City of Norcross

65 Lawrenceville Street
Norcross, GA 30071

Meeting Agenda

Monday, December 20, 2021

6:30 PM

2nd Floor Community Room

Policy Work Session

Mayor Craig Newton
Mayor Pro Tem Josh Bare
Councilmember Andrew Hixson
Councilmember Matt Myers
Councilmember Bruce Gaynor
Councilmember Arlene Beckles

A. Roll Call (recorded)

B. Citizen Input

C. Board Updates

D. General Updates

* Motel to Home Program Update- Denise Fisher
* 2022 Retreat Update

E. Council- General Discussion

F. Board Appointments

Mayor and Council will consider appointments to the following board, authority or commission:

Architectural Review Board

G. City Manager's Report

H. Items for Discussion

1. **21-6358** **Request Additional Funds for the Greenway Project**

Presentation by Consultant CPL to discuss the increase in costs to support the recommendation to pass a resolution for an additional $4,444,000.00 supplemental funding from the Atlanta Regional Commission (ARC) with an 80%-20% match. The resolution is required as part of the 2022 solicitation for Transportation Improvement Program (TIP) to allocate supplemental federal funds for use in the construction of the highest-priority projects in the Regional Transportation Plan (RTP).

Agenda Report- Supplemental funding for the Greenway Project

Greenway ARC Resolution 12.13.2021

2017-03-06 M&C resolution

2019-02 Executed PFA

2021 TIP Project Call Application

Revised Construction Plans -13 Series only

0016067 Gwinnett County Revisions to Programmed Costs Package Signed

2. **21-6359** **Execution of 2017 SPLOST IGA Change Orders for Medlock Bridge at North Peachtree/Langford**

A recommendation to execute Change Order #1 between Gwinnett County and the City regarding Jointly funded 2017 SPLOST Project(s) (City-Managed Project # F-1234) and to execute Change Order #2 between Gwinnett County and the City regarding Jointly funded 2017 SPLOST Project(s) (County-Managed Project # F-1234) .

Agenda Report-IGA-COs-Dec PWS

Norcross 2017 SPLOST City Managed CO #1 Final

Norcross 2017 SPLOST County Managed CO #2 Final

Executed IGA 2017 SPLOST Project- County-Managed project #F 1234

3. **21-6360** **Georgia Public Web**

Staff recommends proceeding with the recommended asset sale transaction and MEAG Contract amendment.

Agenda Report - Georgia Public Web

Letter to GPW Members

GPW MEAG Mayors Summit Presentation Slides

Member Consent - City of Norcross

Asset Purchase Agreement

4. **21-6361** **Johnson Dean Park Contractor Agreement, Phase 2**

Staff recommends proceeding with a contractor agreement for design and construction documents for Johnson Dean Park with Root Design Studio.

Agenda Report- Johnson Dean Park

Contractor Agreement - Johnson Dean Park Phase 2

5. **21-6362** **City Pension Plan**

A recommendation to terminate participation in the City pension plan through the Georgia Municipal Association as well as participation in retiree health and dental benefits for employees hired on or after January 1, 2022. Additionally, consider whether to buy out those benefits from current City employees.

Agenda Report - December PWS - Retirement Plan

Pension Funded Percentage as of January 1, 2021 -- Ongoing vs. Termination

6. **21-6363** **Appointment of Mayor Pro Tem for 2022**

Annual election of a Councilmember to serve as Mayor Pro Tem.

I. Adjourn to Executive Session for Personnel, Real Estate or Legal

J. Signed by: ______________________________ Mayor Craig Newton

K. Attest: ____________________________ Monique Lang, City Clerk

City of Norcross

Legislation Details (With Details)

File #:	21-6358	**Version:**	
Type #:	Agenda Item	**Status:**	Agenda Ready
On Agenda:	12/20/2021 6:30 PM	**In Control:**	Policy Work Session
Title:	Request Additional Funds for the Greenway Project		

Sponsors:

Code Sections:

Attachments:

1. Agenda Report- Supplemental funding for the Greenway Project
2. GREENWAY ARC RESOLUTION 12.13.2021
3. 2017-03-06 M&C resolution
4. 2019-02 Executed PFA
5. 2021 TIP Project Call Application
6. Revised Construction Plans -13 Series only
7. 0016067 Gwinnett County Revisions to Programmed Costs Package_Signed

Title
Request Additional Funds for the Greenway Project

Drafter
Matthew Zaki

Presenter
Jeff Mueller, CPL Consultant

Agenda Report

To: Mayor and Council

From: **Matthew Zaki**

Agenda: December 20, 2021 – Policy Work Session

Agenda #: 21-6358

Item: **Supplemental funding for CST, Utilities and ROW Acquisition for the Greenway project PI 16067**

CC: Eric Johnson

Recommendation

To pass a resolution for an additional $4,444,000 supplemental funding from the Atlanta Regional Commission (ARC) with an 80%-20% match. The resolution is required as part of the 2022 solicitation for Transportation Improvement Program (TIP) to allocate supplemental federal funds for use in the construction of the highest-priority projects in the Reginal Transportation Plan (RTP).

