 5:00 p.m. A quorum of the Board was present.

Invocation and Pledge of Allegiance by Vice Chairman Edward Gibbons

Vice Chairman Edward Gibbons offered the invocation and led the audience in the Pledge of Allegiance.

Acceptance of Agenda

Commissioner Oddo moved to accept the agenda as written. Vice Chairman Edward Gibbons seconded. The motion passed 5-0.

PROCLAMATION/RECOGNITION:

1. Update from Southern Crescent Technical College.

Dr. Irvin Clark, Southern Crescent Technical College President, provided the Board a brief overview of the work and programs at Southern Crescent Technical College as well as future plans for the college in Fayette County and the impact it was having on the community. Dr. Clark stated that currently there was over 6,000 students registered at Southern Crescent Technical College. He reviewed the Fayette County Center, outlining the Dual Enrollment and adult education programs, and the partnership with Fayette County schools, Clayton State University, Fayette County Chamber of Commerce, and the Fayette County Development Authority, who all helped facilitate these programs and courses. He discussed their strategic plan for 2024-2028, enrollment data, high demand industry sector initiatives promoting the CDL- Entrepreneurship program for graduating seniors, the LPN-Paramedic to registered nurse (RN) Bridge program, and apprenticeship programs. He also outlined their Southern Crescent Talent Strong program, and Capital Outlay, highlighting the RAAME Center which was a cutting-edge facility designed to offer top-tier training features and academic programs, equipping students and enterprises to thrive while aligning seamlessly with industry workforce demands. He thanked the Board for their support and noted that he was excited to return in the coming year to relay student success and growth of the various programs.

Commission Maxwell expressed his appreciation for the programs and the work Southern Crescent Technical College was doing in Fayette. He also asked what programs Southern Crescent Technical College offered for the aviation industry.

Dr. Clarks stated that aviation programs had to be regulated through the Federal Aviation Administration (FAA), and currently they did not have a FAA registered program. However, they did offer a Machine Tool program that had a direct relationship with the aviation community. He noted that they work closely with Delta who recruits students from the Machine Tool program.

Commissioner Rousseau thanked Dr. Clark for his presentation and asked how the Board could assist Southern Crescent Technical College in their efforts to serve the community.

Dr. Clark stated that the Board could provide support via advocacy – continuing to discuss with their constituency about Southern Crescent Technical College and the programs available- specifically those offered at the Fayette County Campus.

Commissioner Rousseau asked about Emergency Management Services (EMS) training and if they had been in communication with Fayette County Fire Department Chief.

Mr. Clark stated yes, he had. In fact, Southern Crescent Technical College and Fayette County Fire and EMS were in partnership and would be signing an EMS/ Paramedic articulation agreement in the coming month.

Commissioner Rousseau expressed his concern regarding the current and future crisis in allied/public health and recruitment in this industry for these type professions. He suggested that Dr. Clark reach out to public health officials in the community. He continued that he was open to partnership, specifically for outreach to the youth and developing connections and resource networks. He asked about opportunities and options for re-entry citizens who, after serving their time, are searching for ways to re-enter the workforce and penetrate a market but needing appropriate training to do so.

Dr. Clark state that this was not something that had been directly discussed in Fayette County; however, he would be open to looking at these options.

Chairman Hearn thanked Dr. Clark for his passion and the service provided to Fayette County.

PUBLIC HEARING:

Fayette County Attorney Dennis Davenport advised the Board, as a point of clarification, that at the February 22, 2024 meeting there was an active motion presented by Commissioner Maxwell to approve Petition No. 1338-24 with three conditions, seconded by Chairman Hearn. He added that before a vote was taken, another motion was made to table, which was what brought the item to this meeting. With this in mind, the active motion needed to be settled considering also that the initial three conditions had changed and there were now eight (8) conditions.

Commissioner Maxwell withdrew his motion to approve Petition No.1338-24, Jerry Battle, Jr., and Melissa Battle, owners, Randy Boyd, agent, request to rezone 2.14 acres from A-R to R-72 for the purposes of creating a legal, conforming lot to build a single-family home; property located in Land Lot 252 of the 4th District and fronts on McBride Road, with the three outlined conditions. Chairman Hearn withdrew his second.

Planning and Zoning Director Deborah Bell read the Introduction to Public Hearings for rezonings.

- 2. Consideration of Petition No.1338-24, Jerry Battle, Jr., and Melissa Battle, owners, Randy Boyd, agent, request to rezone 2.14 acres from A-R to R-72 for the purposes of creating a legal, conforming lot to build a single-family home; property located in Land Lot 252 of the 4th District and fronts on McBride Road. This item was tabled at the February 22, 2024 Board of Commissioners meeting.**

Ms. Bell stated that on February 1, 2024, Planning Commission voted 5-0 to recommend conditional approval. As defined in the Fayette County Comprehensive Plan, Rural Residential - 2 was designated for this area so the request for R-72 zoning was appropriate. However, at the last Board of Commissioners meeting, the petitioner made a statement that triggered staff to conduct additional research into the parcel. Following said research, staff determined that this parcel was classified as an illegal

parcel because it was a remnant parcel in a plat recorded in 1987. As a result, staff recommended denial of the rezoning petition. The parcel should be presented to the Zoning Board of Appeals with a request to be deemed a nonconforming lot under Sec. 110-242. Once the illegal status has been corrected, the parcel would be eligible to be considered for rezoning. Ms. Bell noted that the two older accessory structures that exceeded the square footage allowed in R-72 have been removed. The unapproved business operation has ceased, and the applicant understands that this will not be permitted at this location. The applicant applied for a building permit for the shop. The issuance and approval of this permit was pending the correction of the deficiencies of the existing house and parcel. If this rezoning was approved, staff recommended the following conditions:

RECOMMENDED CONDITIONS

1. The owner/developer shall dedicate right-of-way, as needed, to provide 40 feet of right of way as measured from the existing centerline of McBride Road. The required right-of-way donation shall be provided to the County within 60 days of the approval of the rezoning request.
2. Applicant must, within 120 days of the rezoning, obtain a variance for the side yard setback encroachment of approximately 1 foot (1') of the existing house or remove the structure.
3. Applicant must, within 120 days of the rezoning, obtain a variance for the front yard setback encroachment of approximately 33.8 feet (33.8') of the existing house or remove the structure.
4. If the setback variances are approved, the applicant must, within 60 days of that approval, obtain a building permit to expand the house to meet R-72 standards, or obtain a demolition permit and remove the structure.
5. Expansion of the house, or its removal, must be completed within 6 months of obtaining the building permit.
6. Applicant must obtain a variance for an additional 20 square feet for the remaining accessory structure (1,820 SF shop) or remove the structure within 120 days of approval of rezoning request.
7. Applicant must, within 60 days of approval of the accessory structure size variance, obtain a building permit for the accessory structure (1,820 SF shop) or remove the structure.
8. If the applicant does not obtain a building permit to expand the existing house, or alternatively, a permit to build a new house, then the accessory structure (1,820 SF shop) shall be removed within 90 days of the house setback variance approvals.

Mr. Randy Boyd, petitioner representative, expressed his frustrations stating that both his application and in his presentations to the Planning Commission and the Board, he was forthcoming and articulated that this lot was a non-conforming "illegal" lot, and it was reiterated several times. He stated that he never tried to withhold this information. The Battle family went to the Planning and Zoning Office in good faith in late November turning their application in, as early as December, and nothing was mentioned about this issue of the illegal lot, nor was it brought up as an issue at any of subsequent meetings, until today. Mr. Boyd asked, "Why?" He noted that he wanted to make sure he and his client followed the proper process, but it was frustrating that it took this long before the issue was brought to their attention. If successful, this process would not be completed until October 2024, eleven months since his initial application. Again, Mr. Boyd asked how this happened and noted that this was not fair for his clients. In an effort to not make any additional errors, Mr. Randy Boyd requested to have Petition No. 1338-24 withdrawn.

Commissioner Rousseau asked as a point of clarification if this was technically the same request that had been presented at the February 22 Board meeting, since conditions had changed. And if that was the case, is it properly before the Board or should it be presented to the Planning Commission first for a recommendation.

Mr. Davenport stated that the Board had the ability to make a decision this evening based upon the analysis presented before the Board recommended to them from the Planning and Zoning Director.

Commissioner Rousseau asked would tabling this item or recommending it be re-processed before the Planning Commission again be an option.

Mr. Davenport stated that if that was decided by the Board it would be making the process longer for the applicant because based on the lot being characterized as an illegal lot, there was not anything the Planning Commission could do to fix the problem. The Zoning Board of Appeals was the jurisdiction with the proper authority to fix the issue.

Commissioner Rousseau asked if the Board should finish the formal public hearing process or could he move forward in making a motion.

Mr. Davenport stated that based on the applicants request to rescind the application. The Board was open to accepting that withdrawal and making a motion to that effect or proceeding with the public hearing.

Commissioner Rousseau moved to approve withdrawal of Petition No. 1338-24. Commissioner Oddo seconded.

Commissioner Maxwell expressed his frustration and stated that he was sorry about how things unfolded. He stated that they should not have been attacked by surprise and noted that this should have come up well before now in this process. Commissioner Maxwell stated that it was concerning that the initial three conditions have been met, but now there were eight additional conditions.

Mr. Boyd stated that there was a similar rezoning request approved in January 2024. He noted that their seemed to be a flaw and/or inconsistencies in the process, specifically related to having an illegal lot.

Commissioner Oddo apologized for how things happened. He also stated that although illegal lots were unusual, they did occur and when they did come up, these issues had to be fixed.

Mr. Boyd thanked Commissioner Oddo for his comments but added that if that was the case, it would be helpful for residents/applicants to have an official process in place that outlined exactly how a homeowner would go about getting the "illegal" lot into compliance. Mr. Boyd asked, because this issue was not caused by his client, and due to no fault on their part, was there any way and/or process for them to move forward without having to start completely over. He reiterated his request to have Petition No. 1338-24 withdrawn.

County Administrator Steve Rapson admitted that this was missed and added that the process had been modified to ensure this did not happen again in the future. He stated that this was not due to an error on the part of the applicant, and it should have been caught sooner.

Mr. Boyd asked if the County could refund the application fee, which he noted would be fair.

Mr. Rapson stated that a refund had been discussed but legal advised against this position.

Commissioner Rousseau moved to approve withdrawal of Petition No. 1338-24. Commissioner Oddo seconded. The motion passed 5-0.

3. Consideration of Petition No. 1344-24, Stephen Willoughby Homes, LLC, owner; Richard Lindsey, Attorney, agent; request to rezone 41.10 acres from A-R to R-40 for the purposes of developing a single-family residential subdivision; property located in Land Lot 230 of the 5th District and fronts on Kenwood Road and Longview Road.

Ms. Bell stated that the property was a single tract with one (1) single family home. It was a legal lot of record and is zoned A-R. There is no history of prior rezoning; it was not located in an overlay district. She stated that the existing home did meet dimensional standards for R-40. Per the Fayette County Comprehensive Plan, the area was designated for low density residential (1 unit per 1 acre), so the request to rezone to R-40 did align with the Future Land Use Map and Comprehensive Plan.

The Planning Commission and staff recommended conditional approval of the request; subject recommended conditions as follows:

RECOMMENDED CONDITIONS:

1. Kenwood Road is a minor arterial on the Fayette County Thoroughfare Plan. The developer shall dedicate land, as needed, to provide 50 feet of right-of-way as measured from the existing centerline of Kenwood Road. The corner at the intersection of Kenwood Road and Longview Road shall be chamfered 20 feet along tangent legs.
2. Longview Road is a collector on the Fayette County Thoroughfare Plan. The developer shall dedicate land, as needed, to provide 40 feet of right-of-way as measured from the existing centerline of Longview Road.
3. Submittal of all warranty deed(s) and legal descriptions for right-of-way dedications shall be provided to the County within 60 days of the approval of the rezoning request, or prior to the submittal of a development site plan, whichever comes first.
4. The development shall have no more than eight (8) homes with direct road frontage onto Kenwood Road and Longview Road.
5. Any new road constructed to access lots shall be built with a deceleration lane and acceleration taper per the Fayette County Entrance and Striping Detail.

Ms. Bell provided an overview description of the property location within the County and surrounding zoning.

Tom Lassy applicant representative thanked staff for their assistance with processing this petition and stated that his client was fine with the conditions as stated. He reiterated that the request was seeking rezoning from AR to R-40 and complied with both the county's Land Use Plan and Comprehensive Plan. He noted that the subject property was 41.1 acres; however, a portion of the property could not be developed due to environmentally sensitive areas. The proposed development would consist of 29 homes or less and these would be well appointed luxury homes with a projected selling price of \$800k and up. He noted that the small subdivision would be an asset to the local area and generate additional economic activity. He noted that his applicant planned to have all the homes face internally and not be directly accessible to Kenwood Road or Longview Road, but not knowing what the land would dictate, the request asked for the ability for no more than eight (8) face either Kenwood Road or Longview Road. He concluded that he hoped this request met the Board's approval.

No one spoke in favor.

The following citizens made comments in opposition to the rezoning:

Eloise Delaine, Darrel Carlson, Liewellyn Bryant, Cynthia Cunningham, Kimberly Ball, Bonnie Crutchfield, Harvie Delaine, Melonece Bryant. Comments included concerns regarding increased traffic, construction parking, a diminished quality of life and tranquility to the community, environmental run-off/flooding issues, and major concerns regarding safety along Kenwood Road and the potential for a road widening project of Longview and its affect to the area.

Mr. Lassy stated in response to some of the comments, that some of their concerns were addressed in the conditions. Condition #5 did discuss deceleration lane and acceleration taper, which would help with speeding issues on the roadway. He also pointed out that conditions #1 and #2 addressed concerns related to road widening and right-of-way acquisition. He acknowledged that there would be more cars if approved, however via staff review, this would be about an 8% increase in traffic. He concluded again asking for the Board's favorable approval.

Vice Chairman Gibbons moved to approve Petition No. 1344-24. Commission Oddo seconded.

Commissioner Oddo stated that he appreciated the concerns as noted by residents in the area. However, the Land Use Plan allowed for this use in that area and the Board could not deny the applicant's use of the property. The applicant had the right to request to have the property rezoned and there was no reason to deny the request.

Commissioner Rousseau asked if his client owned the land or had an option on the land. He stated that he believed he owned the land. Commissioner Rousseau stated that he shared some of the same concerns as expressed by the residents in the area, related to safety, traffic, flood plains and wet issues.

Commissioner Rousseau asked what the layout of the development would be.

Ms. Bell stated that that was currently unknown. They had the option to build a small subdivision with an internal street or create a minor plat with lots that have frontage on the existing roads. However, because of the concerns about traffic engineering asked

that a condition be included that would limit the number of curb cuts and lots with direct access to what was allowed under the current zoning.

Commissioner Rousseau stated that this was something he would be open to looking at further. Because developers were not required to provide pre-liminary plans, it was difficult for the surrounding neighbors to know exactly what was being planned.

Commissioner Rousseau noted that there would be major construction happening in the coming months at the nearby dam that would also create some heightened activity and increased congestion, which should be on the radar of those in area. He also stated that he was concerned about the impact this development could potentially have on the school in the area and noted that it was his desire to develop plans for trails and a path system on the north side of the County that would create access to the schools and the parks in the area. Although not directly related to this request, it would be in the general area this pathway system would encompass. Commissioner Rousseau stated that this request was in alignment with the Land Use Plan, but he would like to discuss adding a pre-design element to rezoning requests.

Vice Chairman Gibbons moved to approve Petition No. 1344-24. Commission Oddo seconded. The motion passed 3-2, with Chairman Hearn and Commissioner Rousseau voting in opposition.

PUBLIC COMMENT:

Darrel Carlson asked if there was a citizen appeal process in place for rezonings.

CONSENT AGENDA:

Commissioner Oddo moved to approve the Consent Agenda. Vice Chairman Gibbons seconded. The motion passed 5-0.

4. **Approval to add Paislee Park subdivision to Fayette County's Street Light Program.**
5. **Approval to accept a supplemental grant award for the DUI Accountability Court in the amount of \$51,546 for Treatment and Drug Testing.**
6. **Approval of the March 14, 2024 Board of Commissioners Meeting Minutes.**

OLD BUSINESS:

NEW BUSINESS:

7. **Consideration of a request from Rod Wright, developer of Paislee Park, seeking authorization for the use of motorized cart travel on all streets within the subdivision in accordance with Fayette County Code; Chapter 26-Traffic and Vehicles; Article III.-Motorized Carts.**

Vice Chairman Gibbons moved to approve request from Rod Wright, developer of Paislee Park, seeking authorization for the use of motorized cart travel on all streets within the subdivision in accordance with Fayette County Code; Chapter 26-Traffic and Vehicles; Article III.-Motorized Carts. Commissioner Oddo seconded. The motion passed 5-0.

8. **Consideration of a request from United States Soccer Federation National Training and Headquarters to connect to the City of Fayetteville's sewer system.**

Vice Chairman Gibbons asked if there was any objection from the city of Fayetteville.

Ms. Bell stated no there was not. She stated that the City of Fayetteville provided a letter of sewer availability confirming that the city would construct the necessary infrastructure needed to support the request.

Commissioner Rousseau stated that he had received some calls regarding unapproved activity on the site, such as boring and operating in the right-of-way. He stated that he wanted to ensure compliance before he approved this.

Environmental Management Director Bryan Keller stated that there had been some land disturbance issues, that had since been resolved and the developers were now in better communication with the county on activity at the site.

