

**Action Requested/Required:**

- ☒ Vote/Action Requested
☐ Discussion or Presentation Only
☐ Public Hearing
Report Date: _____
Hearing Date: _____
Voting Date: _____

Department: Administration **Presenter(s) & Title:** Nathan Ingram
Assistant City Manager

Agenda Item Title:

Discussion of and Possible Action Regarding Request by Northside Hospital Cherokee to Amend the Road Impact Fee Development Agreement for Construction of a New Traffic Intersection at the Hospital

Summary:

Northside Hospital Cherokee (NHC) is constructing a second entrance to the hospital campus along Northside Cherokee Boulevard south of the current entrance. During Council's July 2024 meetings, the City approved to a 1/3 participation in the project at a total cost not to exceed (\$196,529). At that time, City Management informed Council that Northside Hospital would bring forth a new development agreement calling to add Northside's 1/3 cost to the already approved, Road Impact Fee Agreement as originally adopted on November 20, 2008, and as amended April 3, 2012. A copy of this agreement is attached.

Budget Implications:

Budgeted? ☐ Yes ☐ No ☒ N/A

Total Cost of Project: \$ 196,529.00 Check if Estimated ☐

Fund Source: General Fund ☐ Water & Sewer ☐ Sales Tax ☐ Other: Impact Fees

Staff Recommendations:

Consideration for: Motion to approve a Development Agreement between the City of Canton and Northside Hospital Inc. in order to amend the original Impact Fee agreement dated November 20, 2008, and as amended on April 3, 2012, to provide Northside Hospital Inc., impact fee credits in connection with Northside's funding of their portion of the intersection project.

Reviews:

Has this been reviewed by Management and Legal Counsel, if required? ☒ Yes ☐ No

Attachments:

Development Agreement

COPY

Deed Book 11792 Pg 70
Filed and Recorded 4/18/2012 11:59:37 AM
28-2012-012580

Patty Baker
Clerk of Superior Court Cherokee Cty, GA

After recording, please return to:
McKenna Long & Aldridge LLP
303 Peachtree Street, N.E.
Suite 5300
Atlanta, Georgia 30308
Attention: Joann G. Jones, Esq.

Cross-Reference:
Development Agreement (Commerce Boulevard),
dated as of November 20, 2008, recorded at Deed
Book 10470, Page 471, Cherokee County, Georgia
records

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
(Commerce Boulevard)

This **FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (COMMERCE BOULEVARD)** (this "**Amendment**") is made as of this 3rd day of APRIL, 2012, by and between **NORTHSIDE HOSPITAL, INC.**, a Georgia nonprofit corporation, as successor-by-merger to Northside Hospital - Cherokee, Inc. ("**Northside**"), **KEYSTONE PROPERTIES OF CHEROKEE COUNTY, LLC**, a Georgia limited liability company, and **CP INVESTMENT PARTNERS, LLC**, a Georgia limited liability company (collectively, "**Landon**"), and **THE CITY OF CANTON, GEORGIA**, a municipal corporation chartered under the laws of the State of Georgia (the "**City**").

WITNESSETH

WHEREAS, Northside, Landon, and the City entered into that certain Development Agreement (Commerce Boulevard) dated as of November 20, 2008, and recorded at Deed Book 10470, Page 471, Cherokee County, Georgia records (the "**Agreement**"), pursuant to which Northside/Landon agreed to privately construct a portion of a public road known as Commerce Boulevard ("**Commerce Boulevard Phase II**"), subject to reimbursement of certain development costs by the City, all on the terms and conditions set forth in the Agreement;

WHEREAS, Northside/Landon have completed construction of Commerce Boulevard Phase II in accordance with the terms of the Agreement, and are now entitled to reimbursement from the City of certain development costs; and

WHEREAS, Northside, Landon, and the City wish to enter into this Amendment to clarify the reimbursement and reimbursement mechanism.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency whereof are hereby acknowledged, Northside, Landon, and the City hereby agree as follows:

1. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

2. Reimbursement Amount. As of the date hereof, the amount for which Northside/Landon is entitled to reimbursement pursuant to the Agreement is Two Million Six Hundred Nineteen Thousand Two Hundred Seventy-Seven and 67/100 (\$2,619,277.67) (the “**Reimbursement Amount**”).
3. Sources to Pay Reimbursement Amount. Section 4.02(a)(iii)(1) of the Development Agreement describes the sources to pay the Reimbursement Amount to Northside/Landon, which sources are clarified as follows:

