

**DEVELOPMENT AUTHORITY OF FULTON COUNTY
REGULAR MEETING HELD ON
TUESDAY, AUGUST 24, 2021 AT 2:00 P.M.
HELD VIA VIDEOCONFERENCE**

MINUTES

Present were the following Members of the Authority:

Mr. Michel M. Turpeau – Chairman
Mr. Brandon Beach – Vice Chairman
Mr. Kyle Lamont – Secretary
Mr. Sam Bacote – Treasurer
Mr. Tom Tidwell – Board Member
Dr. Mike Looney – Board Member
Ms. Erica Long – Board Member
Mayor Mike Bodker – Board Member

Also present were Ms. Sandra Z. Zayac, Ms. Lauren W. Daniels, and Ms. Margaret Scharle, attorneys for the Authority, and Ms. Marva Bryan, Ms. Doris Coleman, and Ms. Sabrina Kirkland, staff of the Authority.

Mr. Lamont gave the invocation and Chairman Turpeau called the meeting to order.

RECOGNITION OF VISITORS: Also present were Mr. Edward Leidelmeijer of Commissioner Hausmann's office, Mr. Samir Abdullahi of Select Fulton, Mr. Jim Stevens of On-Call Accounting, and Mr. Scott Trubey of The Atlanta Journal-Constitution.

COVID-19 UPDATE, GROUND RULES AND PUBLIC COMMENT: Chairman Turpeau explained the Authority would continue to temporarily hold its monthly Board meetings via Zoom videoconference and teleconference in accordance with the Open Meetings Act (O.C.G.A. Section 50-14-1 (g)) in light of the COVID-19 pandemic and the emergency declaration by Governor Brian Kemp.

Chairman Turpeau explained the ground rules for participating in the Zoom videoconference and teleconference meeting and announced that the Board would accept public comments in advance of Authority meetings via email. Chairman Turpeau announced that all such comments should be sent to Doris.Coleman@fultoncountyga.gov before 10:00 a.m. on the date of the applicable meeting in order for the comments to be included in the official minutes of the Authority.

Chairman Turpeau further announced that any guests that would like to be recognized as being present for the Regular Meeting should also send an email to Doris.Coleman@fultoncountyga.gov so that their attendance may be formally documented in the minutes. Chairman Turpeau invited the public to visit the homepage of the DAFC website at www.developfultoncounty.com for the most up-to-date information regarding DAFC meetings.

MINUTES: The minutes from the Regular Meeting held on June 22, 2021, the Regular Meeting held on July 27, 2021 and the Special Call Meeting held on August 10, 2021 were presented to the Authority for approval. Upon a motion made by Mayor Bodker, which was seconded by Mr. Bacote, the Authority unanimously approved the minutes as presented.

APPROVAL OF MEETING AGENDA: Upon a motion made by Mayor Bodker, which was seconded by Vice Chairman Beach, the Authority unanimously approved the agenda as presented, which would include

discussions on both (i) a proposal on the process to update the Bylaws, which was provided by Mayor Bodker and (ii) an amendment to the Bylaws and committee structure, which was provided by Mr. Tidwell.

PUBLIC COMMENT: Chairman Turpeau announced that the Authority's staff had received five public comments in advance of this Regular Meeting and that such comments had been distributed to the Board. Mr. Lamont read the public comments, which are attached hereto as "Exhibit A."

OLD BUSINESS:

Assignment (Second) of 2750 Sullivan, LLC and Sullivan Assemblage, LLC Projects from Sullivan Owner LLC (collectively, the "Sullivan Projects") to GA 2750 Sullivan Rd (DE) LLC ("GA 2750"). Mr. David McAlister and Mr. Andrew Schutt of Arnall Golden Gregory LLP, Mr. Steve Bender and Ms. Kellee Padgett of Dentons US LLP, and Mr. Christopher Lankin of Oxford Properties Group appeared in connection with the request to approve the assignments of the Sullivan Projects to GA 2750. More specific details are described in the Fact Sheet included as part of this item posted on the Authority's website. Upon a motion made by Mayor Bodker, which was seconded by Mr. Lamont, the Authority unanimously approved the assignment to GA 2750.

Modification for Portman 230, LLC ("Portman 230"). Mr. Doug Selby of Hunton Andrews Kurth LLP and Mr. Andy Kroll of Portman Holdings appeared in connection with the request to approve a supplemental bond resolution that would permit the bifurcation of the existing bond transaction with Portman 230 into two separate portions, including one for the office portion and one for the hotel portion. More specific details are described in the Fact Sheet included as part of this item posted on the Authority's website. Upon a motion made by Vice Chairman Beach, which was seconded by Mayor Bodker, the Authority unanimously approved the modification for Portman 230.