Vice Chairman Gibbons moved to approve request from United States Soccer Federation National Training and Headquarters to connect to the City of Fayetteville's sewer system. Commissioner Oddo seconded. The motion passed 5-0.

9. Request to award Bid #2357-B: 2017 SPLOST; Stormwater Category II, Tier II, 19SBM Ridge Way Culvert Replacement to the lowest responsive, responsible bidder, Piedmont Paving, Inc., in the amount of \$300,958.14 and to transfer \$141,286.00 from 17SAS - CAT IV.

Mr. Keller stated that this request was to award Bid #2357-B: 2017 SPLOST; Stormwater Category II, Tier II, 19SBM Ridge Way Culvert Replacement to the lowest responsive, responsible bidder, Piedmont Paving, Inc., in the amount of \$300,958.14 and to transfer \$141,286.00 from 17SAS - CAT IV. This culvert project was located in the Parkhill subdivision off of Hilo Road near State Route 92 South.

Chairman Hearn asked if they were going to be able to maintain access for the properties located on the dead end.

Mr. Keller stated yes, they would. This was part of the contract.

Commissioner Oddo moved to approve to award Bid #2357-B: 2017 SPLOST; Stormwater Category II, Tier II, 19SBM Ridge Way Culvert Replacement to the lowest responsive, responsible bidder, Piedmont Paving, Inc., in the amount of \$300,958.14 and to transfer \$141,286.00 from 17SAS - CAT IV. Vice Chairman Gibbons seconded. The motion passed 5-0.

10. Request to award IFB #2358-B to Headley Construction Corporation in the amount of \$299,977.68 for Kiwanis Park Pickleball Construction and approval to transfer \$120,000.00 from Kiwanis Park Restroom Facility Budget 37560110 541210 236AC to the Kiwanis Park Pickleball Construction budget 37560110 541210 226AE to fully fund the Pickleball Court Construction project.

Parks and Recreation Director Anita Godbee stated that this request was for construction of four dedicated pickleball courts at Kiwanis Park. The courts would be located adjacent to the tennis courts currently at the park. Some preliminary work was done to keep cost down. She stated that an Invitation to Bid was issued to construct four pickleball courts at Kiwanis Park. Five companies responded and submitted bids, with one withdrawing their bid because they did not perform some of the items outlined in the Invitation to Bid.

Mrs. Godbee requested approval to award this project to the recommended lowest bidder, Headley Construction Corporation in the amount of \$299,977.68 for Kiwanis Park Pickleball Construction and approval to transfer \$120,000.00 from Kiwanis Park Restroom Facility Budget 37560110 541210 236AC to the Kiwanis Park Pickleball Construction budget 37560110 541210 226AE to fully fund the Pickleball Court Construction project.

Commissioner Maxwell asked about the transfer of funds from the Kiwanis Park Restroom Facility Budget and if this would create an issue where porta-johns would have to be utilized.

Mrs. Godbee stated that those funds were allocated for an additional third restroom facility at the park. The Recreation Committee would continue to study and evaluate if there was a need for it, to determine if it could be added to a future year's budget. She noted that currently, the two restroom facilities were adequate to house normal season operation.

Commissioner Maxwell asked if there were porta-johns at any of the parks.

Mrs. Godbee stated there were none at any of the parks, and the only time that might happen was if a restroom went down and was out of order.

Mr. Rapson added that Starrs Mill was the exception. There are porta-johns there.

Vice Chairman Gibbons moved to approve to award IFB #2358-B to Headley Construction Corporation in the amount of \$299,977.68 for Kiwanis Park Pickleball Construction and approval to transfer \$120,000.00 from Kiwanis Park Restroom Facility Budget 37560110 541210 236AC to the Kiwanis Park Pickleball Construction budget 37560110 541210 226AE to fully fund the Pickleball Court Construction project. Commissioner Oddo seconded. The motion passed 5-0.

ADMINISTRATOR'S REPORTS:

A: Contract 2128-B: Annual Contract for Waterline Extension Task Order 24-07: Burch Rd. Vault Replacement

B: Contract 2379-S: Public Health Camera Installation

AT&T Boring

Mr. Rapson advised that there was some AT&T boring being done on Veterans Parkway and just wanted the public to be aware.

McIntosh Trail Service Board

Mr. Rapson advised that he needed a selection committee for the McIntosh Trail Service Board to fill one vacancy.

Vice Chairman Gibbons moved to approve to nominate Vice Chairman Gibbons and Commissioner Rousseau to serve on the McIntosh Trail Service Board selection committee. Commissioner Oddo seconded. The motion passed 5-0.

ACCG certification

Mr. Rapson proudly advised that Brady Krakeel and Phil Mallon received their CORE Association of County Commission of Georgia (ACCG) certifications. The following staff received specialty track certifications: Jeff Hill-County Operations & Management in Leadership, Vanessa Tigert-Intergovernmental Relationships & Management in Leadership, and Steve Rapson-Intergovernmental Relationships.

Animal Control

He advised that Animal Control received their certificates of occupancy today and that the grand opening was scheduled for April 11th beginning 3 p.m. A community grand opening ceremony was scheduled for April 13th.

Hot Projects

Mr. Rapson stated that the Hot Projects report was forwarded to the Board and included updates on the Parks and Recreation multi-use facility, Redwine Road multi-use path, Redwine Road/Bernhard Road/Peachtree Parkway roundabout, Coastline Bridge improvements, and the Animal Shelter facility, and a Water System update.

Fayette County Ranking

Mr. Rapson shared recent analysis on Fayette County's ranking in the State taking #3 for best counties for families, #3 for counties with the best public schools, and #4 for best county in Georgia.

Tunnel Project Update

Mr. Rapson stated that he sent a complete tunnel project update to the Board for review.

ATTORNEY'S REPORTS:

Notice of Executive Session: County Attorney Dennis Davenport stated that there were three items for Executive Session. One item involving real estate acquisition, the review of the revised January 25, 2024 Executive Session Minutes, and the review of the March 14, 2024 Executive Session Minutes.

COMMISSIONERS' REPORTS:

Commissioner Maxwell

Commissioner Maxwell stated that former Development Authority Chairman Randy Haynes was gravely ill but recently took a positive turn coming out of a coma. He extended his well wishes on a speedy recovery.

Commissioner Maxwell proudly highlighted recent analysis from a survey conducted by Niche.com where Fayette County was ranked 16th as one of the top places to live in America based on public schools, cost of living, job opportunities and local amenities.

Commissioner Oddo

Commissioner Oddo wished everyone a Happy Easter. He also stated that part of the job of the Board was to make decisions. He noted that they did the best they could using the best reasoning available, judging multiply perspectives, which was difficult at times.

EXECUTIVE SESSION:

One item involving real estate acquisition, the review of the revised January 25, 2024 Executive Session Minutes, and the review of the March 14, 2024 Executive Session Minutes. Commissioner Oddo moved to go into Executive Session. Vice Chairman Gibbons seconded. The motion passed 5-0.

The Board recessed into Executive Session at 6:51 p.m. and returned to Official Session at 7:03 p.m.

Return to Official Session and Approval to Sign the Executive Session Affidavit: Commissioner Oddo moved to return to Official Session and for the Chairman to sign the Executive Session Affidavit. Vice Chairman Gibbons seconded. The motion passed 5-0.

Approval of the revised January 25, 2024 Executive Session Minutes: Commissioner Oddo moved to approve the revised January 25, 2024 Executive Session Minutes. Vice Chairman Gibbons seconded the motion. The motion passed 5-0.

Approval of the March 14, 2024 Executive Session Minutes: Commissioner Oddo moved to approve March 14, 2024 Executive Session Minutes. Vice Chairman Gibbons seconded the motion. The motion passed 5-0.

ADJOURNMENT:

Commissioner Oddo moved to adjourn the March 28, 2024 Board of Commissioners meeting. Vice Chairman Gibbons seconded. The motion passed 5-0.

The March 28, 2024 Board of Commissioners meeting adjourned at 7:05 p.m.

Marlena M. Edwards, Chief Deputy County Clerk

Lee Hearn, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 11th day of April 2024. Attachments are available upon request at the County Clerk's Office.

Marlena Edwards, Chief Deputy County Clerk

COUNTY AGENDA REQUEST

Department:

Presenter(s):

Meeting Date:

Type of Request:

Wording for the Agenda:

Request to approve updates to Fayette County Policy 200.03, Use of Federal Funds and the subsequent ordinance regarding this policy.

Background/History/Details:

Federal Uniform Administrative Requirements say that the county must "have and use documented procurement procedures" that comply with the Code of Federal Regulations at 2 CFR 200.317 through 327. The Board approved existing policies and procedures on March 22, 2012. Since that time, there have been a number of changes, additions, and instructions that make it necessary to update the document.

Please see the attached backup for additional information.

What action are you seeking from the Board of Commissioners?

Approval of the updates to Fayette County Policy 200.03, Use of Federal Funds and the subsequent ordinance regarding this policy.

If this item requires funding, please describe:

No funding required.

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?*

Backup Provided with Request?

*** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

Staff Notes:

**FAYETTE COUNTY
POLICIES AND PROCEDURES**

**OPERATIONAL FUNCTIONS
Procurement With Federal Funds
200.03**

PURPOSE

~~Grants of funds from the federal government, whether received directly from the federal government or through a state agency, require the county to follow laws, rules, and regulations governing the use of the funds. The procedures enumerated below are in compliance with requirements contained in the federal grants management common rule.~~

When procuring goods or services with funds provided by a federal award, the county must follow the procurement standards established by Title 2 (Grant Agreements), Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) of the Code of Federal Regulations (CFR). The requirements include documented procurement procedures consistent with state and local laws and regulations and the federal standards established in 2 CFR 200.317 through 200.327. This Policy and Procedures section fulfills that requirement.

POLICY

The Purchasing Department will follow purchasing procedures consistent with requirements of federal grantor or pass-through entities to assure the appropriate and prudent use of federal funds that are made available to the county for public purposes.

Note 1: Some procurement requirements may vary from one grant to another. Each federal agency is authorized to promulgate additional procurement requirements to meet its particular needs. For this reason, it is important for any department receiving a grant award to furnish a copy to the Purchasing Department. Purchasing staff will review the grant award and relevant documents pertinent to any invitation for bids (IFB), request for proposals (RFP), or other procurement actions which would use grant funds, comply with purchasing-related requirements, and maintain the documents in the purchasing files. ~~Construction projects carry additional requirements, which should be reviewed carefully before contracts or purchases are executed.~~

Note 2: A separate set of procedures has been established to meet the unique requirements for federal grants received through the Georgia Department of Transportation (GDOT) for engineering and design related services, in response to GDOT's unique requirements.

I. PROCEDURES ~~-PROCUREMENTS WITH FEDERAL FUNDS~~

~~A. The federal Common Rule requires the county to follow specific purchasing rules when spending federal grant funds. The Common Rule stipulates that local governments~~

**FAYETTE COUNTY
POLICIES AND PROCEDURES**

**OPERATIONAL FUNCTIONS
Procurement With Federal Funds
200.03**

~~“will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.”~~

~~**The standards to be met by the grant-receiving department are:**~~

- ~~1. Maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of contracts or purchase orders.~~
- ~~2. Conduct a review of proposed procurements to avoid purchase of unnecessary or duplicative items. When appropriate, analyze lease versus purchase alternatives or conduct other appropriate analyses to determine the most economical approach. Consider consolidating or breaking out purchases to reduce total costs.~~
- ~~3. Perform a cost analysis or price analysis in connection with every procurement action. For procurements which involve an IFB or RFP, an estimate must be made before receiving the bids or proposals.

 - ~~a. A *price analysis* will be appropriate for most contract procurements, in order to determine the reasonableness of a proposed contract price. This may involve a review of past similar contract prices, other local government experience, directly contacting a trade group, or other appropriate mechanisms.~~
 - ~~b. A *cost analysis* may be appropriate in some cases when offerors are required to submit a breakdown of estimated costs as part of a bid or proposal. Based on experience, this will be an unusual occurrence for the county, and may be necessary when adequate price competition is lacking, for certain sole source procurements, or similar situations. The county will negotiate profit as a separate element of the price for each contract in which there is no price competition, and in all cases where a cost analysis is performed.~~~~

~~**The standards to be met by the Purchasing Department are:**~~

- ~~4. The county will make awards only to responsible contractors that possess the ability to perform successfully under the terms of a proposed procurement. Consideration will be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources, as appropriate.~~

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- ~~5. All contracts awarded by the county, and using federal funds covered by these instructions, must contain the following provisions:~~
- ~~a. Notice of any reporting required by the grant awarding agency.~~
 - ~~b. Assurance of access by the federal grantor agency, the state, the county, the Comptroller General of the United States, or any duly authorized representative of these agencies to any books, documents, papers, or records of the contractor which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcriptions.~~
 - ~~c. All required records will be retained by the contractor for three years after grantees or sub-grantees make final payments and all other pending matters are closed.~~
- ~~6. The county will maintain records of the significant history of a procurement. In addition to information routinely kept, procurement folders will document:~~
- ~~a. Rationale for the method of procurement (e.g. open market purchase, IFB, or RFP);~~
 - ~~b. Rationale for selection of contract type, (e.g. sole source contract, cost reimbursement contract, or fixed price contract);~~
 - ~~c. Rationale for contractor selection or rejection; and~~
 - ~~d. Basis for the contract price.~~
- ~~7. The county will use time and material type contracts (where the county is charged for direct labor hours and materials costs) only:~~
- ~~a. After a determination that no other contract is suitable, and~~
 - ~~b. If the contract includes a ceiling price that the contractor exceeds at its own risk.~~
- ~~8. The county will be responsible for settlement of contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.~~
- ~~9. Procurement transactions will be conducted in a manner providing full and open competition. Examples of situations considered to be restrictive of competition include, but are not limited to:~~
- ~~a. placing unreasonable requirements on firms in order for them to qualify to do business,~~
 - ~~b. requiring unnecessary experience and excessive bonding,~~
 - ~~c. non-competitive pricing practices between firms or affiliated companies,~~
 - ~~d. non-competitive awards to consultants that are on retainer contracts,~~
 - ~~e. organizational conflicts of interest~~

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- ~~f. specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, or~~
- ~~g. any arbitrary action in the procurement process.~~

~~10. The Purchasing Department will make contact with enough qualified vendors to provide for open and free competition. Potential bidders will not be precluded from qualifying during the solicitation period.~~

~~11. Contracts over \$10,000 must contain a provision for potential termination of the contract for cause, or for convenience by the grantee or the county, including the manner by which termination will be effected and the basis for settlement.~~

~~In addition, the following standards will be met:~~

~~12. The county will maintain a written code of standards of conduct governing the performance of employees, including those engaged in the award and administration of contracts.~~

~~13. The county will maintain procedures for vendor protests to resolve procurement-related disputes. In all instances, the county will disclose protests to the grant-awarding agency.~~

~~14. The county will abide by all other requirements and standards stipulated in the federal Common Rule for the granting federal agency.~~

~~II. PROCEDURES — VENDOR SELECTION~~

~~A. Purchases shall be made in conformance with county ordinances, including *Article V, Purchases; Sales* and county policies and procedures, such as policy #300.11, titled *Grants Management*. The director of purchasing has the authority to make purchases on the open market where the purchase price does not exceed the amount authorized in the ordinance. Other purchases can be made only with prior approval by the Board of Commissioners on a competitive sealed basis.~~

~~B. Competitive sealed procurement methods may include Invitations for Bids (IFB) or Requests for Proposals (RFP). Adequate public notice of an IFB or RFP shall be given prior to the bid opening date.~~

- ~~1. **Invitation for Bids:** Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the IFB. The name~~

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~~of the bidder, the amount bid, and other information deemed relevant shall be recorded. The record and each bid shall be open to public inspection.~~

~~Bids shall be evaluated based on the requirements set forth in the IFB. This may include criteria to determine acceptability such as inspection, testing quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The IFB shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the IFB.~~

~~Corrections to, or withdrawal of, inadvertently erroneous bids may be done before an award is made. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the county or fair competition shall be permitted. Any decision to permit the correction or withdrawal of a bid, or to cancel an award or contract based on bid mistakes, shall be supported by a written determination made by the director of purchasing and placed in the IFB file.~~

~~The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the IFB.~~

- ~~2. **Request for Proposals:** Adequate public notice shall be given prior to the opening date of an RFP. Proposals shall be opened so as to avoid disclosure of contents to competing offers during the process of negotiation. A Register of Proposals shall be prepared, and shall be open for public inspection after contract award.~~

~~The RFP shall state any and all factors to be used in evaluation of the proposals.~~

~~As provided in the RFP, discussions may be conducted with responsible offerors, for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Revisions of proposals may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.~~

~~Award shall be made to the responsible offeror whose proposal conforms to the solicitation and is determined to be the most advantageous to the~~

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~~county, taking into consideration the evaluation factors set forth in the RFP.~~

~~C. Purchases other than competitive sealed procurement may be made using the following methods:~~

- ~~1. **Small purchases** are those not exceeding the authority granted to the director of purchasing by county ordinance. Purchases in this group may be made without sealed competition. Price or rate quotations shall be obtained from an adequate number of qualified sources to assure good value for the county, while promoting free and open competition among vendors. Procurement transactions shall not be artificially divided so as to constitute a small purchase.~~
- ~~2. **Sole source procurements** may be made when the director of the requesting department determines in writing that there is only one source for the required supply, service or other item.~~
- ~~3. **Emergency procurements** may be made in some situations, such as those stipulated in Article V of county policies and procedures, or *An Ordinance Authorizing the Suspension of Portions of the Code of Ordinances and Other Formalities During a State of Emergency*. The director of the requesting department shall provide a written determination of the basis for the emergency to the Purchasing Department, which shall be included in the contract or procurement file.~~

~~D. An IFB, RFP, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interest of the county. A sound reason for taking this action will be documented and placed in the procurement file.~~

~~E. All solicitations shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description shall not unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured, and may set forth the minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.~~

~~A “brand name or equal” description may be used as a means to define the performance or other requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.~~

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~~All solicitations shall identify all requirements which the offerors must fulfill, and all other factors to be used in evaluating bids or proposals.~~

- ~~F. The county will use minority owned businesses, small businesses, and women's business enterprises when practicable. To accomplish this, the Purchasing Department will:~~
- ~~1. Place qualified businesses in these groups on the bidders list when they express an interest.~~
 - ~~2. Assure that these businesses are solicited whenever they are potential vendors.~~
 - ~~3. Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by these businesses.~~
 - ~~4. Establish delivery schedules, where requirements permit, which encourage participation by these businesses.~~
 - ~~5. Use the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.~~
 - ~~6. Require any prime contractor(s) to take the steps listed in 1-5 above.~~

~~The county will use the following definitions, in conformance with the Georgia Department of Administrative Services:~~

- ~~• **Minority-owned business:** A business owned or controlled at least 51% by person(s) who are African American, Native American, Asian American, Hispanic/Latino, or Pacific Islander.~~
- ~~• **Small business:** An independently owned and operated entity that has either (1) fewer than 100 employees or (2) less than \$1 million in gross receipts per year, as defined by O.C.G.A 50-5-121.~~
- ~~• **Women's business enterprise:** A business that is owned or controlled at least 51% by one or more women.~~

~~**A. General Procurement Standards:** The county will abide by the following procedures, in conformance with procurement standards identified in 2 CFR 200.317 through 200.327, in procurement of goods and services using federal grant funds.~~

- ~~1) **Contractor Oversight:** In administration of procurements with federal funds, the county will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Consultants or sub-consultants may be used, where appropriate, to supplement county services.~~

~~At a minimum, contractor oversight will include assigning a designated county project manager; review of deliverables; invoice verification and~~

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processing; attending, conducting, and documenting meetings; tracking of project schedule and milestones; preparing payment requests; contract suspension (if needed); dispute resolution; project closeout; document retention; and performance evaluation.

