

Unified Government of Athens-Clarke County, Georgia  
Mayor and Commission  
Tuesday, September 5, 2023  
6:00 p.m.  
City Hall

The Unified Government of Athens-Clarke County, Georgia met this date in regular monthly session. Present: Mayor Girtz; Commissioners Davenport, Link, Wright, Fisher, Houle, Culpepper, Myers Thornton, and Hamby. Absent: Commissioner Taylor.

A motion was made by Commissioner Thornton, seconded by Commissioner Houle, to approve minutes of meetings of Tuesday August 1; Tuesday, August 15; and Tuesday, August 29, 2023; and non-voting meetings of Tuesday, August 8; Thursday, August 10; Tuesday, August 15; Thursday, August 17; and Friday, August 18, 2023. The motion passed by unanimous vote.

#### Written communications

There were none.

#### Recognition

Mayor Girtz recognized Athens-Clarke County 4-H'ers who competed at 80<sup>th</sup> Annual 4-H State Congress in Atlanta. Georgia 4-H celebrated excellence during the 80<sup>th</sup> Annual 4-H State Congress as top 4-H'ers from around the state gathered in Atlanta July 18-21. Three Athens-Clarke County 4-H'ers competed at State Congress this year, including Riley David in the Flowers, Shrubs & Lawns project, Wilson Griffeth in the Food for Health & Sport Project and Kalynn Johnson in the Food Fare project. Students who place first at state-level competitions in Georgia 4-H earn the title of "Master 4-H'er." During State Congress, more than 200 delegates competed in 50 Project Achievement areas; one individual from each project area received Master 4-H'er status. Riley David and Wilson Griffeth both won first place in their projects so are now Master 4-H'ers and will attend 4-H National Congress in November.

Georgia 4-H empowers youth to become true leaders by developing necessary life skills, positive relationships, and community awareness. As the premier youth leadership organization in the state, 4-H reaches more than hundreds of thousands of people annually through UGA Extension offices and 4-H facilities.

#### Old business - Consent

Items under this section were discussed at prior public meetings and were presented for consideration as a single item. Only one vote was taken.

#### Public input

There was none.

A motion was made by Commissioner Hamby, seconded by Commissioner Myers, to consent to action on the following nine items. The motion passed by unanimous vote.

1. ADOPT: a) The following ordinance (#23-09-63) which was presented by title only; reference 2023 Edward Byrne Memorial Justice Assistance Grant (JAG) application;  
  
b) Approve the submission of an application, Attachment #1 of agenda report dated July 18, 2023, by the Athens-Clarke County Police Department (ACCPD) for the 2023 Byrne Justice Assistance Grant (JAG);  
  
c) Accept the grant funds, if awarded;  
  
d) Authorize the Mayor and appropriate staff to execute all documents associated with the grant.

AN ORDINANCE TO AMEND THE FY2024 ANNUAL OPERATING AND CAPITAL BUDGET FOR ATHENS-CLARKE COUNTY, GEORGIA SO AS TO PROVIDE GRANT FUNDING, IF AWARDED, FROM THE FEDERAL JUSTICE ASSISTANCE GRANT PROGRAM FOR ENHANCED COMMUNITY OUTREACH INITIATIVES AND IMPROVED COMMUNICATIONS; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. The Commission of Athens-Clarke County, Georgia desires to amend the Grants Special Revenue Fund to provide grant funding, if awarded, from the Federal Justice Assistance Grant Program for enhanced community outreach and improved communications. Said Operating and Capital budget is hereby amended as follows:

Grants Special Revenue Fund:

REVENUES:

Increase:  
Federal Justice Assistance Grant \$67,003

Expenditures:

Increase:  
Police Department – Operating Expenses \$67,003

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

2. ADOPT: a) The following ordinance (#23-09-64) which was presented by title only; reference Sheriff's Office - BJA FY 23 Virtual Reality De-escalation Site-Based Initiative;
- b) Approve the submission of an application by the Clarke County Sheriff's Office (CCSO) for the BJA FY 23 Virtual Reality De-escalation Site-Based Initiative Attachment #1 of agenda report dated July 20, 2023;
- c) Accept the grant funds if awarded; and
- d) Authorize the Mayor and appropriate staff to execute all documents associated with the grant award.

AN ORDINANCE TO AMEND THE FY2024 ANNUAL OPERATING AND CAPITAL BUDGET FOR ATHENS-CLARKE COUNTY, GEORGIA SO AS TO PROVIDE GRANT FUNDING, IF AWARDED, TO THE SHERIFF'S OFFICE FROM THE BUREAU OF JUSTICE ASSISTANCE (BJA) VIRTUAL REALITY DE-ESCALATION SITE-BASED INITIATIVE FOR THE PURCHASE OF A VIRTUAL REALITY TRAINING SIMULATOR AND THE HOSTING OF PROFESSIONAL, INSTRUCTOR-LED DE-ESCALATION COURSES; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. The Commission of Athens-Clarke County, Georgia desires to amend the Grants Special Revenue Fund to provide grant funding, if awarded, to the Sheriff's Office from the Bureau of Justice Assistance (BJA) Virtual Reality De-escalation site-based initiative for the purchase of a virtual reality training simulator and the hosting of professional, instructor-led de-escalation courses; and for other purposes.

Said Operating and Capital budget is hereby amended as follows:

Grants Special Revenue Fund:

REVENUES:

Increase:  
BJA Virtual Reality De-escalation Site Based Initiative \$325,125

Expenditures:

Increase:  
Sheriff's Office:  
Operating Expenses \$109,139  
Capital Expenses ~~\$215,986~~  
\$325,125

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

3. ADOPT: The following resolution, Attachment #1 of agenda report dated July 31, 2023 authorizing the application for and acceptance of the Federal Planning (PL) contract amount associated with the annual Metropolitan Transportation Planning Grant for FY 2025 (July 1, 2024

- June 30, 2025); and, authorize the Mayor and appropriate staff to execute the resulting contract between the Unified Government of Athens-Clarke County (ACCGov) and the Georgia Department of Transportation (GDOT).

### **AUTHORIZING RESOLUTION**

Resolution authorizing the execution of contracts between the Department of Transportation, United States of America, the Georgia Department of Transportation, and the Unified Government of Athens-Clarke County for the FY 2025 (July 1, 2024 - June 30, 2025) Planning (PL) Contract, if awarded.

WHEREAS, the Federal Government requires that Urbanized Areas such as Athens have a formal planning process as it relates to the planning of transportation projects; and

WHEREAS, the Federal Government will not authorize the expenditure of funds for said transportation projects unless they come out of this formal transportation planning process; and

WHEREAS, the formal transportation planning process is organized around what is commonly known as the Madison Athens-Clarke Oconee Regional Transportation Study (MACORTS);

WHEREAS, the staff of the Unified Government of Athens-Clarke County Planning Department provides support for MACORTS planning efforts;

WHEREAS, the Federal Government will provide up to an estimated amount of \$216,000 of the funding for the transportation planning (PL) contract expenses incurred by the Unified Government of Athens-Clarke County subject to a 20% local match of the funded amount (estimated to be a maximum of \$54,000), if awarded;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Commission of the Unified Government of Athens-Clarke County:

That the Mayor and appropriate staff are authorized to apply for a grant, accept such grant if awarded, and execute an associated contracts with the Georgia Department of Transportation (GDOT) for the FY 2025 Transportation Planning (PL) Contract Funds, if awarded.

4. a) ADOPT: Resolution, Attachment #1 of agenda report dated July 31, 2023, authorizing the submission of an application for and the acceptance of the annual Transit Planning Assistance Grant (Title 49 USC Section 5303) for FY 2025 (July 1, 2024 - June 30, 2025), if awarded, in the estimated maximum amount of \$79,136 in federal funding; and

b) Authorize the Mayor and appropriate staff to execute the resulting contract between the Unified Government of Athens-Clarke County (ACCGov) and the Georgia Department of Transportation (GDOT).

### **AUTHORIZING RESOLUTION**

Resolution authorized the execution of contracts between the Department of Transportation, United States of America, the Georgia Department of Transportation, and the Unified Government of Athens-Clarke County, for a grant under the title 49 U.S.C., Section 5303, for FY 2025 (July 1, 2024 - June 30, 2025)

WHEREAS, the Secretary of Transportation and the Commissioner of the Georgia Department of Transportation are authorized to make grants for mass transportation projects;

WHEREAS, the contract for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local project costs; and

WHEREAS, it is required by the U.S. Department of Transportation and the Georgia Department in accordance with the provisions of Title VI of the Civil Rights Act of 1964, that in connection with the filing of an application for assistance under the Federal Transit Act, the applicant gives an assurance that it will comply with Title VI of the Civil Rights Act of 1964 and the U.S. Department of Transportation requirements thereunder; and

WHEREAS, it is the goal of the Applicant that minority Business Enterprise, Disadvantaged Business Enterprise and Women Business Enterprise be utilized to the fullest extent possible in connection with this project, and that definitive procedures shall be established and administered to ensure that minority businesses shall have the maximum feasible opportunity to compete for contracts and purchase orders when procuring construction contracts, supplies, equipment contracts, or consultant and other services; and

WHEREAS, the Federal government and the State of Georgia will provide at least \$98,919 of the funding for the Transit Planning (Section 5303) contract expenses incurred by the Unified Government subject to a maximum local match of \$24,730.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Commission of the Unified Government of Athens-Clarke County:

That the Mayor is authorized to execute and file an application on behalf of the Unified Government of Athens-Clarke County with the Georgia Department of Transportation to aid in the financing of a technical study grant pursuant to Section 5303 of the Federal Transit Act to implement specific items of the FY 2023 Madison Athens-Clarke Oconee Regional Transportation Study (MACORTS) Unified Planning Work Program.

That the Mayor is authorized to execute and file with such application an assurance or any other document required by the U.S. Department of Transportation and Georgia Department of Transportation effectuating the purpose of Title VI of the Civil Rights Act of 1964 ;

That the Planning Director of Athens-Clarke County is authorized to furnish such additional information as the U.S. Department of Transportation and the Georgia Department of Transportation may require in connection with the application or the project;

That the Mayor is authorized to set forth and execute Minority Business Enterprise, DBE (Disadvantaged Business Enterprise,) and WBE (Women Business Enterprise) policies and procedures in connection with the projects procurement needs.

That the Mayor and appropriate staff is authorized to apply for a grant, accept such grant, if awarded, and execute these grant agreements on behalf of the Unified Government of Athens-Clarke County with the Georgia Department of Transportation to aid in the financing of a technical study grant to implement specific items of the MACORTS Unified Planning Work Program.

That the Unified Government of Athens-Clarke government while making application to or receiving grants from the Federal Transit Administration will comply with FTA Circular 8100.1D, FTA Certifications and Assurances for Federal Assistance 2021 as listed in this grant application and General Operating Guidelines as illustrated in the Georgia State Management Plan.

That the Unified Government of Athens-Clarke government has or will have available in the General Fund the required non-federal funds to meet local share requirements for this grant application.

