

RECORDED
STATE PROPERTIES COMMISSION

Counterpart No. 1 Of 1
Original Executed Counterparts.
Counterpart of

STATE OF GEORGIA
COUNTY OF CHEROKEE

JUN 18 2014
" 011405
REAL PROPERTY RECORDS

INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN
THE STATE OF GEORGIA AND THE CITY OF CANTON, GEORGIA

11th day of June, 2014, (hereinafter referred to as "the date hereof,") by and between the, State of Georgia (hereinafter referred to as the "State") acting by and through the State Properties Commission (hereinafter referred to as the "SPC"), a public body in the executive branch of the government of the State of Georgia, and the City of Canton, Georgia, a municipal corporation of the State of Georgia, (hereinafter referred to as the "City").

WITNESSETH THAT:

WHEREAS, the State is the owner of 2.35 acres, more or less, which is a portion of real property commonly known as the National Guard Armory located the City of Canton, Cherokee County, Georgia, more particularly described on Exhibit "A" attached hereto and made a part hereof (herein referred to as the "Property") and under the custody and control of the Georgia Department of Defense (hereinafter referred to as "DOD"); and

WHEREAS, the City owns and operates a wastewater treatment plant (herein referred to as the "City Plant") on Marietta Highway that is adjacent to the Property, and holds a 0.23 acre, 20 feet wide easement from the State more particularly described in Exhibit "B-1," attached hereto and incorporated herein by this reference, (hereinafter referred to as the "City Easement") which the City uses to access the City Plant; and

WHEREAS, the City desires to reconstruct and expand the City Plant and desires ownership of the Property; and

WHEREAS, as part of such reconstruction and expansion, the City will repair and repave a portion of State-owned property more particularly described in Exhibit "B-2," attached hereto and incorporated by this reference (hereinafter referred to as the "Repair Site") in accordance with the specifications set forth by the Adjutant General of DOD (said reconstruction and expansion of the City Plant and repair and repaving of the Repair Site are hereinafter collectively referred to as the "Work"); and

WHEREAS, upon completion of the Work, the City will discontinue use of the City Easement, and the City will convey its interest in the City Easement to the State; and

WHEREAS, in consideration of: i) the City's completion of the Work on the Repair Site; ii) and the City's conveyance of any and all interest in the City Easement to the State, the State will convey by appropriate instrument any and all interest in the Property to the City; and

WHEREAS, in Resolution 20090527, adopted May 27, 2009, the Mayor and the Council of the City authorized the conveyance of the City Easement to the State by quit claim deed in consideration of the above mentioned conditions; and

WHEREAS, in 2009 Resolution Act No. 96 (S.R. 294), approved May 1, 2009, the General Assembly authorized the conveyance of the Property to the City by appropriate instrument, acting by and through the SPC, in consideration of the satisfaction of the above mentioned conditions, and such further

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consideration and provisions as the SPC shall in its discretion determine to be in the best interests of the State; and

WHEREAS, the State Properties Commission, at its duly called meeting on May 21, 2009, approved the conveyance of the Property as authorized by said Resolution Act.

NOW, THEREFORE, for and in consideration of the mutual public good and benefits and the mutual covenants and agreements set forth herein, all of which both parties respectively agree constitute good and sufficient consideration, the parties hereto agree:

A.

REAL PROPERTY CONVEYANCES AND RESERVATIONS

1. Subject to the terms and conditions contained herein, the State will convey to the City, the Property "as is and where is," in accordance with the purchase and sale process detailed in Exhibit "C," attached hereto and incorporated by this reference (hereinafter referred to as "Closing"). The conveyance of the Property shall not include the conveyance of any personalty the ownership, possession and use of which shall remain solely with the State.
2. The City has or shall cause to be prepared a recordable survey and metes and bounds legal description of: i) the Property; and ii) the City Easement. Said surveys and legal descriptions shall be prepared by a licensed registered surveyor. The City shall also cause an engineered drawing of the Repair Site to be prepared. The legal descriptions shall be approved by the State at or before closing. The surveys and legal descriptions in their final, approved form shall be included with the appropriate instruments of conveyance at Closing (hereinafter referred to as "Deed").
3. The City is authorized under this IGA to commence work on the site upon execution of the IGA.
4. The State's obligation to convey the Property is contingent upon:
 - a. The City conveying any and all interest in the City Easement to the State at Closing. The parties hereto may designate an escrow agent to retain any conveying instruments and deliver the instrument to the other party at a mutually agreed upon later date; and
 - b. The City's completion of the Work on the Repair Site to the satisfaction of the Adjutant General of DOD, such satisfaction is in the sole discretion of the Adjutant General of DOD, on the Repair Site in accordance with those specifications set forth by the Adjutant General of DOD.