- 2) **Standards of Conduct:** Fayette County Ordinance No. 2010-10 provides ethical standards for elected and appointed officials. Any person involved with a contract using federal funds is subject to the following ethical standards of conduct, in addition to the standards enumerated in the Ordinance.

No employee, officer, or agent of the county may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employees or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the county may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, except for items of nominal value as covered in Ordinance No. 2010-10.

Penalties for violations of the Ordinance or the above policies will be as provided in the Ordinance.

- 3) **Unnecessary or Duplicative Purchases:** The county will avoid acquisition of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease-versus-purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- 4) **Responsible Contractors:** The county will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. The county will consider, and document its consideration of, such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Any of the following methods may be used, among others, to obtain information about contractor responsibility:

- a. References & Contractor Performance Evaluation;

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- b. The federal System for Award Management (SAM) database;
 - c. Bid bond, or letter of proof of bonding capacity from the surety;
 - d. Financial statements as required for bids or proposals;
 - e. Statement of litigation for the past several years; or
 - f. Better Business Bureau or other sources of information
- 5) **History of the Procurement:** The county will maintain records sufficient to detail the history of the procurement. Records will include, at a minimum:
- a. **Rationale for the method of procurement:** The methods of procurement allowed with federal funds are micro-purchase, small purchase, sealed bidding proposal, or noncompetitive proposal method. Include in the procurement file:
 - i. Scope of work;
 - ii. List of sources selected for advertisement; and
 - iii. Copies of bids or proposals, performance evaluations, selected payment method (e.g. firm fixed price/fixed fee, cost plus fixed fee, cost per unit of work), & other relevant documents
 - b. **Selection of contract type:**
 - i. Fixed price – firm fixed price, cost-plus-fixed price, or similar;
 - ii. Cost reimbursement; or
 - iii. Time and materials [see #A.6 (Time and Materials Contracts) below].
 - c. **Contractor selection or rejection:** Document rationale for decisions, including a written responsibility determination for the successful contractor [see #A.4 (Responsible Contractors) above].
 - d. **Basis for the contract price:** Include
 - i. Independent cost estimate *prior to receiving bids or proposals* (if estimated price is above the Simplified Acquisition Threshold, state threshold for formal solicitations, or county threshold for formal solicitations);
 - ii. Cost or price analysis as appropriate (if estimated price is above the Simplified Acquisition Threshold, state threshold for formal solicitations, or county threshold for formal solicitations); and

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- iii. Market research as needed.
- e. **Suspension and debarment:** County staff will verify that any proposed contractor is not listed in the System for Award Management (SAM) or its successor as suspended or debarred from receiving a contract. The county will also include the appropriate suspension and debarment clause in the Terms and Conditions of a solicitation or contract.
- 6) **Time and Materials Contracts:** The county will use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. This is a contract whose cost to the county is the sum of (1) the actual cost of materials, and (2) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. This type of contract would set a ceiling price that the contractor exceeds at its own risk. The county would assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
- 7) **Administrative Issues:** The county alone will be responsible for the settlement of all contractual and administrative issues arising out of the county's procurements. This includes, but is not limited to, source evaluation, protests, disputes, and claims. The county assumes all contractual responsibilities under its contracts.

B. Competition

- 1) All procurement transactions under a federal award will be conducted in a manner providing full and open competition.
- 2) Any contractor that develops or drafts specifications, requirements, statements of work, invitations to bid, or requests for proposals will be excluded from competing for the procurement.
- 3) Situations considered to be restrictive of competition cannot be used. Such situations include, but are not limited to:
 - a. Placing unreasonable requirements on firms in order for them to qualify to do business;
 - b. Requiring unnecessary experience or excessive bonding;
 - c. Noncompetitive pricing practices between firms or affiliated companies;

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- d. Organizational conflicts of interest;
 - e. Specifying only a “brand name” product instead of allowing an “equal” product to be offered and describing the performance or other relevant requirements of the procurement; or
 - f. Any arbitrary action in the procurement process.
- 4) The county will not use geographical preferences in the evaluation of bids or proposals, except in cases where applicable federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering services, geographic location may be a selection criterion provided it leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- 5) All solicitations will:
- a. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description will not unduly restrict competition. It may include a statement of the qualitative nature of the material, product, or service to be procured. When necessary, it must set forth minimum essential characteristics and standards to which it must conform if it is to satisfy intended use. Detailed product specifications will be avoided when possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers will be clearly stated.
 - b. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- 6) In the event that a prequalified list of persons, firms, or products is used, the county will ensure that the list is current and includes enough qualified sources to ensure maximum open and free competition. The county will not preclude potential bidders from qualifying during the solicitation period.
- 7) Noncompetitive procurement can only be awarded in accordance with the Code of Federal Regulations at 2 CFR 200.320 (c).

C. Methods of Procurement: The county will maintain and follow written procurement procedures, consistent with state and local laws and regulations, and the

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standards set forth in the Code of Federal Regulations at 2 CFR 200.317 through 200.327. Where there are differences in county and federal policy, the federal policy will prevail. Where there are differences in state, county, or federal procedures or thresholds, the most restrictive will apply. The county may, as appropriate, use any of the following informal, formal, or noncompetitive procurement procedures when using federal funds.

- 1) **Informal Procurement Methods:** When the value of the procurement does not exceed the simplified acquisition threshold (SAT), the county may use informal procurement methods as shown below, or in county Policies and Procedures Section 200.01, whichever is most restrictive.

Note: The current federal SAT is \$250,000 (updated on 8/31/2020 and subject to adjustment every five years). However, current Georgia law (as of December 2023) sets the threshold for formal procurements at \$100,000 for public works construction and \$200,000 for road construction procurements. In each case, the lower threshold will apply.

- a) **Micro-Purchases:** Allowable for acquisition of supplies or services when the aggregate dollar amount does not exceed (1) the federal micro-purchase threshold (MPT) or (2) the county's current threshold as established in county Policies and Procedures Section 200.01. Georgia law does not establish dollar thresholds for micro-purchases. P-cards, store accounts, or other open-purchase methods may be used for this type of transaction. It is not necessary to obtain competitive price quotes. To the maximum extent practicable, the county will distribute micro-purchases equitably amount qualified suppliers.

Note: The current federal MPT is \$10,000 as of 2020. However, county procurement policy and procedures at Section 200.01 establish a lower threshold for requiring three quotes. The most restrictive thresholds will apply.

- b) **Small Purchases:** Allowable for acquisition of supplies or services when the aggregate dollar amount is above the micro-purchase threshold but does not exceed (1) the federal simplified acquisition threshold (SAT), (2) dollar thresholds requiring formal procurements in Georgia law, or (3) the county's threshold as established in County Policies and Procedures Section 200.01, whichever is lower.

- 2) **Formal Procurement Methods:** When the value of the procurement exceeds the simplified acquisition threshold (SAT), or a lower threshold established by state law or county policies and procedures, formal procurement methods are

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required. Formal procurement methods require public advertising. The following formal methods are used for procurements above the SAT or a lower value if established by the state or county.

- a) **Sealed Bids:** A firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation to bid, is the lowest in price. This is the preferred method for procuring construction if the following conditions are present:
- i. A complete, adequate, and realistic specification or description is available;
 - ii. Two or more responsible bidders are willing and able to compete effectively for the business; and
 - iii. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

For all sealed bid procurements, the following requirements apply:

- i. Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the bid opening date and time. The invitation to bid must be publicly advertised;
- ii. The invitation to bid must include any specifications and pertinent attachments, and must define the items or services in order for bidders to respond properly;
- iii. All bids must be opened publicly at the time and place prescribed in the invitation to bid;
- iv. The county will award a firm fixed price contract, in writing, to the responsible bidder with the lowest responsive bid. Where specified in the invitation to bid, factors such as discounts, transportation cost, and life cycle costs will be considered in determining which is the lowest responsive bid. Payment discounts will only be used to determine the low bid when prior experience indicates that the county usually takes advantage of such discounts; and
- v. Any or all bids may be rejected if there is a sound documented reason.

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- b) **Proposals:** When conditions are not appropriate for the use of sealed bids, proposals are generally used. This is a procurement method in which either a fixed price or const-reimbursement type contract is awarded. Contracts using this procurement method will be awarded in accordance with the following requirements:
- i. Requests for proposals (RFPs) must be publicized. They must identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized RFPs must be considered to the maximum extent practical;
 - ii. The county will follow the method for conducting technical evaluations of proposals and making selections as documented in the county's Policies and Procedures Section 200.01, Procuring Goods & Services, except where in conflict with federal regulations;
 - iii. Contracts will be awarded to the responsible offeror whose proposal is most advantageous to the county, with price and other factors considered;
 - iv. The county will use qualifications-based procurement of architectural and engineering (A/E) services, subject to negotiation of fair and reasonable compensation, when required by federal regulations, or as otherwise deemed appropriate. The qualifications-based procurement method cannot be used to purchase other types of services through A/E firms; and
 - v. Price will be included as an evaluation factor except in instances where architectural or engineering services are solicited using a qualifications-based selection process.
- 3) **Noncompetitive Procurement:** A sole-source or other noncompetitive procurement will be awarded only if one or more of the following circumstances apply:
- a) The aggregate dollar amount does not exceed the micro-purchase threshold;
 - b) The item is available only from a single source;

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- c) The public exigency or emergency will not permit a delay resulting from publicizing a competitive solicitation;
- d) The federal awarding agency or pass-through entity expressly authorized a noncompetitive procurement in response to the county's written request; or
- e) After solicitation of a number of sources, competition is determined inadequate.

D. Small and Minority Businesses, Women's Business Enterprises, and Labor

Surplus Area Firms: The county will take all necessary affirmative steps to assure that small and minority businesses and women's business enterprises are used when possible. In the event that the county becomes a labor surplus area, as determined by the Employment and Training Administration of the U.S. Department of Labor, the county will likewise take appropriate affirmative steps for that category.

Affirmative steps will include:

- 1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- 2) Assuring that small and minority businesses, and women's business enterprises are solicited (by direct solicitation) whenever they are potential sources;
- 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- 4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- 5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- 6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in (1) through (5) above.

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E. Domestic Preference for Procurements: When using federal fund for construction, alteration, maintenance, or repair of infrastructure, all iron, steel, manufactured products, and construction materials used in an infrastructure project must be produced in the United States. Rules for this purpose can be found in the Code of Federal Regulations at 2 CFR 184 (Appendix B).

For purposes of this requirement, *infrastructure projects* include structures, facilities, and equipment for roads, highways, and bridges; dams; water systems; buildings and real property; and possibly other projects that will serve a public function. Items in question include:

- 1) **Iron or Steel Products:** Products that are predominantly iron and steel;
- 2) **Manufactured Products:** articles, materials, or supplies that have been (i) processed into a specific form and shape, or (ii) combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies; and
- 3) **Construction Materials:** Articles, materials, or supplies that consist of non-ferrous metals, plastic or polymer-based products, glass, fiber optic cable (including drop cable), optical fiber, lumber, engineered wood, or drywall.

Non-listed construction materials, such as hot mix asphalt or wet concrete brought to the worksite for incorporation, are not restricted to the domestic preference rules. Precast concrete, however, comprises components processed into a specific shape or form and is in such state when brought to the worksite and thus is considered a manufactured product.

The domestic preference applies only to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. It does not apply to tools, equipment, and supplies such as temporary scaffolding. Nor does it apply to *equipment and furnishings*, such as moveable, chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project. It does not apply to *non-infrastructure components or expenditures* under an infrastructure project receiving a federal award. However, it does apply to both federal and non-federal funds used for the infrastructure project.

F. Procurement of Recovered Materials: The county will comply with the requirements of section 6002 of the Solid Waste Disposal Act, and the Code of Federal Regulations at 40 CFR 247 (Appendix C), which require that, when procuring items designated in guidelines of the Environmental Protection Agency (EPA), we

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procure such designated items with the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. However, the county, at its discretion, may decide not to procure such items if they:

- 1) are not reasonably available in a reasonable period of time;
- 2) fail to meet reasonable performance standards; or
- 3) are only available at an unreasonable price.

These procedures apply to all procurement actions in which the county uses Federal funds to procure items designated by the EPA and \$10,000 of such items are purchased during the course of a fiscal year, or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was \$10,000 or more.

The requirement pertains to procurements made directly by the county, as well as procurements made by companies awarded contracts by the county, when using federal funds. However, it does not apply to purchases of designated items which are unrelated to, or incidental to, the purpose of a federal grant or the purpose of a federally funded contract. For example, a courier service contractor is not required to purchase re-refined oil and retread tires for its fleet because purchases of these items are *incidental to* the purpose of the contract.

G. Affirmative Procurement Program: The county will administer an Affirmative Procurement Program, in compliance with the Code of Federal Regulations at 2 CFR 200.323 and 40 CFR 247.

In compliance with 40 CFR 247.6 the county's Affirmative Procurement Program will consist of the following four elements:

- 1) **Recovered Materials Preference:** Any Request for Proposals using Federal funds, and which would include use of designated items, will include a category in the evaluation criteria and a point scale for the use of recovered materials. The evaluation score will award maximum points to the vendor offering items composed of the highest percent of recovered materials practicable. The point scale will vary, depending on the relative importance of designated items to the overall project, the nature and importance of other evaluation criteria, or other variables;
- 2) **Promotion:** The Purchasing Department will, from time to time, provide training to other county departments on the importance of the Affirmative Procurement Program. The county will post a public information brochure or notice on its website to educate contractors and the general public on the topic;

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- 3) **Estimates and Certifications of Recovered Materials Content:** Where applicable, contracts will contain language that requires the contractor (1) to certify that the percentage of recovered materials used in the performance of the contract will be at least the amount required by the contract specifications or other contractual requirements and (2) for contracts greater than \$100,000 to estimate the percentage of the total material used in performance of the contact which is recovered materials; and
- 4) **Annual Review and Monitoring:** The county will conduct an annual review of federally funded contracts or other procurements to determine the effectiveness of the program.

H. Contract Cost and Price: The county will perform and document a cost analysis or price analysis, as applicable, in connection with every procurement action above the federal SAT, including contract modifications. There is not a required standard method of analysis – the method will depend on the facts surrounding each individual procurement action. However, *for each formal procurement, the county must make an independent estimate of price or cost before receiving bids or proposals.*

A price analysis is typically appropriate when using sealed bids. Price analysis may include any of the following:

- 1) Compare competitive bids from multiple vendors;
- 2) Compare offered price to internal projections;
- 3) Compare catalog or other published prices for an item;
- 4) Compare proposed prices with prices obtained through market research; or
- 5) Analysis of existing price history.

A cost analysis is appropriate when a price analysis is not possible, or when there is no price competition. Cost analysis may include, but is not limited to, the following:

- 1) Verify and evaluate the cost elements that make up the total price; or
- 2) Compare costs proposed by various contractors.