5. APPROVE: The Transportation and Public Works Department (T&PW) to submit a Reconnecting Communities and Neighborhoods Planning Grant Application in the amount of \$1,000,000 to fund a Transportation Plan as shown on Notice of Funding Opportunity as per Attachment #1 of agenda report dated July 24, 2023; and authorize the Mayor and appropriate staff to execute all related documents.
6. APPROVE: SPLOST 2020 Project 03, Classic Center Arena – Artist selection for public art as per agenda report dated August 4, 2023.
  - a) Approve the recommendations of the Athens Cultural Affairs Commission for the selection of Christopher Weed as the artist to provide the public art, as generally shown in Attachment #1, for the Classic Center Arena as part of the SPLOST 2020 Project 03, Site #1;
  - b) Award a lump sum contract to Christopher Weed Sculpture Inc., in the amount of \$200,000 to provide the public art, as generally shown in Attachment #1, for the Classic Center Arena as part of the SPLOST 2020 Project 03, Site #1;
  - c) Approve the Proposed Public Art from Kate Lewis, titled “Architecture of Imagination” for Site #2, as generally shown in Attachment #2, for the Classic Center Arena as part of the SPLOST 2020 Project #3;
  - d) Approve the Proposed Public Art from Steven Teller, titled “A Blossoming Ode to Georgia Music History” for Site #3, as generally shown in Attachment #3, for the Classic Center Arena as part of the SPLOST 2020 Project #3; and
  - e) Authorize the Mayor, Manager, Attorney and appropriate staff to execute all related documents.
7. APPROVE:
  - a) Award a purchase contract to Yancey Brothers Company in the amount of \$282,508 for a Caterpillar 950GC QC3V Wheel Loader for use by the Solid Waste Department’s Landfill Division Composting Operation as per agenda report dated July 28, 2023;
  - b) Approve the trade of the 2009 Volvo loader for \$18,040; and
  - c) Authorize the Mayor and appropriate staff to execute any relevant documents or agreements to effect this action.
8. APPROVE: The list of events shown in Attachment #1 of agenda report dated July 20, 2023 for the Athens Downtown Development Authority’s FY24 Community Events Program (CEP).

9. APPROVE: Appointments to Keep Athens-Clarke County Beautiful Commission.

Ezra Schley	Three-year term expiring 06-30-2026
Courtney Medders	Three-year term expiring 06-30-2026
Michelle Roberts	Three-year term expiring 06-30-2026
Dave Bow	Partial term expiring 06-30-2024
Josh Podvin	Three-year term expiring 06-30-2026 reappointment
Jackie Sherry	Three-year term expiring 06-30-2026 reappointment

Public hearing and deliberation on recommendations from the Athens-Clarke County Planning Commission

A public hearing was held on request of Mark Campbell/Carter Engineering, Owner: Nawkaw Properties Inc., for rezoning from E-O (Employment Office to E-I (Employment-Industrial) on 22.78 acres known as 160-170 Whitetail Way. Proposed use is industrial. Type II

Planning Commission recommendation: Approve w/condition (unanimous)

Public input

- 1. Mark Campbell – supported.

A motion was made by Commissioner Houle, seconded by Commissioner Thornton, to adopt the following ordinance (#23-09-65)which was presented by title only. The motion passed by unanimous vote.

**AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA, WITH RESPECT TO REZONING TWO PARCELS OF LAND COMPRISING APPROXIMATELY 22.78 ACRES IN TOTAL LOCATED AT 160-170 WHITETAIL WAY FROM E-O (EMPLOYMENT-OFFICE) TO E-I (EMPLOYMENT-INDUSTRIAL); AND FOR OTHER PURPOSES.**

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. The map constituting the component part of the Zoning Ordinance of Athens-Clarke County, Georgia, by virtue of and in compliance with Sections 9-3-3 and 9-3-6 thereof, is hereby amended by changing the zoning of two parcels of land, comprising approximately 22.78 acres in total, located at 160-170 Whitetail Way, Athens, Georgia, from E-O (Employment-Office) to E-I (Employment-Industrial).

Said parcels are more particularly described according to that certain document entitled “Plat of Retracement Survey Certified To: Nakaw Properties, Inc.” dated May 15, 2023, made by James R. Smith, Georgia registered land surveyor, and being on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. Said parcels are also known as parcel numbers 044 037 (160 Whitetail Way) and 044 026V (170 Whitetail Way) on the Athens-Clarke County tax maps being on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. The date of this amendment to the Official Zoning Map of Athens-Clarke County as shown by Attachment A shall be noted on said Official Zoning Map in the office of the Clerk of Commission, 301 College Avenue, Athens, Georgia, and duly noted in the minutes of the Commission meeting.

SECTION 2. As a condition of zoning associated with this ordinance, the applicant shall reserve a 50-foot strip of land for a future right-of-way extension off of Whitetail Way along the southern property line of Tax Parcel No. 044 026V (170 Whitetail Way), which shall extend to the western property line of said parcel.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

A public hearing was held on request of Mark Campbell/Carter Engineering, Owner: SAM BG LLC, for rezoning from C-O (Commercial-Office) to C-N Commercial-Neighborhood) on 2.55 acres known as 2365 Prince Avenue. Proposed use is a commercial restaurant. Type II

Planning Commission recommendation: Approve (unanimous)

Public input

1. Mark Campbell – supported.

A motion was made by Commissioner Fisher, seconded by Commissioner Link, to adopt the following ordinance (#23-09-66) which was presented by title only. The motion passed by unanimous vote.

**AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA, WITH RESPECT TO REZONING A PARCEL OF LAND COMPRISING APPROXIMATELY 2.55 ACRES LOCATED AT 2365 PRINCE AVENUE FROM C-O (COMMERCIAL-OFFICE) TO C-N (COMMERCIAL-NEIGHBORHOOD); AND FOR OTHER PURPOSES.**

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. The map constituting the component part of the Zoning Ordinance of Athens-Clarke County, Georgia, by virtue of and in compliance with Sections 9-3-3 and 9-3-6 thereof, is hereby amended by changing the zoning of a parcel of land, comprising approximately 2.55 acres, located at 2365 Prince Avenue, Athens, Georgia, from C-O (Commercial-Office) to C-N (Commercial-Neighborhood).

Said parcel is more particularly described according to that certain document entitled "Survey For: SAM BG LLC" dated May 3, 2023, made by David M. Camp, Georgia registered land surveyor, and being on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. Said parcel is also known as parcel number 113 049 on the Athens-Clarke County tax maps being on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. The date of this amendment to the Official Zoning Map of Athens-Clarke County as shown by Attachment A shall be noted on said Official Zoning Map in the office of the Clerk of Commission, 301 College Avenue, Athens, Georgia, and duly noted in the minutes of the Commission meeting.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

A public hearing was held on request of Jay Sanders, Owner: Teaster Properties LLLP, for Special Use in C-G\* (Commercial-General with Conditions) on 12.67 acres known as 1040 US Highway 29 N. Proposed use is a cell tower. Type II

Planning Commission recommendation: Approve (unanimous)

#### Public input

1. Jay Sanders – supported.

A motion was made by Commissioner Thornton, seconded by Commissioner Hamby, to adopt the following ordinance (#23-09-67) which was presented by title only. The motion passed by unanimous vote.

**AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA, WITH RESPECT TO SPECIAL USE APPROVAL OF A WIRELESS TELECOMMUNICATIONS FACILITY IN THE C-G\* (COMMERCIAL-GENERAL WITH CONDITIONS) DISTRICT ON AN APPROXIMATE 0.1469-ACRE PORTION OF A PARCEL OF LAND AT 1040 US HIGHWAY 29 NORTH COMPRISED OF 12.67 ACRES IN TOTAL; AND FOR OTHER PURPOSES.**

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. The current C-G\* (Commercial-General with Conditions) District is hereby amended to provide for special use approval of a wireless telecommunications facility. The subject parcel, which comprises 12.67 acres and is located at 1040 U.S. Highway 29 North, Athens, Georgia is known as Tax Parcel No. 213 018A on the Athens-Clarke County Tax Map, being on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. The date of this amendment to the Official Zoning Map of Athens-Clarke County as shown by Attachment A hereto shall be noted on said Official Zoning Map in the office of the Clerk of Commission and duly noted in the minutes of the Commission meeting.

The subject parcel is further described in that certain document entitled "Easement Survey for Cable Link of Georgia, LLC," prepared by James W. Eckert, Jr., Georgia registered land surveyor, designated in the lower right-hand corner as sheet number 1 of 3, dated January 24, 2023, and being on file and available for

public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. The approximate 0.1469-acre portion of the subject parcel that will serve as the special use area for the wireless telecommunications facility is shown on said document as “Proposed 80’ x 80’ Lease Area,” along with an associated area designated as “Centerline Proposed 30’ Ingress-Egress Utility/Fiber Easement.”

SECTION 2. The binding site plan associated with this ordinance and incorporated herein by reference consists of seventeen pages in total, with each sheet being numbered and titled on the right-hand side. The respective number, title, and date of each sheet is listed below.

Sheet No.:	Title:	Date:
1 of 3	Easement Survey for Cable Link of Georgia, LLC	January 24, 2023
2 of 3	Easement Survey for Cable Link of Georgia, LLC	January 24, 2023
3 of 3	Easement Survey for Cable Link of Georgia, LLC	January 24, 2023
T1	Title Sheet	Most recently revised March 10, 2023
GN1	General Notes	Most recently revised March 10, 2023
C1	Overall Site Layout Plan	Most recently revised March 10, 2023
C2	Enlarged Site Layout Plan	Most recently revised March 10, 2023
C3	Tower Elevation	Most recently revised March 10, 2023
C4	Site Details	Most recently revised March 10, 2023
C5	Fence Details	Most recently revised March 10, 2023
E1	Electrical Site Plan	Most recently revised March 10, 2023
E2	Compound Grounding Plan	Most recently revised March 10, 2023
E3	Electrical and Grounding Details	Most recently revised March 10, 2023
E4	Grounding Details	Most recently revised March 10, 2023
E5	Grounding Details	Most recently revised March 10, 2023
L1	Landscaping Plan	Most recently revised March 10, 2023
L2	Landscaping Details	Most recently revised March 10, 2023

Each sheet of the binding site plan is stamped “Binding 8-10-23,” and said plan is on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia.

The binding written report associated with this ordinance and incorporated herein by reference consists of two pages in total, entitled “Application Report,” stamped “Binding 8-10-23,” and is on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Old and new business – Discussion

Public input

- 1. Tim Johnson – supported Neighborhood Leaders contract renewal
- 2. Cassidy Lord - supported stormwater recommendations
- 3. Ed Lane - supported stormwater recommendations
- 4. Jamie Hill - supported stormwater recommendations
- 5. David Hyde - supported stormwater recommendations
- 6. Bruno Giri - supported stormwater recommendations
- 7. Russell Edwards – opposed parklet changes

A motion was made by Commissioner Hamby, seconded by Commissioner Link, with reference to SPLOST 2020 Project 03, Classic Center Arena – Proposed third financing.