Final Bond Resolution for Fairfield Piedmont LLC ("Fairfield Piedmont"). Mr. Dan McRae, Mr. Kevin Brown and Mr. Jeff Chesnut of Seyfarth Shaw LLP and Mr. Tommy Brunson, Mr. Richard Munger and Mr. Bryan Condie of Fairfield Residential Company appeared in connection with the request for a final bond resolution for the issuance of \$100,000,000 in taxable revenue bonds for the development of an approximately 392-unit multifamily residential facility, including affordable housing units, related office space and amenities to be located at 1944 Piedmont Circle in the City of Atlanta. More specific details are described in the Fact Sheet included as part of this item posted on the Authority's website. Upon a motion made by Vice Chairman Beach, which was seconded by Mr. Bacote, Vice Chairman Beach, Mr. Bacote, Mayor Bodker, and Chairman Turpeau voted in favor of the final bond resolution for Fairfield Piedmont and Mr. Lamont, Mr. Tidwell, Dr. Looney, and Ms. Long voted against the final bond resolution for Fairfield Piedmont and the motion failed.

NEW BUSINESS: None.

ITEMS FOR DISCUSSION/APPROVAL:

REBA Grant for Advanced Modular Structures LLC ("Advanced Modular Structures"). Mr. Samir Abdullahi of Select Fulton, Ms. Annie Baxter of CBRE Group, Inc. and Mr. George Hawthorne of Advanced Modular Structures appeared in connection with the request for a Regional Economic Business Assistance ("REBA") Grant award in the amount of \$390,000 to finance the acquisition of equipment in connection with establishing a manufacturing assembly facility for modular building components to be located at 6077 Fulton Industrial Boulevard SW in the City of Atlanta. More specific details are described in the Fact Sheet included as part of this item posted on the Authority's website. Upon a motion made by Mayor Bodker, which was seconded by Mr. Bacote, the Authority unanimously approved the REBA Grant for Advanced Modular Structures.

Consulting Agreement for Leithead Consulting, LLC (“Leithead Consulting”). Chairman Turpeau explained that in an effort to set up the next Interim Executive Director for success and considering the amount of transitioning and onboarding activities that would need to take place, the Authority was interested in contracting with Leithead Consulting to assist the Authority over the next several months. Chairman Turpeau further explained that a proposed agreement was distributed to the Board, a copy of which is attached hereto as “Exhibit B” (the “Leithead Consulting Agreement”). Upon a motion made by Mayor Bodker, which was seconded by Mr. Lamont, the Authority unanimously approved the Leithead Consulting Agreement.

Per Diem Update. Chairman Turpeau announced that on August 4, 2021, the Board of Commissioners set the Authority’s per diem amount at \$150 to be effective as of September 1, 2021. Chairman Turpeau addressed whether the Authority should consider retroactive payments since Chairman Turpeau had temporarily suspended per diem payments in June 2021 pending further instruction from the Board of Commissioners. After discussion among the Authority, the Authority agreed that they should not consider retroactive payments. Upon a motion made by Mayor Bodker, which was seconded by Mr. Bacote, the Authority unanimously voted to accept the rate set forth by the Board of Commissioners as of September 1, 2021 and that no retroactive payments would be permitted.

Bylaws Discussion:

Proposal on Process to Update Bylaws. Mayor Bodker led discussion regarding a proposed process on updating the Bylaws in order to move forward to make improvements on operations and transparency. A copy of the proposal is attached hereto as “Exhibit C” (the “Bylaws Process Proposal”). Upon a motion made by Mr. Lamont, which was seconded by Vice Chairman Beach, the Authority unanimously approved the Bylaws Process Proposal.

Bylaws Amendment and Committee Structure. Mr. Tidwell led discussion regarding proposed amendments to Section 5 of the Bylaws. Mr. Tidwell explained that he distributed the proposed amendments to the Board, a copy of such amendments which are attached hereto as “Exhibit D” (the “Section 5 Amendments”). Mr. Tidwell further explained that the intent behind the Section 5 Amendments was to make the Executive Committee more of a recommending body instead of being permitted to act on behalf of the entire Board. The Authority discussed transparency, oversight, operations and how the Section 5 Amendments could impact the next Interim Executive Director. Upon a motion made by Mr. Tidwell, which was seconded by Mr. Lamont, the Authority approved, with the exception of Vice Chairman Beach, Dr. Looney, and Chairman Turpeau voting no, the Section 5 Amendments.

REPORTS AND PRESENTATIONS: Mr. Bacote provided an update on behalf of the Financial Review/Audit Sub-Committee, Mr. Lamont provided an update on behalf of the Strategic Initiative Committee, Ms. Long provided an update on behalf of the MFBE Committee, and Vice Chairman Beach provided an update on behalf of the Interim ED Search Committee.

EXECUTIVE SESSION:

A motion to enter into Executive Session for personnel discussion was made by Mayor Bodker, seconded by Mr. Lamont, and approved by all Members present. An Open Meetings Affidavit is attached hereto as “Exhibit E”.

The Authority entered into Executive Session at approximately 4:02 p.m.

A motion to exit Executive Session was made by Mayor Bodker, seconded by Mr. Lamont, and approved by all Members present.

The Authority exited Executive Session at approximately 4:25 p.m.

