

**MEMORANDUM**

**To:** Mayor and Council

**From:** Michael Smith, Public Works Director

**Date:** September 12, 2016

**Subject:** **First Read:** An Ordinance to Amend the Pedestrian Bridge Agreement with Atlanta Office Investment, LLC

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**ITEM DESCRIPTION**

An ordinance to amend the existing pedestrian bridge easement agreement with Atlanta Office Investment, LLC for the purposes of incorporating a new legal description for the air rights easement area

**BACKGROUND**

As part of the In developing the State Farm office building at 236 Perimeter Center Parkway, Atlanta Office Investment, LLC has constructed a exit ramp and tunnel under the will be constructing a right turn lane on Hammond Drive within new right of way to be dedicated to the city. A portion of the on-site private storm water management will be within the new public right of way as shown on Exhibit C of the Stormwater Drainage Line Easement Agreement. The proposed Ordinance will allow for the property owner to access the public right of way area to maintain the private storm water system.

**RECOMMENDED ACTION**

Staff recommends approval of the ordinance to grant the permanent storm water maintenance easement so that the private storm water pipes within the public right of way can be maintained by the property owner.

**STATE OF GEORGIA  
CITY OF DUNWOODY**

**ORDINANCE 2016-XX-XX**

**AN ORDINANCE TO AMEND THE PEDESTRIAN BRIDGE EASEMENT TO ATLANTA OFFICE INVESTMENT PHASE I, LLC FOR THE PURPOSE OF REVISING THE LEGAL DESCRIPTION OF THE AIR RIGHTS EASEMENT PARCEL**

**WHEREAS,** the City of Dunwoody (Grantor) and Atlanta Office Investment Phase I, LLC ("Grantee") have previously entered into a Pedestrian Bridge Easement Agreement dated December 8, 2014; and

**WHEREAS,** as part of its development of its Property, Grantee dedicated additional right of way on the west side of Perimeter Center Parkway in the area of the proposed pedestrian bridge; and

**WHEREAS,** the Grantor and Grantee now desire to replace the legal description in the Agreement with a new legal description to account for the new right of way area on Perimeter Center East.

**NOW, THEREFORE IT IS HEREBY ORDAINED,** by the Mayor and Council for the City of Dunwoody, that the Amended Pedestrian Bridge Easement Agreement is hereby approved and the Mayor, City Manager, and City Attorney are hereby authorized to execute all necessary documents therefor, including the First Amendment to Pedestrian Bridge Easement Agreement attached hereto and incorporated herein.

**SO RESOLVED AND EFFECTIVE,** this \_\_\_\_ day of \_\_\_\_\_, 2016.

Approved:

\_\_\_\_\_  
Denis L. Shortal, Mayor

Approved as to Form and Content

Attest:

\_\_\_\_\_  
Sharon Lowery, City Clerk

\_\_\_\_\_  
City Attorney

(Seal)

**UPON RECORDING RETURN TO:**

Troutman Sanders LLP  
600 Peachtree Street, N.E.  
Suite 5200  
Atlanta, Georgia 30308-2216  
Attention: Maureen Theresa Callahan, Esq.

Cross Reference:  
Deed Book 24751, Page 642  
DeKalb County, Georgia

FIRST AMENDMENT TO PEDESTRIAN BRIDGE EASEMENT AGREEMENT  
(Phase II / City of Dunwoody)

THIS FIRST AMENDMENT TO PEDESTRIAN BRIDGE EASEMENT AGREEMENT ("Amendment") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF DUNWOODY, GEORGIA, a municipality of the State of Georgia ("Grantor") and ATLANTA OFFICE INVESTMENT, L.L.C., a Delaware limited liability company ("Grantee"). Grantor and Grantee sometimes are collectively referred to as the "Parties" and each individually as a "Party."

RECITALS:

A. Grantor and Grantee are parties to that certain Pedestrian Bridge Easement Agreement dated December 8, 2014, recorded in Deed Book 24751, Page 642, DeKalb County, Georgia records (the "Agreement").

B. Grantor and Grantee now desire to amend the Agreement as more particularly set forth below.

NOW, THEREFORE, for and in consideration of Ten and No/100 U.S. Dollars and for other good and valuable consideration the receipt and legal sufficiency of which are hereby acknowledged by the Parties, Grantor and Grantee do hereby covenant and agree as follows:

1. Defined Terms. Capitalized terms used but not defined in this Amendment will have the meanings given to them in the Agreement.