- a. Revise the total Project Budget, with an increase to approximately \$151,472,104;
- b. Authorize the increase of the amount of the third financing, through revenue bond issuance, from \$13,000,000 up to \$28,500,000 to include \$25,800,000 for Project Costs and \$2,700,000 for

Bond Closing Costs consisting of capitalized interest and issuance costs, approve an associated Intergovernmental Agreement with the Classic Center Authority, and approve other documents related to the third financing, all through the approval and adoption of the authorizing resolution, in substantially the same form attached hereto, Attachment #1;

- c. Adopt an Ordinance (#23-09-68) to create the Classic Center Arena Special Service District, attached hereto, Attachment #2, to provide for the completion of the Classic Center Arena Project and thereby achieve those public purposes related thereto;
- d. Adopt an Ordinance (#23-09-69) to amend the Code of Athens-Clarke County, Georgia to Provide for an Ad Valorem Tax Levy on Property Located within the Classic Center Arena Special Service District, attached hereto, Attachment #3, to provide for the necessary local government services relating to, and for the completion of the Classic Center Arena Project;
- e. Approve an Amendment to the Intergovernmental Contract dated February 14, 2023, (an "Amended Intergovernmental Contract"), in substantially the same form attached hereto attached hereto, Attachment #4, providing for the conveyance of the 0.501 acre sliver of property and the 0.136 Acre Sliver of property necessary for the Development of the Railroad Easement Site;
- f. Approve an Amended Intergovernmental Contract providing for an amendment the 2020 Lease Agreement between Unified Government of Athens-Clarke County (ACCGov) and the Classic Center Authority (CCA) to provide for removal of the 0.501 Acre Sliver;
- g. Approve an Amended Intergovernmental Contract providing for the conveyance of the approximately 0.8 acre Parcel located at the corner of E. Broad Street and Hickory Street from ACCGov to CCA for use in development and land lease to support the Classic Center Arena Project;
- h. Approve an Amended Intergovernmental Contract, which provides for funding up to \$1,804,401 of the cost of public infrastructure improvements including construction of the water retention vault, sanitary sewer, and stormwater drainage improvements; and,
- i. Authorize the Mayor, Manager, Attorney and appropriate staff to execute all related documents.

With reference to item "e" there was a Commission defined option prepared based upon Classic Center response dated September 1, 2023 to provide for an amendment to the Intergovernmental Contract dated February 14, 2023, related to the Classic Center Arena Project (the "Amended Agreement").

Commissioner Hamby amended his motion to approve the commission-defined option to include deletion of "but no more frequently than quarterly" of Section (iii) (e).

Commissioner Link offered an amendment to Section (iii) (c) to add "a representative from within the East Downtown Tax Allocation District (TAD District Number 4) east of the North Oconee River".

Commissioner Culpepper offered an amendment to Section (iii) (c) to add "a current or past".

The amendments were all accepted.

The motion as amended passed by unanimous vote and the following resolution and ordinances which were presented by title only were declared adopted.

RESOLUTION OF THE MAYOR AND COMMISSION OF THE UNIFIED GOVERNMENT OF ATHENS-CLARKE COUNTY, GEORGIA APPROVING AND AUTHORIZING THE ISSUANCE OF REVENUE BONDS OF THE CLASSIC CENTER AUTHORITY FOR CLARKE COUNTY AND THE TERMS THEREOF; AND APPROVING CERTAIN DOCUMENTS IN THAT CONNECTION INCLUDING AN INTERGOVERNMENTAL CONTRACT, A BOND PURCHASE AGREEMENT, A PRELIMINARY OFFICIAL STATEMENT, A DISCLOSURE CERTIFICATE AND RELATED MATTERS

**WHEREAS**, the Classic Center Authority for Clarke County (the "Authority") has been created pursuant to 1988 Ga. Laws p. 3799 *et seq.*, as amended by 1989 Ga. Laws p. 4867 *et seq.*, by 2002 Ga. Laws p. 5665 *et seq.* and by H.B. 796, 156<sup>th</sup> Gen. Assemb., Reg. Sess. (2021) (the "Act"); and

**WHEREAS**, under the Act, the Authority is empowered (i) to construct, reconstruct, acquire, equip, own, alter, repair, maintain, add to, extend, improve, operate, and manage public projects, including the erection of a building or buildings in Clarke County, Georgia, to be used for amusement, recreation, civic, cultural, commercial, hotel, parking, and educational purposes or a combination thereof, including fairs, expositions, exhibits, conventions, conferences, public meetings or gatherings, concerts, theater, and such other activities as are designed and intended to promote education, culture,



tourism, and the arts, and (ii) with the approval of the Unified Government of Athens-Clarke County, Georgia (the “Unified Government”), to borrow and issue revenue bonds for the purpose of paying, in whole or in part, the costs of such projects; and

**WHEREAS**, pursuant the Revenue Bond Law (O.C.G.A. Section 36-82-60 *et seq.*, as amended, the “Revenue Bond Law”), the Unified Government has the power to (a) undertake buildings to be used for various types of sports, buildings to be used for the housing of exhibits for educational and amusement purposes and related parking facilities, and (b) issue revenue bonds to finance any such undertaking; and

**WHEREAS**, the Authority has previously issued, with the approval of the Unified Government, (i) its Revenue Bonds (Classic Center Arena Project), Series 2021, in the aggregate principal amount of \$48,880,000, and (ii) its Revenue Bonds (Classic Center Arena Project), Series 2022A and Federally Taxable Series 2022B in the aggregate principal amount of \$37,440,000, for the purpose of paying a portion of the cost of acquiring, constructing, installing and equipping of an approximately 7,000-seat multi-purpose arena facility, parking facilities and related property and facilities in the City of Athens, Clarke County, Georgia (the “Project”); and

**WHEREAS**, the Authority has informed the Unified Government that it now proposes to issue, in one or more series, with the approval of the Unified Government, its Revenue Bonds (Classic Center Arena Project), Series 2023, in the aggregate principal amount of up to \$28,500,000 (the “Bonds”), for the purpose of paying (i) an additional portion of the cost of acquiring, constructing, installing and equipping the Project, (ii) capitalized interest on the Bonds, and (iii) the cost of issuing the Bonds; and

**WHEREAS**, Article IX, Section III, Paragraph I(a) of the Constitution of the State of Georgia authorizes, among other things, any county, municipality or other municipal corporation of the State to contract, for a period not exceeding fifty years, with another county, municipality or political subdivision or with any other public agency, public corporation or public authority for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided that such contract deals with activities, services or facilities which the contracting parties are authorized by law to undertake or to provide; and

**WHEREAS**, the Authority and the Unified Government propose to enter into an Intergovernmental Contract, dated as of October 1, 2023 or the first day of the month in which the Bonds are actually issued (the “Intergovernmental Contract”), pursuant to which the Authority will agree to, among other things, issue the Bonds and operate the Project, and the Unified Government will agree to, among other things, (a) undertake the acquisition and construction of the Project, (b) pay the Authority amounts sufficient to enable the Authority to pay the debt service on the Bonds (the “Contract Payments”), and (c) to the extent funds are not available for such payments for another source, levy an ad valorem property tax on all property within the limits of the Unified Government subject to such tax in order to make such Contract Payments; and

**WHEREAS**, the Unified Government must enter into a Continuing Disclosure Certificate (the “Disclosure Certificate”), with respect to the issuance of the Bonds; and

**WHEREAS**, the Authority has represented to the Unified Government that it will adopt on September 6, 2023 a Bond Resolution (the “Bond Resolution”), authorizing, among other things, the issuance of the Bonds, the terms of such Bonds, and the execution, delivery and performance of the Intergovernmental Contract, and this resolution is expressly made contingent on the adoption of the Bond Resolution by the Authority; and

**WHEREAS**, the Unified Government, the Authority and Raymond James & Associates, Inc. (the “Underwriter”) must enter into a Bond Purchase Agreement (the “Purchase Agreement”), pursuant to which the Bonds will be sold to the Underwriter; and

**WHEREAS**, it is proposed that the Unified Government approve the use and distribution of a Preliminary Official Statement (the “Preliminary Official Statement”) and approve the use, execution, distribution and delivery of a final Official Statement (the “Official Statement”) pertaining to the Bonds; and

**WHEREAS**, attached hereto are forms of the following documents:

1. The Intergovernmental Contract,
2. The Purchase Agreement, and
3. The Disclosure Certificate.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Commission of the Unified Government (the “Commission”) as follows:

Section 1. The execution, delivery and performance of the Intergovernmental Contract is hereby authorized. The Mayor, or Mayor Pro Tem in the Mayor's absence, and the Clerk of Commission of the Unified Government (the "Clerk") are hereby authorized to execute and deliver the Intergovernmental Contract on behalf of the Unified Government, which Intergovernmental Contract shall be in substantially the form attached hereto as Exhibit "A", with such minor changes, insertions or omissions as may be approved by the Mayor, or Mayor Pro Tem in the Mayor's absence, and the Clerk, and the execution of the Intergovernmental Contract by the Mayor, or Mayor Pro Tem in the Mayor's absence, and the Clerk, as hereby authorized, shall be conclusive evidence of any such approval.

Section 2. The execution, delivery and performance of the Purchase Agreement are hereby authorized. The Mayor, or Mayor Pro Tem in the Mayor's absence, and the Clerk are hereby authorized to execute and deliver the Purchase Agreement on behalf of the Unified Government, which Purchase Agreement shall be in substantially the form attached hereto as Exhibit "B", subject to the parameters to be established in the Bond Resolution, as described in Section 5 below, with pricing information and such minor changes, insertions or omissions as may be approved by the Mayor, or Mayor Pro Tem in the Mayor's absence, and the Clerk, and the execution of the Purchase Agreement by the Mayor, or Mayor Pro Tem in the Mayor's absence, and the Clerk, as hereby authorized, shall be conclusive evidence of any such approval.

Section 3. The execution, delivery and performance of the Disclosure Certificate in the form attached hereto as Exhibit "C" are hereby authorized. The Mayor, or Mayor Pro Tem in the Mayor's absence, and the Clerk are hereby authorized to execute and deliver the Disclosure Certificate on behalf of the Unified Government, which Disclosure Certificate shall be in substantially the form attached hereto with such minor changes, insertions or omissions as may be approved by the Mayor, or Mayor Pro Tem in the Mayor's absence, and the Clerk, and the execution of the Disclosure Certificate by the Mayor, or Mayor Pro Tem in the Mayor's absence, and the Clerk, as hereby authorized, shall be conclusive evidence of such approval.

Section 4. The preparation, use and distribution of a Preliminary Official Statement with respect to the marketing and sale of the Bonds are authorized and approved. The execution by the Mayor of the Unified Government, on behalf of the Unified Government, of a certificate by which the Preliminary Official Statement is "deemed final" within the meaning of Securities Exchange Act Rule 15c2-12, is hereby authorized and approved. The execution by the Mayor, or Mayor Pro Tem or other administrator of the Unified Government in the Mayor's absence, and the delivery and use of a final Official Statement, substantially in the form of the Preliminary Official Statement deemed final by the Unified Government, are hereby authorized and approved, subject to such minor changes, insertions or omissions as may be approved by the Mayor or Mayor Pro Tem, and the execution of said Official Statement by the Mayor or the Mayor Pro Tem as hereby authorized shall be conclusive evidence of any such approval. The distribution of the Official Statement for and on behalf of the Unified Government is hereby authorized and approved.

