



STATE PROPERTIES COMMISSION

270 Washington Street, Suite 2-129, Atlanta, Georgia 30334

Chairman
Nathan Deal
Governor

Executive Director
Steven L. Stancil

May 12, 2016

City of Canton
151 Elizabeth Street
Canton, Georgia 30114

RE: SPC File # 605.259 Revocable License

Dear City of Canton:

Enclosed is the State of Georgia's Revocable License Agreement for the purpose of the construction and installation of water lines and associated equipment on State owned property in the custody of the Department of Defense at the Canton Armory.

Please have the documents signed and return both counterparts to our office for execution and recordation in the State's inventory. The following will need to be submitted along with the signed agreements: a certificate of self-insurance or insurance policy with evidence reasonably satisfactory that the premiums have been paid for a period at least covering the License Period. In addition, please reference the above listed file number on the insurance certificate.

Once the documents have been fully executed, an original will be forwarded to your attention. Should you have any questions, please contact my office at (404) 656-5602.

Sincerely,

J. Frank Smith
Deputy Executive Director

Enclosures (2)

No. _____ of 2 Executed Original Counterparts

COUNTERPART OF _____

SPC No. 605.259

**STATE OF GEORGIA,
COUNTY OF CHEROKEE:**

REVOCABLE LICENSE AGREEMENT

This **REVOCABLE LICENSE AGREEMENT**, hereinafter referred to as "Agreement", is made this _____ day of _____, 2016, date of this Agreement, by and between the **STATE PROPERTIES COMMISSION**, a public body within the Executive Branch of the State government of Georgia, whose address for purposes of this Agreement is 270 Washington Street, Suite 2-129, Atlanta, Georgia 30334, **ATTENTION: Executive Director**, Party of the First Part, hereinafter referred to as "Licensor", and **CITY OF CANTON**, whose address for purposes of this Agreement is 151 Elizabeth Street, Canton, Georgia, 30114, Party of the Second Part, hereinafter referred to as "Licensee".

W I T N E S S E T H A T:

1.

USAGE, ABBREVIATIONS AND DEFINITIONS

1.1 As used in this Agreement, the following words, terms, and abbreviations set forth in this section numbered 1 refer to, or mean, or include in their meaning, the following:

1.1.1 The word "Licensor" means the State Properties Commission and includes in its meaning the words "its members, officers and employees".

1.1.2 The word "Licensee" includes in its meaning the words "its officers, employees, representatives and agents".

1.1.3 The words "revocable license" shall mean "the granting, subject to certain terms and conditions contained in a written Revocable License Agreement, to a named person or persons (Licensee), and to that person or persons only, of a revocable personal privilege to use a certain described parcel or tract of property to be known as the Licensed Premises for a named purpose. Regardless of any and all improvements and investments made, consideration paid, or expenses and harm incurred or encountered by the Licensee, a revocable license shall not confer upon the Licensee any right, title, interest, or estate in the Licensed Premises, nor shall a revocable license confer upon the Licensee a license coupled with an interest or an easement. A revocable license may be revoked, canceled, or terminated, with or without cause, at any time by the licensor (commission)". OCGA § 50-16-31(10).

1.1.4 The term "Revocable License Agreement" means both this Agreement and "a written instrument which embodies a revocable license and which sets forth the name of the parties thereto and the terms and conditions upon which the revocable license is granted". OCGA § 50-16-31(11).

- 1.2 All words used in this Agreement include in their meaning the masculine, feminine, and neuter gender; singular and plural number; and present, past and future tense; and all appropriate grammatical adjustments shall be assumed as though in each case fully expressed.
- 1.3 For convenience, when referring herein to either Licensors or Licensee, the third person, neuter gender "it" is used.

2.

LICENSED PREMISES

Licensors, for and in consideration of the payment by Licensee to Licensors of the sum of \$10.00 (the receipt and sufficiency of which are hereby acknowledged as Licensors has determined that the revocable license herein directly benefits the State and that the consideration set forth herein is thereby deemed adequate), hereby grants to Licensee, and Licensee hereby accepts from Licensors, a revocable license to the extent the title permits and subject to the terms, conditions, and provisions of this Agreement and OCGA § 50-16-42, over the following described real property, hereinafter referred to as the "Licensed Premises":

That tract, parcel or portion of State owned real property covering approximately 0.463 of an acre situate, lying and being in Land Lot 159 of the 14 Land District 2nd Section of Cherokee County, Georgia as shown by on an engineer drawing marked Exhibit "A", attached hereto and incorporated herein.