B.

NOTICES

All notices, requests, demands and other communications provided for hereunder shall be in writing and shall be sent by: i) facsimile transmission to the facsimile number set indicated below (with an immediate telephone call to the number indicated below to confirm delivery); ii) mailed by first class United States certified mail, return receipt requested, delivered by overnight carrier (such as, but not limited to, UPS, Federal Express or DHL); or iii) personally delivered to the applicable party at the addresses indicated below:

To State: Attention: Executive Director
 State Properties Commission
 47 Trinity Avenue, Suite G-02
 Atlanta, Georgia 30334

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With copy to DOD: Maj. Stephen "Matt" Johnston,
Georgia Department of Defense
1084 Marietta Hwy
Canton, Georgia 30114

To City: Attention: City Attorney
City of Canton, Georgia
151 Elizabeth St
Canton, Georgia 30114

C.
GENERAL PROVISIONS

1. The Georgia law prohibiting certain public officials and employees of the State from transacting business with certain state agencies (O.C.G.A. § 45-10-2) has not and will not be violated in any respect by the execution and implementation of this Agreement.
2. All time limits stated herein are of the essence.
3. If any one or more of the provisions contained herein is for any reason held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
4. All provisions of this Agreement shall survive the Closing and shall not be merged into either the Deed or any other instruments, documents or pleadings executed by the parties either prior to or at the Closing.
5. The brief headings or titles preceding each section hereof is for purposes of identification and convenience only and should be disregarded in construing this Agreement.
6. This Agreement shall be governed, construed under, performed and enforced in accordance with the laws of Georgia.
7. This Agreement may be executed in two (2) counterparts (State's counterpart, and the City's counterpart) which shall be separately numbered and identified but each of which is deemed an original of equal dignity with the other and which is deemed one and the same instrument as the other.
8. The stipulations, provisions, covenants, agreements, terms and conditions, contained in the "whereas" clause and the attached Exhibits, are incorporated into this Agreement by this reference.
9. This Agreement and the Exhibits attached hereto supersedes all prior negotiations, discussions, statements and agreements between the State and the City and constitutes the full, complete and entire agreement between the State and the City with respect hereto; no member, officer, employee, agent or representative of State or the City has authority to make, or has made, any statement, agreement, representation or contemporaneous agreement, oral or written, in connection herewith, amending, supplementing, modifying, adding to, deleting from, or changing the provisions of this Agreement. No modification of or amendment to this Agreement shall be binding on the State and the City unless such modification or amendment is signed by every party hereto.

IN WITNESS WHEREOF, the State and the City, acting by and through its duly authorized officials have caused this Agreement to be signed and sealed on the date hereof.

STATE OF GEORGIA

Acting by and through the State
Properties Commission:

By: Nathan Deal (Seal)

NATHAN DEAL
Governor, as Chairman of the
State Properties Commission

Attest: Steven L. Stancil (Seal)

STEVEN L. STANCIL
Executive Director of the
State Properties Commission

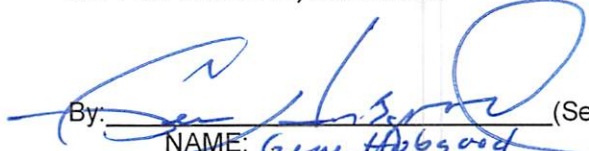



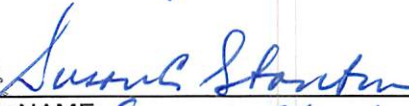
(Signatures continued on next page)

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(Signatures continued from previous page)

CITY OF CANTON, GEORGIA:

By:  (Seal)
NAME: Gene Hobbgood
Title: Mayor

 Attest:  (Seal)
NAME: Susan C. Stanton
Title: City Clerk
Approved as to Form:
Robt M. Nye
City Attorney