NEXT MEETING:

Chairman Turpeau announced that the Authority's next Special Call Meeting is scheduled for Friday, September 3, 2021 and the next Regular Meeting is scheduled for Tuesday, September 28, 2021 via Zoom videoconference and teleconference. Chairman Turpeau reminded the public to visit the Authority's website at <http://www.developfultoncounty.com> for updates on upcoming meetings.

A motion to adjourn the meeting was made by Mayor Bodker, seconded by Mr. Lamont, and approved by all Members present.

There being no further business to discuss, the meeting was adjourned at approximately 4:26 p.m.

Kyle Lamont
Mr. Kyle Lamont, Secretary

Exhibit A

[Attached.]

From: william@zode.net

Date: August 22, 2021 at 3:32:28 PM EDT

To: jedhardy@aol.com, "Coleman, Doris" <Doris.Coleman@fultoncountyga.gov>

Cc: board@piedmontheights.org, zoning@piedmontheights.org, bob@bobglascock.com

Subject: RE: Support for Tax Abatement Request by Fairfield Residential

I am the acting President of the Piedmont Heights Civic Association (PHCA). A a 26 year resident of this neighborhood and a active participant in NPU-F, I represent the PHCA Board of Directors in supporting this Tax Abate Request by Fairfield Residential.

Echoing Jim Hardy's comments below, this property has been a source of crime and a physical blight to our neighborhood and larger community for many many years. While ownership of the property has changed hands several times – and I am sure that the value has generally increased – no property owner has followed through with the necessary investment required. Location, topography, and physical limitations such as the granite underlay are certainly contributing factors. Every time the property seems to change hands – and we are promised redevelopment – the plans all seem to be deferred and the situation deteriorates further.

We support this Tax Abatement – which had already been previously approved – as a way to break this cycle and turn this property from a negative to a positive.

Sincerely,

William (Bill) Compton

Vice President

Piedmont Heights Civic Association

M 404-849-9351

william@zode.net

VicePresident@PiedmontHeights.org

From: jedhardy@aol.com <jedhardy@aol.com>

Sent: Saturday, August 21, 2021 1:33 PM

To: doris.coleman@fultoncountyga.gov

Cc: board@piedmontheights.org; zoning@piedmontheights.org; william@zode.net;

bob@bobglascock.com

Subject: Support for Tax Abatement Request by Fairfield Residential

I'm the former President of the Piedmont Heights Civic Association and a 16 year resident of that neighborhood. I've also been very active with NPU-F and on the Atlanta Citizen Review Board. While I (and our whole Board) agree that tax abatements have not been properly used in many instances in the past, we stand by our support of Fairfield Residential's request for Tax Abatement for development of the former Intown suites Property on Piedmont Circle at the junction of Monroe.

If you are not familiar with the site, I suggest you drive by it. It is adjacent to the Buford Connector and I-85 on one side and Piedmont Rd on another. It is a large property with significant topography changes. It also is on a solid granite underlay making new construction more difficult.

Paces Properties had a tax abatement before to improve the property, however they failed to do any real work on the property and allowed it to become a major public safety hazard and blight on not just his neighborhood, but on nearby neighborhoods and the City in general. Our repeated efforts to get the City of Atlanta to take action to force Paces to clean up the property went nowhere for several years. The City took action (InRem) only after Fairfield Residential had a contract to purchase the property.

Fairfield cannot just get that abatement transferred, but must apply for their own tax abatement. Fairfield's plans are much better than the ones Paces had, and the property was in much worse condition than when Paces bought it (because of Paces' neglect).

Some Fulton County officials have reportedly told Fairfield their plan for improvement of the property coupled with the horrible condition of the current property is a "poster child" for the reason they give tax abatements as the site has been a major public safety hazard as well as a blighted property. It was not secured and was a haven, not just for homeless, but for drug sales and prostitution.

Fairfield Residential has already spent well over a million dollars on asbestos abatement on the old hotel and on demolition of the reinforced concrete walls and floors of the several buildings on that site. They agreed to do that because Paces Properties (which had the InRem order) would not. Fairfield spent that money and significant effort though they had not even closed on the property.

From my perspective, this project is a lot more worthy of tax help than development of the Gultch Underground Atlanta, and many other sites directly along the Beltline that have already received tax help. While in the Beltline Overlay, this site is separated from the Beltline by Interstate 85 and the Buford Connector, and will not be directly accessible from the Beltline. This site, with its size, significant topography issues, asbestos abatement needs, major demolition effort because of its bunker like construction, granite underlay and position along major roads is going to cost a ton of money to demolish and rebuild. It will take a while to realize a profit based on the initial costs. It's also a major benefit to our neighborhood and to the City and County, just to clean up the site and demolish the current structure. The property has been fully fenced, has full-time security and asbestos abatement and demolition has almost finished.

Don't make a good and well-intentioned developer who has already done major work on a blighted site pay for the mistakes of previous board members. Grant Fairfield their requested tax abatement!

Respectfully.