Profit must be negotiated separately for each contract in which (a) there is no price competition or (b) where a cost analysis is performed. To establish a fair and reasonable profit, consideration should include topics such as:

- 1) Complexity of the work to be performed;
- 2) Risk borne by the contractor;
- 3) Contractor's investment;

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- 4) Amount of subcontracting;
- 5) Quality of the contractor's record of past performance; and
- 6) Industry profit rates in this geographic area for similar work.

The cost plus a percentage of cost and the percentage of construction cost methods of contracting will not be used.

I. Bonding Requirements: For construction or facility improvement contracts exceeding the SAT, the county will require:

- 1) A bid bond or other acceptable guarantee to be submitted with each bid, equal to five percent of the bid price;
- 2) A performance bond equal to 100 percent of the contract price; and
- 3) A payment bond equal to 100 percent of the contract price.

J. Contract Provisions: Each contract will include the applicable provisions described in Appendix II to 2 CFR Part 200. Provisions include:

- 1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms;
- 2) Termination for cause and convenience;
- 3) Equal Employment Opportunity (construction contracts only);
- 4) Davis-Bacon Act (construction contracts only. Not required under the FEMA Public Assistance program, e.g. debris removal contracts);
- 5) Copeland Anti-Kickback clause (construction or repair work);
- 6) Contract Work Hours and Safety Standards Act (overtime after 40 hours);
- 7) Rights to Inventions (only required under funding agreements; not required under the FEMA Public Assistance program);
- 8) Clean Air Act & Federal Water Pollution Control Act;
- 9) Debarment and Suspension; and
- 10) Byrd Anty-Lobbing Amendment (also include the Certification form).

FEMA requires specific language for the Equal Employment Opportunity provision (required for federally assisted construction contracts only). The required language is shown as Appendix A to these Policies and Procedures.

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Equal Employment Opportunity: During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's

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- representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in

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federally assisted construction work: *Provided*, that if the applicant so participating is a State, Territorial, or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervisions of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with the undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

This content is from the eCFR and is authoritative but unofficial.

Displaying title 2, up to date as of 1/22/2024. Title 2 was last amended 10/23/2023. 

Title 2 – Grants and Agreements

Subtitle A – Office of Management and Budget Guidance for Grants and Agreements

Chapter I – Office of Management and Budget Governmentwide Guidance for Grants and Agreements

APPENDIX B

ENHANCED CONTENT - TABLE OF CONTENTS

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- § 184.2 Applicability, effective date, and severability.
- § 184.3 Definitions.
- § 184.4 Applying the Buy America Preference to a Federal award.
- § 184.5 Determining the cost of components for manufactured products.
- § 184.6 Construction material standards.
- § 184.7 Federal awarding agency's issuance of a Buy America Preference waiver.
- § 184.8 Exemptions to the Buy America Preference.

⦿ PART 184—BUY AMERICA PREFERENCES FOR INFRASTRUCTURE PROJECTS

Authority: Pub. L. 117–58, 135 Stat. 429.

Source: 88 FR 57787, Aug. 23, 2023, unless otherwise noted.

⦿ § 184.1 Purpose and policy.

- (a) **Purpose.** This part provides guidance to Federal awarding agencies on the implementation of the Buy America Preference applicable to Federal financial assistance set forth in part I of subtitle A, Buy America Sourcing Preferences, of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act (Pub. L. 117–58) at division G, title IX, subtitle A, part I, sections 70911 through 70917.
- (b) **Policy.** The head of each Federal agency must ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States. See section 70914(a) of the Build America Buy America Act.

⦿ § 184.2 Applicability, effective date, and severability.

- (a) **Non-applicability of this part to existing Buy America Preferences.** This part does not apply to a Buy America Preference meeting or exceeding the requirements of section 70914 of the Build America, Buy America Act applied by a Federal Awarding Agency to Federal awards for infrastructure projects before November 15, 2021.
- (b) **Effective date of this part.** The effective date of this part is October 23, 2023. Except as provided in paragraph (c) of this section, this part applies to Federal awards obligated on or after its effective date. Awards obligated on or after May 14, 2022, the effective date of the Build America, Buy America Act, and before the effective date of this part, are instead subject to OMB Memorandum M–22–11.
- (c) **Modified effective date of this part for certain infrastructure projects.** If an infrastructure project that has previously received a Federal award obligated on or after May 14, 2022, but before the effective date of this part receives an additional Federal award obligated within one year of the effective date of this part, the additional Federal award is subject to OMB Memorandum M–22–11. However, if significant design or planning changes are made to the infrastructure project, the Federal awarding agency may apply this part to the additional Federal award. Federal awards for an infrastructure project obligated after one year from the effective date of this part are subject to this part, regardless of whether this part applied to previous awards for the project.
- (d) **Severability.** The provisions of this part are separate and severable from one another. OMB intends that if a provision of this part is held to be invalid or unenforceable as applied to a particular person or circumstance, the provision should be construed so as to continue to give the maximum effect permitted by law as applied to other persons not similarly situated or to dissimilar circumstances. If any provision is determined to be wholly invalid and unenforceable, it should be severed from the remaining provisions of this part, which should remain in effect.

⦿ § 184.3 Definitions.

Acronyms used in this part have the same meaning as provided in 2 CFR 200.0. Terms not defined in this part have the same meaning as provided in 2 CFR 200.1. As used in this part:

Build America, Buy America Act means division G, title IX, subtitle A, parts I–II, sections 70901 through 70927 of the Infrastructure Investment and Jobs Act (Pub. L. 117–58).

Buy America Preference means the "domestic content procurement preference" set forth in section 70914 of the Build America, Buy America Act, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States.

Component means an article, material, or supply, whether manufactured or unmanufactured, incorporated directly into: a manufactured product; or, where applicable, an iron or steel product.

Construction materials means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

(1) The listed items are:

- (i) Non-ferrous metals;
- (ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- (iii) Glass (including optic glass);
- (iv) Fiber optic cable (including drop cable);
- (v) Optical fiber;
- (vi) Lumber;
- (vii) Engineered wood; and
- (viii) Drywall.

(2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

Infrastructure project means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is the primary purpose of the project. See also paragraphs (c) and (d) of § 184.4.

Iron or steel products means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.

Manufactured products means:

(1) Articles, materials, or supplies that have been:

- (i) Processed into a specific form and shape; or
- (ii) Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.

(2) If an item is classified as an iron or steel product, a construction material, or a section 70917(c) material under § 184.4(e) and the definitions set forth in this section, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under § 184.4(e) and paragraph (1) of this definition may include components that are construction materials, iron or steel products, or section 70917(c) materials.

Manufacturer means the entity that performs the final manufacturing process that produces a manufactured product.

Predominantly of iron or steel or a combination of both means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

Produced in the United States means:

(1) In the case of iron or steel products, all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) In the case of manufactured products:

- (i) The product was manufactured in the United States; and
- (ii) The cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product. See § 184.2(a). The costs of components of a manufactured product are determined according to § 184.5.

(3) In the case of construction materials, all manufacturing processes for the construction material occurred in the United States. See § 184.6 for more information on the meaning of "all manufacturing processes" for specific construction materials.

Section 70917(c) materials means cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. See section 70917(c) of the Build America, Buy America Act.

§ 184.4 Applying the Buy America Preference to a Federal award.

- (a) **Applicability of Buy America Preference to infrastructure projects.** The Buy America Preference applies to Federal awards where funds are appropriated or otherwise made available for infrastructure projects in the United States, regardless of whether infrastructure is the primary purpose of the Federal award.
- (b) **Including the Buy America Preference in Federal awards.** All Federal awards with infrastructure projects must include the Buy America Preference in the terms and conditions. The Buy America Preference must be included in all subawards, contracts, and purchase orders for the work performed, or products supplied under the Federal award. The terms and conditions of a Federal award flow down to subawards to subrecipients unless a particular section of the terms and conditions of the Federal award specifically indicate otherwise.
- (c) **Infrastructure in general.** Infrastructure encompasses public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.
- (d) **Interpretation of infrastructure.** The Federal awarding agency should interpret the term "infrastructure" broadly and consider the description provided in paragraph (c) of this section as illustrative and not exhaustive. When determining if a particular project of a type not listed in the description in paragraph (c) constitutes "infrastructure," the Federal awarding agency should consider whether the project will serve a public function, including whether the project is publicly owned and operated, privately operated on behalf of the public, or is a place of public accommodation, as opposed to a project that is privately owned and not open to the public.
- (e) **Categorization of articles, materials, and supplies.**
 - (1) An article, material, or supply should only be classified into one of the following categories:
 - (i) Iron or steel products;
 - (ii) Manufactured products;
 - (iii) Construction materials; or
 - (iv) Section 70917(c) materials.
 - (2) An article, material, or supply should not be considered to fall into multiple categories. In some cases, an article, material, or supply may not fall under any of the categories listed in paragraph (e)(1) of this section. The classification of an article, material, or supply as falling into one of the categories listed in paragraph (e)(1) must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.
- (f) **Application of the Buy America Preference by category.** An article, material, or supply incorporated into an infrastructure project must meet the Buy America Preference for only the single category in which it is classified.

§ 184.5 Determining the cost of components for manufactured products.

In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions:

- (a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a) of this section, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

§ 184.6 Construction material standards.

- (a) The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered "produced in the United States."
 - (1) **Non-ferrous metals.** All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.
 - (2) **Plastic and polymer-based products.** All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.
 - (3) **Glass.** All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.
 - (4) **Fiber optic cable (including drop cable).** All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

- (5) **Optical fiber.** All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.
- (6) **Lumber.** All manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.
- (7) **Drywall.** All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.
- (8) **Engineered wood.** All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.
- (b) Except as specifically provided, only a single standard under paragraph (a) of this section should be applied to a single construction material.

§ 184.7 Federal awarding agency's issuance of a Buy America Preference waiver.

- (a) **Justification of waivers.** A Federal awarding agency may waive the application of the Buy America Preference in any case in which it finds that:
 - (1) Applying the Buy America Preference would be inconsistent with the public interest (a "public interest waiver");
 - (2) Types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a "nonavailability waiver"); or
 - (3) The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall infrastructure project by more than 25 percent (an "unreasonable cost waiver").
- (b) **Requesting a waiver.** Recipients may request waivers from a Federal awarding agency if the recipient reasonably believes a waiver is justified under paragraph (a) of this section. A request from a recipient to waive the application of the Buy America Preference must be provided to the Federal awarding agency in writing. Federal awarding agencies must provide waiver request submission instructions and guidance on the format, contents, and supporting materials required for waiver requests from recipients.
- (c) **Before issuing a proposed waiver.** Before issuing a proposed waiver, the Federal awarding agency must prepare a detailed written explanation for the proposed determination to issue the waiver based on a justification listed under paragraph (a) of this section, including for waivers requested by a recipient.
- (d) **Before issuing a final waiver.** Before issuing a final waiver, the Federal awarding agency must:
 - (1) Make the proposed waiver and the detailed written explanation publicly available in an easily accessible location on a website designated by the Federal awarding agency and the Office of Management and Budget;
 - (2) Except as provided in paragraph (e) of this section, provide a period of not less than 15 calendar days for public comment on the proposed waiver; and
 - (3) Unless the Director of OMB provides otherwise, submit the waiver determination to the Made in America Office in OMB for final review pursuant to Executive Order 14005 and section 70923(b) of the Build America, Buy America Act.
- (e) **Waivers of general applicability.** Waivers of general applicability mean waivers that apply generally across multiple Federal awards. A Federal agency must provide a period of not less than 30 days for public comment on a proposal to modify or renew a waiver of general applicability.

§ 184.8 Exemptions to the Buy America Preference.

- (a) The Buy America Preference does not apply to expenditures for assistance authorized under section 402, 403, 404, 406, 408, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5170b, 16 5170c, 5172, 5174, or 5192) relating to a major disaster or emergency declared by the President under section 401 or 501, respectively, of such Act (42 U.S.C. 5170, 5191) or pre and post disaster or emergency response expenditures.
- (b) "Pre and post disaster or emergency response expenditures" consist of expenditures for financial assistance that are:
 - (1) Authorized by statutes other than the Stafford Act, 42 U.S.C. 5121 *et seq.*; and
 - (2) Made in anticipation of or response to an event or events that qualify as an "emergency" or "major disaster" within the meaning of the Stafford Act, 42 U.S.C. 5122(1), (2).



Displaying title 40, up to date as of 1/22/2024. Title 40 was last amended 1/22/2024. [i](#)

Title 40 — Protection of Environment
Chapter I — Environmental Protection Agency
Subchapter I — Solid Wastes

APPENDIX C

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Ⓞ PART 247—COMPREHENSIVE PROCUREMENT GUIDELINE FOR PRODUCTS CONTAINING RECOVERED MATERIALS

Authority: 42 U.S.C. 6912(a) and 6962; E.O. 13423, 72 FR 3919, 3 CFR, 1998 Comp., p. 210.

Source: 60 FR 21381, May 1, 1995, unless otherwise noted.

Ⓞ Subpart A—General

Ⓞ § 247.1 Purpose and scope.

- (a) The purpose of this guideline is to assist procuring agencies in complying with the requirements of section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6962, and Executive Order 12873, as they apply to the procurement of the items designated in subpart B of this part.
- (b) This guideline designates items that are or can be made with recovered materials and whose procurement by procuring agencies will carry out the objectives of section 6002 of RCRA. EPA's recommended practices with respect to the procurement of specific designated items are found in the companion Recovered Materials Advisory Notice(s).
- (c) EPA believes that adherence to the recommendations in the Recovered Materials Advisory Notice(s) constitutes compliance with RCRA section 6002. However, procuring agencies may adopt other types of procurement programs consistent with RCRA section 6002.

Ⓞ § 247.2 Applicability.

- (a)
 - (1) This guideline applies to all procuring agencies and to all procurement actions involving items designated by EPA in this part, where the procuring agency purchases \$10,000 or more worth of one of these items during the course of a fiscal year, or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was \$10,000 or more.
 - (2) This guideline applies to Federal agencies, to State and local agencies using appropriated Federal funds to procure designated items, and to persons contracting with any such agencies with respect to work performed under such contracts. Federal procuring agencies should note that the requirements of RCRA section 6002 apply to them whether or not appropriated Federal funds are used for procurement of designated items.
 - (3) The \$10,000 threshold applies to procuring agencies as a whole rather than to agency subgroups such as regional offices or subagencies of a larger department or agency.

(b) The term *procurement actions* includes:

- (1) Purchases made directly by a procuring agency and purchases made directly by any person (e.g., a contractor) in support of work being performed for a procuring agency, and
- (2) Any purchases of designated items made "indirectly" by a procuring agency, as in the case of procurements resulting from grants, loans, funds, and similar forms of disbursements of monies.

(c)

- (1) This guideline does not apply to purchases of designated items which are unrelated to or incidental to Federal funding, i.e., not the direct result of a contract or agreement with, or a grant, loan, or funds disbursement to, a procuring agency.
- (2) This guideline also does not apply to purchases made by private party recipients (e.g., individuals, non-profit organizations) of Federal funds pursuant to grants, loans, cooperative agreements, and other funds disbursements.

(d) RCRA section 6002(c)(1) requires procuring agencies to procure designated items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, considering such guidelines. Procuring agencies may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price.

[60 FR 21381, May 1, 1995, as amended at 62 FR 60973, Nov. 13, 1997]

§ 247.3 Definitions.

As used in this procurement guideline and the related Recovered Materials Advisory Notice(s):

Act or RCRA means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C 6901 *et seq*;

Awards and plaques refers to free-standing statues and boardlike products generally used as wall-hangings.

Bike racks are free-standing or anchored units that provide a method for cyclists to secure their bicycles safely.

Blanket insulation means relatively flat and flexible insulation in coherent sheet form, furnished in units of substantial area. Batt insulation is included in this term;

Blasting grit is a type of industrial abrasive used to shape, cut, sharpen, polish, or finish surfaces and materials.

Board insulation means semi-rigid insulation preformed into rectangular units having a degree of suppleness, particularly related to their geometrical dimensions;

Building insulation means a material, primarily designed to resist heat flow, which is installed between the conditioned volume of a building and adjacent unconditioned volumes or the outside. This term includes but is not limited to insulation products such as blanket, board, spray-in-place, and loose-fill that are used as ceiling, floor, foundation, and wall insulation;

Carpet cushion, also known as carpet underlay, is padding placed beneath carpet to reduce carpet wear caused by foot traffic or furniture indentation, enhance comfort, and prolong appearance.

Cellulose fiber loose-fill means a basic material of recycled wood-based cellulosic fiber made from selected paper, paperboard stock, or ground wood stock, excluding contaminated materials which may reasonably be expected to be retained in the finished product, with suitable chemicals introduced to provide properties such as flame resistance, processing and handling characteristics. The basic cellulosic material may be processed into a form suitable for installation by pneumatic or pouring methods;

Cenospheres, a naturally-occurring waste component of coal fly ash, are very small, inert, lightweight, hollow, "glass" spheres composed of silica and alumina and filled with air or other gases.

Channelizers means highly visible barrels or drums that can be positioned to direct traffic through detours;

Compost is a thermophilic converted product with high humus content. Compost can be used as a soil amendment and can also be used to prevent or remediate pollutants in soil, air, and storm water run-off.