Approved by Canton City Council
on May 15, 2014

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LIST OF EXHIBITS

- A. LEGAL DESCRIPTION OF PROPERTY
- B. LEGAL DESCRIPTION
 - B-1 LEGAL DESCRIPTION OF CITY EASEMENT
 - B-2 LEGAL DESCRIPTION OF REPAIR SITE
- C. PURCHASE AND SALE PROCEDURES

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EXHIBIT "A"
DESCRIPTION OF PROPERTY

All that tract or parcel of land lying, situate and being in Land Lot 159 of the 14th Land District of Cherokee County, Georgia, containing 2.35 acres and being more particularly described on a plat prepared by H. B. & P. Surveying, Inc., John O. Huffman, Georgia Registered Land Surveyor No. 2034, for "City of Canton", dated January 15, 2009, revised January 21, 2009, and recorded at Plat Book 111, Page 100, Cherokee County Georgia Deed Records, which plat is incorporated herein by reference hereto for a more complete and accurate description.

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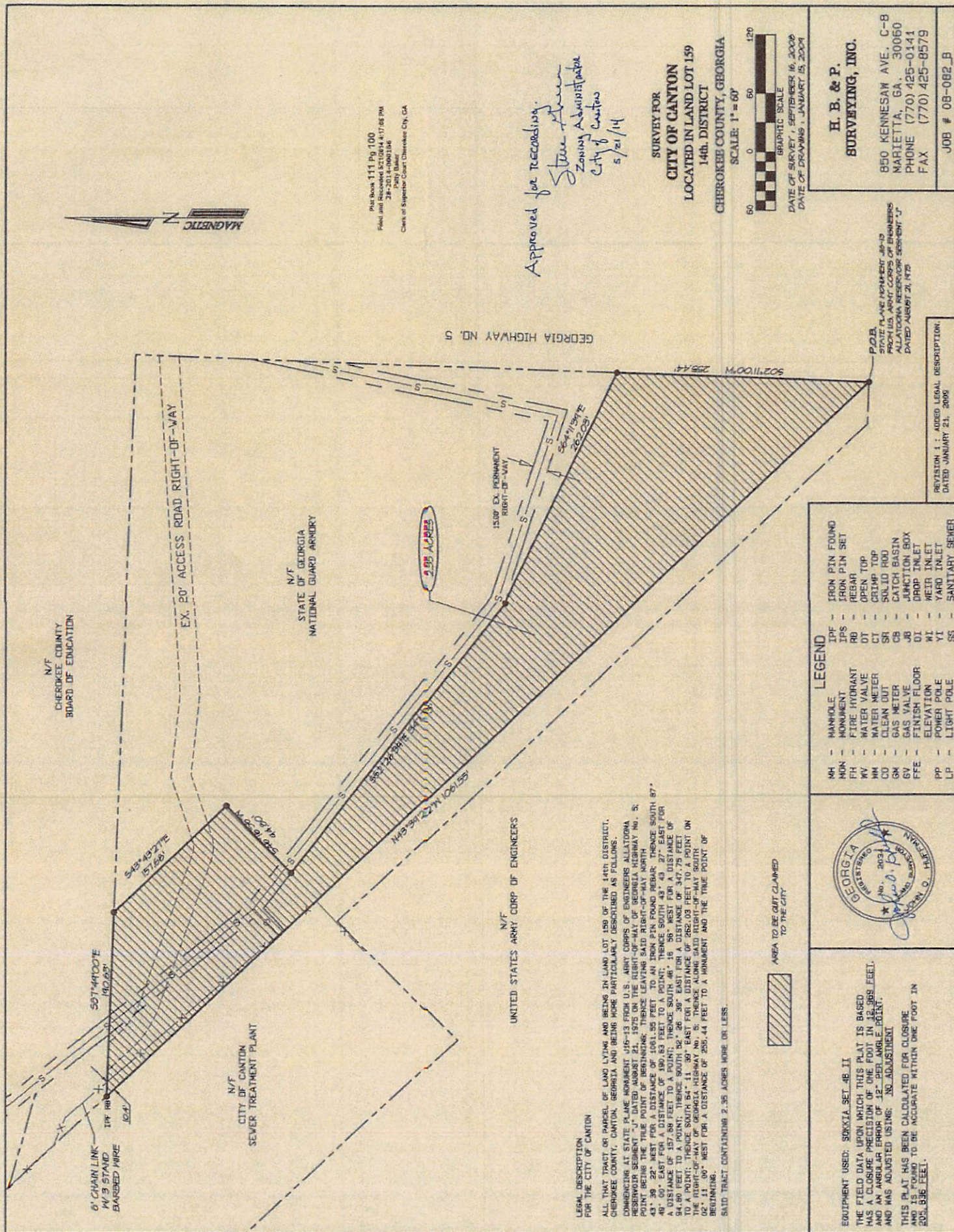