The Licensed Premises is presently under the custody of the Georgia Department of Defense.

3.

USE OF LICENSED PREMISES

At its sole cost, expense, risk and responsibility, Licensee shall use the Licensed Premises only for the purpose, and for no other purpose whatsoever, of the construction of a water line and associated equipment.

4.

DURATION

- 4.1 Licensee may use the Licensed Premises during the period beginning on the date hereof and ending at 12:00 midnight on the third anniversary of the date hereof, for so long as licensee uses the Licensed Premises for the purposes permitted in Section 3 above and unless previously revoked pursuant to Section 5 below. If not previously revoked or terminated, this Revocable License shall stand revoked, without the necessity of Licensors

given any notice to Licensee, at 12:00 midnight on the third anniversary of the date hereof.

- 4.2 Licensee shall seek passage of a Resolution Act by the 2017 Regular Session of the General Assembly authorizing the granting by the State, acting by and through the Licensors, of a permanent nonexclusive easement for the permitted purposes and on similar terms, conditions and provisions.

5. REVOCATION

- 5.1 This Agreement merely grants to Licensee a revocable license as set forth in Subsection 1.1.3 above. Licensee, by its acceptance and execution of this Agreement, hereby acknowledges and agrees that this Revocable License Agreement does not confer upon Licensee any right, title, interest, or estate in the Licensed Premises, nor confer upon the Licensee a license coupled with an interest nor confer upon Licensee an easement in the Licensed Premises. It is expressly understood and agreed by Licensee that this Agreement confers upon Licensee, and only Licensee, a mere personal privilege, and that regardless of any and all improvements and investments made, consideration paid, or expenses and harm incurred or encountered by Licensee, this Agreement and the privileges hereby conferred shall be subject to absolute revocation by Licensors, with or without cause, upon notice to Licensee as set forth in Section 12 below.
- 5.2 Following revocation, this Agreement and the revocable license contained herein shall become null and void, and Licensee shall have no right whatsoever to be or remain on the Licensed Premises or to receive a refund of any consideration or any other monetary payment. Licensee covenants and agrees, at its sole cost and expense to remove its facilities from the Licensed Premises and to restore the Licensed Premises to as good or better condition as when received hereunder. Any property of Licensee remaining on the Licensed Premises at the end of said License Period shall be deemed abandoned by Licensee and shall belong to and be the absolute and sole property of the State without further notice, action taken, instrument or conveyance executed or delivered, and without liability to make compensation therefore to Licensee or to any other person whomsoever, and shall be free and discharged from any and every lien, encumbrance, claim and charge of any character created, or attempted to be created, by Licensee at any time.

6. DAMAGE TO LICENSED PREMISES AND STATE PROPERTY

Licensee hereby agrees that if any property of the State is damaged as a result of the exercise by Licensee of the revocable license herein granted, then, at the election of Licensors, Licensee either shall repair or restore the property or the Licensed Premises, or both, as the case may be, or shall pay the costs thereof, as determined by Licensors. Licensee shall pay the cost of such repair or restoration or commence in good faith the repair or restoration within ten (10) days after notice by Licensors with all repairs or restoration to be completed by Licensee within thirty (30) days thereafter. Revocation of this Agreement shall not relieve Licensee of its obligation to pay

for the cost of repair or restoration of the damaged property. This general provision is cumulative of all other remedies Licensor may have, including specific provisions hereof.

7.