James E. Hardy

1803 Rockridge Place, NE

Atlanta, GA 30324

770-713-8283

From: Mike Fortas [mailto:mike@midtownbowl.com]
Sent: Monday, August 23, 2021 2:29 PM
To: Coleman, Doris <Doris.Coleman@fultoncountyga.gov>
Subject: Midtown Bowl's Support for Tax Abatement Request by Fairfield Residential

Ms. Coleman,

I hope this email finds you well. As the General Manager of Midtown Bowl for the past 17 years, I have witnessed the multitude of inexcusable and illegal behaviors - including but not limited to, car damage and theft, robberies, prostitution, drug sales - the Intown Suites property has brought to our community and to our doorstep. We welcome and need positive, well-intentioned businesses coming to the area like Fairfield Residential.

Over the years, Midtown Bowl has worked closely with our neighbors and neighborhood association, Piedmont Heights Civic Association, to do what we could to maintain a respectable area for residents and patrons, but this became more challenging each passing year, in part because one of the biggest properties on the block wasn't doing their fair share to maintain and improve their space or the area. Fairfield Residential's positive change is already noticeable with just tearing down the Intown Suites.

As a 61 year old business of the area, Midtown Bowl supports this Tax Abatement by Fairfield Residential with full confidence the property will bear fruit for our neighborhood businesses and residents.

Thank you for your time and consideration.

Sincerely,

Mike Fortas

General Manager

Midtown Bowl

1936 Piedmont Circle NE

Atlanta, GA 30324

mike@midtownbowl.com

p. 404/874-5703

From: Julian bene [<mailto:julianbene@gmail.com>]
Sent: Monday, August 23, 2021 4:12 PM
To: Coleman, Doris <Doris.Coleman@fultoncountyga.gov>
Subject: Public comment for DAFC board meeting Aug 24

Dear Ms Coleman

Please include my comment, below, in the public comment section of the board meeting tomorrow. Thank you.

Julian Bene, Atlanta
julianbene@gmail.com
404.317.9320

The DAFC Board should not grant a tax break to Fairfield Piedmont. DAFC's hundreds of millions in recent tax breaks for projects that will happen without incentives harm school and local government budgets. Residents are forced to pay more in tax or receive less in services as a result. The new DAFC board needs to draw the line at this unjustified request for a tax break for Fairfield Piedmont.

- 1. Hot market.** The Fairfield Piedmont project is in a hot area of the city, between Morningside and Buckhead. Apartments are in high demand in this part of town. There is no economic justification for granting tax breaks in hot markets. The site will be developed without a tax break. It stood undeveloped by its previous owner, a Paces Properties affiliate, for internal operational reasons, not for market reasons.
- 2. Developer closed and began demolition.** Fairfield closed on the purchase of the site and has begun demolition without receiving DAFC's tax break^[1]. This confirms that the project does not require the break to move forward.
- 3. No job creation.** Apartment projects are not appropriate for tax breaks. Residential development was not the reason for which development authorities were created: it does not bring new employers and good jobs to the county. Indeed, even DAFC's long-time lobbyist Rusty Paul has told reporters that he instructed DAFC not to abate Sandy Springs apartment projects. Why would DAFC abate City of Atlanta apartments when both the City and school board have asked DAFC not to do so? DAFC's original policy was not to award breaks for residential projects and the new board should revert to that policy.

4. **No extra affordable units.** This project is already in an Inclusionary Zone that requires rent-discounted units. Giving the project a tax break does not result in any additional affordable units over & above those required by the IZ.

5. **Site prices reflect constraints – no tax break needed to offset them.** The developer's lawyers complained at DAFC's May meeting that the IZ requirement is burdensome, demolition is costly, topography challenging, etc. They try to argue that the abatement is essential to pay for these site-specific costs. But Fairfield agreed to a price, reportedly of \$11M, for the site in full knowledge of the IZ requirement and the state of the old hotel building, topography, etc. If Fairfield paid too much for the site, it is not for Atlanta's school kids to pick up the tab for a bad business decision.

6. **Environmental costs.** If the site has significant Brownfield issues requiring remediation, the state Brownfield program already provides for the developer to offset such costs against the project's property taxes.

7. **Prior board action is not binding.** It was public information that DAFC board terms expired in May, when the Fairfield Piedmont tax abatement inducement was approved. The developer cannot claim that the old board's vote binds members of the current board to approve the final resolution. Further, we now know that several members of the old board were drawing excessive per diems - and in one case an undisclosed salary. This gave the appearance of a conflict of interest: board members approving tax breaks that bring in fees that fund these perks. The new board needs to distinguish itself from the old board in this case and refuse to perpetuate rubber-stamping of unjustified tax breaks.

[1] <https://www.bizjournals.com/atlanta/news/2021/05/19/fairfield-residential-atlanta-beltline-fulton.html>

My name is Jim Martin. I live in Northwest Atlanta, where I have served as the chairman of neighborhood planning unit D (NPU-D) for the past 15 years. I would like to address the board with regard to the bond for title deal for the Fairfield Piedmont project (1944 Piedmont Circle), which is a business item on today's DAFC agenda.