(a) Impact Fee Credits. Impact fee credits are the first source of payment of the Reimbursement Amount (or any portion thereof), and are defined to mean 100% of the impact fee credits charged to Northside/Landon upon applying for a building permit, however, Section 4.02(a)(iii)(1) of the Development Agreement is amended to add the phrase “then currently” prior to the word “obligated” in the ninth (9th) line of that section in order to clarify that impact fee credits are to be used as a source to pay the Reimbursement Amount (or any portion thereof) only when impact fees are otherwise then currently payable by Northside/Landon. The Reimbursement Amount will be reduced by the amount of the impact fee credits issued to Northside/Landon when the credits are issued. If the Impact Fee Credits issued in any year are insufficient to repay the Reimbursement Amount, or if impact fees are not then currently payable by Northside/Landon, the Reimbursement Amount will be paid from the sources described in (b) and (c) below.

(b) Impact Fees. Pursuant to the City’s impact fee ordinance, the amount of impact fees received and allocated by the City to road infrastructure development of Commerce Boulevard Phase II (including, without limitation, reimbursement for construction costs for the Work) is determined pursuant to the City’s annual Capital Improvements Element and 5-Year Short Term Work Program of the Comprehensive Land Use Plan (the “**Plan**”). If, as provided in (a) above, impact fee credits issued during any year are insufficient to repay the Reimbursement Amount, or if impact fees are not currently payable by Northside/Landon, then road impact fees collected by the City from third parties and allocated to road infrastructure development of Commerce Boulevard Phase II pursuant to the Plan, as calculated below, shall be paid by the City to Northside/Landon until the Reimbursement Amount has been paid in full.

The payments due to Northside/Landon each year shall be calculated as follows:

A multiplier shall be determined by dividing the Estimated Project Cost of Commerce Boulevard (as shown on the Schedule of Road Improvements portion of the Plan for that year) into the total Estimated Project Costs of all of the Road Projects (as shown on the Schedule of Road Improvements portion of the Plan). The multiplier is then applied to the total road impact fees collected by the City in that year. The result is the pro rata portion of the collected road impact fees allocated to Commerce Boulevard for that year.

A second multiplier is determined by dividing \$2,619,277.67 into the Estimate Project Cost for Commerce Boulevard, as shown on the Schedule of Road Improvements portion of the Capital Elements Plan for that year. This second multiplier is applied to the pro rata portion of the collected road impact fees allocated to Commerce Boulevard for that year, resulting in the amount which is payable to Northside/Landon.

Payments of impact fees were not made to Northside/Landon in 2008, 2009, 2010, and 2011. On or before March 1, 2012, the City shall make payments to Northside/Landon for 2008, 2009, 2010, and 2011, calculated using the above formula for each year, respectively, which sums will be applied by Northside/Landon to the Reimbursement Amount. For 2012 and thereafter, the City will apply the above formula to the total road impact fees collected for the fiscal year ending on September 30 each year. The

resulting amount payable to Northside/Landon shall be paid on or before October 31 each year, to be applied by Northside/Landon to the Reimbursement Amount. The aggregate of such payments, when taken together with all other payments made by the City to Northside/Landon in payment of the Reimbursement Amount, shall not exceed the Reimbursement Amount in the aggregate.

(c) Cherokee SPLOST Funds. Cherokee SPLOST Funds are also a source of payment of the Reimbursement Amount (or any portion thereof) and are available for payment of the Reimbursement Amount in accordance with the terms of the Agreement. Payment of SPLOST Funds to Northside/Landon in payment of the Reimbursement Amount shall be made in accordance with the terms of the Agreement.

4. This Amendment is intended to clarify the terms of the Agreement, and the Agreement shall remain otherwise unmodified.

5. This Amendment may be executed in any number of counterparts. Each counterpart shall be deemed an original hereof, and all counterparts when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date hereinabove set forth.