Background

A resolution passed by the City on March 6th, 2017, to support the Norcross Greenway Priority one network segment with an estimated cost of $5.4 Million with the understanding of an 80%-20% match. With the design proceeding forward and being updated from the concept phase to preliminary design, there is a substantial increase in the cost estimates for Right of way and construction costs. The increase in the Construction cost estimates is directly proportional to the environmental impacts and coordination that extended the proposed boardwalk from approximately 500 LF to 2,500 LF in efforts to reduce the impact to wetlands.

The work proposed at the beginning of the trail is also requiring an extensive amount of earthwork and grading to maintain ADA and bicycle requirements, with that work, the need of retaining walls will be required to support the ADA compliance and transition along the first segment in the Cemetery. The number of parcels being impacted due to a change proposed in the Mitchell Road alignment has increased, the change in the alignment is tied to the efforts from the city to avoid impact to the mural wall located along Mitchell Road necessitating the shift of Mitchell Road to the West and thus impacting additional properties and requiring additional ROW from other parcels.

Federal funding from the Surface Transportation Block Grant Program (STBG), which includes the setaside for Transportation Alternatives, ARC's Livable Centers Initiative (LCI) program, and the Congestion Mitigation and Air

65 LAWRENCEVILLE STREET, NORCROSS, GEORGIA 30071
(678) 421-2027 **UPSTAIRS CITY HALL** (770) 242-0824 **FAX** (770) 448-2111 **POLICE DEPARTMENT**
http://www.norcrossga.net

Quality (CMAQ) program will be awarded to implement projects which support the goals and objectives of the Atlanta Region's Plan.

Financial Impact

The 20% Local Match ($888,800) will mostly be funded by the 2017 SPLOST, Department heads are meeting to discuss 2017 SPLOST availability or an alternative funding source for the City's matching fund.

Consistent with Comprehensive Plan?

The supplement funds requested for completion of this project will reinforce Goal 2 of the Community Vision outlined in the 2040 Norcross Comprehensive Plan: Continue to strength Norcross as a livable, inclusive, and safe Environment as well as Goal 3 to promote safe and efficient transportation for pedestrians, cyclists

Next Steps

After passing the resolution, the resolution will be forwarded to ARC to complete the submission of the 2022 application. The following is the 2022 Solicitation Schedule and Milestones

- Application Period – October 1, 2021, to December 2, 2021
- Resolutions and letters of Support due December 31, 2021. (Extension was allowed due to the conflicts with scheduled board meetings and City Councils, etc...)
- Initial recommendations – Late Spring 2022
- Final recommendations – Summer 2022

Attachments

1) Previously passed M&CC Resolution.
2) Executed Project Framework Agreement (PFA) by and between Georgia DOT and the City of Norcross for Transportation Facility improvements.
3) 2021 Transportation Improvement Program (TIP) project call Application.
4) Revised Construction Plans -13 Series only –
5) AASHTOWare Cost Estimate Summary 2021 spec book

Update

N/A

RESOLUTION
CITY OF NORCROSS
SUPPORT OF THE NEED FOR SUPPLEMENTAL FUNDING FOR
ONGOING NORCROSS GREENWAY PRIORITY ONE NETWORK SEGMENTS PROJECT

WHEREAS, The Atlanta Regional Commission (ARC) Board adopted policies in the Regional Transportation Plan (RTP) proposal in May 1999 to provide funding for investment studies and transportation projects; and

WHEREAS, the livable Centers Initiative program is designed to allow for regionally focused studies and implementation plans for land use and transportation changes that will enhance cities and the overall Atlanta Metro area; and

WHEREAS, the City finds that it qualifies to apply for such funding under the livable Centers Initiative (LCI); and

WHEREAS, the City conducted a supplemental scoping study in 2016 to identify the project components and costs of a proposed bicycle and pedestrian network in the Beaver Ruin Creek watershed in the city of Norcross; and

WHEREAS, said scoping study was accepted by the Mayor and City Council in 2016 and forwarded to the Atlanta Regional Commission for consideration for future inclusion in the TIP and RTP; and

WHEREAS, the requested project is a recommended project within the Norcross Activity Center LCI study completed in August 2008; and

WHEREAS, with the design proceeding forward and being updated from the concept phase to preliminary design, there is a substantial increase in the cost estimates for Right of way and construction costs; and

WHEREAS, this resolution is necessary for an additional $4,444,000 supplemental funding from the Atlanta Regional Commission (ARC) with an 80%-20% match and hereby applies for said additional grant and commits to the necessary matching funding; and

WHEREAS, this resolution is required as part of the 2022 solicitation for Transportation Improvement Program (TIP) to allocate supplemental federal funds for use in the construction of the highest-priority projects in the Reginal Transportation Plan (RTP); and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORCROSS, AS FOLLOWS:

The City of Norcross hereby continues to support its application to the Atlanta Regional Commission for a grant through the Livable Centers Initiative program to implement the Priority One Network Segments of the Norcross Greenway Project along with this resolution for supplemental funding.