This is a purely residential project inside the Beltline TAD. It is located in a hot development area at the boundary between Piedmont Heights and Morningside, where market forces are sufficient to incentivize new developments and property tax revenue is needed to fund the Beltline. The developer sought, but did not get, support for this tax abatement from NPU-F, although he did receive a letter of support from the Piedmont Heights Neighborhood Association, which is not part of the city's planning structure. I have been unable to locate any record of how the neighborhood's decision of support was made or what, if any, actual group of citizens it represents the opinion of. If DAFC's board believes this letter to be a determinative factor in today's decision, then these underlying facts seem critical.

The inducement letter for this deal was supported by DAFC without a requirement for any more affordable housing than the underlying zoning already required. This abatement was valued at \$4 million. The developer paid \$11 million for the property. This clearly indicates that there was a price point where development of this site does not require a publicly funded subsidy (i.e. its true market value). There is no public benefit realized by giving away tax dollars in order to drive the purchase price above this value.

What was most striking to me about this deal was that part of the rationale for it was that the property would be expensive to develop because of the need to demolish an existing hotel on the site (i.e., because it had already been developed). Other recent abatements have been granted by DAFC for undeveloped properties such as Crescent Fairmont where their undeveloped state has been held forth as evidence of the need for an abatement to get them developed. If DAFC believes that both undeveloped and previously developed properties need tax abatements because of their current state, then logically, it believes that all properties must need abatements, since there is not third state in which any property might exist.

The inducement letter for this abatement was approved in May 2021, before several of DAFC's current board members were seated. That action in no way binds the current DAFC board. The inducement letter was approved before DAFC's chairman made a public commitment to reform, to cooperation with the city, and to focus on projects on south of I-20. A great way to demonstrate that these were not empty words would be for the board to turn down the bond deal that is before it today.

Exhibit B

[Attached.]

CONSULTING AGREEMENT

This Consulting Agreement (“**Agreement**”) is entered into by and between Leithead Consulting, LLC (“**Consultant**”) and the Development Authority of Fulton County (“**DAFC**”) effective as of September 1, 2021.

WHEREAS DAFC wishes to retain Consultant’s services as set forth below, and Consultant wishes to accept such consulting engagement;

NOW THEREFORE for good and valuable consideration, the parties, intending to be legally bound, agree as follows:

1. **Consulting Services.** Consultant shall provide consultation and assistance to DAFC as set forth in **Exhibit A (“Services”)**. In providing the Services, Consultant shall work exclusively with the Chairman of the DAFC Board (“**Chairman**”) and DAFC’s Executive Director (interim or otherwise). Consultant shall coordinate and clear all assignments through the Chairman and Executive Director, but shall provide written or oral reports to the DAFC Board of Directors as appropriate. Consultant shall not have any supervisory authority over DAFC employees. Consultant shall not communicate with any third parties outside DAFC on behalf of DAFC without including the Chairman and/or Executive Director in the communication. It is expressly understood and agreed that Consultant is an independent contractor of DAFC and not an employee.

2. **Compensation.** DAFC shall compensate Consultant for providing the Services at a flat rate of \$17,500 per month. These payments shall be tendered to Consultant as an independent contractor and reported to the IRS on a Form 1099. Consultant takes full responsibility for any tax liability associated with payments for his Services, and agrees to indemnify DAFC should any tax liability be assessed against it with respect to these payments. Consultant shall invoice DAFC for his monthly fees on the first day of each month during which this Agreement is in effect, beginning with September 1, 2021. Other than the compensation described in this paragraph, Consultant shall not be eligible for any other payments whatsoever. Further, Consultant shall not be eligible to participate in DAFC’s benefit plans (if any), and shall not be covered by DAFC’s insurance policies, including workers’ compensation.

3. **Term of Agreement.** This Agreement will become effective September 1, 2021 and will automatically terminate on February 28, 2022, unless earlier terminated as provided in this paragraph. However, the parties may agree in writing (including in an email acknowledged by both parties) to extend this Agreement for additional 30 day terms before the expiration of the then-current term. Failure of the parties to agree to an extension before the expiration of the then-current term shall operate to automatically terminate this Agreement. Any party may terminate this Agreement for any reason upon 30 days’ written notice prior to February 28, 2022.

4. **Return of Materials.** Upon termination of this Agreement for any reason, or upon any request of DAFC, Consultant shall immediately return to DAFC originals and all copies of any Confidential Information (defined below), Work Product (defined below), and any property

of DAFC in Consultant's possession, or any other materials related to Consultant's provision of Services under this Agreement.

5. **Notice.** Notice to DAFC under this Agreement should be delivered to DAFC's Chairman by mail at Development Authority of Fulton County, 141 Pryor Street, S.W., Suite 2052 (Peachtree Level), Atlanta, Georgia 30303 or by e-mail to mturpeau@DAFC.us with a copy to sandra.zayac@agg.com. Notice to Consultant under this Agreement should be delivered by mail to Tad Leithead at Leithead Consulting, LLC, 309 East Paces Ferry Road, Suite 400, Atlanta, Georgia 30305 or by e-mail to tad@leitheadconsulting.com.