Section 5. The Commission hereby acknowledges that it has received a draft of the Bond Resolution, and hereby approves the terms, parameters and provisions thereof. The effectiveness of the resolutions set forth herein are specifically conditioned upon the adoption by the Authority of the Bond Resolution in substantially the form presented to the Commission.

Section 6. From and after the execution and delivery of the Intergovernmental Contract, the Purchase Agreement and the Disclosure Certificate, the proper officers, agents and employees of the Unified Government are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents and certificates as may be necessary to carry out and comply with the provisions of such documents and are further authorized to take any and all further actions and to execute and deliver any and all further documents and certificates as may be necessary or desirable in connection with the issuance of the Bonds and the execution, delivery and performance of the Intergovernmental Contract, the Purchase Agreement and the Disclosure Certificate.

Section 7. All acts and doings of the officers, agents and employees of the Unified Government which are in conformity with the purposes and intents of this resolution and in furtherance of the issuance of the Bonds and the execution, delivery and performance of the Intergovernmental Contract, the Purchase Agreement and the Disclosure Certificate are hereby, ratified, approved and confirmed.

Section 8. No stipulation, obligation or agreement herein contained or contained in the documents authorized hereby shall be deemed to be a stipulation, obligation or agreement of any Commission member, officer, agent or employee of the Unified Government in his or her individual capacity, and no such Commission member, officer, agent or employee shall be personally liable on the Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

Section 9. If any one or more of the agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from

the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof.

Section 10. This resolution shall take effect immediately upon its adoption.

Section 11. All resolutions or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

AN ORDINANCE TO CREATE THE CLASSIC CENTER ARENA SPECIAL SERVICE DISTRICT; AND FOR OTHER PURPOSES.

**WHEREAS**, the Unified Government has general powers with respect to recreation, education and exhibitions, pursuant to, among other things, its charter and the Constitution and laws of the State of Georgia, including without limitation the Revenue Bond Law, O.C.G.A. Section 36-82-60 *et seq.*; and

**WHEREAS**, on November 5, 2019, the Unified Government's SPLOST 2020 Program was voted on and approved in a referendum by the voters of Athens-Clarke County and included a budgeted amount of \$34,000,000 for Project No. 03, the Athens Classic Center Arena Project (the "Classic Center Arena Project"); and

**WHEREAS**, to support the Classic Center Arena Project, the Authority completed the development of Program Plans to generally describe the project scope and to estimate construction and other project costs; and

**WHEREAS**, the Program Plans were the basis for the Initial Project Statement for the Classic Center Arena described as follows: **Project 03, Classic Center Arena**, will provide funding for the design and construction of a new public assembly facility/arena space and related areas to accommodate a permanent seating capacity of approximately 5,500. Depending upon costs and funding availability, the expansion may include, but not be limited to, amenities such as an arena with the necessary industry standard service needs including, but not limited to, utility connections, rigging structure, sound/lighting systems, an ice floor, retractable seating for an expanded floor, acoustical treatments, individual suites, premium seating locations, catering facilities, locker rooms, necessary FF&E equipment, security equipment, child care, and office space sufficient to support such an expansion. The project is further anticipated to foster and support related economic development near The Classic Center Arena that may include, but not be limited to, a hotel, a senior living residential development, associated parking development, and other associated support areas to adequately support the functions of The Classic Center facility. Depending upon costs and funding availability, the project may further serve as a mechanism to facilitate enhanced employee and/or community well-being initiatives. Examples of employee and community well-being initiatives could be elder care, child care, and other similar activities. Additionally, to the extent allowed by law, funds may be used as matching funds for leveraging grant opportunities; and

**WHEREAS**, the Unified Government and the Authority had previously entered into a Lease Agreement that commenced on January 1, 2002, and an amendment to said Lease Agreement dated August 16, 2002, under which the Authority leased from the Unified Government certain premises for the purpose of operating the Athens-Clarke County Classic Center hereinafter referred to collectively as the "2002 Lease Agreement"; and

**WHEREAS**, on February 19, 2020, the Unified Government and the Authority entered into an Intergovernmental Contract (the "February 2020 Agreement") for the following purposes:

(a) To provide for the Hotel Site as described in Exhibit "B" to the February 2020 Agreement to be transferred by the Unified Government to the Authority for a Hotel Development for the purpose of creating additional revenue to support the Classic Center Arena Project; and

(b) To provide for the Senior Housing Site as described in Exhibit "C" to the February 2020 Agreement to be transferred by the Unified Government to the Authority for a Senior Housing Development to create additional revenue to support the Classic Center Arena Project;

and

(c) To amend the 2002 Lease Agreement by execution of a new Ground Lease Agreement between the Unified Government and the Authority for the purpose of (a) deleting the Hotel Site and Senior Housing Site from the description of the Premises as defined therein (b) adding the Classic Center Arena Site to the description of the Premises as defined therein, and (c) extending the term of the ground lease for an additional fifty (50) years; and

**WHEREAS**, on February 27, 2020, the Unified Government and the Authority entered into the new Ground Lease Agreement for the purposes set forth above; and

**WHEREAS**, on August 3, 2021, the Unified Government and the Authority entered into an Amendment to the February 2020 Agreement (the “August 2021 Amendment”) for the following purposes:

(a) To provide the Authority the discretion to develop the Hotel Site for a purpose other than as a Hotel Development; and

(b) To provide for the conveyance of the Hickory/Willow Street Site as described as described in Exhibit “A” to the August 2021 Amendment to the Authority to create additional revenue to support the Classic Center Arena Project; and

**WHEREAS**, on February 14, 2023, the Unified Government and the Authority entered into an Intergovernmental Contract (the “February 2023 Agreement”) to provide for the conveyance of the following property interest by the Unified Government to the Authority so as enable the construction and development of the Hickory Street Parking Deck and related arena inspired economic development projects for the purpose of creating additional revenue to support the Classic Center Arena Project:

(a) 3.065 acres of the northern portion of the 4.03 acres identified as Tax Parcel Number 171B2 A008A located at 801 East Broad Street, as shown on Exhibit “C” of the February 2023 Agreement (the “Hickory Street Parking Deck Site”);

(b) Ariel and Subterranean Easement Agreement for the air rights over the railroad which Agreement is dated July 28, 2020, and recorded in Deed Book 05023, Pages 0241-0267 of the records of the Clerk of Superior Court of Athens-Clarke County, Georgia, as shown on Exhibit “C” of the February 2023 Agreement (the “Railroad Easement Site”)

(c) The 2.83 acres identified as Tax Parcel Number 163D3 G002 located at 395 Willow Street, i.e. the Kelley Diversified Building, which the Authority may swap for property in the more immediate vicinity to the Arena, as shown on Exhibit “C” of the February 2023 Agreement (the “2.83 Acre Site”);

(d) Leasehold or fee interest in the air rights above the approximate current elevation of Foundry Street (together with rights for structural support below said elevation which do not interfere with use of the multi-modal center) of the area identified as “Entertainment District (Air Rights)” (the “Air Rights Site”), as shown on Exhibit “C” of the February 2023 Agreement; and

(e) The property identified as “Hickory Street 0.737 acre” on that certain survey entitled “Plat for Unified Government of Athens-Clarke County” by Ben McLeroy & Associates, Inc. dated May 16, 2003, recorded in Plat Book F, Page 367, Athens-Clarke County, Georgia records, and as shown on Exhibit “C” of the February 2023 Agreement (the “Hickory Street Site”); and

**WHEREAS**, on or about November 2, 2021, the Authority issued, with the approval of the Unified Government, its Revenue Bonds (Classic Center Arena Project), Series 2021, in the aggregate principal amount of \$48,880,000, (the “2021 Bonds”) for the purpose of paying a portion of the cost of acquiring, constructing, installing and equipping the Classic Center Arena Project;

and

**WHEREAS**, on or about August 23, 2022, the Authority issued, with the approval of the Unified Government, additional Revenue Bonds (Classic Center Arena Project), Series 2022, in the aggregate principal amount of up to \$37,500,000 (the “2022 Bonds”), for the purpose of paying an additional portion of the cost of acquiring, constructing, installing and equipping the Classic Center Arena Project; and

**WHEREAS**, the Authority and the Unified Government have determined that it is necessary for the Authority to issue, with the approval of the Unified Government, additional Revenue Bonds (Classic Center Arena Project), Series 2023, in the aggregate principal amount of up to \$28,500,000 (the “2023 Bonds”), for the purpose of paying an additional portion of the cost of acquiring, constructing, installing and equipping the Classic Center Arena Project; and

**WHEREAS**, to create additional revenue to support the Classic Center Arena Project and/or the Hickory Street Parking Deck, the Authority and the Unified Government have determined that it is necessary to enter into an amendment to the February 2023 Agreement enter for the purpose of authorizing the conveyance to the Authority of 0.804 acres located at the corner of Hickory Street and East Broad Street, a 0.501 Acre sliver of property to provide for the development of the Railroad Easement Site and the Hickory Street Site, and a 0.136 acre sliver of property to provide for the development of the Railroad Easement Site and the Hickory Street Site; and

**WHEREAS**, as a result of unforeseen additional costs arising from unanticipated change orders related to rock removal and water intrusion and newly anticipated costs for

(1) public infrastructure improvements, including construction of the water retention vault, sanitary sewer, and stormwater drainage improvements, related to the construction of the Hickory Street Parking Deck and the arena inspired economic development projects,

(2) connecting the bridge and stair tower from the Classic Center Arena Project to the Hickory Street Parking Deck, and

(3) potential JE Dunn Construction future change orders related to the Foundry Street plaza repair, scoreboard, dasher boards, owner ops rigging and fall protection, south club level build out, concession and flex room build out, auxiliary locker room building, sound and acoustical treatments, and telescopic seating,

and the related potential acquisition of an interest in the Hickory Street Parking Deck, and notwithstanding the various planning and revenue initiatives which have been implemented as set forth above, additional funding is needed in order to complete the Classic Center Arena Project; and

**WHEREAS**, Article IX, Section II, Paragraph VI of the Constitution of the State of Georgia (the “Special Service District Clause”) authorizes a municipality or county to create, by ordinance or resolution, special districts for the provision of local government services within such districts, and authorizes fees, assessments and taxes to be levied and collected within such districts to pay, wholly or partially, the cost of providing such services therein and to construct and maintain facilities therefor; and

**WHEREAS**, in order to achieve the completion of the Classic Center Arena Project and thereby to achieve the public purposes of developing and promoting in Clarke County and in the State of Georgia of public projects for the cultural growth, public welfare, education, and recreation of the people of Clarke County and of the State of Georgia, the Commission hereby expressly determines, (a) that it is in the best interest of the Unified Government and the citizens and residents thereof, that a special service district be created encompassing the area set forth in Exhibit A attached hereto (the “Classic Center Arena SSD”) and by this reference made a part hereof, that, (b) completing the Classic Center Arena Project will, among other things, benefit taxpayers located within the Classic Center Arena SSD by promoting and increasing tourism, commerce and other economic development therein, to their economic benefit, and (c) that the

completion of the Classic Center Arena Project constitutes the provision of services and the construction and maintenance of facilities, all as contemplated in the Special Service District Clause; and