2. Legal Description of the Air Rights Easement Parcel. The legal description of the Air Rights Easement Parcel attached as Exhibit C to the Agreement is hereby deleted in its entirety and replaced with the description and depiction attached as Exhibits C and C-1, respectively.

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3. Ratification. As expressly modified by this Amendment, the Agreement is hereby ratified and confirmed by Grantor and Grantee.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed under seal by their duly authorized representatives as of the date first set forth above.

**GRANTOR:**

Signed, sealed and delivered  
in the presence of:

**CITY OF DUNWOODY, GEORGIA**

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
(NOTARY SEAL)

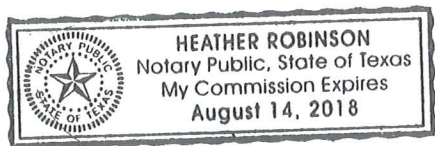
[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

Signed, sealed and delivered  
in the presence of:

*Arsis Barnett*  
Witness

*Heather M*  
Notary Public

My Commission Expires:  
8-14-18  
(NOTARY SEAL)



**GRANTEE:**

**ATLANTA OFFICE INVESTMENT, L.L.C.,**  
a Delaware limited liability company

By: Transwestern Investment Management, L.L.C.,  
a Delaware limited liability company, as  
Managing Member

By: *Laurie Dotter* (SEAL)  
Name: Laurie Dotter  
Title: President

**EXHIBIT C****DESCRIPTION OF AIR RIGHTS EASEMENT PARCEL**

All that tract or parcel of land lying and being in Land Lot 348 of the 18<sup>th</sup> District, City of Dunwoody, Dekalb County, Georgia and being more particularly described as follows:

A three-dimensional volume of air space having its bottom horizontal plane located at an elevation of 985.00 feet above mean sea level NAVD 88 DATUM (as per the site Benchmark shown on the ALTA/ACSM Land Title Survey prepared by TerraMark Land Surveying, Inc. for Atlanta Office Investment, L.L.C. State Farm Mutual Automobile Insurance Company, Transwestern Investment Management, L.L.C., General Electric Credit Equities, Inc., and Chicago Title Insurance Company, dated August 12, 2013.) based upon RTK GPS observation on the aforesaid benchmarks and having the sides of such volume of air space being perpendicular to and above such horizontal plane and within the boundaries of the following described property:

Commencing at a 1-inch square rod found at the Southwest corner of Land Lot 348 (said corner being the common corner of Land Lots 329 & 348 of the 18<sup>th</sup> District of Dekalb County, Georgia and Land Lots 17 & 18 of the 17<sup>th</sup> District of Fulton County, Georgia) labeled POB; thence, leaving the aforesaid point north 69°42'27" East for a distance of 931.42 feet to a point on the easterly Right-of-Way of Perimeter Center Parkway; said point being the True Point of Beginning.  
Thence, from said True Point of Beginning as thus established and leaving the aforesaid right-of-way of Perimeter Center Parkway:

1. SOUTH 64°03'56" WEST FOR A DISTANCE OF 91.90 FEET;
2. THENCE, SOUTH 74°33'39" WEST FOR A DISTANCE OF 63.28 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF PERIMETER CENTER PARKWAY;
3. THENCE, ALONG SAID WESTERLY RIGHT-OF-WAY OF PERIMETER CENTER PARKWAY NORTH 26°36'38" WEST FOR A DISTANCE OF 36.70 FEET;
4. THENCE, LEAVING THE AFORESAID WESTERLY RIGHT-OF-WAY OF PERIMETER CENTER PARKWAY AND RUNNING NORTH 74°33'42" EAST FOR A DISTANCE OF 67.07 FEET;
5. THENCE, NORTH 64°03'56" EAST FOR A DISTANCE OF 88.25 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF PERIMETER CENTER PARKWAY;
6. THENCE, ALONG SAID EASTERLY RIGHT-OF-WAY OF PERIMETER CENTER PARKWAY SOUTH 26°29'12" EAST FOR A DISTANCE OF 36.00 FEET TO THE