6. **Confidentiality.**

a. *Definition.* "Confidential Information" shall include, without limitation, any information pertaining to DAFC's trade secrets, business or financial information, marketing information and strategies, techniques, databases, business policy information, reports, lists, client lists and client agreements, correspondence, computer disks or other information which is, or could be construed as, confidential in nature. All files, records, documents, information, data and similar items relating to the business of the DAFC, whether prepared by Consultant or otherwise coming into his possession, shall remain the exclusive property of DAFC. Notwithstanding the foregoing, "Confidential information" will not include information which (a) is public knowledge or becomes generally available to the public other than as a result of a disclosure by Consultant or (b) becomes available to Consultant, on a non-confidential basis, from a source other than from DAFC or its agents, who is not bound by a confidentiality agreement with DAFC.

b. *Restrictions on use and disclosure.* Consultant agrees not to divulge or disclose any Confidential Information of DAFC without DAFC's prior written consent, unless the information is required to be disclosed by law, including the Georgia Open Records Act (O.C.G.A. § 50-18-70 *et seq.*), court order or administrative regulation. Consultant shall cause its employees to abide by this paragraph and, at DAFC's request, sign confidentiality agreements for the benefit of DAFC. If Consultant is under legal compulsion to disclose DAFC's Confidential Information, it will notify DAFC of such legal compulsion as soon as practicable.

c. *Ownership of Confidential Information.* Consultant hereby agrees that any Confidential Information is and shall remain the sole and exclusive property of DAFC for use in DAFC's business and shall be used solely in connection with Consultant's employment with DAFC and shall not be used by Consultant, directly or indirectly, in any other manner whatsoever. Under no circumstances whatsoever shall Consultant have any proprietary or other legal right to the Confidential Information during, or subsequent to the termination or cessation of, Consultant's engagement with DAFC.

7. **Work Product.**

a. *Definitions.*

i. “Work Product” shall mean all works of authorship created, conceived or developed by Consultant or its employees, agents or subcontractor in the performance of the Services, including without limitation, software, source code, text, graphics, designs, drawings, information, data, functional and technical designs and specifications, interfaces, flowcharts, site maps, documentation, operating instructions, together with all documents, data and other information of any kind, including that incorporating, based upon or derived from the foregoing and together with all modifications, revisions, changes, copies, partial copies, translations, compilations, modifications and derivative works thereof.

ii. *Pre-Existing Materials.* “Pre-Existing Materials” shall mean routines, methods, instructions, materials, code, software, techniques that have been previously developed by Consultant other than for DAFC. DAFC and Consultant will mutually agree upon appropriate trademark or copyright notices to be included on such Pre-Existing Materials.

b. *Ownership of Work Product.* Consultant covenants and agrees that all Consultant’s Work Product related to the Services provided by Consultant to DAFC, and all the ideas and other intellectual property shall be owned by DAFC and may be used for any purpose under DAFC’s sole discretion and that DAFC shall maintain all right, title and interest therein. Consultant agrees to execute any instruments and to do all other things reasonably requested by DAFC (both during and after Consultant’s engagement with DAFC) in order to vest more fully in DAFC all ownership rights in those items described in this paragraph. If any one or more of the items described in this paragraph are protectable by copyright and are deemed in any way to fall within the definition of “work made for hire,” as such term is defined in 17 U.S.C § 101, such items shall be deemed to be assigned and transferred by Consultant completely and exclusively to DAFC by virtue of the execution of this Agreement.

c. *Exception for Pre-Existing Materials.* DAFC acknowledges that, in course of performing the Services, Consultant may use Pre-Existing Materials and that same shall remain the sole and exclusive property of the Consultant. If, and to the extent that, any Pre-Existing Materials are irrevocable, perpetual, non-exclusive, worldwide, and royalty-free, Consultant shall have the right and license to: (a) use, execute, reproduce, display, perform and make copies of such Pre-Existing Materials to the extent necessary to use the Work Product as contemplated by this Agreement; and (b) authorize others to do any or all of the foregoing. Consultant shall advise DAFC, in advance, of the use of Pre-Existing Materials in any Work Product.

8. **Indemnification.** Consultant shall indemnify, defend and hold harmless DAFC and its officers, members, directors, employees, agents, and any successor of any of them (each an “Indemnified Party”), for any and all liabilities, losses, damages, costs or expenses (including attorneys’ fees and costs) incurred by such Indemnified Party, to the extent that such liabilities, losses, damages, costs or expenses are occasioned by, caused by or arise out of (a) any breach of this Agreement by Consultant (or any suit, action or other proceeding arising out of or related to the foregoing); (b) any negligence or misconduct by Consultant or any of his employees, agents or representatives (but excluding any such damages to the extent caused by any gross negligence or intentional misconduct by any employee, agent or representative of DAFC, other than

Consultant); or (c) any Work Product or Pre-Existing Materials which infringe any patent, trademark or copyright of any other person or entity.

9. **Insurance.** If Consultant has employees, it shall be required to maintain workers' compensation insurance for its employees during the term of this Agreement. Consultant shall provide certificates of insurance to DAFC on request to demonstrate compliance with this provision, if applicable.