**WHEREAS**, the Commission will be able to provide for the completion of the needed local government services and facilities therefor to the property owners in the Classic Center Arena SSD most effectively through the creation of the Classic Center Arena SSD; and

**WHEREAS**, property owners within the Classic Center Arena SSD will benefit significantly from the Classic Center Arena Project and the economic stimulus for additional development provided thereby and the local government services and facilities therefor to be provided, supplemented or enhanced within the Classic Center Arena SSD; and

**WHEREAS**, the Unified Government has found and determined that the Classic Center Arena SSD is essential to the timely completion of the Classic Center Arena Project; and

**WHEREAS**, based upon the foregoing, in order to complete the Classic Center Arena Project, which the Unified Government hereby expressly determines constitutes the provision of services and the construction and maintenance of facilities, all as contemplated in the Special Service District Clause, the Unified Government has determined that a special improvement tax should be levied and collected, in the form of an ad valorem property tax imposed on all taxable real property located within such Classic Center Arena SSD to be used to pay, in whole or in part, the cost of completion of the Classic Center Arena Project (including, without limitation, (a) related financing costs, (b) any “cost of the project”, as defined below, (c) any expenditure that would be authorized to be paid out of the project funds established in connection with the issuance of the Series 2021 Bonds and/or the Series 2022 Bonds, and such costs including, without limitation, the payment of debt service, both principal and interest, on the Series 2021 Bonds and/or the Series 2022 Bonds, and (d) the repayment of any additional revenue bonds that the Authority might issue with Commission approval in order to finance the cost of completion of the Classic Center Arena Project);

**NOW, THEREFORE**, the Commission of Athens-Clarke County, Georgia hereby ordains as follows:

**Section 1. Incorporation of Recitals.** The recitals set forth above are adopted by the Unified Government as findings of the Unified Government and are incorporated herein.

**Section 2. Definitions.** As used in this ordinance, the term:

(1) “Classic Center Arena SSD” or “District” means the special district created by and described in Section 3 hereof.

(2) “Cost of the project” means and includes:

(A) All costs of acquisition by purchase or other means, construction, assembly, installation, modification, renovation, or rehabilitation incurred in connection with any project or any part of any project, as authorized under this ordinance;

(B) All costs of real property, fixtures, or personal property used in or in connection with or necessary for any project or for any facilities related thereto, including, but not limited to, the cost of all land, estates for years, easements, rights, improvements, water rights, connections for utility services, fees, franchises, permits, approvals, licenses, and certificates; the cost of securing any such franchises, permits, approvals, licenses, or certificates; the cost of preparation of any application therefor; and the cost of all fixtures, machinery, equipment, furniture, and other property used in or in connection with or necessary for the project;

(C) All financing charges and loan fees and all interest on bonds, notes, or other obligations which accrue or are paid prior to and during the period of construction of a project or any portion thereof relating to the Classic Center Arena Project and during such additional period

as the Commission may reasonably determine to be necessary to place such project(s) in operation;

(D) All costs of engineering, surveying, architectural, and legal services and all expenses incurred by engineers, surveyors, architects, and attorneys in connection with any project or series of projects;

(E) All expenses for inspection of any project or series of projects;

(F) All fees of fiscal agents, paying agents, consultants, attorneys, and trustees for bondholders under any trust agreement, indenture of trust, or similar instrument or agreement; all expenses incurred by any such fiscal agents, paying agents, consultants, attorneys, and trustees; and all other costs and expenses incurred relative to the issuance of any bonds, notes, or other obligations for any project or series of projects;

(G) All expenses of or incidental to determining the feasibility or practicability of any project or series of projects;

(H) All costs of plans and specifications for any project or series of projects;

(I) All costs of title insurance and examinations of title with respect to any project or series of projects;

(J) Repayment of any loans made for the advance payment of any part of any of the foregoing costs, including interest thereon and any other expenses of such loans relating to the project or series of projects;

(K) Administrative expenses and such other expenses as may be necessary for or incidental to the project or the financing thereof or the placing of any project or series of projects in operation; and

(L) The establishment of a fund or funds for the creation of a debt service reserve, a renewal and replacement reserve, or such other funds or reserves as the Commission may approve with respect to the financing and operation of any project or series of projects, and as may be authorized by any bond resolution, trust agreement, indenture of trust, or similar instrument or agreement pursuant to the provisions of which the issuance of any bonds, notes, or other obligations for the benefit of the Classic Center Arena SSD or the completion of the Classic Center Arena Project may be authorized.

Any cost, obligation, or expense incurred for any of the foregoing purposes shall be a part of the cost of the project and may be paid or reimbursed as such out of proceeds of bonds, notes, or other obligations issued for the benefit of the Classic Center Arena SSD and/or for purposes of completion of the Classic Center Arena Project.

(3) “Project” means the Classic Center Arena Project (or any portion thereof), including, but not limited to the Hickory Street Parking Deck and, without limitation, includes the completion thereof.

(4) “Special improvement tax” means a tax, fee or assessment levied by ordinance of the Commission to fund the provision of services and/or the construction and maintenance of facilities; particularly, the Project or any series or phase of such Project including, without limitation, the costs of completion of the Classic Center Arena Project identified in the recitals of this Ordinance.

(5) “Taxpayer” means any entity or person responsible for paying special improvement taxes levied on real estate within the District and whose property is not fully exempt from such taxation. The levy shall apply to each interest in such real estate, whether it is the fee interest, a leasehold estate, or some other interest, provided that such interest is taxable. Each owner of any such interest shall for purposes of this ordinance be deemed a taxpayer.

**Section 3. Creation of the Classic Center Arena Special Service District.** Pursuant to

the Special Service District Clause, there is hereby created a special district for the purpose of the provision of local government services and facilities to be funded, in whole or in part, by a special improvement tax or taxes therein to be known as the “Classic Center Arena Special Service District” (the “Classic Center Arena SSD” or the “District”), the boundaries of which are shown on Exhibit A attached hereto and by this reference made a part hereof and the parcels which constitute the District are shown on Exhibit B attached hereto and by this reference made a part hereof, as each existed on the date of this ordinance.

**Section 4. Termination of the District.** The District shall terminate upon further action of the Unified Government upon the payment or provision of payment for all of the costs of the Project, including, without limitation, any and all costs associated with the financing of the project, whether directly or indirectly, and upon satisfaction and discharge of any obligation secured, directly or indirectly, by the collection of taxes, fees or assessments imposed on taxable real estate within the District.

**Section 5. Partial Invalidity.** In case any one or more of the provisions of this ordinance shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, such illegality or invalidity shall not affect any other provisions hereof unless expressly so held, but this ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein, and this ordinance shall be construed to adopt, but not to enlarge upon, all applicable provisions of Georgia law, and, if any provisions hereof conflict with any applicable provision of such law, the latter as duly adopted by the General Assembly of Georgia and as interpreted by the courts of this state shall prevail and shall be substituted for any provision hereof in conflict or not in harmony therewith.

**Section 6. Recitals.** The recitals above are part of this Ordinance and are hereby incorporated herein by reference.

**Section 7. Repealer.** Any and all ordinances or parts of ordinances in conflict with this ordinance shall be and the same hereby are repealed (but solely as and to the extent of any such conflict).

**Section 8. Effective Date.** This Ordinance shall become effective immediately upon its approval by the Mayor or its adoption into law without such approval.

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA TO PROVIDE FOR AN AD VALOREM TAX LEVY ON PROPERTY LOCATED WITHIN THE CLASSIC CENTER ARENA SPECIAL SERVICE DISTRICT; AND FOR OTHER PURPOSES

**WHEREAS**, the Unified Government has general powers with respect to recreation, education and exhibitions, pursuant to, among other things, its charter and the Constitution and laws of the State of Georgia, including without limitation the Revenue Bond Law, O.C.G.A. Section 36-82-60 *et seq.*; and

**WHEREAS**, on November 5, 2019, the Unified Government’s SPLOST 2020 Program was voted on and approved in a referendum by the voters of Athens-Clarke County and included a budgeted amount of \$34,000,000 for Project No. 03, the Athens Classic Center Arena Project (the “Classic Center Arena Project”); and

**WHEREAS**, to support the Classic Center Arena Project, the Authority completed the development of Program Plans to generally describe the project scope and to estimate construction and other project costs; and

**WHEREAS**, the Program Plans were the basis for the Initial Project Statement for the Classic Center Arena described as follows: **Project 03, Classic Center Arena**, will provide funding for the design and construction of a new public assembly facility/arena space and related areas to accommodate a permanent seating capacity of approximately 5,500. Depending upon costs and funding availability, the expansion may include, but not be limited to, amenities such as an arena with the necessary industry standard service needs including, but



not limited to, utility connections, rigging structure, sound/lighting systems, an ice floor, retractable seating for an expanded floor, acoustical treatments, individual suites, premium seating locations, catering facilities, locker rooms, necessary FF&E equipment, security equipment, child care, and office space sufficient to support such an expansion. The project is further anticipated to foster and support related economic development near The Classic Center Arena that may include, but not be limited to, a hotel, a senior living residential development, associated parking development, and other associated support areas to adequately support the functions of The Classic Center facility. Depending upon costs and funding availability, the project may further serve as a mechanism to facilitate enhanced employee and/or community well-being initiatives. Examples of employee and community well-being initiatives could be elder care, child care, and other similar activities. Additionally, to the extent allowed by law, funds may be used as matching funds for leveraging grant opportunities; and

**WHEREAS**, the Unified Government and the Authority had previously entered into a Lease Agreement that commenced on January 1, 2002, and an amendment to said Lease Agreement dated August 16, 2002, under which the Authority leased from the Unified Government certain premises for the purpose of operating the Athens-Clarke County Classic Center hereinafter referred to collectively as the “2002 Lease Agreement”; and

**WHEREAS**, on February 19, 2020, the Unified Government and the Authority entered into an Intergovernmental Contract (the “February 2020 Agreement”) for the following purposes:

(a) To provide for the Hotel Site as described in Exhibit “B” to the February 2020 Agreement to be transferred by the Unified Government to the Authority for a Hotel Development for the purpose of creating additional revenue to support the Classic Center Arena Project; and

(b) To provide for the Senior Housing Site as described in Exhibit “C” to the February 2020 Agreement to be transferred by the Unified Government to the Authority for a Senior Housing Development to create additional revenue to support the Classic Center Arena Project; and

(c) To amend the 2002 Lease Agreement by execution of a new Ground Lease Agreement between the Unified Government and the Authority for the purpose of (a) deleting the Hotel Site and Senior Housing Site from the description of the Premises as defined therein (b) adding the Classic Center Arena Site to the description of the Premises as defined therein, and (c) extending the term of the ground lease for an additional fifty (50) years; and