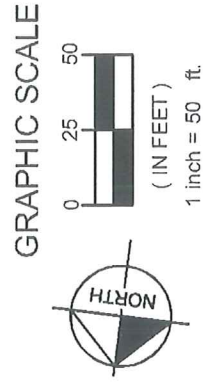
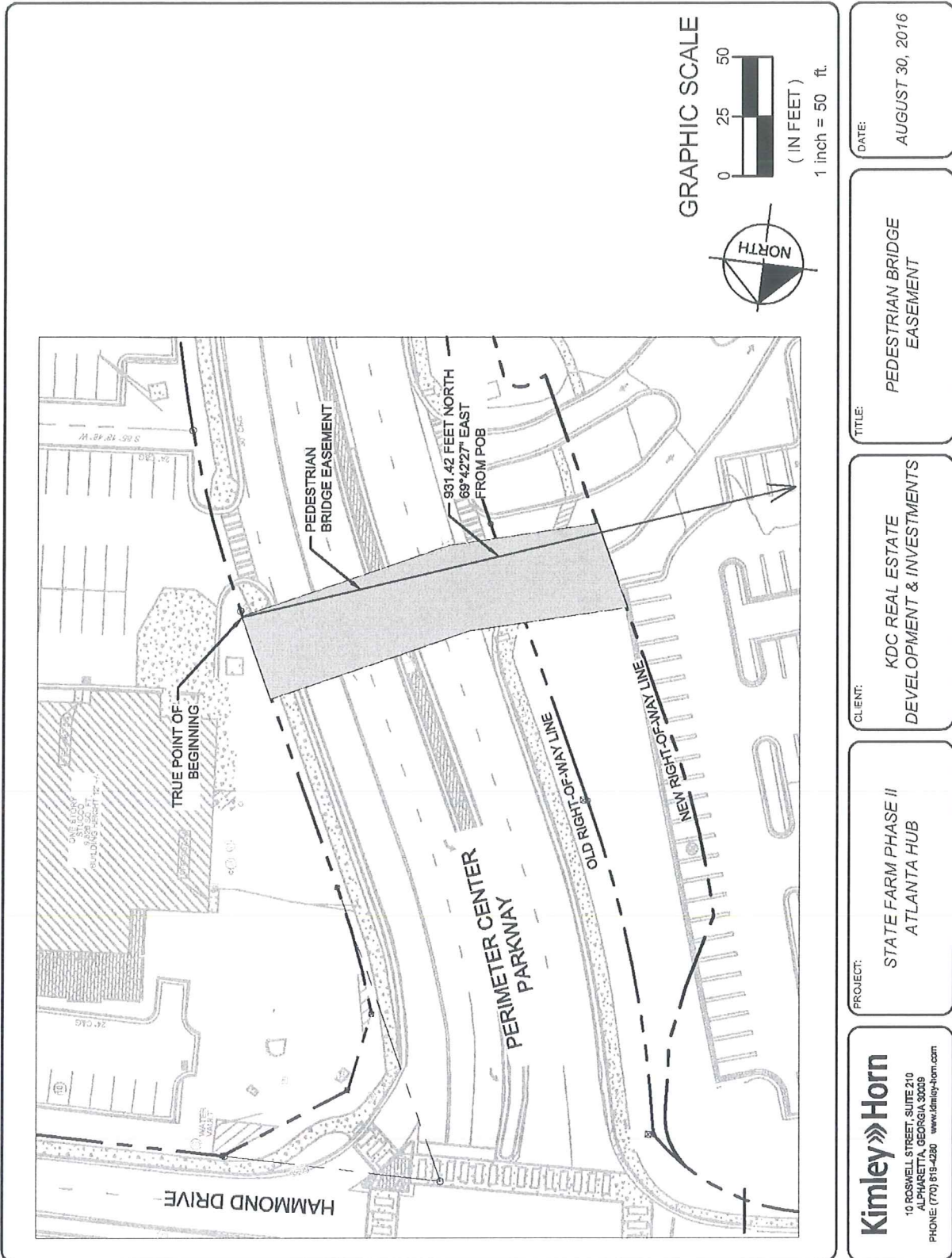
#20.

TRUE POINT OF BEGINNING, CONTAINING 0.13 ACRES OF LAND, MORE OR  
LESS.



**EXHIBIT C-1**

**DEPICTION OF AIR RIGHTS EASEMENT PARCEL**



DATE: AUGUST 30, 2016

TITLE: PEDESTRIAN BRIDGE EASEMENT

CLIENT: KDC REAL ESTATE DEVELOPMENT & INVESTMENTS

PROJECT: STATE FARM PHASE II ATLANTA HUB

**Kimley»Horn**  
 10 ROSWELL STREET, SUITE 210  
 ALPHARETTA, GEORGIA 30009  
 PHONE: (770) 619-4280 www.kimley-horn.com

C:\P\F\101977000\_KDC - State Farm - Phase II\CAD\Exhibits\2016-09-22 Bridge Easement Revision\2016-09-22 Bridge Easement and Bridge Easements.dwg Ped Bridge - Legal Aug 30, 2016 5:05pm by:Emily.Flood