EXHIBIT "B-1"
DESCRIPTION OF CITY EASEMENT

All that tract or parcel of land lying, situate and being in Land Lot 159 of the 14th Land District of Cherokee County, Georgia, containing 0.23 acres and being more particularly described as "Existing 20' Access Road Right-of-Way" on a plat prepared by H. B. & P. Surveying, Inc., John O. Huffman, Georgia Registered Land Surveyor No. 2034, for "Department of Defense State of Georgia", dated January 15, 2009, revised January 21, 2009, and recorded at Plat Book 111, Page 101, Cherokee County Georgia Deed Records, which plat is incorporated herein by reference hereto for a more complete and accurate description.

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IRON PIN FOUND	1PF	-	-	-	-	KNHOLE
IRON PIN SET	1PS	-	-	-	-	NON - MONUMENT
REBAR	RB	-	-	-	-	FIRE HYDRANT
OPEN TOP	OT	-	-	-	-	WATER VALVE
CHAMP TOP	CT	-	-	-	-	METER
SOLID ROD	SR	-	-	-	-	CLEAN OUT
CATCH BASIN	CB	-	-	-	-	GAS METER
JUNCTION BOX	JB	-	-	-	-	GAS VALVE
DROP INLET	DI	-	-	-	-	FINISH FLOOR
WEIR INLET	WI	-	-	-	-	ELEVATION
YARD INLET	YI	-	-	-	-	PUMP POLE
SANITARY SEWER	SS	-	-	-	-	LIGHT POLE

H. B. & P.
SUNVEYING, INC.
850 KENNESAW AVE. C-8
MAHETTA, GA. 30060
PHONE (770) 425-0141
FAX (770) 425-8579
JOB # 08-082-A

CONKORING AT STATE PLANE MONUMENT JIB-138 FROM U.S. ARMY CORPS OF ENGINEERS ALLTODON.
RESURGENT RIVER. DATE: 7/27/00. THE DISTANCE OF GEORGIA HIGHWAY NO. 5,
FROM A POINT BEING THE TRUE POINT OF BEGINNING, THERE LEAVES SAID RIGHT-OF-WAY
GEORGIA HIGHWAY NO. 51, 49' WEST FOR A DISTANCE OF 347.23 FEET TO A POINT;
MEAS FOR A DISTANCE OF 96.27 FEET TO A POINT; THENCE SOUTH 71.12 N. 58'
WEST FOR A DISTANCE OF 92.56 FEET TO A POINT; THENCE NORTH 89.24 W. 42'
POINT; THENCE NORTH 89.31 E. 81' EAST FOR A DISTANCE OF 66.15 FEET TO A
POINT; THENCE NORTH 89.31 E. 81' EAST FOR A DISTANCE OF 347.43 FEET TO A POINT ON RIGHT-OF-WAY
DISTANCE OF 20.00 FEET TO A POINT AND THE TRUE POINT OF BEGINNING.

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 159 OF THE 14TH DISTRICT, CHEROKEE COUNTY, CANTON, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LEGAL DESCRIPTION

N/F
UNITED STATES ARMY CORP OF ENGINEERS

N/F
CITY OF CANTON
SEWER TREATMENT PLANT

N/F
CHEROKEE COUNTY
BOARD OF EDUCATION

N/F
STATE OF GEORGIA
NATIONAL GUARD ARMORY

0.23 ACRES

GEORGIA HIGHWAY NO. 5

50211007M 645.86'
TO STATE PLANE MONUMENT J16-18
FROM U.S. ARMY CORPS OF ENGINEERS
ALLATOONA RESERVOIR SEGMENT "J"
DATED AUGUST 21, 1975

02.11.00 W
20.09
-P.O.B.

MAGNETIC Z

Approved for Recording.
~~_____~~
Zoning Administrator
City of Canton
5/21/14

DEPARTMENT OF DEFENSE
SURVEY FOR
STATE OF GEORGIA
LOCATED IN LAND LOT 159
14th. DISTRICT
CHEROKEE COUNTY, GEORGIA

Plat Book 111 Pg 101
Filed and Recorded 5/2/2014 4:28:55 pm
28-2014-000167
Patty Baker
Clerk of Superior Court Cherokee City, GA