INDEMNIFICATION

The revocable license herein granted to Licensee is to be used and enjoyed at the sole risk of Licensee, and in consideration of the benefits to be derived here from, Licensee hereby releases, relinquishes and discharges and agrees to indemnify, protect, save, and hold harmless Licensor and Licensor's officers, members, employees, agents, and representatives (including the State Tort Claims Trust Fund, the State Broad Form Employee Liability Fund and the State Authority Operational Liability Trust Fund) from and against all liabilities, damages, costs and expenses (including all attorney's fees and expenses incurred by Licensor or any of Licensor's officers, members, employees, agents, and representatives), causes of action, suits, demands, judgments, and claims of any nature whatsoever (excluding those based upon the sole negligence of Licensor concerning any activities within the scope of O.C.G.A. § 13-8-2(b) relative to the construction, alteration, repair, or maintenance of a building structure, appurtenances, and appliances, including moving, demolition, and excavating connected therewith), arising from, by reason of, or in connection with: (a) injury to or death of any person or damage to property (1) in or on the Licensed Premises (2) in any manner arising from use, non-use or occupancy by Licensee or any of Licensee's officers, employees, agents, representatives, customers, invitees, licensees or contractors or (3) resulting from a condition of the Licensed Premises, excluding any condition of the easement Agreement, if any; (b) violation of any agreement, representation, warranty, provision, term or condition of this Revocable License Agreement by Licensee or any of Licensee's officers, employees, representatives, agents or contractors; or (c) violation of any law affecting the Licensed Premises or the occupancy or use by Licensee of the Licensed Premises. This indemnity extends to the successors and assigns of Licensee and survives the termination of this Revocable License, and to the extent allowed by law, the bankruptcy of Licensee. If and to the extent such damage or loss (including costs and expenses) as covered by this indemnification is paid by the above-referenced or other State self-insurance funds (collectively referred to as the Funds) established and maintained by the State of Georgia Department of Administrative Services Risk Management Division (DOAS), Licensee agrees to reimburse the Funds for such monies paid out by the Funds. Licensee shall, at its expense, be entitled to and shall have the duty to participate in the defense of any suit against the Indemnitees to the extent consistent with and permitted by the Georgia Tort Claims Act. The defense on behalf of Licensor or its covered officers or employees (including any settlement discussions) shall be conducted through the Attorney General of Georgia as provided by law. No settlement or compromise of any claim, loss or damage asserted against any Indemnitees shall be binding upon any Indemnitees unless expressly approved by the Indemnitees and the Attorney General of Georgia.

8.

LIABILITY INSURANCE

Licensee shall procure and maintain in full force and effect at all times during the term of this Agreement, through a self-insurance program or an insurance policy consistent with Section 7:

commercial general liability insurance, on an occurrence basis insuring against all liability and property damage of Licensor and Licensee and their members, officers, employees and agents arising from or in connection with the use or occupancy of the Premises by Licensee, its agents, employees, or others working at the direction of Licensee or on its behalf during the License Term, with liability limits of One Million Dollars (\$1,000,000.00) per person and of Three Million Dollars (\$3,000,000.00) per occurrence. Each policy also specifically shall insure performance of Licensee's obligation to indemnify Licensor pursuant to the Section 7 of this Agreement. A statement of policy limits herein shall not limit Licensee's liability under this Agreement.

9.

GENERAL REQUIREMENTS FOR INSURANCE POLICIES

Licensee shall pay the cost of all insurance coverage which Licensee is required to produce and maintain under this Agreement. Except where Licensee is self-insured, each insurance policy shall:

- a.) be issued by an insurer authorized to transact casualty insurance in Georgia;
- b.) be issued by an insurer with a current Best Policyholder's Rating of "A" or better and with a financial six rating of class "XI" or larger by A. M. Best Company, Inc.;
- c.) be issued on such form of policy, authorized in Georgia, as Licensor may reasonably approve;
- d.) provide that the policy cannot be canceled as to Licensor except after the insurer gives Licensor thirty (30) days prior written notice of cancellation;
- e.) state that notice of any claim against Licensor shall be deemed to have occurred only when an officer of Licensor has received actual notice, and has actual knowledge of the claim;
- f.) not be subject to invalidation as to Licensor by reason of any act or omission of Licensee or any of Licensee's officers, employees or agents; and
- g.) not be subject to invalidation as to Licensee by reason of any act or omission of Licensor or any of Licensor's officers, employees or agents.

Each policy required by this Agreement shall also contain a provision permitting Licensee to waive all rights of recovery and claims by way of subrogation.

Licensee shall not produce or maintain in force any insurance policy which might have the effect of reducing the loss payable under any of the policies required by this Agreement. Upon the request of Licensor, Licensee shall deliver a certificate of such self-insurance or insurance policy to Licensor, together with evidence reasonably satisfactory to Licensor that the premiums, as applicable, have been paid for a period at least covering the License Period.

10.

**SUBJECT TO APPROVAL BY ANY APPROPRIATE STATE REGULATORY
AGENCY, SUBJECT TO PRIOR GRANTS, AND CONDITION OF LICENSED
PREMISES**

Licensee accepts this grant of revocable license subject to approval by any appropriate State regulatory agency that the Licensee's proposed uses of the Licensed Premises meets all applicable safety and regulatory standards and requirements. Further, Licensee accepts this grant of revocable license subject to all ownership, prior permits, licenses, landlord and tenant relationships, easements, leases, and other rights or interests affecting the Licensed Premises whether the same be of agreement or not, and the revocable license granted herein by Licensor to Licensee must be exercised by Licensee so as to avoid interference with any of the said prior permits, licenses, landlord and tenant relationships, easements, leases, or other interests. Licensee acknowledges that it has fully inspected the Licensed Premises and accepts the same "as is". Licensor shall have no responsibility at any time to Licensee for the condition of the Licensed Premises and shall have no duty to the Licensee or to its licensees, invitees or trespassers concerning Licensee's use of the Licensed Premises or their entry on the Licensed Premises. Licensor makes no covenant of quiet enjoyment of the Licensed Premises whatsoever.