APPROVED AND ADOPTED THIS ____ DAY OF ________________, 2021.

________________________________ ______________________________________

Attest: Monique Lang, City Clerk Craig Newton, Mayor

Attachment: GREENWAY ARC RESOLUTION 12.13.2021 (21-6358 : Request Additional Funds for the Greenway Project)

RESOLUTION
CITY OF NORCROSS
SUPPORT OF THE NORCROSS GREENWAY PRIORITY ONE NETWORK SEGMENTS PROJECT

WHEREAS, The Atlanta Regional Commission (ARC) Board adopted policies in the Regional Transportation Plan (RTP) proposal in May 1999 to provide funding for investment studies and transportation projects; and

WHEREAS, the Livable Centers Initiative program is designed to allow for regionally focused studies and implementation plans for land use and transportation changes that will enhance cities and the overall Atlanta Metro area; and

WHEREAS, the City finds that it qualifies to apply for such funding under the Livable Centers Initiative (LCI); and

WHEREAS, the City conducted a supplemental scoping study in 2016 to identify the project components and costs of a proposed bicycle and pedestrian network in the Beaver Ruin Creek watershed in the city of Norcross; and

WHEREAS, said scoping study was accepted by the Mayor and City Council in 2016 and forwarded to the Atlanta Regional Commission for consideration for future inclusion in the TIP and RTP; and

WHEREAS, the requested project is a recommended project within the Norcross Activity Center LCI study completed in August 2008; and

WHEREAS, the estimated cost of the Priority One Network Segments is $5.4 million; and the City of Norcross understands that the study through the ARC is an 80 – 20 match and wishes to apply for said grant and commits to the necessary matching funding; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORCROSS, AS FOLLOWS:

The City of Norcross hereby supports the City of Norcross's application to the Atlanta Regional Commission for a grant through the Livable Centers Initiative program to implement the Priority One Network Segments of the Norcross Greenway Project.

APPROVED AND ADOPTED THIS 6 DAY OF March, 2017

Monique Lang
Attest: Monique Lang, City Clerk

CITY OF N NORCROSS GEORGIA

Bucky Johnson, Mayor

PROJECT FRAMEWORK AGREEMENT BY AND BETWEEN GEORGIA DEPARTMENT OF TRANSPORTATION AND CITY OF NORCROSS FOR TRANSPORTATION FACILITY IMPROVEMENTS

Please indicate which Catalog of Domestic Federal Assistance Number (CFDA) applies to this agreement (Check only one):

☒ CFDA # 20.205 - Highway Planning and Construction Cluster

☐ CFDA # 20.219 - Recreational Trails Program

This Project Framework Agreement for Transportation Facility Improvements is made and entered into this 19 day of Feb, 2019, by and between the GEORGIA DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, hereinafter called the "DEPARTMENT", and the City of Norcross, acting by and through its Mayor and City Council, hereinafter called the "LOCAL GOVERNMENT".

WHEREAS, the LOCAL GOVERNMENT has represented to the DEPARTMENT a desire to improve the transportation facility described in Exhibit "A", attached and incorporated herein by reference, identified as P.I No 0016067 and hereinafter referred to as the "PROJECT"; and

WHEREAS, the LOCAL GOVERNMENT has represented to the DEPARTMENT a desire to participate in certain activities, as applicable, including the funding of certain portions of the PROJECT and the DEPARTMENT has relied upon such representations; and

WHEREAS, the DEPARTMENT has expressed a willingness to participate in certain activities of the PROJECT as set forth in this Agreement; and

WHEREAS, the Constitution authorizes intergovernmental agreements whereby state and local entities may contract with one another "for joint services, for the provision of services, or for the joint or separate use of facilities or equipment; but such contracts must deal with activities, services or facilities which the contracting parties are authorized by law to undertake or provide." Ga. Constitution Article IX, §III, ¶I(a).

NOW THEREFORE, in consideration of the mutual promises made and of the benefits to flow from one to the other, the DEPARTMENT and the LOCAL GOVERNMENT hereby agree each with the other as follows:

1. The LOCAL GOVERNMENT has applied for and received "Qualification Certification" to administer federal-aid projects. The GDOT Local Administered Project (LAP) Certification Committee has reviewed, confirmed and approved the LAP certification for the LOCAL GOVERNMENT to develop federal project(s) within the scope of its certification and pursuant to and in accordance with the DEPARTMENT'S current versions of Local Administered Project Manual, the DEPARTMENT's Plan Development Process (hereinafter referred to as "PDP"), Electronic Data Guidelines, Plan Presentation Guide, and any other applicable DEPARTMENT guidance (except in those instances where the

DEPARTMENT has by written correspondence waived the requirement to follow specific guidance).