AREA TO BE CUT CLAIMED
TO THE STATE

GRAPHIC SCALE
DATE OF SURVEY: SEPTEMBER 10, 2008
DATE OF DRAWING: JANUARY 15, 2009

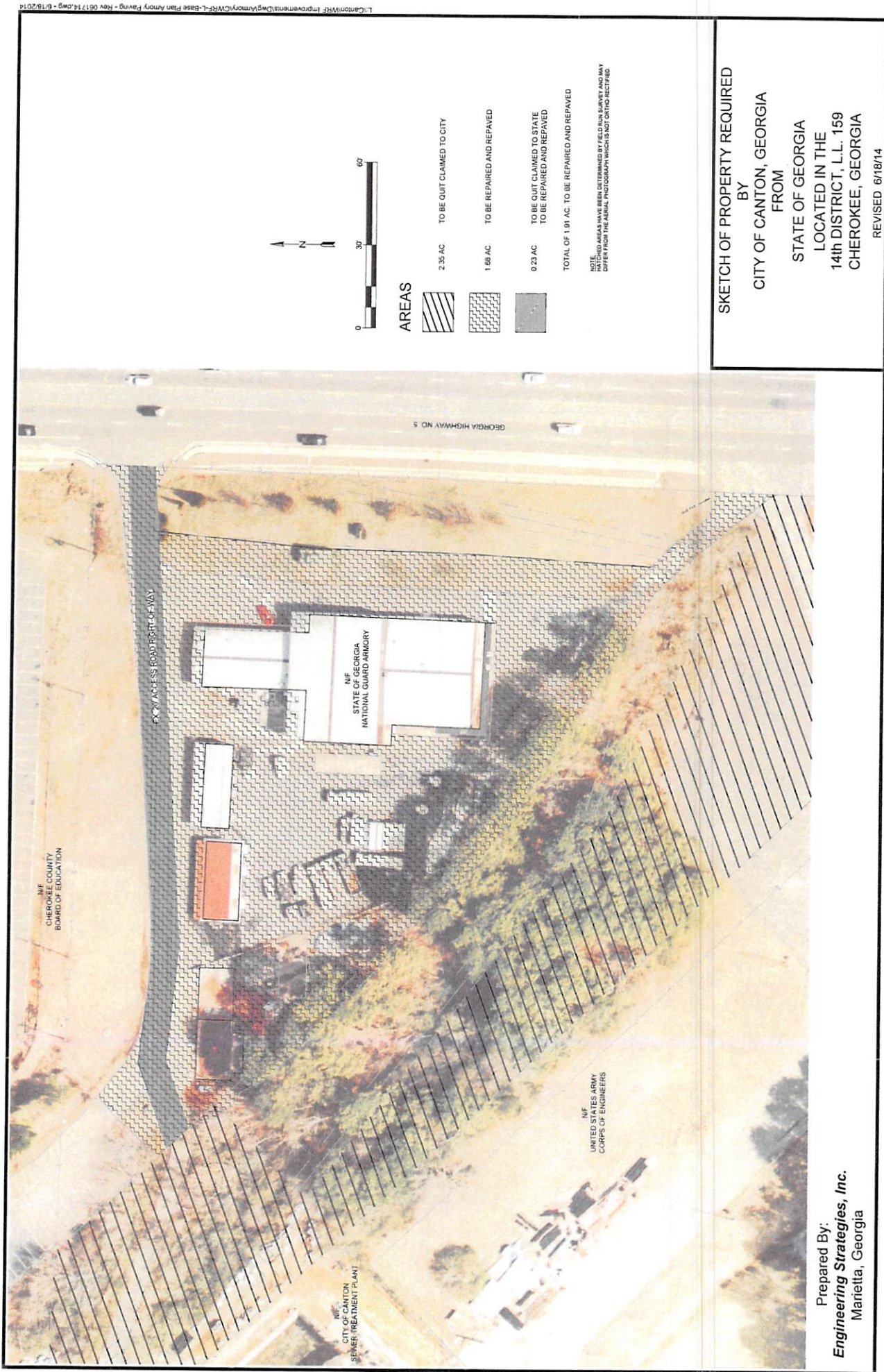
LEGEND

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EXHIBIT "B-2"
DESCRIPTION OF REPAIR SITE

All that tract or parcel of land lying, situate and being in Land Lot 159 of the 14th Land District of Cherokee County, Georgia, containing 1.91 acres and being more particularly described on a plat prepared by H. B. & P. Surveying, Inc., John O. Huffman, Georgia Registered Land Surveyor No. 2034, for "Department of Defense State of Georgia", dated January 15, 2009, revised January 21, 2009, and recorded at Plat Book _____, Page _____, Cherokee County Georgia Deed Records, which plat is incorporated herein by reference hereto for a more complete and accurate description.