**WHEREAS**, on February 27, 2020, the Unified Government and the Authority entered into the new Ground Lease Agreement for the purposes set forth above; and

**WHEREAS**, on August 3, 2021, the Unified Government and the Authority entered into an Amendment to the February 2020 Agreement (the “August 2021 Amendment”) for the following purposes:

(a) To provide the Authority the discretion to develop the Hotel Site for a purpose other than as a Hotel Development; and

(b) To provide for the conveyance of the Hickory/Willow Street Site as described as described in Exhibit “A” to the August 2021 Amendment to the Authority to create additional revenue to support the Classic Center Arena Project; and

**WHEREAS**, on February 14, 2023, the Unified Government and the Authority entered into an Intergovernmental Contract (the “February 2023 Agreement”) to provide for the conveyance of the following property interest by the Unified Government to the Authority so as enable the construction and development of the Hickory Street Parking Deck and related arena inspired economic development projects for the purpose of creating additional revenue to support the Classic Center Arena Project:

(a) 3.065 acres of the northern portion of the 4.03 acres identified as Tax Parcel

Number 171B2 A008A located at 801 East Broad Street, as shown on Exhibit “C” of the February 2023 Agreement (the “Hickory Street Parking Deck Site”);

- (b) Ariel and Subterranean Easement Agreement for the air rights over the railroad which Agreement is dated July 28, 2020, and recorded in Deed Book 05023, Pages 0241-0267 of the records of the Clerk of Superior Court of Athens-Clarke County, Georgia, as shown on Exhibit “C” of the February 2023 Agreement (the “Railroad Easement Site”);
- (c) The 2.83 acres identified as Tax Parcel Number 163D3 G002 located at 395 Willow Street, i.e. the Kelley Diversified Building, which the Authority may swap for property in the more immediate vicinity to the Arena, as shown on Exhibit “C” of the February 2023 Agreement (the “2.83 Acre Site”);
- (d) Leasehold or fee interest in the air rights above the approximate current elevation of Foundry Street (together with rights for structural support below said elevation which do not interfere with use of the multi-modal center) of the area identified as “Entertainment District (Air Rights)” (the “Air Rights Site”), as shown on Exhibit “C” of the February 2023 Agreement; and
- (e) The property identified as “Hickory Street 0.737 acre” on that certain survey entitled “Plat for Unified Government of Athens-Clarke County” by Ben McLeroy & Associates, Inc. dated May 16, 2003, recorded in Plat Book F, Page 367, Athens-Clarke County, Georgia records, and as shown on Exhibit “C” of the February 2023 Agreement (the “Hickory Street Site”); and

**WHEREAS**, on or about November 2, 2021, the Authority issued, with the approval of the Unified Government, its Revenue Bonds (Classic Center Arena Project), Series 2021, in the aggregate principal amount of \$48,880,000, (the “2021 Bonds”) for the purpose of paying a portion of the cost of acquiring, constructing, installing and equipping the Classic Center Arena Project; and

**WHEREAS**, on or about August 23, 2022, the Authority issued, with the approval of the Unified Government, additional Revenue Bonds (Classic Center Arena Project), Series 2022, in the aggregate principal amount of up to \$37,500,000 (the “2022 Bonds”), for the purpose of paying an additional portion of the cost of acquiring, constructing, installing and equipping the Classic Center Arena Project; and

**WHEREAS**, the Authority and the Unified Government have determined that it is necessary for the Authority to issue, with the approval of the Unified Government, additional Revenue Bonds (Classic Center Arena Project), Series 2023, in the aggregate principal amount of up to \$28,500,000 (the “2023 Bonds”), for the purpose of paying an additional portion of the cost of acquiring, constructing, installing and equipping the Classic Center Arena Project; and

**WHEREAS**, to create additional revenue to support the Classic Center Arena Project and/or the Hickory Street Parking Deck, the Authority and the Unified Government have determined that it is necessary to enter into an amendment to the February 2023 Agreement enter for the purpose of authorizing the conveyance to the Authority of 0.804 acres located at the corner of Hickory Street and East Broad Street, a 0.501 Acre sliver of property to provide for the development of the Railroad Easement Site and the Hickory Street Site, and a 0.136 acre sliver of property to provide for the development of the Railroad Easement Site and the Hickory Street Site; and

**WHEREAS**, as a result of unforeseen additional costs arising from unanticipated change orders related to rock removal and water intrusion and newly anticipated costs for

(1) public infrastructure improvements, including construction of the water retention vault, sanitary sewer, and stormwater drainage improvements, related to the construction of the Hickory Street Parking Deck and the arena inspired economic development projects,

(2) connecting the bridge and stair tower from the Classic Center Arena Project to the Hickory Street Parking Deck, and

(3) potential JE Dunn Construction future change orders related to the Foundry Street plaza repair, scoreboard, dasher boards, owner ops rigging and fall protection, south club level build out, concession and flex room build out, auxiliary locker room building, sound and acoustical treatments, and telescopic seating, and the related potential acquisition of an interest in the Hickory Street Parking Deck, and notwithstanding the various planning and revenue initiatives which have been implemented as set forth above, additional funding is needed in order to complete the Classic Center Arena Project; and

**WHEREAS**, Article IX, Section II, Paragraph VI of the Constitution of the State of Georgia (the “Special Service District Clause”) authorizes a municipality or county to create, by ordinance or resolution, special districts for the provision of local government services within such districts, and authorizes fees, assessments and taxes to be levied and collected within such districts to pay, wholly or partially, the cost of providing such services therein and to construct and maintain facilities therefor; and

**WHEREAS**, in order to achieve the completion of the Classic Center Arena Project and thereby to achieve the public purposes of developing and promoting in Clarke County and in the State of Georgia of public projects for the cultural growth, public welfare, education, and recreation of the people of Clarke County and of the State of Georgia, the Commission, by Ordinance No. 23-09-68, created the Classic Center Arena SSD, and determined that,

- (a) completing the Classic Center Arena Project will, among other things, benefit taxpayers located within the Classic Center Arena SSD by promoting and increasing tourism, commerce and other economic development therein, to their economic benefit,
- (b) the completion of the Classic Center Arena Project constitutes the provision of services and the construction and maintenance of facilities, all as contemplated in the Special Service District Clause,
- (c) the Commission will be able to provide for the completion of the needed local government services and facilities therefor to the property owners in the Classic Center Arena SSD most effectively through the creation of the Classic Center Arena SSD,
- (d) property owners within the Classic Center Arena SSD will benefit significantly from the Classic Center Arena Project and the economic stimulus for additional development provided thereby and the local government services and facilities therefor to be provided, supplemented or enhanced within the Classic Center Arena SSD, and
- (e) the Classic Center Arena SSD is essential to the timely completion of the Classic Center Arena Project; and

**WHEREAS**, based upon the foregoing, in order to complete the Classic Center Arena Project, which the Unified Government determined by Ordinance No. 23-09-68 constitutes the provision of services and the construction and maintenance of facilities, all as contemplated in the Special Service District Clause, the Unified Government has determined that a special improvement tax should be levied and collected, in the form of an ad valorem property tax imposed on all taxable real property located within such Classic Center Arena SSD to be used to pay, in whole or in part, the cost of completion of the Classic Center Arena Project (including, without limitation, (a) related financing costs, (b) any “cost of the project”, as defined below, (c) any expenditure that would be authorized to be paid out of the project funds established in connection with the issuance of the Series 2021 Bonds and/or the Series 2022 Bonds, and such costs including, without limitation, the payment of debt service, both principal and interest, on the Series 2021 Bonds and/or the Series 2022 Bonds, and (d) the repayment of any additional revenue bonds that the Authority might issue with Commission approval in order to finance the cost of completion of the Classic Center Arena Project); and

**WHEREAS**, under the Authority of the Special Services District Clause and pursuant to Sections 7-101 (a) (4) and 7-101 (b) (1) of the Charter of the Unified Government, the Unified

Government may by ordinance or resolution levy and collect a special improvement tax within the Classic Center Arena SSD to pay, wholly or partially, the cost of providing local government services and facilities within such district; and

**WHEREAS**, at this time, the Unified Government desires to establish a rate of special service district ad valorem taxes on taxable real property within the Classic Center Arena SSD to provide for the necessary local government services relating to, and for the completion of, the Classic Center Arena Project.

**NOW, THEREFORE**, the Commission of Athens-Clarke County, Georgia hereby ordains as follows:

**Section 1. Incorporation of Recitals and Definitions.** The recitals set forth above are adopted by the Unified Government as findings of the Unified Government and are incorporated herein. The definitions contained in the above-mentioned Ordinance No. 23-09-68 are incorporated here.

**Section 2. Amendment of Chapter 2.** Chapter 2 of the Code of Athens-Clarke County, Georgia is hereby amended by adding a new section to be designated Chapter 2-9, which section shall read as follows:

“Chapter 2-9. – CLASSIC CENTER ARENA SPECIAL DISTRICT TAX

Sec. 2-9-1. Levy of Tax.

An ad valorem tax at the rate of 2 mills, or \$2.00 on every \$1,000.00 or any part thereof, of the assessed value of taxable real property within the Classic Center Arena Special Service District established by Ordinance No. 23-09-68 is hereby levied. The proceeds of such tax shall be segregated, and the Unified Government shall not expend such funds for any purpose not authorized by said ordinance. The tax commissioner of Athens-Clarke County, by copy of this Chapter, is requested to specifically list the levy set forth in this section on tax bills rendered to citizens and taxpayers of the Unified Government which are subject to such levy.”

**Section 3. Partial Invalidity.** In case any one or more of the provisions of this ordinance shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, such illegality or invalidity shall not affect any other provisions hereof unless expressly so held, but this ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein, and this ordinance shall be construed to adopt, but not to enlarge upon, all applicable provisions of Georgia law, and, if any provisions hereof conflict with any applicable provision of such law, the latter as duly adopted by the General Assembly of Georgia and as interpreted by the courts of this state shall prevail and shall be substituted for any provision hereof in conflict or not in harmony therewith.

**Section 4. Repealer.** Any and all ordinances or parts of ordinances in conflict with this ordinance shall be and the same hereby are repealed (but solely as and to the extent of any such conflict).

**Section 5. Effective Date.** This Ordinance shall become effective immediately upon its approval by the Mayor or its adoption into law without such approval.

A motion was made by Commissioner Myers, seconded by Commissioner Houle, to approve request of Athens in Motion Commission for amended bylaws as shown in Attachment #1 of agenda report dated August 3, 2023.

A substitute motion as made by Commissioner Wright, seconded by Commissioner Thornton, to HOLD this item for Government Operations Committee review of boards, authorities, and commissions.

Commissioner Wright amended her motion to approve the proposed change for a quorum and HOLD the remainder requested bylaws change.

The substitute motion as amended passed by unanimous vote.