2. The DEPARTMENT shall participate in the PROJECT by funding all or certain portions of the PROJECT costs for the preconstruction engineering (design) activities, herein referred to as "PE", as specified in Exhibit "A". The LOCAL GOVERNMENT shall contribute to the PROJECT by funding those project costs as set out in Exhibit "A".

3. The funding portion as identified in Attachment "A" of this Agreement only applies to the PE. Further, the LOCAL GOVERNMENT shall be responsible for repayment of any expended federal funds if the PROJECT does not proceed forward to completion due to a lack of available funding in future PROJECT phases, changes in local priorities, or cancellation of the PROJECT by the LOCAL GOVERNMENT without concurrence by the Federal Highway Administration (FHWA).

4. RESERVED.

5. The LOCAL GOVERNMENT shall accomplish the PE activities for the PROJECT. The PE activities shall be accomplished in accordance and pursuant to with the LAP certification as outlined above in Paragraph 1, the PDP, the applicable guidelines of the American Association of State Highway and Transportation Officials, hereinafter referred to as "AASHTO", the DEPARTMENT's Standard Specifications Construction of Transportation Systems, and all applicable design guidelines and policies of the DEPARTMENT, in order to, among other goals, produce a cost effective PROJECT. Failure to follow the PDP and all applicable guidelines and policies will jeopardize the use of federal funds in some or all categories outlined in this Agreement, and it shall be the responsibility of the LOCAL GOVERNMENT to make up the loss of that funding.

6. The primary consultant firm or subconsultants hired by the LOCAL GOVERNMENT to provide services on the PROJECT shall be prequalified with the DEPARTMENT in the appropriate area-classes. The DEPARTMENT shall, on request, furnish the LOCAL GOVERNMENT with a list of prequalified consultant firms in the appropriate area-classes. If there is federal aid highway program funding participation, the LOCAL GOVERNMENT shall comply with all applicable state and federal regulations for the procurement of engineering and design related services including but not limited to 23 C.F.R. Part 172, or the Brooks Architect-Engineers Act of 1972, for any consultant hired to perform work on the PROJECT. If there are no federal aid highway program funding in the engineering and design related services contract, the contracting agency may procure the services in accordance with its own established policies and procedures which reflect applicable State and local laws. However, in such an event, the costs of consultant service contracts that utilize only State or local funding which were not procured, negotiated, or administered in accordance with applicable Federal laws and regulations would not be eligible to apply toward the non-Federal share of costs for subsequent phases (e.g., construction) of a project funded by the federal aid highway program.

7. The DEPARTMENT will be responsible for all railroad coordination on DEPARTMENT Let and/or State Route (On-

System) projects; the LOCAL GOVERNMENT shall address concerns, comments, and requirements to the satisfaction of the Railroad and the DEPARTMENT. If the LOCAL GOVERNMENT is shown to let the construction in Exhibit "A" on off-system routes, the LOCAL GOVERNMENT shall be responsible for all railroad coordination and addressing concerns, comments, and requirements to the satisfaction of the Railroad and the DEPARTMENT for PROJECT.

8. The DEPARTMENT reserves the right to review and reserves approval authority for all aspects of the PROJECT provided, however, this review and approval does not relieve the LOCAL GOVERNMENT of its responsibilities under the terms of this Agreement.

9. The ***LOCAL GOVERNMENT as specified in the Local Let Approval Form, attached and incorporated herein by reference as Exhibit "B",*** shall be responsible for letting the PROJECT to construction, solely responsible for executing any agreements with all applicable utility/railroad companies and securing and awarding the construction contract for the PROJECT. The LOCAL GOVERNMENT shall provide the DEPARTMENT with a copy of all contracts and agreements between the LOCAL GOVERNMENT and any other agency or contractor associated with construction activities. The DEPARTMENT's Project Manager who will be identified by the DEPARTMENT at a later date shall be the primary point of contact unless otherwise specified.

10. The LOCAL GOVERNMENT agrees that all reports, plans, drawings, studies, specifications, estimates, maps, computations, computer files and printouts, and any other data prepared under the terms of this Agreement shall become the property of the DEPARTMENT if the PROJECT is being let by the DEPARTMENT. This data shall be organized, indexed, bound, and delivered to the DEPARTMENT no later than the advertisement of the PROJECT for letting. The DEPARTMENT shall have the right to use this material without restriction or limitation and without compensation to the LOCAL GOVERNMENT.

11. The LOCAL GOVERNMENT shall be responsible for the professional quality, technical accuracy, and the coordination of all reports, designs, drawings, specifications, and other services furnished by or on behalf of the LOCAL GOVERNMENT pursuant to this Agreement. The LOCAL GOVERNMENT shall correct or revise, or cause to be corrected or revised, any errors or deficiencies in the reports, designs, drawings, specifications, and other services furnished for this PROJECT. Failure by the LOCAL GOVERNMENT to address the errors, omissions or deficiencies within 30 days of notification shall cause the LOCAL GOVERNMENT to assume all responsibility for construction delays and supplemental agreements caused by the errors and deficiencies. All revisions shall be coordinated with the DEPARTMENT prior to issuance. The LOCAL GOVERNMENT shall also be responsible for any claim, damage, loss or expense, to the extent allowed by law that is attributable to errors, omissions, or negligent acts related to the designs, drawings, specifications, and other services furnished by or on behalf of the LOCAL GOVERNMENT pursuant to this Agreement.