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SKETCH OF PROPERTY REQUIRED
BY
CITY OF CANTON, GEORGIA
FROM
STATE OF GEORGIA
LOCATED IN THE
14th DISTRICT, L.L. 159
CHEROKEE, GEORGIA

REVISED 6/18/14

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Prepared By:
Engineering Strategies, Inc.
Marietta, Georgia

EXHIBIT "C"
PURCHASE AND SALE PROCESS

1. ENTRY ONTO THE PROPERTY: Acting at its own risk and expense, the City or its authorized representatives shall have the right to enter onto the Property for the purposes of undertaking an inspection, appraisal and survey. In exercising the permission hereby given, the City shall and does hereby agree to indemnify, defend and hold the State of Georgia harmless from any loss or liability suffered by State as a result of its entry upon the Property.

2. RISK OF LOSS AND DAMAGE: Pending the consummation of the transaction contemplated by this Agreement, the risk of loss of the Property will remain with the State.

3. TITLE EXAMINATION: The City shall have thirty (30) days within which to examine the title to the Property and secure, at the City's expense, a written owner's title insurance commitment, hereinafter referred to as "Commitment," from a title insurance company of the City's choice licensed to do business in the State, to insure, at its standard rates, subject to its standard exceptions and exclusions, the title to the Property. If the commitment sets forth any title objections, then the State of Georgia will analyze the title objections and determine, in its sole discretion, whether or not to cure the same. The Property is being sold "as is, where is, and with all faults" and State makes no warranty of any type or kind whatsoever.

4. CLOSING.

a) The Closing Date of this transaction shall be on or before the _____ day following the date of this Agreement. The Closing Date, and the time and place of Closing, shall be designated by the City, and notice thereof shall be given to the SPC not less than seven (7) days prior to the designated Closing Date. The City shall designate the attorney who will conduct the Closing (hereinafter referred to as the "Closing Attorney") and said Closing Attorney shall represent the City at the Closing.

b) At or before the Closing, the State and the City shall respectively pay the following costs and expenses, (hereinafter referred to as "Expenses"):

1. The State shall pay:

- (i) Fees of the State attorney; and
- (ii) All other expenses actually incurred by State.

2. The City shall pay:

- (i) Fees and expenses of the City's attorney(s); and
- (ii) Fee for examination and certification of the title to the Property; and
- (iii) Fee and premium to a title insurance company for the commitment and any issued owners title insurance policy; and
- (iv) Expenses for filing and recording the Fee Simple Deed without Warranty and any other documents or instruments which the City deems necessary or desirable to place of record; and
- (v) The expenses of any inspection, appraisal or field survey (or resulting plat of survey) of the Property obtained by the City; and
- (vi) Any real property ad valorem taxes that may be assessed and levied against the Property by the taxing authorities of any city or county; and
- (vii) Any other expenses actually incurred by the City.

(c) At the Closing, State and the City shall each deliver to the other the following:

- (i) The City shall tender to the State a fully executed deed.
- (ii) The State shall deliver to the City the following:

(a) A Deed; and

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(b) If requested, a copy of official records of State of Georgia authorizing execution of the Deed and other instruments, documents and legal pleadings necessary to implement and finalize this transaction; and

(c) If requested, a State of Georgia Real Estate Transfer Tax Declaration.

6. DELIVERY OF POSSESSION: No later than ninety (90) days after the date of Closing unless the City defaults under the Agreement, the State will deliver to the City possession to the Property in the same condition as the Property exists on the date hereof, acts of God, normal wear and tear, and the commission of any criminal acts on or to the Property, excepted.

7. REAL ESTATE BROKERS AND ATTORNEYS: The State and the City, respectively, represents that they respectively, have not retained an agent or broker in this transaction.

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