10. **E-Verify Affidavit.** Consultant shall provide DAFC an executed E-Verify Affidavit as required by the State of Georgia, which affidavit will include an active federal authorization number. DAFC's ability to pay Consultant is contingent on DAFC's receipt of the E-Verify Affidavit. All invoices submitted by Consultant shall be held and shall not be due for payment absent receipt of the E-Verify Affidavit.

11. **Governing Law and Forum.** This Agreement shall be governed by and construed according to Georgia law, without giving effect to conflict of law principles. Each party irrevocably and unconditionally consents and submits to the exclusive *in personam* jurisdiction of the United States District Court for the Northern District of Georgia or the Superior Court of Fulton County, Georgia. Each party hereby waives any objection it may have to the venue or any action, suit or proceeding brought in such courts or to the convenience of the forum, and each party waives the right to proceed in any other jurisdiction.

12. **Severability.** The terms of this Agreement, including those incorporated by reference, are separate, severable and divisible. If any one of them is held unenforceable or invalid by a tribunal, then that provision shall be revised to the extent necessary to make it enforceable and valid, or if it cannot be so revised, it will be severed from the Agreement and the remaining terms will be unaffected.

13. **Survival.** Paragraphs 4 and 6-13, inclusive, shall survive the termination of this Agreement.

14. **Entire Agreement; Modification.** This Agreement shall represent the entire agreement of the parties and shall supersede and replace any and all other agreements, whether written or oral. This Agreement may be modified only in a writing signed by both Consultant and the Chairman of the Board of DAFC.

[Signatures follow]

EXECUTED AS FOLLOWS:

LEITHEAD CONSULTING, LLC

By: _____
Its: _____
Date: _____

DEVELOPMENT AUTHORITY OF
FULTON COUNTY

By: _____
Its: _____
Date: _____

Exhibit A
Services to be Provided by Leithead Consulting

Leithead Consulting, LLC shall provide the following services to the Development Authority of Fulton County (“DAFC”) in accordance with the terms of the Agreement to which this Exhibit is attached:

- Reposition the DAFC from a strategic, procedural, organizational, structural, relationship and governance perspective;
- Identify, Expand, Modify, and Document the Mission and By-Laws of DAFC;
- Support the Executive Director (“ED”) with regard to the completion of existing projects and the procurement of new projects;
- Support the development of a proactive approach to seeking and procuring new business opportunities;
- Develop and enhance key relationships around the region and beyond, with particular focus on North Fulton, Perimeter, City of Atlanta, and South Fulton;
- Support the ED to develop effective programs for Affordable Housing;
- Assist the ED to create an Employee Health Care Plan; and
- Provide additional areas of support as requested by the ED and/or the Board of Directors of DAFC (collectively, the “Services”).

Exhibit C

[Attached.]

DAFC Proposed Process to Update Bylaws

For consideration by DAFC Board Members at August 24, 2021 DAFC Board meeting

Background: Board members have expressed concerns about the governance and operations of the DAFC. As part of the continuing effort to address these concerns, a thorough review of the DAFC Bylaws has been suggested. Working within the confines of the statutes which provide the legal basis for the DAFC, the Board has the authority to amend its Bylaws by a majority vote of the governing body.

Request: As a follow-up to the DAFC board discussion regarding the Bylaws at a recent DAFC meeting, Chairman Turpeau has asked Mayor Bodker to facilitate an update to the DAFC Bylaws. Mayor Bodker has participated or led these types of efforts through his work on at the City of Johns Creek, Atlanta Regional Committee, North Fulton Municipal Association and the Georgia Municipal Association. Given his prior experience, Chairman Turpeau has confidence that Mayor Bodker can help facilitate a successful revision of the DAFC's Bylaws.

Plan of Action: Mayor Bodker recommends conducting informal interviews with each of the DAFC Board Members to gather concerns about the current Bylaws and operations in general. DAFC legal counsel will participate in the interviews to help document the issues raised during each interview. Mayor Bodker will then work with legal counsel to review and synthesize the issues for presentation and discussion by the full Board. Board Members will then determine which issues they desire to be addressed in the update to the Bylaws. Based on Board feedback and consensus on issues, Mayor Bodker will work with legal counsel to draft proposed language revisions to the Bylaws for further consideration by the Board. These proposed language revisions will then be brought back to a Board meeting for consideration, discussion, and further revision if necessary.

Approval at DAFC Board Meeting: Once sufficient review and comment has occurred, the Bylaw revisions will be published and added to a Board agenda for potential adoption by the Board. Once formally adopted, all Bylaw changes will be implemented as appropriate by the Board and DAFC staff.

Exhibit D

[Attached.]

PROPOSED AMENDMENT TO BYLAWS, Version 2, 7/27/2021

ARTICLE 5-EXECUTIVE COMMITTEE

5.1 There shall be an Executive Committee of the Board of Directors composed of the Chairman, Vice Chairman, Secretary, and Treasurer. In the event that a Chairman Emeritus has been named, but is not a Director, the Chairman Emeritus shall serve as a non-voting advisor to the Executive Committee. Three (3) Members of the Executive Committee shall constitute a quorum for the transaction of business at meetings of the Committee and the act of the majority of the Members present at any meeting at which there is a quorum shall constitute the action of the Committee.