Delineator means a highly visible pavement marker that can be positioned to direct traffic or define boundaries;

Engine lubricating oils means petroleum-based oils used for reducing friction in engine parts;

Federal agency means any department, agency, or other instrumentality of the Federal government; any independent agency or establishment of the Federal government including any government corporation; and the Government Printing Office;

Fertilizer made from recovered organic materials is a single or blended substance, made from organic matter such as plant and animal by-products, manure-based or biosolid products, and rock and mineral powders, that contains one or more recognized plant nutrient(s) and is used primarily for its plant nutrient content and is designed for use or claimed to have value in promoting plant growth.

Fiberglass insulation means insulation which is composed principally of glass fibers, with or without binders;

Flexible delineator means a highly visible marker that can be positioned to direct traffic or define boundaries and that will flex if struck by a vehicle to prevent damage to the vehicle or the delineator;

Flowable fill is a low strength material that is mixed to a wet, flowable slurry and used as an economical fill or backfill material for concrete, compacted soils, or sand.

Foam-in-place insulation is rigid cellular foam produced by catalyzed chemical reactions that hardens at the site of the work. The term includes spray-applied and injected applications such as spray-in-place foam and pour-in-place;

Garden hose means a flexible tubing that conducts water to a specific location;

Gear oils means petroleum-based oils used for lubricating machinery gears;

Hydraulic fluids means petroleum-based hydraulic fluids;

Hydraulic mulch means a mulch that is a cellulose-based (paper or wood) protective covering that is mixed with water and applied through mechanical spraying in order to aid the germination of seeds and to prevent soil erosion;

Hydroseeding means the process of spraying seeds mixed with water through a mechanical sprayer (hydroseeder). Hydraulic mulch, fertilizer, a tacking agent, or a wetting agent can also be added to the water/seed mix for enhanced performance;

Industrial drums are cylindrical containers used for shipping and storing liquid or solid materials.

Laminated paperboard means board made from one or more plies of kraft paper bonded together, with or without facers, that is used for decorative, structural, or insulating purposes;

Latex paint means a water-based decorative or protective covering having a latex binder;

Lawn edging means a barrier used between lawns and landscaped areas or garden beds to prevent grass roots or weeds from spreading to the landscaped areas;

Loose-fill insulation means insulation in granular, nodular, fibrous, powdery, or similar form, designed to be installed by pouring, blowing or hand placement;

Manual-grade strapping refers to straps of material used with transport packaging to hold products in place on pallets or in other methods of commercial, bulk shipment. Strapping can also prevent tampering and pilferage during shipping.

Mats are temporary or semipermanent protective floor coverings used for numerous applications, including home and office carpet protection, car and truck floor board protection, traction on slippery surfaces, cushion from floor hardness, and reduction of injury risk during athletic events.

Mineral fiber insulation means insulation (rock wool or fiberglass) which is composed principally of fibers manufactured from rock, slag or glass, with or without binders;

Modular threshold ramps are ramps used to modify existing door thresholds and other small rises to remove access barriers created by differentials in landing levels.

Nonpressure pipe is pipe used to drain waste and wastewater, to vent gases, and to channel cable and conduit in various applications.

Office furniture is furniture typically used in offices, including seating, desks, storage units, file cabinets, tables, and systems furniture (or "cubicles").

Pallet means a portable platform for storing or moving cargo or freight;

Paper means one of two broad subdivisions of paper products, the other being paperboard. Paper is generally lighter in basis weight, thinner, and more flexible than paperboard. Sheets 0.012 inch or less in thickness are generally classified as paper. Its primary uses are for printing, writing, wrapping, and sanitary purposes. However, in this guideline, the term paper is also used as a generic term that includes both paper and paperboard.

Paper product means any item manufactured from paper or paperboard. The term paper product is used in this guideline to distinguish such items as boxes, doilies, and paper towels from printing and writing papers.

Park benches and picnic tables are recreational furniture found in parks, outdoor recreational facilities, and the grounds of office buildings and other facilities.

Parking stop means a barrier used to mark parking spaces and keep parked vehicles from rolling beyond a designated parking area;

Perlite composite board means insulation board composed of expanded perlite and fibers formed into rigid, flat, rectangular units with a suitable sizing material incorporated in the product. It may have on one or both surfaces a facing or coating to prevent excessive hot bitumen strike-in during roofing installation;

Person means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, Federal agency, State, municipality, commission, political subdivision of a State, or any interstate body;

Phenolic insulation means insulation made with phenolic plastics which are plastics based on resins made by the condensation of phenols, such as phenol or cresol, with aldehydes;

Plastic fencing means a barrier with an open-weave pattern that can be used to control drifting snow or sand by restricting the force of wind and to provide a warning or barrier in construction and other areas;

Plastic lumber landscaping timbers and posts are used to enhance the appearance of and control erosion in parks, highways, housing developments, urban plazas, zoos, and the exteriors of office buildings, military facilities, schools, and other public use areas.

Playground equipment includes many components, like slides, merry-go-rounds, hand rails, etc., and is found in parks, schools, and other facilities, institutions, multiple family dwellings, restaurants, resort and recreational developments, and other public use areas.

Polyisocyanurate insulation means insulation produced principally by the polymerization of polymeric polyisocyanates, usually in the presence of polyhydroxyl compounds with the addition of cell stabilizers, blowing agents, and appropriate catalyst to produce a polyisocyanurate chemical structure;

Polystyrene insulation means an organic foam composed principally of polymerized styrene resin processed to form a homogenous rigid mass of cells;

Polyurethane insulation means insulation composed principally of the catalyzed reaction product of polyisocyanates and polyhydroxyl compounds, processed usually with a blowing agent to form a rigid foam having a predominantly closed cell structure;

Postconsumer material means a material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. *Postconsumer material* is a part of the broader category of *recovered materials*.

Postconsumer recovered paper means:

- (1) Paper, paperboard and fibrous wastes from retail stores, office buildings, homes and so forth, after they have passed through their end-usage as a consumer item including: Used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards and used cordage; and
- (2) All paper, paperboard and fibrous wastes that enter and are collected from municipal solid waste;

Practicable means capable of being used consistent with: Performance in accordance with applicable specifications, availability at a reasonable price, availability within a reasonable period of time, and maintenance of a satisfactory level of competition;

Printer ribbon means a nylon fabric designed to hold ink and used in dot matrix and other types of impact printers;

Procurement item means any device, good, substance, material, product, or other item, whether real or personal property, which is the subject of any purchase, barter, or other exchange made to procure such item;

Procuring agency means any Federal agency, or any State agency or agency of a political subdivision of a State, which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract;

Purchasing means the act of and the function of responsibility for the acquisition of equipment, materials, supplies, and services, including: Buying, determining the need, selecting the supplier, arriving at a fair and reasonable price and terms and conditions, preparing the contract or purchase order, and follow-up;

Railroad grade crossing surfaces are materials placed between railroad tracks, and between the track and the road at highway and street railroad crossings, to enhance automobile and pedestrian safety.

Rebuilt vehicular parts are vehicular parts that have been remanufactured, reusing parts in their original form.

Recovered materials means waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process;

Recovered materials, for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term *recovered materials* includes:

- (1) Postconsumer materials such as—
 - (i) Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: Used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and
 - (ii) All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and
- (2) Manufacturing, forest residues, and other wastes such as—
 - (i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: Envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
 - (ii) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;
 - (iii) Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;
 - (iv) Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and

(v) Fibers recovered from waste water which otherwise would enter the waste stream.

Re-refined oils means used oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process;

Restroom divider/partition means a barrier used to provide privacy in public restroom facilities;

Retread tire means a worn automobile, truck, or other motor vehicle tire whose tread has been replaced;

Rock wool insulation means insulation which is composed principally from fibers manufactured from slag or natural rock, with or without binders;

Roofing materials are materials used to construct a protective cover over a structure to shield its interior from the natural elements.

Shower divider/partition means a water-proof barrier used to provide privacy in public shower facilities;

Signage (including sign posts and supports) is used for identification and directional purposes for public roads and highways, and inside and outside office buildings, museums, parks, and other public places.

Silica fume is a waste byproduct of alloyed metal production.

Soaker hose means a perforated flexible tubing that is used to deliver gentle irrigation to plants;

Sorbents (*i.e.*, absorbents and adsorbents) are materials used to retain liquids and gases in a diverse number of environmental, industrial, agricultural, medical, and scientific applications. Absorbents incorporate a substance while adsorbents gather substances on their surfaces.

Specification means a description of the technical requirements for a material, product, or service that includes the criteria for determining whether these requirements are met. In general, specifications are in the form of written commercial designations, industry standards, and other descriptive references;

Spray-in-place insulation means insulation material that is sprayed onto a surface or into cavities and includes cellulose fiber spray-on as well as plastic rigid foam products;

Spray-in-place foam is rigid cellular polyurethane or polyisocyanurate foam produced by catalyzed chemical reactions that hardens at the site of the work. The term includes spray-applied and injected applications;

State means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

Structural fiberboard means a fibrous-felted, homogenous panel made from lignocellulosic fibers (usually wood, cane, or paper) and having a density of less than 31 lbs/ft³ but more than 10 lbs/ft³. It is characterized by an integral bond which is produced by interfelting of the fibers, but which has not been consolidated under heat or pressure as a separate stage of manufacture;

Tire means the following types of tires: Passenger car tires, light- and heavy-duty truck tires, high-speed industrial tires, bus tires, and special service tires (including military, agricultural, off-the-road, and slow-speed industrial);

[60 FR 21381, May 1, 1995, as amended at 62 FR 60973, Nov. 13, 1997; 65 FR 3080, Jan. 19, 2000; 69 FR 24038, Apr. 30, 2004; 72 FR 52488, Sept. 14, 2007]

§ 247.4 Contracting officer requirements.

Within one year after the effective date of each item designation, contracting officers shall require that vendors:

- (a) Certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by applicable specifications or other contractual requirements, and
- (b) Estimate the percentage of total material utilized for the performance of the contract which is recovered materials.

§ 247.5 Specifications.

- (a) RCRA section 6002(d)(1) required Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies to revise their specifications by May 8, 1986, to eliminate any exclusion of recovered materials and any requirement that items be manufactured from virgin materials.
- (b) RCRA section 6002(d)(2) requires that within one year after the publication date of each item designation by the EPA, each procuring agency must assure that its specifications for these items require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of these items.

§ 247.6 Affirmative procurement programs.

RCRA section 6002(i) provides that each procuring agency which purchases items designated by EPA must establish an affirmative procurement program, containing the four elements listed below, for procuring such items containing recovered materials to the maximum extent practicable:

- (a) Preference program for purchasing the designated items;

- (b) Promotion program;
- (c) Procedures for obtaining estimates and certifications of recovered materials content and for verifying the estimates and certifications; and
- (d) Annual review and monitoring of the effectiveness of the program.

⦿ **§ 247.7 Effective date.**

Within one year after the date of publication of any item designation, procuring agencies which purchase that designated item must comply with the following requirements of RCRA: affirmative procurement of the designated item (6002(c)(1) and (i)), specifications revision (6002(d)(2)), vendor certification and estimation of recovered materials content of the item (6002(c)(3) and (i)(2)(C)), and verification of vendor estimates and certifications (6002(i)(2)(C)).

⦿ **Subpart B—Item Designations**

⦿ **§ 247.10 Paper and paper products.**

Paper and paper products, excluding building and construction paper grades.

⦿ **§ 247.11 Vehicular products.**

- (a) Lubricating oils containing re-refined oil, including engine lubricating oils, hydraulic fluids, and gear oils, excluding marine and aviation oils.
- (b) Tires, excluding airplane tires.
- (c) Reclaimed engine coolants, excluding coolants used in non-vehicular applications.
- (d) Rebuilt vehicular parts.

[60 FR 21381, May 1, 1995, as amended at 69 FR 24038, Apr. 30, 2004]

⦿ **§ 247.12 Construction products.**

- (a) Building insulation products, including the following items:
 - (1) Loose-fill insulation, including but not limited to cellulose fiber, mineral fibers (fiberglass and rock wool), vermiculite, and perlite;
 - (2) Blanket and batt insulation, including but not limited to mineral fibers (fiberglass and rock wool);
 - (3) Board (sheathing, roof decking, wall panel) insulation, including but not limited to structural fiberboard and laminated paperboard products, perlite composite board, polyurethane, polyisocyanurate, polystyrene, phenolics, and composites; and
 - (4) Spray-in-place insulation, including but not limited to foam-in-place polyurethane and polyisocyanurate, and spray-on cellulose.
- (b) Structural fiberboard and laminated paperboard products for applications other than building insulation, including building board, sheathing, shingle backer, sound deadening board, roof insulating board, insulating wallboard, acoustical and non-acoustical ceiling tile, acoustical and non-acoustical lay-in panels, floor underlayments, and roof overlay (coverboard).
- (c) Cement and concrete, including concrete products such as pipe and block containing:
 - (1) Coal fly ash;
 - (2) Ground granulated blast furnace slag (GGBF);
 - (3) Cenospheres; or
 - (4) Silica fume from silicon and ferrosilicon metal production.
- (d) Carpet made from polyester fiber made from recovered materials for use in moderate-wear applications such as single-family housing and similar wear applications.
- (e) Floor tiles and patio blocks containing recovered rubber or plastic.
- (f) Shower and restroom dividers/partitions containing recovered plastic or steel.
- (g)
 - (1) Consolidated latex paint used for covering graffiti; and
 - (2) Reprocessed latex paint used for interior and exterior architectural applications such as wallboard, ceilings, and trim; gutter boards; and concrete, stucco, masonry, wood, and metal surfaces.
- (h) Carpet cushion made from bonded polyurethane, jute, synthetic fibers, or rubber containing recovered materials.
- (i) Flowable fill containing coal fly ash and/or ferrous foundry sands.

- (j) Railroad grade crossing surfaces made from cement and concrete containing fly ash, recovered rubber, recovered steel, recovered plastic, or recovered plastic.
- (k) Modular threshold ramps containing recovered steel, rubber, or aluminum.
- (l) Nonpressure pipe containing recovered steel, plastic, or cement.
- (m) Roofing materials containing recovered steel, aluminum, fiber, rubber, plastic or plastic composites, or cement.

[60 FR 21381, May 1, 1995, as amended at 62 FR 60974, Nov. 13, 1997; 65 FR 3081, Jan. 19, 2000; 69 FR 24038, Apr. 30, 2004]

§ 247.13 Transportation products.

- (a) Traffic barricades and traffic cones used in controlling or restricting vehicular traffic.
- (b) Parking stops made from concrete or containing recovered plastic or rubber.
- (c) Channelizers containing recovered plastic or rubber.
- (d) Delineators containing recovered plastic, rubber, or steel.
- (e) Flexible delineators containing recovered plastic.

[60 FR 21381, May 1, 1995, as amended at 62 FR 60974, Nov. 13, 1997]

§ 247.14 Park and recreation products.

- (a) Playground surfaces and running tracks containing recovered rubber or plastic.
- (b) Plastic fencing containing recovered plastic for use in controlling snow or sand drifting and as a warning/safety barrier in construction or other applications.
- (c) Park benches and picnic tables containing recovered steel, aluminum, plastic, or concrete.
- (d) Playground equipment containing recovered plastic, steel, or aluminum.

[60 FR 21381, May 1, 1995, as amended at 62 FR 60974, Nov. 13, 1997; 65 FR 3081, Jan. 19, 2000]

§ 247.15 Landscaping products.

- (a) Hydraulic mulch products containing recovered paper or recovered wood used for hydroseeding and as an over-spray for straw mulch in landscaping, erosion control, and soil reclamation.
- (b) Compost made from recovered organic materials.
- (c) Garden and soaker hoses containing recovered plastic or rubber.
- (d) Lawn and garden edging containing recovered plastic or rubber.
- (e) Plastic lumber landscaping timbers and posts containing recovered materials.
- (f) Fertilizer made from recovered organic materials.

[60 FR 21381, May 1, 1995, as amended at 62 FR 60974, Nov. 13, 1997; 65 FR 3081, Jan. 19, 2000; 72 FR 52488, Sept. 14, 2007]

§ 247.16 Non-paper office products.

- (a) Office recycling containers and office waste receptacles.
- (b) Plastic desktop accessories.
- (c) Toner cartridges.
- (d) Plastic-covered binders containing recovered plastic; chipboard and pressboard binders containing recovered paper; and solid plastic binders containing recovered plastic.
- (e) Plastic trash bags.
- (f) Printer ribbons.
- (g) Plastic envelopes.
- (h) Plastic clipboards containing recovered plastic.
- (i) Plastic file folders containing recovered plastic.

- (j) Plastic clip portfolios containing recovered plastic.
- (k) Plastic presentation folders containing recovered plastic.
- (1) Office furniture containing recovered steel, aluminum, wood, agricultural fiber, or plastic.

[60 FR 21381, May 1, 1995, as amended at 62 FR 60974, Nov. 13, 1997; 65 FR 3081, Jan. 19, 2000; 69 FR 24038, Apr. 30, 2004]

§ 247.17 Miscellaneous products.

- (a) Pallets containing recovered wood, plastic, or paperboard.
- (b) Sorbents containing recovered materials for use in oil and solvent clean-ups and as animal bedding.
- (c) Industrial drums containing recovered steel, plastic, or paper.
- (d) Awards and plaques containing recovered glass, wood, paper, or plastic.
- (e) Mats containing recovered rubber and/or plastic.
- (f)
 - (1) Non-road signs containing recovered plastic or aluminum and road signs containing recovered aluminum.
 - (2) Sign supports and posts containing recovered plastic or steel.
- (g) Manual-grade strapping containing recovered steel or plastic.
- (h) Bike racks containing recovered steel or plastic.
- (i) Blasting grit containing recovered steel, coal and metal slag, bottom ash, glass, plastic, fused alumina oxide, or walnut shells.