12. The Parties acknowledge that the following Exhibits and Attachments to this

Agreement are hereby incorporated into and made a part of this Agreement as though expressly written herein:

EXHIBIT A – TIP/STIP Insert
EXHIBIT B – Local Let Approval Form
APPENDIX A – Georgia Security and Immigration Compliance Act Affidavit
APPENDIX B – Federal Award Identification Worksheet
APPENDIX C – Certification of Local Government Drug Free Workplace
APPENDIX D – Certification of Compliances
APPENDIX E – Title VI Certification and Acknowledgement Form
APPENDIX F – Request for Qualifications (RFQ) and prequalified consultant award selection package, if applicable

9. <u>COMPLIANCE WITH APPLICABLE LAWS</u>

a. The undersigned, on behalf of the LOCAL GOVERNMENT, certifies that the provisions of Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated relating to Conflict of Interest and State employees and officials trading with the State have been complied with in full.

b. The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated relating to the "Drug-Free Workplace Act" have been complied with in full, as stated in Appendix A of this Agreement.

c. The LOCAL GOVERNMENT has read and understands the regulations for STATE AUDIT REQUIREMENT as stated in Appendix D of this Agreement and will comply in full with said provisions of O.C.G.A. § 36-81-7.

d. By execution of this Agreement, I, on behalf of the LOCAL GOVERNMENT, certify under penalty of law that the LOCAL GOVERNMENT is in compliance with the service delivery strategy law (O.C.G.A. Sec. 36-701 et seq.) and is not debarred from receiving financial assistance from the State of Georgia.

e. The LOCAL GOVERNMENT hereby agrees that it shall comply, and shall require its subcontractors to comply, with all applicable requirements of the American with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101, *et seq*. and 49 U.S.C. 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791; and regulations and amendments thereto.

f. Pursuant to O.C.G.A. § 13-10-91, the LOCAL GOVERNMENT and all contractors and subcontractors performing work under this Agreement are, and shall be at all times, in compliance with the Federal Work Authorization Program. Prime contractors and subcontractors may participate in any of the electronic verification work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United State Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 ("IRCA"), Appendix A.

g. The LOCAL GOVERNMENT hereby agrees that neither it nor its subcontractors shall discriminate on the basis of age, race, color, sex, national origin, religion or disability and that it and its subcontractors shall comply, at a minimum, with the following Georgia laws: the Georgia Age Discrimination Act (O.C.G.A. § 34-1-2 et seq.); the Georgia Equal

Employment for Persons with Disabilities Code (O.C.G.A. 34-6A-1 et seq.); and the Sex Discrimination in Employment (O.C.G.A. 34-5-1 et seq.). The LOCAL GOVERNMENT further agrees that it and its subcontractors will comply with any and all state and federal laws not specifically stated herein addressing discrimination to the extent that such is applicable.

h. LOCAL GOVERNMENT acknowledges and agrees that failure to complete appropriate certifications or the submission of a false certification shall result in the termination of this Agreement.

10. This Agreement is made and entered into in FULTON COUNTY, GEORGIA, and shall be governed and construed under the laws of the State of Georgia.

11. The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

12. If any provision of this amendment is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.

13. Nothing contained herein shall be construed as conferring upon or giving to any person, other than the parties hereto, any rights or benefits under or by reason of this Agreement.

14. This Agreement supersedes all prior negotiations, discussion, statements and agreements between the parties and constitutes the full, complete and entire agreement between the Parties with respect hereto; no member, officer, employee or agent of either party 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 terms and conditions of this Agreement. No modification of or amendment to this Agreement will be binding on either Party hereto unless such modification or amendment will be properly authorized, in writing, properly signed by both Parties and incorporated in and by reference made a part hereof.

{SIGNATURES ON NEXT PAGE}

IN WITNESS WHEREOF, the DEPARTMENT and the LOCAL GOVERNMENT have caused these presents to be executed under seal by their duly authorized representatives.