11.

ASSIGNMENT OR TRANSFER

This Revocable License Agreement and the rights herein granted may not be conveyed, assigned, transferred, managed or operated by any other entity without the express written consent of the State Properties Commission, which consent shall be given or not in the sole discretion of the State Properties Commission. Without limitation, any transfer or use of the property which may be characterized as a private activity by the Internal Revenue Service and thereby adversely affect the tax-exempt status of any public bond investment in the property is strictly prohibited. Any such use, conveyance, assignment, transfer, management or operation made without the consent of the State Properties Commission shall be void ab initio.

12.

NOTICES

All notices required by the provisions of this Agreement to be secured from or given by either of the parties hereto to the other shall be in writing and shall be delivered either: (a) by hand delivery to the recipient party at such party's address; or (b) sent by United States Certified Mail - Return Receipt Requested, postage prepaid, and addressed to the recipient party at such party's address. The day upon which such notice is hand delivered or so mailed shall be deemed the date of service of such notice. The parties hereto agree that, even though notices shall be addressed to the attention of a particular person, title, or entity as forth in this Agreement, it shall be a valid and perfected delivery of notice even though the said named person or the person holding said title or named entity is not the person, title or entity who accepts or receives delivery of the said notice, but is the lawful successor person, title or entity of the named person, title or entity. Any notice, hand delivered or so mailed, the text of which is reasonably calculated to apprise the recipient party of the substance thereof and the circumstances involved, shall be deemed

sufficient notice under this Agreement. Either party hereto may from time to time, by notice to the other, designate a different person or title, or both if applicable, or address to which notices to said party shall be given.

13.

GENERAL PROVISIONS OF THIS AGREEMENT

- 13.1 The brief capitalized and underlined headings or titles preceding each section herein are merely for purposes of section identification, convenience and ease of reference, and shall be completely disregarded in the construction of this Agreement.
- 13.2 All time limits stated herein are of the essence of this Agreement.
- 13.3 For the purpose of inspecting the Licensed Premises, Licensee shall permit Licensor, without giving prior notice, to enter on the Licensed Premises during either Licensor's regular business hours or Licensee's regular business hours.
- 13.4 No failure of either party hereto to exercise any right or power given to said party under this Agreement, or to insist upon strict compliance by the other party hereto with the provisions of this Agreement, and no custom or practice of either party hereto at variance with the terms and conditions of this Agreement, shall constitute a waiver of either party's right to demand exact and strict compliance by the other party hereto with the terms and conditions of this Agreement.
- 13.5 This Agreement shall be governed by, construed under, performed and enforced in accordance with the laws of Georgia.
- 13.6 Nothing contained in this Agreement shall make, or be construed to make, Licensor and Licensee partners in, of, or joint venturers with each other, nor shall anything contained in this Agreement render, or be construed to render, either Licensor or Licensee liable to a third party for the debts or obligations of the other.
- 13.7 If any provision of this Agreement, or any portion thereof, should be ruled void, invalid, unenforceable or contrary to public policy by any court of competent jurisdiction, then any remaining portion of such provision and all other provisions of this Agreement shall survive and be applied, and any invalid or unenforceable portion shall be construed or reformed to preserve as much of the original words, terms, purpose and intent as shall be permitted by law.
- 13.8 Should any provision of this Agreement require judicial interpretation, it is agreed and stipulated by and between the parties hereto that the court interpreting or construing the same shall not apply a presumption that the terms, conditions and provisions hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against the party who prepared the same.