[62 FR 60974, Nov. 13, 1997, as amended at 65 FR 3081, Jan. 19, 2000; 69 FR 24038, Apr. 30, 2004]

STATE OF GEORGIA

COUNTY OF FAYETTE

ORDINANCE

NO. 2024-___

AN ORDINANCE TO AMEND THE POLICIES AND PROCEDURES MANUAL FOR FAYETTE COUNTY, GEORGIA; TO REVISE THE POLICY FOR PROCUREMENT WITH FEDERAL FUNDS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COIUNTY AND IT IS HEREBY ENACTED PURSUANT TO THE AUTHORITY OF THE SAME THAT THE POLICIES AND PROCEDURES MANUAL OF FAYETTE COUNTY BE AMENDED AS FOLLOWS:

Section 1. By deleting Policy Number 200.03 as it pertains to Procurement With Federal Funds, and by enacting a new Policy Number 200.03 pertaining to Use of Federal Funds to read as follows:

FAYETTE COUNTY POLICIES AND PROCEDURES

OPERATIONAL FUNCTIONS Use of Federal Funds 200.03

PURPOSE

When procuring goods or services with funds provided by a federal award, the county must follow the procurement standards established by Title 2 (*Grant Agreements*), Part 200 (*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*) of the Code of Federal Regulations (CFR). The requirements include documented procurement procedures consistent with state and local laws and regulations and the federal standards established in 2 CFR 200.317 through 200.327. This Policy and Procedures section fulfills that requirement.

POLICY

The Purchasing Department will follow purchasing procedures consistent with requirements of federal grantor or pass-through entities to assure the appropriate and prudent use of federal funds that are made available to the county for public purposes.

Note 1: Some procurement requirements may vary from one grant to another. Each federal agency is authorized to promulgate additional procurement requirements to meet its particular needs. For this reason, it is important for any department receiving a grant award to furnish a copy to the Purchasing Department. Purchasing staff will review the grant award and relevant documents pertinent to any invitation for bids (IFB), request for proposals (RFP), or other procurement actions which would use grant funds, comply with purchasing-related requirements, and maintain the documents in the purchasing files.

Note 2: A separate set of procedures has been established to meet the unique requirements for federal grants received through the Georgia Department of Transportation (GDOT) for engineering and design related services, in response to GDOT's unique requirements.

PROCEDURES

A. General Procurement Standards: The county will abide by the following procedures, in conformance with procurement standards identified in 2 CFR 200.317 through 200.327, in procurement of goods and services using federal grant funds.

- 1) **Contractor Oversight:** In administration of procurements with federal funds, the county will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

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Consultants or sub-consultants may be used, where appropriate, to supplement county services.

At a minimum, contractor oversight will include assigning a designated county project manager; review of deliverables; invoice verification and processing; attending, conducting, and documenting meetings; tracking of project schedule and milestones; preparing payment requests; contract suspension (if needed); dispute resolution; project closeout; document retention; and performance evaluation.

- 2) **Standards of Conduct:** Fayette County Ordinance No. 2010-10 provides ethical standards for elected and appointed officials. Any person involved with a contract using federal funds is subject to the following ethical standards of conduct, in addition to the standards enumerated in the Ordinance.

No employee, officer, or agent of the county may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employees or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the county may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, except for items of nominal value as covered in Ordinance No. 2010-10.

Penalties for violations of the Ordinance or the above policies will be as provided in the Ordinance.

- 3) **Unnecessary or Duplicative Purchases:** The county will avoid acquisition of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease-versus-purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- 4) **Responsible Contractors:** The county will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. The county will consider, and document its consideration of, such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Any of the

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following methods may be used, among others, to obtain information about contractor responsibility:

- a. References & Contractor Performance Evaluation;
- b. The federal System for Award Management (SAM) database;
- c. Bid bond, or letter of proof of bonding capacity from the surety;
- d. Financial statements as required for bids or proposals;
- e. Statement of litigation for the past several years; or
- f. Better Business Bureau or other sources of information.

5) **History of the Procurement:** The county will maintain records sufficient to detail the history of the procurement. Records will include, at a minimum:

- a. **Rationale for the method of procurement:** The methods of procurement allowed with federal funds are micro-purchase, small purchase, sealed bidding proposal, or noncompetitive proposal method. Include in the procurement file:
 - i. Scope of work;
 - ii. List of sources selected for advertisement; and
 - iii. Copies of bids or proposals, performance evaluations, selected payment method (e.g. firm fixed price/fixed fee, cost plus fixed fee, cost per unit of work), & other relevant documents.
- b. **Selection of contract type:**
 - i. Fixed price – firm fixed price, cost-plus-fixed price, or similar;
 - ii. Cost reimbursement; or
 - iii. Time and materials [see #A.6 (Time and Materials Contracts) below].

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- c. **Contractor selection or rejection:** Document rationale for decisions, including a written responsibility determination for the successful contractor [see #A.4 (Responsible Contractors) above].
 - d. **Basis for the contract price:** Include
 - i. Independent cost estimate *prior to receiving bids or proposals* (if estimated price is above the Simplified Acquisition Threshold, state threshold for formal solicitations, or county threshold for formal solicitations);
 - ii. Cost or price analysis as appropriate (if estimated price is above the Simplified Acquisition Threshold, state threshold for formal solicitations, or county threshold for formal solicitations); and
 - iii. Market research as needed.
 - e. **Suspension and debarment:** County staff will verify that any proposed contractor is not listed in the System for Award Management (SAM) or its successor as suspended or debarred from receiving a contract. The county will also include the appropriate suspension and debarment clause in the Terms and Conditions of a solicitation or contract.
- 6) **Time and Materials Contracts:** The county will use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. This is a contract whose cost to the county is the sum of (1) the actual cost of materials, and (2) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. This type of contract would set a ceiling price that the contractor exceeds at its own risk. The county would assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
- 7) **Administrative Issues:** The county alone will be responsible for the settlement of all contractual and administrative issues arising out of the county's procurements. This includes, but is not limited to, source evaluation, protests, disputes, and claims. The county assumes all contractual responsibilities under its contracts.

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- 1) All procurement transactions under a federal award will be conducted in a manner providing full and open competition.
- 2) Any contractor that develops or drafts specifications, requirements, statements of work, invitations to bid, or requests for proposals will be excluded from competing for the procurement.
- 3) Situations considered to be restrictive of competition cannot be used. Such situations include, but are not limited to:
 - a. Placing unreasonable requirements on firms in order for them to qualify to do business;
 - b. Requiring unnecessary experience or excessive bonding;
 - c. Noncompetitive pricing practices between firms or affiliated companies;
 - d. Organizational conflicts of interest;
 - e. Specifying only a “brand name” product instead of allowing an “equal” product to be offered and describing the performance or other relevant requirements of the procurement; or
 - f. Any arbitrary action in the procurement process.
- 4) The county will not use geographical preferences in the evaluation of bids or proposals, except in cases where applicable federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering services, geographic location may be a selection criterion provided it leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- 5) All solicitations will:
 - a. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description will not unduly restrict competition. It may include a statement of the qualitative

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nature of the material, product, or service to be procured. When necessary, it must set forth minimum essential characteristics and standards to which it must conform if it is to satisfy intended use. Detailed product specifications will be avoided when possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers will be clearly stated; and

- b. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- 6) In the event that a prequalified list of persons, firms, or products is used, the county will ensure that the list is current and includes enough qualified sources to ensure maximum open and free competition. The county will not preclude potential bidders from qualifying during the solicitation period.
 - 7) Noncompetitive procurement can only be awarded in accordance with the Code of Federal Regulations at 2 CFR 200.320 (c).

C. Methods of Procurement: The county will maintain and follow written procurement procedures, consistent with state and local laws and regulations, and the standards set forth in the Code of Federal Regulations at 2 CFR 200.317 through 200.327. Where there are differences in county and federal policy, the federal policy will prevail. Where there are differences in state, county, or federal procedures or thresholds, the most restrictive will apply. The county may, as appropriate, use any of the following informal, formal, or noncompetitive procurement procedures when using federal funds.

- 1) **Informal Procurement Methods:** When the value of the procurement does not exceed the simplified acquisition threshold (SAT), the county may use informal procurement methods as shown below, or in county Policies and Procedures Section 200.01, whichever is most restrictive.

Note: The current federal SAT is \$250,000 (updated on 8/31/2020 and subject to adjustment every five years). However, current Georgia law (as of December 2023) sets the threshold for formal procurements at \$100,000 for public works construction

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and \$200,000 for road construction procurements. In each case, the lower threshold will apply.

- a) **Micro-Purchases:** Allowable for acquisition of supplies or services when the aggregate dollar amount does not exceed (1) the federal micro-purchase threshold (MPT) or (2) the county's current threshold as established in county Policies and Procedures Section 200.01. Georgia law does not establish dollar thresholds for micro-purchases. P-cards, store accounts, or other open-purchase methods may be used for this type of transaction. It is not necessary to obtain competitive price quotes. To the maximum extent practicable, the county will distribute micro-purchases equitably amount qualified suppliers.

Note: The current federal MPT is \$10,000 as of 2020. However, county procurement policy and procedures at Section 200.01 establish a lower threshold for requiring three quotes. The most restrictive thresholds will apply.

- b) **Small Purchases:** Allowable for acquisition of supplies or services when the aggregate dollar amount is above the micro-purchase threshold but does not exceed (1) the federal simplified acquisition threshold (SAT), (2) dollar thresholds requiring formal procurements in Georgia law, or (3) the county's threshold as established in County Policies and Procedures Section 200.01, whichever is lower.
- 2) **Formal Procurement Methods:** When the value of the procurement exceeds the simplified acquisition threshold (SAT), or a lower threshold established by state law or county policies and procedures, formal procurement methods are required. Formal procurement methods require public advertising. The following formal methods are used for procurements above the SAT or a lower value if established by the state or county.
- a) **Sealed Bids:** A firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation to bid, is the lowest in price. This is the preferred method for procuring *construction* if the following conditions are present:
- i. A complete, adequate, and realistic specification or description is available;

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- ii. Two or more responsible bidders are willing and able to compete effectively for the business; and
- iii. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

For all sealed bid procurements, the following requirements apply:

- i. Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the bid opening date and time. The invitation to bid must be publicly advertised;
 - ii. The invitation to bid must include any specifications and pertinent attachments, and must define the items or services in order for bidders to respond properly;
 - iii. All bids must be opened publicly at the time and place prescribed in the invitation to bid;
 - iv. The county will award a firm fixed price contract, in writing, to the responsible bidder with the lowest responsive bid. Where specified in the invitation to bid, factors such as discounts, transportation cost, and life cycle costs will be considered in determining which is the lowest responsive bid. Payment discounts will only be used to determine the low bid when prior experience indicates that the county usually takes advantage of such discounts; and
 - v. Any or all bids may be rejected if there is a sound documented reason.
- b) **Proposals:** When conditions are not appropriate for the use of sealed bids, proposals are generally used. This is a procurement method in which either a fixed price or const-reimbursement type contract is awarded. Contracts using this procurement method will be awarded in accordance with the following requirements:
- i. Requests for proposals (RFPs) must be publicized. They must identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any

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response to publicized RFPs must be considered to the maximum extend practical;

- ii. The county will follow the method for conducting technical evaluations of proposals and making selections as documented in the county's Policies and Procedures Section 200.01, Procuring Goods & Services, except where in conflict with federal regulations;
 - iii. Contracts will be awarded to the responsible offeror whose proposal is most advantageous to the county, with price and other factors considered;
 - iv. The county will use qualifications-based procurement of architectural and engineering (A/E) services, subject to negotiation of fair and reasonable compensation, when required by federal regulations, or as otherwise deemed appropriate. The qualifications-based procurement method cannot be used to purchase other types of services through A/E firms; and
 - v. Price will be included as an evaluation factor except in instances where architectural or engineering services are solicited using a qualifications-based selection process.
- 3) **Noncompetitive Procurement:** A sole-source or other noncompetitive procurement will be awarded only if one or more of the following circumstances apply:
- a) The aggregate dollar amount does not exceed the micro-purchase threshold;
 - b) The item is available only from a single source;
 - c) The public exigency or emergency will not permit a delay resulting from publicizing a competitive solicitation;
 - d) The federal awarding agency or pass-through entity expressly authorized a noncompetitive procurement in response to the county's written request; or
 - e) After solicitation of a number of sources, competition is determined inadequate.

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D. Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms: The county will take all necessary affirmative steps to assure that small and minority businesses and women’s business enterprises are used when possible. In the event that the county becomes a labor surplus area, as determined by the Employment and Training Administration of the U.S. Department of Labor, the county will likewise take appropriate affirmative steps for that category.

Affirmative steps will include:

- 1) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
- 2) Assuring that small and minority businesses, and women’s business enterprises are solicited (by direct solicitation) whenever they are potential sources;
- 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
- 4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;
- 5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- 6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in (1) through (5) above.

E. Domestic Preference for Procurements: When using federal fund for construction, alteration, maintenance, or repair of infrastructure, all iron, steel, manufactured products, and construction materials used in an infrastructure project must be produced in the United States. Rules for this purpose can be found in the Code of Federal Regulations at 2 CFR 184 (Appendix B).

For purposes of this requirement, *infrastructure projects* include structures, facilities, and equipment for roads, highways, and bridges; dams; water systems; buildings and real

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property; and possibly other projects that will serve a public function. Items in question include:

- 1) **Iron or Steel Products:** Products that are predominantly iron and steel;
- 2) **Manufactured Products:** articles, materials, or supplies that have been (i) processed into a specific form and shape, or (ii) combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies; and
- 3) **Construction Materials:** Articles, materials, or supplies that consist of non-ferrous metals, plastic or polymer-based products, glass, fiber optic cable (including drop cable), optical fiber, lumber, engineered wood, or drywall.

Non-listed construction materials, such as hot mix asphalt or wet concrete brought to the worksite for incorporation, are not restricted to the domestic preference rules. Precast concrete, however, comprises components processed into a specific shape or form and is in such state when brought to the worksite and thus is considered a manufactured product.

The domestic preference applies only to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. It does not apply to tools, equipment, and supplies such as temporary scaffolding. Nor does it apply to *equipment and furnishings*, such as moveable, chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project. It does not apply to *non-infrastructure components or expenditures* under an infrastructure project receiving a federal award. However, it does apply to both federal and non-federal funds used for the infrastructure project.

- F. Procurement of Recovered Materials:** The county will comply with the requirements of section 6002 of the Solid Waste Disposal Act, and the Code of Federal Regulations at 40 CFR 247 (Appendix C), which require that, when procuring items designated in guidelines of the Environmental Protection Agency (EPA), we procure such designated items with the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. However, the county, at its discretion, may decide not to procure such items if they:

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- 1) are not reasonably available in a reasonable period of time;
- 2) fail to meet reasonable performance standards; or
- 3) are only available at an unreasonable price.

These procedures apply to all procurement actions in which the county uses Federal funds to procure items designated by the EPA and \$10,000 of such items are purchased during the course of a fiscal year, or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was \$10,000 or more.

The requirement pertains to procurements made directly by the county, as well as procurements made by companies awarded contracts by the county, when using federal funds. However, it does not apply to purchases of designated items which are unrelated to, or incidental to, the purpose of a federal grant or the purpose of a federally funded contract. For example, a courier service contractor is not required to purchase re-refined oil and retread tires for its fleet because purchases of these items are *incidental to* the purpose of the contract.

G. Affirmative Procurement Program: The county will administer an Affirmative Procurement Program, in compliance with the Code of Federal Regulations at 2 CFR 200.323 and 40 CFR 247.

In compliance with 40 CFR 247.6 the county's Affirmative Procurement Program will consist of the following four elements:

- 1) **Recovered Materials Preference:** Any Request for Proposals using Federal funds, and which would include use of designated items, will include a category in the evaluation criteria and a point scale for the use of recovered materials. The evaluation score will award maximum points to the vendor offering items composed of the highest percent of recovered materials practicable. The point scale will vary, depending on the relative importance of designated items to the overall project, the nature and importance of other evaluation criteria, or other variables;
- 2) **Promotion:** The Purchasing Department will, from time to time, provide training to other county departments on the importance of the Affirmative Procurement Program. The county will post a public information brochure or notice on its website to educate contractors and the general public on the topic;

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- 3) **Estimates and Certifications of Recovered Materials Content:** Where applicable, contracts will contain language that requires the contractor (1) to certify that the percentage of recovered materials used in the performance of the contract will be at least the amount required by the contract specifications or other contractual requirements and (2) for contracts greater than \$100,000 to estimate the percentage of the total material used in performance of the contract which is recovered materials; and
- 4) **Annual Review and Monitoring:** The county will conduct an annual review of federally funded contracts or other procurements to determine the effectiveness of the program.

H. Contract Cost and Price: The county will perform and document a cost analysis or price analysis, as applicable, in connection with every procurement action above the federal SAT, including contract modifications. There is not a required standard method of analysis – the method will depend on the facts surrounding each individual procurement action. However, *for each formal procurement, the county must make an independent estimate of price or cost before receiving bids or proposals.*

A *price analysis* is typically appropriate when using sealed bids. Price analysis may include any of the following:

- 1) Compare competitive bids from multiple vendors;
- 2) Compare offered price to internal projections;
- 3) Compare catalog or other published prices for an item;
- 4) Compare proposed prices with prices obtained through market research; or
- 5) Analysis of existing price history.