GEORGIA DEPARTMENT OF TRANSPORTATION

BY: ______________________
Commissioner

ATTEST:

____
Treasurer

DEPARTMENT OF TRANSPORTATION
STATE OF GEORGIA

ALESIA DANIEL
NOTARY PUBLIC
GWINNETT COUNTY
State of Georgia
My Commission Expires May 5, 2020

BY: ______________________
Mayor Craig Newton

Signed, sealed and delivered this day of October 29, 2018, in the presence of:

____
Witness

____
Notary Public

This Agreement approved by Local Government, the 29th day of October, 2018

Attest

Monique Lang, City Clerk
Name and Title

FEIN: 58-6000632

Project 0016067 Gwinnett County/Municipality

EXHIBIT A STIP/TIP Insert

GW-412	NORCROSS LCI GREENWAY - PRIORITY ONE NETWORK SEGMENTS
0016067	
Programmed	

Jurisdiction: Gwinnett County

Sponsor: City of Norcross

Service Type: Last Mile Connectivity / Sidepaths and Trails

Existing	Planned	Length (mi.)	Network Year
N/A	N/A	N/A	TBD

Analysis: Exempt from Air Quality Analysis (40 CFR 93)

LCI: X

Flex:

	Status	Year	Fund Type	Federal	State	Local	Bonds	Total
PE		2019	Surface Transportation Block Grant (STBG) Program - Urban (>200K) (ARC)	$380,000	$0,000	$95,000	$0,000	$475,000
ROW		2021	Surface Transportation Block Grant (STBG) Program - Urban (>200K) (ARC)	$168,000	$0,000	$42,000	$0,000	$210,000
UTL		2023	Surface Transportation Block Grant (STBG) Program - Urban (>200K) (ARC)	$264,000	$0,000	$66,000	$0,000	$330,000
CST		2023	Surface Transportation Block Grant (STBG) Program - Urban (>200K) (ARC)	$3,548,020	$0,000	$887,005	$0,000	$4,435,025
				$4,360,020	$0,000	$1,090,005	$0,000	$5,450,025

THIS REFLECTS THE CURRENT TIP/STIP AS OF THE EXECUTION OF THIS PFA. ANY MODIFICATION TO THE PE PHASES WILL TRIGGER A SUPPLEMENTAL PFA. ANY MODIFICATIONS TO THE ROW, UTL or CST PHASES WILL BE ADDRESSED WITH SUBSEQUENT AGREEMENTS.

Revised: 2/9/2017

APPENDIX B
Federal Award Identification Worksheet

Subrecipient's name (must match registered name in DUNS)	CITY OF NORCROSS
Subrecipient's DUNS number (see § 200.32 Data Universal Numbering System (DUNS))	030046908
Federal Award Identification Number (FAIN)	GW - 412
Federal award date (see § 200.39 Federal Award Date	
Amount of Federal Funds Obligated by this action	$4,360,020
Total Amount of Federal Funds Obligated to the subreceipient	$4,360,020
Total Amount of the Federal Award	Refer to Attachment A above
Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)	Scope of work in contract document; refer to page 1
Name of Federal awarding agency, pass-through entity, and contact information for awarding official	FHWA, GDOT, Sharon Hall
CFDA Number and Name (the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement)	Refer to page 1 of contract document
Identification of whether award is R&D	No
Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 200.414 Indirect (F&A) costs)	N/A

This project must comply with all aspects of 2 CFR Part 200.

APPENDIX C
CERTIFICATION OF LOCAL GOVERNMENT
DRUG-FREE WORKPLACE

I hereby certify that I am a principal and duly authorized representative of CITY OF NORCROSS whose address is 65 LAWRENCEVILLE ST. NORCROSS, GA 30071 and it is also certified that:

1. The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-Free Workplace Act" have been complied with in full; and

2. A drug-free workplace will be provided for the LOCAL GOVERNMENT's employees during the performance of the contract; and

3. Each subcontractor hired by the LOCAL GOVERNMENT shall be required to ensure that the subcontractor's employees are provided a drug-free workplace. The LOCAL GOVERNMENT shall secure from that subcontractor the following written certification: "As part of the subcontracting agreement with __________ __________, __________ certifies to the LOCAL GOVERNMENT that a drug-free workplace will be provided for the subcontractor's employees during the performance of this contract pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated Section 50-24-3"; and

4. It is certified that the undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.

10/29/18
Date

Signature
ERICA S. MADSEN

APPENDIX D

CERTIFICATION OF COMPLIANCES

I hereby certify that I am a principal and duly authorized representative of CITY OF NORCROSS whose address is 65 LAWRENCEVILLE ST NORCROSS, GA 30071 and it is also certified that:

I. PROCUREMENT REQUIREMENTS

The below listed provisions of State Procurement requirements shall be complied with throughout the contract period:

(a) Provisions of Chapters 2 and Chapters 4 of the Title 32 of the Official Code of Georgia Annotated. Specifically as to the County the provisions of O.C.G.A. § 32-4-40 *et seq*. and as to the Municipality the provisions of O.C.G.A. § 32-4-92 *et seq*.

II. STATE AUDIT REQUIREMENT

The provisions of Section 36-81-7 of the Official Code of Georgia Annotated, relating to the "Requirement of Audits" shall be complied with throughout the contract period in full, including but not limited to the following provisions:

(a) Each unit of local government having a population in excess of 1,500 persons or expenditures of $300,000.00 or more shall provide for and cause to be made an annual audit of the financial affairs and transactions of all funds and activities of the local government for each fiscal year of the local government.