5.2 The Executive Committee shall work closely with the Chairman and Executive Director and/or CEO by providing guidance in the Board's overall decision making and maintaining oversight of the Authority. The Executive Committee shall have authority to handle urgent issues that arise in between regular monthly Board meetings. All meetings and decisions of the Executive Committee must be reported to the Board at the next regular meeting and any actions taken by the Executive Committee may be overruled by simple majority vote of the full Board.

5.3 The Chairman shall be authorized to call meetings of the Executive Committee at any time. Notice of the meetings of the Executive Committee shall be given in the same manner as provided for notices of special meetings of the Board of Directors in accordance with Sections 3.2 and 3.3 hereof. Where exigent circumstances require, meetings may be called with less than 24 hours' notice.

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Deleted: , and one (1) other Director who shall be appointed by the Chairman and such Director shall serve on the Executive Committee during the calendar year for which he or she is appointed or until his or her successor is appointed by the Chairman

Deleted: The Executive Committee shall have the authority to carry out any item of business approved in the Authority's approved budget.

Deleted: The Executive Committee is authorized to approve policy(ies) to be followed by the Authority, provided that a majority of the Members of the Executive Committee approve such policy(ies) and the Board of Directors shall be notified of any such policy(ies) approved by the Executive Committee. The Executive Committee is authorized to exercise all the authority of the Board of Directors to the extent that such authority is not specifically delegated by the Board of Directors to another committee or committees. Any additional business undertaken by the Executive Committee must be authorized by a majority vote of the full Board.

Exhibit E

[Attached.]

OPEN MEETINGS AFFIDAVIT

The undersigned Chairman or person presiding over the meeting (the "Chairman"), under oath, certifies that at a meeting of the Board of Directors of the Development Authority of Fulton County (the "Authority") held today, the Authority closed its meeting as permitted by the Open Meetings Act of Georgia. The only matters considered or discussed during the closed portion or executive session of its meeting is as checked below:

- ☐ To consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the Authority or an officer or employee or in which the officer or employee may be directly involved. [O.C.G.A. § 50-14-2(1)]
- ☐ To authorize the settlement of a matter which was properly discussed in executive session in accordance with O.C.G.A. § 50-14-2(1) subject to subsequent public vote. [O.C.G.A. § 50-14-3(b)(1)(A)]
- ☐ To authorize negotiations to purchase, dispose of, or lease property. [O.C.G.A. § 50-14-3(b)(1)(B)]
- ☐ To authorize the ordering of an appraisal related to the acquisition or disposal of real estate. [O.C.G.A. § 50-14-3(b)(1)(C)]
- ☐ To enter into a contract to purchase, dispose of, or lease property subject to approval in a subsequent public vote. [O.C.G.A. § 50-14-3(b)(1)(D)]
- ☐ To enter into an option to purchase, dispose of, or lease real estate subject to approval in subsequent public vote. [O.C.G.A. § 50-14-3(b)(1)(E)]
- ☒ To discuss or deliberate upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee or interviewing applicants for the position of executive head of the agency, but not to discuss the receipt of evidence or hearing of arguments on personnel matters, including whether to impose disciplinary action or dismiss a public officer or employee or when considering or discussing matters of policy regarding the employment or hiring practices of the agency; votes on any of the foregoing matters must be public. [O.C.G.A. § 50-14-3(b)(2)]
- ☐ To discuss matters pertaining to investment securities trading or investment portfolio positions and composition of a public retirement plan created by or subject to Title 47 of the Georgia Code. [O.C.G.A. § 50-14-3(b)(3)]
- ☐ To discuss a portion of a record that is exempt from public inspection or disclosure pursuant to O.C.G.A. § 50-18-70 et seq. where there are no reasonable means by which the agency can consider the record without disclosing the exempt portions if the meeting were not closed. [O.C.G.A. § 50-14-3(b)(4)]

The undersigned Chairman certifies that he or she has been advised that O.C.G.A. § 50-14-4(b) requires that when any meeting of the Authority is closed in accordance with an exception to the Open Meetings Law that:

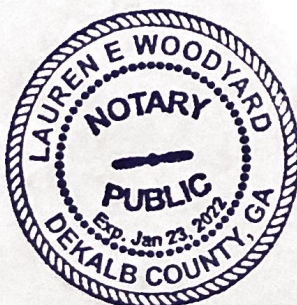
- (i) the specific reason for the closure is to be entered into the official minutes of the meeting;
- (ii) the meeting is to be closed only upon a majority vote of a quorum present for the meeting;
- (iii) the minutes are to reflect the names of the members present and those voting for the closure; and
- (iv) the person presiding over the meeting is to execute and file with the official minutes of the meeting a notarized affidavit stating under oath that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exception.

This 24th day of August, 2021.

Sworn to and subscribed before
me this the 24th day of
August, 2021.

Notary Public

My Commission Expires: 01/23/22



Michel M. Turpeau, Chairman