A motion was made by Commissioner Davenport, seconded by Commissioner Houle, to approve contract renewal with Family Connection-Communities in Schools (FC-CIS) for the Neighborhood Leaders Program at the funding level provided by ACCGov's FY24 annual budget, and based on updated scope of services and budget Attachments #2 and 3 of agenda report dated July 25, 2023 with incorporation of the following additional provisions:

- a. Housing and Community Development ("HCD") staff shall ensure that updates regarding the operation of the Neighborhood Leaders Program, including specific program data, shall be forwarded to the Mayor and Commission, either by HCD staff or FC-CIS staff, on at least a quarterly basis during the term of this Agreement.
- b. Neighborhood Leaders shall be required to encourage and solicit community participation in surveys released by ACCGov in order to assist in gathering a representative sample of survey results to better inform ACCGov decision-making.
- c. Neighborhood Leaders shall make efforts to build relationships with all ACCGov Commissioners. Neighborhood Leaders shall reach out to each Commissioner to open lines of direct communication and inquire as to the best way to communicate with each individual Commissioner.
- d. Neighborhood Leaders shall explore grant writing opportunities for community projects.
- e. The Neighborhood Leaders Program Coordinator shall be responsible for sharing voter registration with the Economic Justice Coalition and any other non-partisan voter registration organization. Additionally, the Coordinator shall assist in coordinating voter registration trainings in each zone.
- f. The Mayor and Commission shall revisit and may revise the Neighborhood Leaders Program funding source for the 2024 budget;

The motion was amended to remove item e.

Commissioner Myers offered an amendment to replace item d. as follows.

The Neighborhood Leaders program shall explore grant writing opportunities for community projects and ongoing funding of its operations, using the support of the Family Connections leadership and/or ACC grant writers, as needed.

The amendment was accepted.

The motion as amended passed by unanimous vote.

A motion was made by Commissioner Wright, seconded by Commissioner Culpepper to

- a) Approve a lease with The Taylor Grady House National Historic Landmark, Inc. for the use of the Taylor Grady House, excluding the ground floor Attachment #1 of agenda report revised August 22, 2023);
- b) Accept the proposed Community Benefits Agreement with the Taylor Grady House National Historic Landmark, Inc. (Attachment #2), resulting in a lease reduction of \$23,987 per year; and,
- c) Authorize the Mayor and appropriate staff to execute all related documents.

The motion passed by unanimous vote.

Commissioner Myers exited the chamber at 7:18 p.m. and returned at 7:20 p.m.

A motion was made by Commissioner Myers, seconded by Commissioner Thornton, to HOLD until November stormwater financial planning.

A substitute motion was made by Commissioner Wright, seconded by Commissioner Houle, to

- a) Approve the Extent and Level of Service 3b in the Stantec Stormwater Utility Financial Planning presentation as per Attachment #1 of agenda report revised "August 18, 2023;

- b) Direct the Manager to bring to Mayor and Commission for approval an amended Chapter 5-5 (Stormwater Utility) that reflects the approved Extent of Service; and
- c) Approve a re-written PW-002 policy that reflects the approved Extent of Service Option Attachment #5.

The substitute motion passed by roll call vote with Commissioners Davenport, Link, Wright, Fisher, Houle and Culpepper voting YES; and Commissioners Myers, Thornton, and Hamby voting NO. (6 YES; 3 NO)

Commissioner Thornton exited the chamber at 7:24 p.m. and returned at 7:29 p.m.

A motion was made by Commissioner Hamby, seconded by Commissioner Houle,

- a) Approve the selection of two firms - Solar Sun World, LLC and Cherry Street Energy, LLC to provide On-Call Solar Photovoltaic Systems Services for ACCGov Capital Improvement Projects;
- b) Award the on-call Construction Services Contract to Solar Sun World for an amount not to exceed \$750,000 to provide the construction services for SPLOST 2011 Project 23, Sub-Project (SP) #8 & SPLOST 2020 (Sub-Project #4) to install Solar Photovoltaic Systems at the Athens-Clarke County Library as generally shown on Attachment #1 of agenda report revised August 31, 2023; and
- c) Authorize the Mayor and appropriate staff to execute all related documents.

Commissioner Link offered an amendment to plant somewhere on public property the number of trees displaced by this project.

The amendment was accepted and the motion as amended passed by unanimous vote.

A motion was made by Commissioner Thornton, seconded by Commissioner Hamby,

- a) Approve a designation of Connectivity Wireless, LLC as the highest scoring firm and award of the Converged Network System Services contract to Connectivity Wireless, LLC for SPLOST 2020 Project 03 Classic Center Arena as per agenda report dated August 22, 2023;
- b) Authorize the Manager, staff, and Classic Center Authority representatives to negotiate with Connectivity Wireless, LLC to develop a final Scope of Services and Fees for a not-to-exceed contract amount of \$560,000; and
- c) Authorize the Mayor and appropriate staff to execute all related documents.

The motion passed by unanimous vote.

A motion was made by Commissioner Davenport, seconded by Commissioner Link, to HOLD until October Government Operations Committee recommendation to adopt the proposed revised Parklet Program ordinance as per Attachment #1 of report dated August 21, 2023 and proposed fee schedule revisions for parklets, Attachment #2, starting in 2024.

Commissioner Davenport amended his motion to adopt the proposed revised Parklet Program ordinance and retain current fee schedule thru June 30, 2024 with request Mayor reassign review of current fee schedule to Government Operations Committee.

The motion as amended passed by unanimous vote and the following ordinance (#23-09-70) which was presented by title only was declared adopted.

AN ORDINANCE TO AMEND THE CODE OF THE ATHENS-CLARE COUNTY, GEORGIA WITH RESPECT TO THE **PARKLET PROGRAM**; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. Section 6-22-3 entitled “*Eligibility*” of the Code of Athens-Clarke County, is hereby amended by deleting the word “and” at the end of subsection (b) thereof, and is further amended by adding the word “and” at the end of subsection (c), and is further amended by adding a new subsection (d) so that Section 6-22-3 now reads as follows:

**“Section 6-22-3 – Eligibility.**

Restaurants and specialty shops in the Downtown Athens District may apply to utilize public parking spaces located in front of their place of business as parklets, as further described in this chapter. Within the Downtown Athens District, parking adjacent to or within the following locations are not available for parklets:

- (a) Roads owned and/or maintained by the Georgia Department of Transportation;
- (b) Roads with a speed limit in excess of 25 miles per hour;
- (c) Roads that are temporarily or permanently closed to support outdoor dining, recreation, outdoor retail, or other similar public uses; and
- (d) Roads that include buffered bike lanes between the curb and on street parking.”

SECTION 2. Section 6-22-4 entitled “*Permit*” of the Code of Athens-Clarke County, is hereby amended by deleting subsection (h) in its entirety so that said section now reads as follows:

**“Section 6-22-4 – Permit.**

The issuance of a parklet permit shall not be construed or interpreted to convey any vested property rights or any leasehold rights or interests to any person or business. The holder of a permit shall have the right to enforce trespass laws within their licensed parklet. Permittee's use of the parklet area is subject to the rights of utility companies pursuant to franchise or easement. Prior to acceptance of a permit, a permittee shall acknowledge that permittee has inspected the parklet area and determined that the area is suitable for its purposes and that it assumes all risks associated with its use of such area. The provisions of this chapter are subject to change and amendment by the Mayor and Commission from time to time. Permits are subject to the following requirements:

- (a) Permits for parklets that are issued on an annual basis will expire on December 31 of each year, regardless of initial application issuance.
- (b) Any parklet that requires the substantial modification of public property as permitted by Section 6-22-6(b) of this chapter shall operate on an annual basis.
- (c) Except as provided in subsection (b), all applicants, at the time of application, shall indicate their intent to use parklets on an annual or quarterly basis. Quarters shall be as follows:
  - 1. The first quarter is January 1<sup>st</sup> through March 31<sup>st</sup>;
  - 2. The second quarter is April 1<sup>st</sup> through June 30<sup>th</sup>.
  - 3. The third quarter is July 1<sup>st</sup> through September 30<sup>th</sup>; and,
  - 4. The fourth quarter is October 1<sup>st</sup> through December 31<sup>st</sup>.
- (d) Applications for permits shall be submitted no later than 30 days prior to the applicable date of issuance for an annual or quarterly permit.
- (e) Application fees, as designated in Section 2-6-2 of this Code shall be paid in full at the time of application.
- (f) Additional fees as designated in Section 2-6-2 of this Code shall be due at the time of the issuance of the permit.
- (g) Parklet permits are non-transferable and shall expire upon the transfer of ownership, change in use of the establishment, or December 31<sup>st</sup> of each year, whichever is earliest.”

SECTION 3. Section 6-22-5 entitled “*Application*” of the Code of Athens-Clarke County, is hereby amended by inserting a new subsection (i) so that said section now reads as follows:

**“Section 6-22-5 – Application.**

Any person desiring to operate a parklet shall submit an application, on a form prescribed by the Manager, to the Central Services Department. The application shall include, but not be limited to, the following:

- (a) Name of applicant;
- (b) Name, address, phone number, and email for the establishment;
- (c) A copy of a valid Athens-Clarke County occupational tax certificate for the establishment desiring to operate a parklet;
- (d) A copy of a current certificate of insurance in the amounts and categories required by Section 6-22-11 of this chapter;
- (e) A map identifying the on-street parking spaces desired for the operation of a parklet, as well as letters of support from neighboring businesses or property owners if the applicant desires to use three or four total parking spaces;
- (f) Evidence of a valid alcohol license if the applicant wishes for patrons to be able to consume beer and wine in the parklet;
- (g) A map identifying the direct route between the establishment licensed to serve beer and wine and the proposed parklet if the applicant wishes for patrons to be able to consume beer and wine in the parklet; and,
- (h) A scaled sketch of how the parklet will be designed so as to meet the requirements of this chapter.

(i) A design approved by an engineer licensed to operate in the State of Georgia, if the applicant intends to utilize methods other than “Jersey barriers” as their perimeter barrier, as required by section 6-22-8.

SECTION 4. Section 6-22-6 entitled “*Issuance of permit*” of the Code of Athens-Clarke County, subsection (a) thereof is hereby amended by deleting the word “shall” in the first sentence thereof and inserting the word “should” in lieu thereof, so that subsection (a) now reads as follows:

**“Section 6-22-6 – Issuance of permit.**

(a) Applicant should be notified within two weeks of application submission of approval or denial of the requested permit. If the permit is denied, applicant shall be provided an explanation of the denial.”

SECTION 5. Section 6-22-8 entitled “*Parklet design*” of the Code of Athens-Clarke County, subsection (c) thereof entitled “*Location*” is hereby amended by inserting a new subsection (5) so that subsection (c) now reads as follows:

**“(c) Location.**

1. Parklets shall be located within the boundaries of existing parking spaces.
2. All parklet materials, including barriers, planters and/or foliage shall be located at least 12” from the parking space edge and at least 18” from the street travel lanes.
3. Parklets shall not be located within spaces and gore areas designated for use by persons with disabilities
4. Unless otherwise exempted pursuant to Section 6-22-8(d)(2) of this chapter, parklets shall not extend onto the sidewalk, street travel lanes, fire lanes, bike lanes, or loading zones.
5. Unless otherwise noted in this ordinance, barriers, equipment, and furnishing for parklets shall not be anchored to the street.”