(b) The governing authority of each local unit of government not included above shall provide for and cause to be made the audit required not less often than once every two fiscal years.

(c) The governing authority of each local unit of government having expenditures of less than $300,000.00 in that government's most recently ended fiscal year may elect to provide for and cause to be made, in lieu of the biennial audit, an annual report of agreed upon procedures for that fiscal year.

(d) A copy of the report and any comments made by the state auditor shall be maintained as a public record for public inspection during the regular working hours at the principal office of the local government. Those units of local government not having a principal office shall provide a notification to the public as to the location of and times during which the public may inspect the report.

(e) The audits of each local government shall be conducted in accordance with generally accepted government auditing standards.

III. SERVICE DELIVERY STRATEGY REQUIREMENT

The provisions of Section 36-70-20 et seq. of the Official Code of Georgia, relating to the "Coordinated And Comprehensive Planning And Service Delivery By Counties And Municipalities", as amended, have been complied with throughout the contract period.

10/29/18
Date

Signature ERICA S. MADSEN

APPENDIX E

TITLE VI INTRODUCTION

As a sub-recipient of federal funds from Georgia Department of Transportation, all municipalities are required to comply with Title VI of the Civil Rights Act of 1964 which provides that:

"No person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, or be denied the benefits of, or be subjected To discrimination under any program or activity receiving federal assistance under This title or carried out under this title."

Additionally, the Civil Rights Restoration Act of 1987, expanded the definition of the terms "programs and activities" to include all programs or activities of federal recipients, subrecipients, and contractors, whether or not such programs and activities are federally assisted.

The provisions of Title VI apply to all contractors, subcontractors, consultants and suppliers. And is a condition for receiving federal funds. All sub recipients must sign Title VI assurances that they will not discriminate as stated in Title VI of the Civil Rights Act of 1964.

In the event that the sub recipient distributes federal aid funds to second tier entity, the subrecipient shall include Title VI language in all written documents and will monitor for compliance. If, these assurances are not signed, the City or County government may be subjected to the loss of federal assistance.

All sub recipients that receive federal assistance must also include Federal Highways Administrations 1273 in their contracts. The FHWA 1273 sets out guidance for ensuring non discrimination and encouraging minority participation and outreach.

Enclosed you will find Title VI acknowledgment form and the Title VI assurances. The Title VI acknowledgment form and Title VI assurances must be signed by your local government official if it has not been signed.

TITLE VI ACKNOWLEDGEMENT FORM

The CITY OF NORCROSS assures that no person shall on the grounds or race, color, national origin or sex as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any City or County sponsored program or activity. The CITY OF NORCROSS assures that every effort will be made to ensure non discrimination in all of its programs or activities, whether those programs are federally funded or not.

Assurance of compliance therefore falls under the proper authority of the City Council or the County Board of Commissioners. The Title VI Coordinator or Liaison is authorized to ensure compliance with provisions of this policy and with the Law, including the requirements of 23 Code of Federal Regulations (CFR) 200 and 49 CFR 21.

ERICA S. MADSEN, CITY ENGINEER
Official Name and Title

10/29/18
Date

Citations:

Title VI of the Civil Rights Act of 1964; 42 USC 2000d to 2000d-4;42 USC 4601to 4655;23 USC 109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28CFR 50.3

Other Nondiscrimination Authorities Expanded the range and scope of Title VI coverage and applicability

The 1970 Uniform Act (42 USC 4601)
Section 504 of the 1973 Rehabilitation Act (29 USC 790)
The 1973 Federal-aid Highway Act (23 USC 324)
The 1975 Age Discrimination Act (42 USC 6101)
Implementing Regulations (49 CFR 21& 23 CFR 200)
Executive Order 12898 on Environmental Justice (EJ)
Executive Order 13166 on Limited English Proficiency (LEP)

NOTICE TO SPONSOR
COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this contract, the SPONSOR, for itself, its assignees, and successors in interest (hereinafter referred to as the "SPONSOR"), agree as follows:

1. **Compliance with Regulations**
The SPONSOR shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter referred to as DOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination**
The SPONSOR, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in tlle selection and retention of subcontractors, including procurement of materials and leases of equipment. The SPONSOR shall not participate either directly or indirectly in discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitations for Subcontracts, Including Procurement of Materials and Equipment**
In all solicitations either by competitive bidding or negotiations made by the SPONSOR for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the SPONSOR of the SPONSOR's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

4. **Information and Reports**
The SPONSOR shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a sponsor is in the exclusive possession of another who fails or refuses to furnish this information, the Sponsor shall so certify to the State Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance**
In the event of the SPONSOR's noncompliance with the nondiscrimination provisions of this contract, the State Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   a. Withholding of payments to the SPONSOR under the contract until the SPONSOR complies;
   and/or b. Cancellation, termination, or suspension of the contact, in whole or in part.

