

MEMORANDUM

To: Mayor and Council

From: Michael Smith, Public Works Director

Date: September 26, 2016

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

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.

#6.

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)

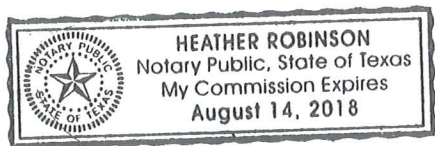
[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

Signed, sealed and delivered
in the presence of:

Arsia 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 18th 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 18th District of Dekalb County, Georgia and Land Lots 17 & 18 of the 17th 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:

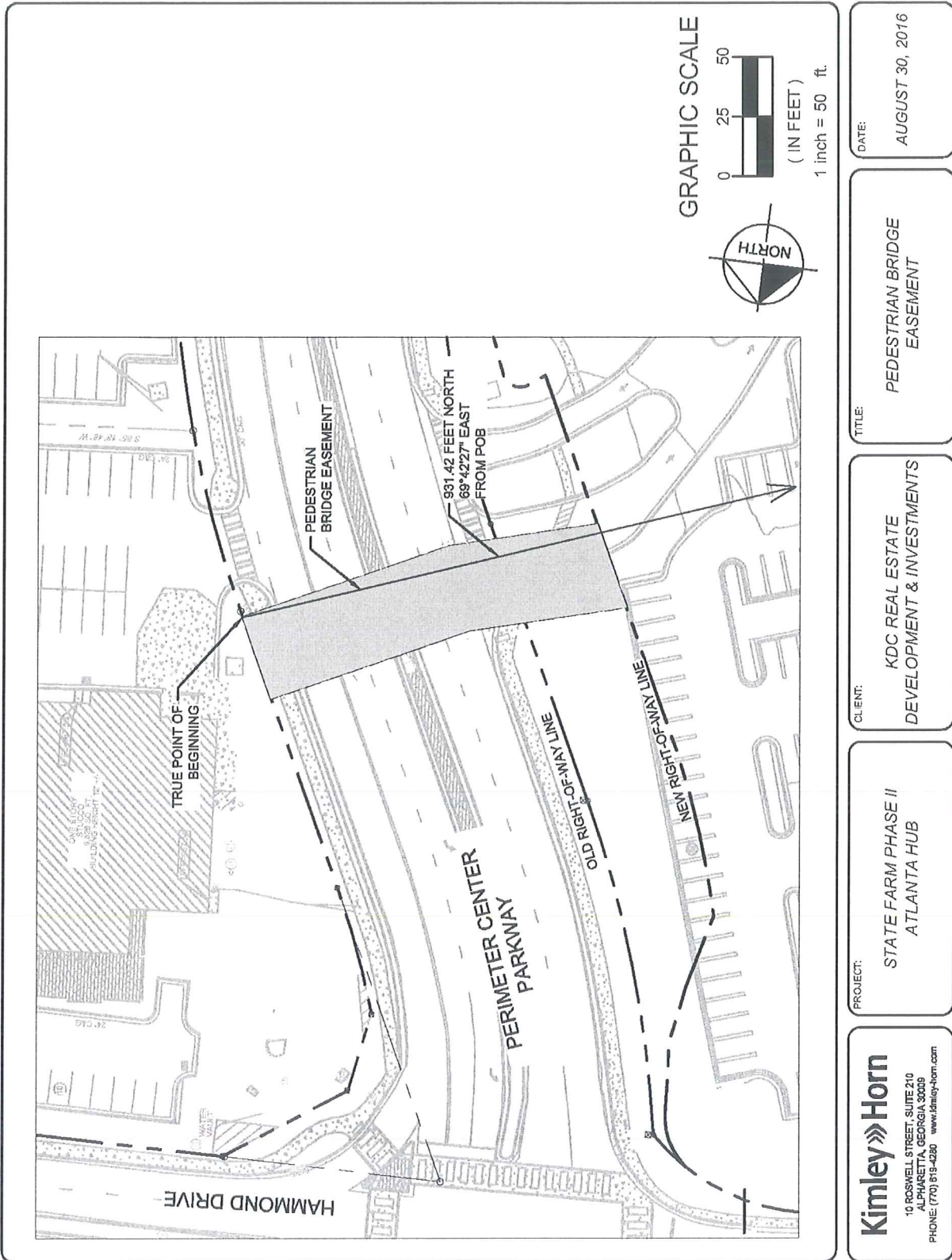
1. SOUTH 64°03'56" WEST FOR A DISTANCE OF 91.90 FEET;
2. THENCE, SOUTH 74°33'39" WEST FOR A DISTANCE OF 63.28 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF PERIMETER CENTER PARKWAY;
3. THENCE, ALONG SAID WESTERLY RIGHT-OF-WAY OF PERIMETER CENTER PARKWAY NORTH 26°36'38" WEST FOR A DISTANCE OF 36.70 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

#6.

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

EXHIBIT C-1

DEPICTION OF AIR RIGHTS EASEMENT PARCEL



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