SECTION 6. Section 6-22-8 entitled “*Parklet design*” of the Code of Athens-Clarke County, subsection (d) thereof entitled “*Americans with Disabilities Act access*,” subsection (2)(b) thereof is hereby amended by deleting the word “shall” and inserting the word “may” in lieu thereof, so that subsection (2)(b) now reads as follows:

“b. Providing a temporary or mobile ADA-complaint curb ramp, which may be anchored into the street and/or curb; or”

SECTION 7. Section 6-22-8 entitled “*Parklet design*” of the Code of Athens-Clarke County, subsection (e) thereof is entitled “*Barriers and platforms*” is hereby deleted in its entirety and the following new subsection (e) is inserted in lieu thereof, so that subsection (e) now reads as follows:

**“(e) Barriers and platforms.**

1. Parklets shall be enclosed by barriers on any side where an automobile or bicycle could be present. A barrier adjacent to the curb is permitted, but not required.
2. Barriers shall incorporate white reflective bands or other modifications approved by the Transportation and Public Works Department as needed to enhance visibility at night. Where the parklet is directly adjacent to the left side of the travel lane, yellow reflective bands shall be used.
3. “Jersey barriers” are permitted by-right, so long as they are integrated into facades, planters, or other parklet features so as to enhance aesthetics.
4. Custom barriers other than “Jersey barriers” must meet the following design requirements:
  - a. The barrier shall have a minimum height of 36" and a maximum height of 42" as measured from the street and shall have no gap greater than 4" between barriers.
  - b. Barriers shall be weighted such that they are not easily moved, altered, or stolen.
  - c. Barriers shall be freestanding, stable, and sturdy so as not to fall over or be pushed over, but shall not be anchored into the right-of-way.
  - d. An engineer licensed in the State of Georgia must document that barriers are designed such that they are capable of withstanding 250 pounds of force in all directions.
5. To enhance ADA access, parklets may use an elevated platform or deck so long as its highest point does not exceed the elevation of the highest adjacent curb. From this point, the parklet’s surface can be level to a maximum floor height of 16” above ground



level, potentially resulting in an elevation that exceeds adjacent curb heights if the parklet's grade slopes downward from its peak. If as a result of elevation changes, the height of the parklet exceeds 6" above ground level, the perimeter of the parklet shall utilize 36" tall ADA-compliant railings adjacent to areas where vehicles are present."

SECTION 8. Section 6-22-9 entitled "*Parklet management*" of the Code of Athens-Clarke County, subsection (i) thereof entitled "*Suspension or modification of operation*," subsection (2)(i) thereof is hereby deleted in its entirety so that subsection (i) now reads as follows:

**"(i) Suspension or modification of operation.**

The Manager shall have the authority to require any parklet operating in an area created by this section to suspend operation and clear such areas, or to move or modify the location or operation of the parklet, for such reasons as, but not limited to:

1. Any street, sidewalk, or utility construction or maintenance;
2. Any emergency situation; or,
3. The protection of the health, safety, and welfare of the public."

SECTION 9. Section 6-22-13 entitled "*Revocation or suspension of permit*" of the Code of Athens-Clarke County, is hereby deleted in its entity and the new section inserted in lieu thereof, so that said section now reads as follows:

"The approval of a parklet permit is conditional at all times. A parklet permit may be revoked or suspended by the Central Services Department, subject to appeal to the Administrative Hearing Officer pursuant to the provisions of Section 1-5-1 of this Code if it is found that:

- (a) Any necessary business or health permit or license of the permittee has been suspended, revoked, or cancelled.
- (b) The permittee does not maintain the insurance as described in Section 6-22-11 of this chapter.
- (c) The permittee has failed to correct violations of this chapter or any other ordinance within 48 hours of receipt of the Manager's notice of same delivered in writing to the permittee.
- (d) The permittee has a history of violations of this chapter of three or more within a two-year period.
- (e) Permits may be suspended for a period of up to 12 months depending upon history and severity of violations."

SECTION 10. Should any provision, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, paragraphs, sentences, or words of this Ordinance as hereby issued shall remain in full force and effect. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 11. This Ordinance shall become effective immediately upon its approval by the Mayor or its adoption into law without such approval.

SECTION 12. The Clerk of Commission, in consultation with the County Attorney, shall have the power to correct scrivener's errors.

New business – Consider under suspension of Rules

A motion was made by Commissioner Hamby, seconded by Commissioner Myers, to suspend Rules of Commission for consideration of new business items. The motion passed by unanimous vote.

A motion was made by Commissioner Hamby, seconded by Commissioner Wright, with reference to Georgia Accountability Court funding program grants – Western Judicial Circuit.

a) Authorize Superior Court to accept an award from the Criminal Justice Coordinating Council for an Accountability Court Grant in an amount of \$165,000 to continue current funding and operation of Felony Drug Court;

b) Authorize Superior Court to accept an award from the Criminal Justice Coordinating Council for an Accountability Court Grant in an amount of \$70,000 to continue current funding and operation of Treatment and Accountability Court;

- Authorize execution of the Advantage Behavioral Health Systems Contract;

- c) Authorize Superior Court to accept an award from the Criminal Justice Coordinating Council for an Accountability Court Grant in an amount of \$125,000 to continue current funding and operation of Veterans Court;
- d) Authorize State Court to accept an award from the Criminal Justice Coordinating Council for an Accountability Court Grant in an amount of \$10,000 to continue current funding and operation of DBHDD under DUI/Drug Court;
- e) Authorize State Court to accept an award from the Criminal Justice Coordinating Council for an Accountability Court Grant in an amount of \$90,000 to continue current funding and operation of DUI/Drug Court;
- f) Authorize Juvenile Court to accept an award from the Criminal Justice Coordinating Council for an Accountability Court Grant in an amount of \$180,000 to continue current funding and operation of Family Dependency Treatment Court;
- Authorize execution of the Advantage Behavioral Health Systems Contract; and
- g) Authorize the Mayor, Superior Court Judges, State Court Judge, Juvenile Court Judge and appropriate staff to execute all related documents.; and

Approve general fund resources to continue funding for two authorized full-time Coordinator positions in Veterans and Juvenile, should the Accountability Court grants not be awarded.

The motion passed by unanimous vote.

A motion was made by Commissioner Hamby, seconded by Commissioner Wright, to adopt the following resolution. The motion passed by unanimous vote.

**A RESOLUTION OF THE COMMISSION OF ATHENS-CLARKE COUNTY, GEORGIA TO APPROVE AND AUTHORIZE THE SETTLEMENT OF THE CLAIMS OF FRANKIE YOUNG; AND FOR OTHER LAWFUL PURPOSES.**

**WHEREAS**, on April 1, 2021, Frankie Young, (“Young”), filed a Complaint against the Unified Government of Athens-Clarke County, Georgia (“A-CC”) alleging that the negligence of an Athens Transit System bus driver was the proximate cause of injuries suffered by Young in a vehicular accident on May 20, 2019 (“Young’s Claims”) in Superior Court of Athens-Clarke County Georgia, Civil Action File No. SU-21-CV-0194; and

**WHEREAS**, the A-CC and Young desire to voluntarily resolve Young’s Claims and all other disputes that may exist between them by compromise and without incurring additional attorney’s fees, expenses, and costs of litigation; and

**WHEREAS**, without admitting liability or fault, the Commission finds it to be in the best interests of the A-CC to resolve Young’s Claims as set forth below;

**NOW, THEREFORE**, the Commission hereby resolves as follows:

**SECTION 1.**

The Commission does hereby approve and authorize the payment of the sum of Two Hundred Thousand and 00/100 Dollars (\$200,000.00) in settlement of Young’s Claims.

**SECTION 2.**

The Attorney for A-CC and the outside counsel retained for purposes of defending A-CC against Young’s Claims shall have authority to take all further actions necessary to carry out the intents and purposes of this Resolution and to prepare, or to cause to be prepared, any and all documents necessary to effectuate the resolution of Young’s Claims as described herein.

**SECTION 3.**

The Mayor of A-CC shall have authority to take all further actions necessary to carry out the intents and purposes of this Resolution, including but not limited to, the authority to sign any documents as may be necessary or appropriate to effectuate the intents and purposes of this Resolution.

**SECTION 4.**

The Commission hereby declares that the foregoing preamble and whereas provisions set forth hereinabove constitute, and shall be considered to be, substantive provisions of this Resolution and are hereby incorporated by reference into this provision.

**SECTION 5.**

In the event scrivener's errors shall be discovered in this Resolution after the adoption hereof, the Commission hereby authorizes and directs that each such scrivener's error shall be corrected in all multiple counterparts of this Resolution.

#### SECTION 6.

This Resolution shall become effective immediately upon its approval by the Mayor or upon its adoption into law without such approval.

#### Public input on items other than those listed on this agenda

1. Russell Edwards – why so much tree cutting?
2. Fred Smith - invited all to September 17, 4:00 p.m., Board of Education for panel discussion on local desegregation
3. Dylan Woolsey – supported affordable housing
4. Lori Dukes – concerned about spread of bamboo

#### FROM MANAGER WILLIAMS

1. Received for information was contract awards in excess of \$10,000 for month of July 2023.

#### FROM AUDITOR HASSEMER:

1. Stated the Audit Committee organizational meeting is forthcoming.

#### FROM MAYOR GIRTZ:

1. Stated a road map to mental health support flyer is available.
1. Assignment to Legislative Review Committee: review and refine Invasive Species ordinance.
2. Assignment to Government Operations Committee: prioritize unpaved roads for surfacing with FY24 funds and others that may follow.

#### FROM COMMISSIONERS LINK AND WRIGHT:

1. Suggested Community Tree Council can be involved in planting of replacement trees.
2. Expressed appreciation for assignment of invasive species.

#### FROM COMMISSIONERS FISHER, CULPEPPER, AND HAMBY:

1. Supported review of dirt road assignment to committee.

#### FROM COMMISSIONER WRIGHT:

1. Request review of parklet program reference locations.

#### FROM COMMISSIONER FISHER:

1. Announced there will be a program to salute first responders September 11 at Beech Haven Baptist Church.

#### FROM COMMISSIONER HOULE

1. Requested a resolution asking local legislative delegation to consider rank voting.

2. Expressed concern about landlords who not make timely payment on water/sewer fees which in turn subjects tenants to service cut offs.
3. Urged COVID booster shots.

FROM COMMISSIONER CULPEPPER:

1. Expressed appreciation to colleagues for collaboration on issues.

FROM COMMISSIONER MYERS:

1. Commended Sheriff's Office.
2. Invited all to the Linnentown Lane ceremony September 21, 10:00 a.m. – 12 noon.

FROM COMMISSIONER HAMBY:

1. Stated he looks forward to alleyway improvements review.
2. Stated revisions to neighborhood traffic management control program/speed humps are forthcoming.

A motion was made by Commissioner Hamby, seconded by Commissioner Thornton, to adjourn. The motion passed by unanimous vote.

The meeting adjourned at 8:15 p.m.

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Clerk of Commission