- 13.9 This Agreement is executed in two (2) counterparts which are separately numbered and identified (No. 1 is for Licensors and No. 2 is for Licensee) 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.
- 13.10 In the enjoyment of the revocable license herein granted by Licensors to Licensee and of the rights and privileges incident thereto, Licensee shall at all times comply with all applicable laws of Georgia and of the United States, all applicable rules and regulations promulgated pursuant to any and all such laws, all applicable recommended standards, and all applicable local ordinances, including, but not limited to, codes, ordinances and recommended standards now or hereafter promulgated, and all applicable local rules and regulations and recommended standards promulgated pursuant to such codes and ordinances.
- 13.11 The revocation of this Agreement shall not operate to cut off any claims or causes of action in favor of Licensors or Licensee which occurred or arose prior to the effective date of such revocation.
- 13.12 Licensee, by its acceptance and execution of this Agreement, hereby acknowledges that it has not been induced by any representations, statements, or warranties by Licensors including, but not limited to, representations or warranties with respect to title to the Licensed Premises or the condition or suitability thereof for Licensee's purpose.
- 13.13 In its occupancy and use of the premises, Licensee shall not discriminate against any person on the basis of race, gender, color, national origin, religion, age, or disability. This covenant by Licensee may be enforced by termination of this Agreement, by injunction, and by any other remedy available at law to Licensors.

14.

ENTIRE AGREEMENT

This Agreement supersedes all prior negotiations, discussions, statements, and agreements between Licensors and Licensee and constitutes the full, complete and entire agreement between Licensors and Licensee with respect to the Licensed Premises and Licensee's use and occupancy thereof. No modification of or amendment to this Agreement shall be binding on either party hereto unless such modification or amendment shall be properly authorized, in writing, properly signed by both Licensors and Licensee and incorporated in and by reference made a part hereof.

WITNESS WHEREOF, Licensors and Licensees, acting pursuant to and in conformity with properly considered and adopted resolutions and acting by and through their duly authorized hereinafter named representatives, have caused these presents to be executed, all as of the date hereof.

LICENSOR

STATE PROPERTIES COMMISSION

Steven L. Stancil
as Executive Director of the State Properties
Commission

Signed, sealed, and delivered
in our presence:

Unofficial Witness

Official Witness, Notary Public

My Commission expires: _____

(NOTARY SEAL)

(STATE PROPERTIES COMMISSION
SEAL AFFIXED HERE)

(Signatures continued on next page.)

(Signatures continued from previous page.)

LICENSEE

CITY OF CANTON

By: _____ (Seal)

Name: _____

Title: _____

Signed, sealed, and delivered
in our presence:

Unofficial Witness

Attest: _____ (Seal)

Official Witness, Notary Public
My Commission expires: _____

(NOTARY SEAL)

(SEAL AFFIXED HERE)

LOCATED IN LAND LOT(S):
14TH DISTRICT, 2ND SECTION
CHEROKEE COUNTY, GEORGIA
SCALE: 1" = 50'
PROJECT NO. 100046484 SHEET NO. 01

192 Anderson Street, Suite 150
Mantoloking, NJ 08050
P. 770-933-0280 F. 770-426-5316

ATKINS

PERMANENT EASEMENT:

CONSTRUCTION EASEMENT

EXIST. 2" WATER MAIN-
(TO BE ABANDONED)

PROPOSED 20' PERMANENT EASEMENT

MARIETTA HIGHWAY
STATE ROUTE 140

RW

NOW OR FORMERLY
CHEROKEE COUNTY SCHOOL SYSTEM

1-6" 22 1/2" BEND
2-6" RETAINER GLANDS

1-6" X 6" TAPPING SLEEVE,
VALVE & BOX
1-VALVE MARKER

PROPOSED 6" D.I.P.
WATER MAIN

1-6" X 6" TAPPING SLEEVE,
VALVE & BOX
1-VALVE MARKER

PROPOSED 6" D.I.P.
WATER MAIN

EXIST. 2" WATER MAIN
(TO BE ABANDONED)

PROPOSED 20'
PERMANENT EASEMENT

PROPOSED 40'
CONSTRUCTION EASEMENT

STATE OF GEORGIA

CHEROKEE COUNTY SCHOOL SYSTEM

NOW OR FORMERLY

2-6" RETAINER GLANDS

1-6" 22 1/2° BEND

MARIETTA HIGHWAY
STATE ROUTE 140

CONSTRUCTION EASEMENT

PERMANENT EASEMENT

LEGEND

PERMANENT EASEMENT

CONSTRUCTION EASEMENT

10/1/00

Scale

0 10 20 30 40 50 60 70 80 90 100

Feet

North Arrow

482 L.F. PERMANENT EASEMENT
492 L.F. CONSTRUCTION EASEMENT
9,577 SQ. FT. PERMANENT EASEMENT
9,935 SQ. FT. CONSTRUCTION EASEMENT