A *cost analysis* is appropriate when a price analysis is not possible, or when there is no price competition. Cost analysis may include, but is not limited to, the following:

- 1) Verify and evaluate the cost elements that make up the total price; and
- 2) Compare costs proposed by various contractors.

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Profit must be negotiated separately for each contract in which (a) there is no price competition or (b) where a *cost analysis* is performed. To establish a fair and reasonable profit, consideration should include topics such as:

- 1) Complexity of the work to be performed;
- 2) Risk borne by the contractor;
- 3) Contractor's investment;
- 4) Amount of subcontracting;
- 5) Quality of the contractor's record of past performance; and
- 6) Industry profit rates in this geographic area for similar work.

The *cost plus a percentage of cost* and the *percentage of construction cost* methods of contracting will not be used.

I. Bonding Requirements: For construction or facility improvement contracts exceeding the SAT, the county will require:

- 1) A bid bond or other acceptable guarantee to be submitted with each bid, equal to five percent of the bid price;
- 2) A performance bond equal to 100 percent of the contract price; and
- 3) A payment bond equal to 100 percent of the contract price.

J. Contract Provisions: Each contract will include the applicable provisions described in Appendix II to 2 CFR Part 200. Provisions include:

- 1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms;
- 2) Termination for cause and convenience;
- 3) Equal Employment Opportunity (construction contracts only);

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- 4) Davis-Bacon Act (construction contracts only. Not required under the FEMA Public Assistance program, e.g. debris removal contracts);
- 5) Copeland Anti-Kickback clause (construction or repair work);
- 6) Contract Work Hours and Safety Standards Act (overtime after 40 hours);
- 7) Rights to Inventions (only required under funding agreements; not required under the FEMA Public Assistance program);
- 8) Clean Air Act & Federal Water Pollution Control Act;
- 9) Debarment and Suspension; and
- 10) Byrd Anty-Lobbing Amendment (also include the Certification form).

FEMA requires specific language for the Equal Employment Opportunity provision (required for federally assisted construction contracts only). The required language is shown as Appendix A to these Policies and Procedures.

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Equal Employment Opportunity: During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

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- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State, Territorial, or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervisions of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with the undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

- Section 2.** TITLE 2 OF THE CODE OF FEDERAL REGULATIONS, PART 184 – BUY AMERICA PREFERENCES FOR INFRASTRUCTURE PROJECTS, is attached hereto as APPENDIX “B,” and is by this reference hereto incorporated into Policy Number 200.03 Use of Federal Funds in its entirety.
- Section 3.** TITLE 40 OF THE CODE OF FEDERAL REGULATIONS, PART 247 – COMPREHENSIVE PROCUREMENT GUIDELINE FOR PRODUCTS CONTAINING RECOVERED MATERIALS, is attached hereto as APPENDIX “C,” and is by this reference hereto incorporated into Policy Number 200.03 Use of Federal Funds in its entirety.
- Section 4.** This ordinance shall become effective immediately upon its adoption by the Board of Commissioners of Fayette County.
- Section 5.** All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.
- Section 6.** In the event any section, subsection, sentence, clause or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect other sections, subsections, sentences, clauses or phrases of this ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not a part hereof. The Board of Commissioners hereby declares that it would have passed the remaining parts of this ordinance if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

SO ENACTED this ____ day of _____, 2024.

**BOARD OF COMMISSIONERS OF
FAYETTE COUNTY**

(SEAL)

By: _____
LEE HEARN, Chairman

ATTEST:

Tameca P. Smith, County Clerk

Approved as to form:

County Attorney

COUNTY AGENDA REQUEST

Department:

Presenter(s):

Meeting Date:

Type of Request:

Wording for the Agenda:

Request to approve Ordinance 2024-02 amending Fayette County Code; Chapter 28-Utilities; Article III. - Water Restrictions to establish provisions pertaining to water restriction requirements.

Background/History/Details:

In 2022, the Metropolitan North Georgia Watershed Planning District updated the Plan to have district entities update drought response and water waste ordinances to comply with Georgia Environmental Management Department (EPD) Drought Management Rules, OCGA 12--5-7 (a.1)(3). This ordinance contains similar drought response levels as currently enforce. Under year-round, water-use restrictions, restrictions on water wasting activities have been added.

Of main importance in this update is to allow public water systems to submit emergency variance requests to the GA EPD. This provides local flexibility for Fayette County Water System (FCWS) to submit an emergency variance request to increase or decrease the drought response level and associated water use restrictions that are consistent with the localities' drought contingency plan.

During the flash drought beginning in summer of 2019, FCWS submitted a drought variance request to increase the County's drought response level. These requests require detailed data, analyses and estimates, and are time consumptive for staff.

What action are you seeking from the Board of Commissioners?

Approval of Ordinance 2024-02 amending Fayette County Code; Chapter 28-Utilities; Article III. - Water Restrictions to establish provisions pertaining to water restriction requirements.

If this item requires funding, please describe:

Not applicable.

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?*

Backup Provided with Request?

*** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

Staff Notes:

[The following proposed ordinance language is to replace those provisions currently found in Article III – Water Restrictions.]

Article III. ~~Ordinance for~~ Local Drought Management and Response.

Section 28-73. Purpose and Intent.

- (a) *Purpose.* The purpose of this Article is to protect the public health, safety, environment, and general welfare by adopting and enforcing water use restrictions that ensure adequate supplies of water for customers of the Fayette County Water System and avoid or relieve any local water shortages during declared periods of drought.
- (b) *Intent.* It is the policy of the Fayette County Water System to comply with the laws and regulations imposed by the State of Georgia and any local variances restricting water use, particularly during times of declared drought. The water use restrictions and exceptions in this Article are consistent with the EPD Drought Rule. Codifying these water use restrictions and exceptions is required by O.C.G.A. §12-5-7 (a.1) (3) and is necessary to consistently, fairly, and lawfully enforce water use restrictions at the local level as part of Fayette County Water System’s drought response efforts.
- (c) *Delegation to the Fayette County Water System Director.* The Board of Commissioners of Fayette County hereby delegates to the Fayette County Water System Director the authority and responsibility under this Article for the implementation of drought response efforts, for seeking local variances for additional or fewer drought restrictions as needed, and for the enforcement of water use restrictions.

Section 28-74. Authority. The Board of Commissioners of Fayette County has the authority to adopt this ordinance pursuant to applicable home rule provisions of Article 9, Section 2 of the Constitution of the State of Georgia and Title 36 of the Official Code of Georgia Annotated, Section 7 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the EPD Drought Rule, and Section 13 of Article II of the Board of Commissioners of Fayette County’s enabling legislation.

Section 28-75. Applicability.

- (a) *Applicable to Customers.* The water use restrictions in this Article apply to all retail customers of the Fayette County Water System. This application is based on the Fayette County Water System’s water service area and, therefore, applies regardless of whether a given retail customer is located within or outside of the unincorporated area of the County.
- (b) *Condition of Water Service.* As a condition of receiving continued water service from the Fayette County Water System, customers agree to familiarize themselves

with and comply by the water use restrictions for the applicable declared drought response level.

- (c) *Customer Responsibility for Third-Party Usage.* The customer is responsible for ensuring third-party water usage from their account complies with the restrictions in this Article, and all notices of violation and administrative fines resulting from violations of water use restrictions by third parties with water from the customer's account will be the responsibility of the customer. This applies whether such third-party is a tenant, property management company, landscaping contractor, lawncare company, employee, independent contractor, or any other person or legal entity that customer allows to use water from its account.

Section 28-76. Definitions.

- (a) "Affected drought area" means any area subject to a drought declaration made by the EPD Director in accordance with EPD Drought Rule.
- (b) "Customer" means any person or legal entity that has established an account with, and makes retail water purchases from, the Fayette County Water System.
- (c) "Declared drought response level" means the applicable drought response level 1, 2, 3, or 3 plus, as declared by the EPD Director or pursuant to a local variance, if any.
- (d) "Drip irrigation" means the use of an irrigation system manufactured and sold specifically for delivering water through small flexible pipes and emitters slowly and directly to the soil around the base of individual plants in a manner that minimizes evaporative losses, pooling, runoff and wetting of plant foliage. This type of system may be part of a larger automated irrigation system or may operate as a stand-alone system connected to a typical outdoor faucet.
- (e) "Drought contingency plan" means the Board of Commissioners of Fayette County's plan submitted to, and approved by EPD, as part of the Board of Commissioners of Fayette County's most recent new or modified water withdrawal permit. As required by Ga. Comp. R. & Regs. Ch. 391-3-6-.07 (4) (b) (9), such plan includes drought condition indicators, potable water use priorities, surface water low flow protections, and water storage availability analyses (if applicable).
- (f) "EPD" means the Environmental Protection Division of the Georgia Department of Natural Resources.
- (g) "EPD Director" means the Director, or his/her designee, of the EPD.
- (h) "EPD Drought Rule" Georgia Department of Natural Resources Rules for Drought Management, Ga. Comp. R. & Regs. Ch. 391-3-30.

- (i) “Even-numbered address” means an address number ending with the number 0, 2, 4, 6, 8, or no address number.
- (j) “Fayette County Water System” means the system owned and operated by Fayette County, Georgia for the provision to the public of piped water for human consumption among other purposes.
- (k) “Fayette County Water System Director” means Fayette County’s staff member who is responsible for the management and direction of the Fayette County Water System.
- (l) “Golf Irrigation Prediction and Estimation Worksheet” is an Excel spreadsheet tool that EPD has developed for drought response that a mathematical calculation that takes into account local evapotranspiration, distribution uniformity of irrigation, efficiency of the water application, crop coefficients, and local average rainfall to determine the annual irrigation needed to maintain healthy turf grass.
- (m) “Landscape” means ground cover, trees, shrubs, or other plants such as grasses.
- (n) “Odd-numbered address” means an address number ending with the number 1, 3, 5, 7, or 9.
- (o) “Ornamental purposes” refers to when water is used outdoors for the purpose of adding beauty, aesthetic appeal, visual, or auditory appeal. Water used for ornamental purposes does not include fountains that must be operated to sustain aquatic animals or splash pads and other outdoor water features used primarily for recreation.
- (p) “Pool covers” means a solid track, foam, or bubble cover which can be placed over the water area of a swimming pool and is intended for use during the open swim season. Pool covers may be automatically, semi-automatically, or manually controlled, and pool covers may, but are not required to be, safety pool covers. Pool covers do not include solar rings, liquid barriers, or chemical barriers.
- (q) “Soaker hose” means a hose that is connected to a typical outdoor faucet and that is manufactured and sold specifically for delivering water slowly and directly to the soil around the base of individual plants by allowing water to seep from it in a manner that minimizes evaporative losses, pooling, runoff and wetting of plant foliage.

Section 28-77. Non-drought restrictions on watering hours and water waste.

- (a) *Year-round restrictions on watering hours.* Subject to further limitations under any applicable declared drought response levels, customers may irrigate outdoor ground cover, trees, shrubs, or other plants such as grasses only before 10 a.m. and after 4 p.m. subject to the following exceptions:
 - i. Agricultural operations as defined in O.C.G.A. § 1-3-3;

- ii. Capture and reuse of cooling system condensate or storm water in compliance with applicable local ordinances and state guidelines;
- iii. Reuse of gray water in compliance with O.C.G.A. § 31-3-5.2 and applicable local board of health regulations adopted pursuant thereto;
- iv. Use of reclaimed wastewater by a designated user from a system permitted by the Environmental Protection Division to provide reclaimed wastewater;
- v. Irrigation of personal food gardens;
- vi. Irrigation of new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of 30 days immediately following the date of installation;
- vii. Drip irrigation or irrigation using soaker hoses;
- viii. Hand watering with a hose with automatic cutoff or handheld container;
- ix. Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;
- x. Irrigation of horticultural crops held for sale, resale, or installation;
- xi. Irrigation of athletic fields, golf courses, or public turf grass recreational areas;
- xii. Installation, maintenance, or calibration of irrigation systems; and
- xiii. Hydroseeding.

(b) *Restriction on Water Wasting Activities.* The following are prohibited everyday and all the time under non-drought and all declared drought response levels as water wasting activities:

- i. Operating a landscape irrigation system under the following conditions:
 1. with visible leaks;
 2. with broken or missing sprinkler heads;
 3. during the rain or shortly thereafter when the landscape is visibly wet; or
 4. in a manner that results in pooling or flowing water on hard surfaces such as streets, gutters, sidewalks, and driveways;

- ii. Failing to install correctly, maintain, or use the legally required rain-sensor shutoff for a landscape irrigation system;
- iii. Failing to repair a water service line, customer-side connection to the water meter, outdoor water spigot, or yard hydrant with a visible leak within 30 days after being notified by Fayette County Water System;
- iv. Using a water hose without a water shut-off nozzle;
- v. Operating water features such as fountains, reflecting pools, and waterfalls, when water is regularly misting, splashing, or otherwise escaping outside the areas designed to be part of such water feature; and
- vi. Failing to offer and explain to hotel and motel guests the option of using their towels and linens for more than one day during multi-day stays.

Section 28-78. Declared Drought Response Levels by the EPD Director and through Local Variances.

- (a) *Compliance with Water Use Restrictions.* Fayette County Water System and its customers shall comply with the water use restrictions imposed based on the declared response level by the EPD Director or by local variance. A variance is required before Fayette County Water System may impose additional or fewer water use restrictions at a local level.
- (b) *Drought Response Levels Declared by the EPD Director.* The EPD Director may declare drought response levels for affected drought area(s) based upon the severity of drought conditions and their impacts on water supplies and the factors established in the EPD Drought Rule. If Fayette County Water System is in an affected drought with a declared drought response level, Fayette County Water System shall implement the water use restrictions for the declared drought response level in this Article.
- (c) *Local Variance for Additional Restrictions.*
 - i. If the Fayette County Water System Director determines based on the drought condition indicators that additional water use restrictions are needed to avoid or relieve a local water shortage, then the Fayette County Water System Director may submit a variance request to the EPD Director to impose additional restrictions. The local drought condition indicators are set forth in Fayette County's drought contingency plan.
 - ii. For variance requests for drought response level 3 plus, the Fayette County Water System Director must first submit the proposed water use restrictions to the Board of Commissioners of Fayette County for consideration and approval.

- iii. The request shall include the information required under the EPD Drought Rule including but not limited to a statement of which drought response (level 1, level 2, level 3, or level 3 plus) Fayette County Water System seeks to declare, the duration of those restrictions, and a description of why such restrictions are necessary.
 - iv. Such variance shall be effective and become the declared drought response level for Fayette County Water System upon approval by the EPD Director.
- (d) *Emergency Restrictions.* In the case of an emergency which immediately threatens the public health, safety, or welfare as determined by the Fayette County Water System Director, the Fayette County Water System Director may impose additional emergency restrictions on water use; provided, however, that such emergency restrictions shall be valid for a period not to exceed seven days unless a variance request is submitted and approved in accordance with Section 28-78 (c) of this Article. Emergency water use restrictions shall be consistent with the water use priorities in Fayette County's drought contingency plan.
- (e) *Local Variance for Fewer Restrictions.* If the Fayette County Water System Director determines based on drought condition indicators that the water use restrictions under the declared drought response level are not needed to avoid or relieve a local water shortage, then the Fayette County Water System Director may submit a variance request to the EPD Director to impose fewer restrictions. The local drought condition indicators are set forth in Fayette County's drought contingency plan. The request shall include the information required under the EPD Drought Rule including but not limited to a statement of which drought response level (non-drought, level 1, or level 2) Fayette County Water System seeks to apply, the duration of the less stringent restrictions, and a description of why the restrictions described in the Rule are not needed. Such variance shall be effective upon approval by the EPD Director.

Section 28-79. Drought Response Level 1. During a declared drought response level 1, Fayette County Water System will implement a public information campaign that will include, at a minimum, public notice regarding drought conditions and drought specific public-service messages. The restrictions on water wasting activities and the watering hours and exceptions in Section 28-77 of this Article continue to apply, but there are otherwise no additional water use restrictions under a declared drought response level 1.

Section 28-80. Drought Response Level 2. During a declared drought response level 2, the following restrictions apply:

- (a) *Outdoor Irrigation Limited to Two Days Per Week.* Customers may irrigate outdoor ground cover, trees, shrubs, or other plants such as grasses only two days a week on an odd-even schedule. Customers with even numbered addresses may irrigate on Wednesday and Saturday and customers with odd numbered addresses may irrigate on Thursday and Sunday. The restrictions on watering before 10:00 am

and after 4:00 pm and the exceptions in Section 28-77 of this Article continue to apply.

(b) *Restrictions on other Outdoor Water Uses.* The following outdoor water uses are not allowed:

- i. Washing hard surfaces such as streets, gutters, sidewalks and driveways, except when necessary for public health and safety;
- ii. Using water outdoors for ornamental purposes, such as fountains, reflecting pools, and waterfalls;
- iii. Use of fire hydrants, except for the purposes of firefighting, public health, safety, or flushing;
- iv. Non-commercial washing of vehicles, such as cars, boats, trailers, motorbikes, airplanes, or golf carts;
- v. Non-commercial washing, or pressure washing, of buildings or structures, except for immediate fire protection; and
- vi. Charity, or non-commercial fund-raiser, car washes.