Signed, sealed and delivered
in the presence of:

[Signature]

Witness

[Signature]

Notary Public

[NOTARY SEAL]

NORTHSIDE:

NORTHSIDE HOSPITAL, INC., a Georgia
nonprofit corporation

By: [Signature]

Name: William M. Hays

Title: CEO

Signed, sealed and delivered
in the presence of:

[Signature]

Witness

[Signature]

Notary Public

Susan S. Kelley

[NOTARY SEAL]

Notary Public

Forsyth County, State of Georgia

My Commission Expires 10-20-13

[Signature]

Witness

[Signature]

Notary Public

[NOTARY SEAL] **Susan S. Kelley**

Notary Public

Forsyth County, State of Georgia

My Commission Expires 10-20-13

LANDON:

KEYSTONE PROPERTIES OF CHEROKEE
COUNTY, LLC, a Georgia limited liability
company

By: [Signature]

Name: Donald A. Hausfeld

Title: Manager

CP INVESTMENT PARTNERS, LLC, a Georgia
limited liability company

By: [Signature]

Name: Donald A. Hausfeld

Title: Manager

Signed, sealed and delivered
in the presence of:

Suzanne Stanton
Witness

Donna L Bell
Notary Public

[NOTARY SEAL]



CITY:

THE CITY OF CANTON, GEORGIA, a municipal
corporation chartered under the laws of the State of
Georgia

By: Gene Herndon
Name: Gene Herndon
Title: Mayor

Approved as to Form:

Row M. Ayer
City Attorney

SCHEDULE OF IMPROVEMENTS-STWP ADDENDUM							
2014-2018							
(1) Project Description	(2) Service Area	(3) Project Start Date	(4) Project Completion Date	(5) Estimated Project Cost	(6) Portion Chargeable to Impact Fees	(7) Sources of Funds (& Share)	(8) Responsible Party
Road Improvements							
Northside-Cherokee Boulevard (formerly Commerce Boulevard)	City- Wide	2014	2018	\$8,137,257	60%	Impact Fees-60.00% Developer-13.33% GDOT-13.33% SPLOST-13.33%	City of Canton Developer GDOT
Hickory Flat Rd./Marietta Rd. Intersection	City- Wide	2014	2015	\$975,843.00	60%	Impact Fees-60% Grants-40%	City of Canton GDOT
SR Business 5 Intersection	City- Wide	2014	2015	\$1,647,000.00	60%	Impact Fees-60% Grants-40%	City of Canton GDOT
Marietta Road	City- Wide	2014	2015	\$2,867,935.00	60%	Impact Fees-60% Grants-40%	City of Canton GDOT
Hickory Flat Road	City- Wide	2014	2014	\$2,273,957.00	60%	Impact Fees-60% Grants-40%	City of Canton GDOT
Waleska Street	City- Wide	2014	2014	\$2,836,038.00	60%	Impact Fees-60% Grants-40%	City of Canton GDOT
Main Street Connector	City- Wide	2014	2015	\$2,286,000.00	60%	Impact Fees-60% Grants-40%	City of Canton GDOT
Reservoir Drive	City- Wide	2014	2018	\$5,281,474.00	60%	Impact Fees-60.00% Developer-20.00% SPLOST 20%	City of Canton Developer GDOT
Heard Road Extension	City- Wide	2015	2018	\$1,525,736.00	60%	Impact Fees-60.00% Developer-20.00% SPLOST 20%	City of Canton Developer GDOT
Business Hwy. 5 - Marietta Hwy.	City- Wide	2014	2018	\$10,000,000.00	60%	Impact Fees-60% Grants-40%	City of Canton
Bluffs Parkway	City -Wide	2014	2018	\$2,288,377.00	60%	Impact Fees-60.00% Developer-20.00% SPLOST 20%	City of Canton Developer GDOT

SCHEDULE OF IMPROVEMENTS-STWP ADDENDUM
2013-2017

(1) Project Description	(2) Service Area	(3) Project Start Date	(4) Project Completion Date	(5) Estimated Project Cost	(6) Portion Chargeable to Impact Fees	(7) Sources of Funds (& Share)	(8) Responsible Party
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Bluffs Parkway	City -Wide	2013	2017	\$2,288,377.00	60%	Impact Fees-60.00% Developer-20.00% SPLOST 20%	City of Canton Developer GDOT
				\$40,119,617			

SCHEDULE OF IMPROVEMENTS-STWP ADDENDUM 2013-2017							
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