(c) *Drought Response Strategies.* Fayette County Water System shall select and implement four or more of the drought response strategies listed in the EPD drought rule. Most of the drought response strategies involve internal operational actions by Fayette County Water System and, therefore, do not involve restrictions on customers that must be set forth in this ordinance. However, the following drought response strategies are included in this ordinance because they impose additional water use restrictions on customers. Fayette County Water System shall post on its website and make known by public notice if it selects any of the following water use restrictions:

- i. Restaurants shall serve glasses of water only upon request by their patrons and shall provide drought education materials from Fayette County Water System to patrons either on tabletop placards or in another location highly visible to patrons;
- ii. Customers responsible for private and public pools must place pool covers over the water area of their swimming pools when not in use whether day or night during the open swim season; and
- iii. Customers, including but not limited to local governments, shall suspend their street cleaning programs that use water.

Section 28-81. Drought Response Level 3. During a declared drought response level 3, the following restrictions apply:

- (a) *Outdoor Irrigation Ban.* Customers shall not irrigate outdoor ground cover, trees, shrubs, or other plants such as grasses subject to the exceptions in Section 28-77 of this Article modified as follows:
- i. Irrigation of personal food gardens and handwatering with an automatic cutoff or handheld container may be conducted only before 10:00 a.m. and after 4:00 p.m.;
 - ii. Irrigation of athletic fields or public turf grass recreational areas may be conducted only before 10:00 a.m. and after 4:00 p.m. and subject to the two days a week odd-even schedule described in drought response level 2;
 - iii. Irrigation of golf courses shall be conducted in accordance with the "Golf Irrigation Prediction and Estimation Worksheet" and only before 10:00 a.m. and after 4:00 p.m., provided, however, irrigation of golf course greens may occur at any time of day;
 - iv. Installation, maintenance, or calibration of irrigation systems is allowed provided it is done by professional landscapers or golf course superintendents; and
 - v. Reclaimed wastewater shall not be used for irrigating outdoor ground cover, trees, shrubs, or other plants such as grasses subject only to the exceptions in Section 28-77 of this Article as modified in (i) through (iv) above.
- (b) *Restrictions on other Outdoor Water Uses.* The restrictions in Section 28-80 of this Article continue to apply.
- (c) *Drought Response Strategies.* Fayette County Water System shall implement all ten of the drought response strategies listed in the EPD Drought Rule, including strategies involving operational changes and those water use restrictions on customers in Section 28-80 (c) of this Article.

Section 28-82. Drought Response Level 3 Plus.

- (a) *Creating Additional Water Use Restrictions.* Under a declared drought response level 3 plus, Fayette County Water System may create and implement water use restrictions in addition to those set forth in the EPD drought rule. Additional water use restrictions should be based on an evaluation of areas where the greatest water savings potential exists among and within its customer classes.
- (b) *Water Use Priorities.* Unless modified based on local conditions in Fayette County Water System's local drought contingency plan, the following order of potable water use priorities provided in EPD Rule 391-3-6-.07 (9) (ii) (I) should be followed:

- i. Emergency facilities for essential life support measures;
- ii. Domestic and personal uses, including drinking, cooking, washing, sanitary and health related;
- iii. Farm uses;
- iv. Industrial uses;
- v. Other uses such as lawn sprinkling, non-commercial car washing, garden watering, etc.; and
- vi. Outdoor recreational uses.

(c) *Approvals and Notice of Additional Water Use Restrictions.* The Fayette County Water System Director is responsible for creating and then seeking approval from the Board of Commissioners of Fayette County and from EPD for a variance to impose any necessary, additional water uses restrictions. Upon Board of Commissioners of Fayette County and EPD approval, Fayette County Water System shall post the additional water use restrictions on their website and make them known by public notice, and then such additional water use restrictions may be implemented and enforced as water use restrictions under this Article.

Section 28-83. ~~Signage.~~ Notice and Registration Required to Claim Exceptions for New and Replanted Landscapes and Reuse, Reclaimed, and Privately Sourced Water.

- (a) *New and Replanted Landscapes.* To claim the exception from restrictions under this Article on outdoor irrigation for new or replanted landscapes being irrigated within 30 days following installation, the customer ~~shall post one or more signs that list the date of planting and the date the 30-day period ends. The customer~~ shall send notice on or before the date of planting to Fayette County Water System to claim the exception.
- (b) *Reuse, Reclaimed, and Privately Sourced Water.* To claim the exceptions from restrictions under this Article on outdoor landscape irrigation using reuse, reclaimed, and privately sourced water, the customer shall ~~post one or more signs that state as applicable: "This landscape is irrigated with [reuse water / reclaimed water / private well / private surface waters]". The customer shall~~ register their alternative water source with Fayette County Water System to claim the exception. The registration shall be made using the paper or electronic forms provided by Fayette County Water System and include the customer number, customer address, brief description of the alternative source, its intended use and estimated volumes, and a picture of the required signage.
- (c) *Signage Requirements.* ~~— Each sign required under this section shall be at least 24 inches wide and 18 inches tall and shall be visible and readable from all rights of~~

~~way from which outdoor landscape irrigation is visible to passersby. If such irrigation is visible from two or more right-of-ways, then one sign shall be placed along each right-of-way.~~

- (d) *Grace Period.* Customers shall have a 30-day grace period from the date of the declared drought response level imposing the outdoor water use restrictions to ~~post the required signage,~~ provide notice, and register with Fayette County Water System. This 30-day grace period applies regardless of whether a customer is given individual notice of the applicable water use restrictions.

Section 28-84. Professional Exemptions; Applications Required for Essential Business Use Exception.

- (a) *Professional Exemptions.* The following commercial outdoor water uses are exempt from the outdoor water use restrictions of this Article:
- i. Pressure washing;
 - ii. Permanent car wash facility, provided that it is connected to a sanitary sewer system of a political subdivision or local government authority or recycles used wash water;
 - iii. Water use at construction sites;
 - iv. Watering-in of pesticides and herbicides on turf grasses; and
 - v. Other water using activities essential to daily business as established pursuant to Section 28-84 (b) of this Article.
- (b) *Required Application for Professional Exemptions.* To claim the exemption in Section 28-84 (a) (v) of this Article for water use activities essential to daily business, a customer must first apply in writing to Fayette County Water System with information and supporting materials showing why an otherwise restricted outdoor water use is essential to daily business. Fayette County Water System shall approve such outdoor water use as essential if there are no reasonable alternatives and the customer could not operate without such water use. Otherwise, Fayette County Water System shall deny the application. Fayette County Water System shall make its determination within 14 days of receiving each application.
- (c) *Grace Period.* Customers shall have a 30-day grace period from the date of the declared drought response level imposing the outdoor water use restrictions to submit the required application to Fayette County Water System. This 30-day grace period applies regardless of whether a customer is given individual notice of the applicable water use restrictions.

- (d) *Dispute.* Following a denial of its application, a customer may dispute the determination through the same process used for disputing administrative fines set forth in Section 28-85 (e) of this Article.
- (e) *Water Use While Application or Dispute Resolution Pending.* The customer may use water as if its application will be approved while waiting for a decision on their application and during any dispute resolution process. If the application is denied and following the resolution of any dispute, if initiated, the customer must cease the water use in question within 14 days.

Section 28-85. Enforcement and Administrative Fines.

- (a) *Enforcement Authority.* Fayette County Water System is the enforcement authority for this Article. The Board of Commissioners of Fayette County may also authorize other Fayette County departments as may be deemed necessary to support enforcement.
- (b) *Warning and Administrative Fines for Violations.*
- i. Customers that violate the water use restrictions in this Article shall be subject to the following schedule of administrative penalties:
 - a. First Violation – Written warning;
 - b. Second Violation – An administrative fine of \$125;
 - c. Third Violation – An administrative fine of \$250;
 - d. Fourth Violation – An administrative fine of \$500;
 - e. Fifth Violation – An administrative fine of \$1,000; and
 - f. Sixth and Subsequent Violations – An administrative fine of \$1,000 ~~and water shut-off.~~
 - ii. Violations shall be counted from the first violation after the first drought response level is declared and shall ~~not reset until such time as there is no longer any declared drought response level for the Fayette County Water System and the non-drought conditions in Section 28-77 of this Article once again apply~~ after twelve consecutive months. After and except for the first violation, one violation may be issued per day of noncompliance with the applicable water use restrictions.
- (c) *Notices of Violation.* Notices of violation for the first and all subsequent violations of the water use restrictions in this Article shall be posted at the property where the violation occurred and sent by first class mail to the customer. These

notices shall be in writing, include the address of where the violation occurred, the restriction which has been violated, and the consequences of subsequent violations.

- (d) *Payment of Administrative Fine.* All administrative penalties shall become a part of the customer's regular bill for service. Failure to remit payment of the regular bill plus the administrative fine shall be subject to Fayette County Water System's rules, procedures, and penalties for nonpayment, including water shut-off.
- (e) *Disputing Administrative Penalties.* Customers desiring to dispute an administrative fine must file a written request for the Fayette County Water System Director to reconsider the administrative fine along with full payment of the fine amount plus a \$25 processing fee within 14 days of the notice of violation. The Fayette County Water System Director will convene an administrative hearing on the matter where the customer will have the opportunity to show cause as to why an administrative fine under this Article should not be assessed. The Fayette County Water System Director shall establish reasonable procedures for conducting such hearings ~~and appointing members to decide customer disputes. Until such time as these procedures are established and members of the general public are appointed, Customers disputes shall instead be referred to the State Court of Fayette County.~~ If the customer's appeal is successful, the payment of the fine and processing fee shall be returned to the customer. The decision of the Fayette County Water System Director shall be the final decision on this matter.

CURRENT LANGUAGE

PART II - COUNTY CODE
Chapter 28 - UTILITIES
ARTICLE III. WATER RESTRICTIONS

ARTICLE III. WATER RESTRICTIONS

Sec. 28-73. Generally.

The board of commissioners may, from time to time, impose such water restrictions as to control the consumption of water which it may deem necessary to protect the public health, safety and welfare.

(Code 1992, § 19-51)

Sec. 28-74. Restrictions on outdoor watering.

The board of commissioners may, from time to time, impose restrictions on outdoor watering to control the consumption of water when necessary to protect the health, safety and welfare of the citizens of the county. The following subsections provide for graduated restriction on outdoor watering based on drought level declared.

- (1) During non-drought periods, outdoor water use, other than those uses exempted in section 28-75, shall occur as follows: Those parties having an address with an odd number shall be allowed to water outdoors on Tuesday, Thursday, and Sunday, and those parties having an address with an even number shall be allowed to water outdoors on Monday, Wednesday, and Saturday. During periods in which a drought is declared by the director of the environmental protection division, outdoor water use shall occur in accordance with the following standards as applicable.
 - a. During declared drought conditions, outdoor water use other than those activities exempted below in subsection (3) of this section, shall occur only during scheduled hours on the scheduled days in accordance with the drought level declared.
 - b. Declared drought response level one—Outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m. and 4:00 p.m. to 12:00 midnight.
 1. Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.
 2. Scheduled days for even-numbered addresses are Mondays, Wednesdays and Saturdays.
 3. Use of hydrants for any purpose other than firefighting, public health, safety or flushing is prohibited.
 - c. Declared drought response level two—Outdoor water use may occur on scheduled days within the hours of 12:00 midnight to 10:00 a.m.
 1. Scheduled days for odd-numbered addresses are Tuesdays, Thursdays and Sundays.
 2. Scheduled days for even-numbered addresses and golf course fairways are Mondays, Wednesdays and Saturdays.
 3. The following uses are prohibited:
 - i. Using hydrants for any purpose other than firefighting, public health, safety or flushing.
 - ii. Washing hard surfaces, such as streets, gutters, sidewalks and driveways except when necessary for public health and safety.

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- d. Declared drought response level three—Outdoor water use may occur on the scheduled day within the hours of 12:00 midnight to 10:00 a.m.
 - 1. The scheduled day for odd-numbered addresses is Sunday.
 - 2. The scheduled day for even-numbered addresses and golf course fairways is Saturday.
 - 3. The following uses are prohibited:
 - i. Using hydrants for any purpose other than firefighting, public health, safety or flushing.
 - ii. Washing hard surfaces, such as streets, gutters, sidewalks, driveways, except when necessary for public health and safety.
 - iii. Filling installed swimming pools except when necessary for health care or structural integrity.
 - iv. Washing vehicles, such as cars, boats, trailers, motorbikes, airplanes, golf carts.
 - v. Washing buildings or structures except for immediate fire protection.
 - vi. Noncommercial fundraisers, such as car washes.
 - vii. Using water for ornamental purposes, such as fountains, reflecting pools, and waterfalls except when necessary to support aquatic life.
 - e. Declared drought response level four—No outdoor water use is allowed, other than for activities exempted in subsection (3) of this section, or as the EPD director may order.
- (2) These restrictions shall apply to all entities and their customers which are permitted by the state environmental protection division (EPD) for water withdrawal or for operation of a drinking water system.

(Code 1992, § 19-52; Ord. No. 2004-16, § 1, 7-22-2004)

Sec. 28-75. Exemptions from outdoor watering restrictions.

The following water uses shall be exempt from the restrictions set forth in section 28-74:

- (1) This rule shall not apply to the following outdoor water uses:
 - a. Capture and re-use of cooling system condensate or stormwater in compliance with applicable local ordinances.
 - b. Re-use of gray water in compliance with applicable local ordinances.
- (2) The following established landscape water uses are exempt from the outdoor water use schedules of these rules.
 - a. Use of reclaimed wastewater by a designated user from a system permitted by EPD to provide reclaimed wastewater.
 - b. Irrigation of personal food gardens.
- (3) Newly (in place less than 30 days) installed landscapes are subject to the following:
 - a. Irrigation of newly installed landscapes is allowed any day of the week, but only during allowed hours for the drought response level in effect, for a period of 30 days following installation. No watering is allowed during drought response level four.

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- b. For new landscapes installed by certified or licensed professionals, commercial exemptions apply.
- (4) The following golf course outdoor water uses are exempt from the outdoor water use schedules of this rule.
- a. Use of reclaimed wastewater by a designated user from a system permitted by EPD to provide reclaimed wastewater.
 - b. Irrigation of fairways during times of non-drought and declared drought response level one.
 - c. Irrigation of trees during times of non-drought and declared drought response levels one, two and three.
 - d. Irrigation of greens.
- (5) The following commercial outdoor water uses are exempt from the outdoor water use schedules of this rule.
- a. Professionally certified or licensed landscapers, golf course contractors, and sports turf landscapers; during installation and 30 days following installation only. Professional landscapers must be certified or licensed for commercial exemptions to apply.
 - b. Irrigation contractors; during installation and as needed for proper maintenance and adjustments only.
 - c. Sod producers.
 - d. Ornamental growers.
 - e. Fruit and vegetable growers.
 - f. Retail garden centers.
 - g. Hydro-seeding.
 - h. Power-washing.
 - i. Construction sites.
 - j. Producers of food and fiber.
 - k. Car washes.
 - l. Other activities essential to daily business.
 - m. Watering-in of pesticides and herbicides on turf.

(Code 1992, § 19-53; Ord. No. 2004-16, § 2, 7-22-2004)

Sec. 28-76. Definitions.

When used in this article, the following terms shall have the meanings ascribed to them:

Address means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes a physical location of a specific property. The term "even numbered address" means a house number ending with a number 0, 2, 4, 8, or no house number. The term "odd numbered address" means a house number ending with the number 1, 3, 5, 7, or 9.

Declared drought response level means one of the four levels of drought that can be declared based on the severity of drought conditions, with one being the least severe and four being the most severe.

House number is hereby deemed to be an identifier for properties of whatever character of use they may be, including but not limited to residential, commercial, government, and institutional properties.

(Code 1992, § 19-54; Ord. No. 2004-16, § 3, 7-22-2004)

Sec. 28-77. Enforcement and penalties for violations.

- (a) For purposes of this article, the following terms shall mean:
- (1) Water conservation measure means any resolution adopted by the board of commissioners or the state that restricts or prohibits the use of water supplied by the county.
 - (2) Water conservation period means the time from which a water conservation measure is adopted or imposed until the time at which such measure is repealed.
 - (3) Enforcement officers means those persons listed in section 2-1.
 - (4) Violator means a person or entity who engages in an act or omission that results in a violation of any provision of a water conservation measure.
- (b) Enforcement officers are hereby authorized to issue warnings and citations pursuant to this section and to assist otherwise in the prosecution of violators.
- (c) It shall be unlawful for any person or entity to engage in any act or omission that violates the provisions of any water conservation measure. It shall be unlawful for any violator to continue to engage in such act or omission after service of a warning or citation under this section.
- (d) All enforcement officers are hereby authorized to serve upon any violator written warnings or citations for any and all violations. Such written warnings and citations shall be served by certified U.S. mail, return receipt requested, to the last billing address of the violator known to the water department or by hand-delivery to the violator.
- (e) The county may, immediately upon either the failure of any violator to comply immediately, considering the totality of the circumstances, with a warning or the service of a citation upon any violator, terminate the provision of services to said violator.
- (f) For a first conviction during a water conservation period a fine of \$500.00 shall be imposed, for second conviction during a water conservation period a fine of \$750.00 shall be imposed, and for third and subsequent convictions during a water conservation period of a fine of \$1,000.00 shall be imposed by the state court or other court of appropriate jurisdiction.

(Code 1992, § 19-55; Ord. No. 2007-09, § 1, 12-5-2007)

Secs. 28-78—28-122. Reserved.