6. **Incorporation of Provisions**
The SPONSOR shall include the provisions of paragraphs (I) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The SPONSOR shall take such action with respect to any subcontractor or procurement as the State

Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a Sponsor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Sponsor may request the State to enter into such litigation to protect the interests of the state and, in addition, the Sponsor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX F

Request for Qualifications (RFQ) &
Prequalified Consultant Award Selection Package (if applicable)

2021 TIP Project Call Application - Infrastructure & Capital Investments Application

Reference #	16650939
Status	Complete
Login Username	mzaki
Login Email	matthew.zaki@norcrossga.net
1-0) Which of the following scenarios below most accurately describes your federal funding request for this proposal? See the tooltip to the right or the previous page of this application for more information:	Supplemental federal funding request
1-1) Select a unique identification number for this application. If seeking funds for an existing TIP/RTP project, please enter the ARCID here:	NORC-17-02
1-2) How will you share project GIS data with ARC?	ARC mapping page
1-4) Project title:	Norcross LCI Greenway Priority One Network Segments
1-5) Project termini:	The priority 1 segments provides a central spine with logical termini at downtown Norcross and Pinnacle Center /Beaver Ruin Road.
1-6A) Provide a detailed description of the project:	The City of Norcross LCI Greenway Project integrates regional storm water improvements with a proposed bicycle and pedestrian network for the south side of Norcross. This innovative vision has the potential to provide exceptional community benefits including: Improved connectivity between neighborhoods and community destinations, greater recreational opportunities, reduced automobile traffic congestion, increased economic vitality, and better public and environmental health.

1-6B) Describe the underlying problem which this project is intended to addresss:	This project is intended to improve connectivity between neighborhoods and community destinations, greater recreational opportunities, reduce automobile traffic congestion, increase economic vitality, and better public and environmental health.
1-7) Select a priority level for this particular application relative to any other applications that are to be submitted by your organization:	First priority
1-8) Select LAP certified project sponsor:	City of Norcross
1-10) Sponsor project manager name and title:	Matthew S. Zaki, PE, CFM , City Engineer
1-11) Phone number	(678)421-2032
1-12) Email address	matthew.zaki@norcrossga.net
1-13) Is the project sponsor Local Administered Project (LAP) certified by GDOT?	Yes
1-15) If required, has the applicant submitting this project either maintained its Qualified Local Government (QLG) status in accordance with the Georgia Department of Community Affairs or is actively working towards reinstatement of QLG status?	Yes
1-16) Is a Community Improvement District (CID) or similar organization that is not eligible to administer federal aid projects partnering with a LAP certified local sponsor as the implementation agent for this project?	No
1-21) Have consultant services already been procured for this project?	Yes
1-22) Name of consulting firm:	CPL
1-23) Consultant project manager name and title:	Jeff W. Muller PE. Associate
1-24) Phone number	(678)318-1243

1-25) Email address	JMueller@CPLteam.com
2-1) Since 2011, has the sponsor submitted this proposal during a previous ARC TIP solicitation?	Yes
2-2) Select which solicitation(s) below:	2017
2-3) Is the project listed in an approved existing plan, study, capital improvement program or maintenance program?	Yes
2-4) Please list the name, adoption year and adoption body of the planning effort in question:	Norcross LCI Greenway Concept Plan, UP 1512,2016, City of Norcross
2-5) Select the primary project type of this proposal:	Multiuse Trails
2-6) If implemented, would this proposal best be described as an upgrade or reconstruction of an EXISTING bicycle, pedestrian or multiuse trail facility or construction of a NEW one?	Both
3-7A) Describe any sidewalks, side paths, or multiuse trails that exist in the project area or that directly connect to the project area. Include the current width and general condition of these facilities:	The project termini include the intersection of Pinnacle Way and Beaver Ruin Road, which was selected to included to provide access to Pinnacle Center and to the adjacent PI 0012640 Beaver Ruin Road multiuse trail project. The intersection Price Place and Beaver Ruin Road which was selected to provide access to Summerour Middle School and to provide another connection to the adjacent PI 0012640 Beaver Ruin Road multiuse trail project. The roadway corridors include the following, 1) Approximately 5' wide sidewalks on the east side of South Cemetery Street. 2) Mitchell Road with approximately 5' wide sidewalks on both sides. 3) Pinnacle Way with approximately 5' wide sidewalks on both sides. 4) Price Place with approximately 4' wide sidewalks on both sides.

3-9) Will the project incorporate one of the following FHWA Proven Safety Countermeasures or other safety measures? Select all which apply or "No" to continue:	No
3-17) If this project incorporates design elements which mitigate or adapt to flood risks, please provide details and link to any relevant planning documentation below:	N/A
3-106) Has the proposed project undergone a detailed analysis of potential bicycle or pedestrian demand through a previous study?	No
3-110) Please provide the number of lanes on the parallel roadway facility (in both directions).	2
3-111) Provide the posted speed limit on the parallel street:	35
3-112) What is the Annual Average Daily Traffic (AADT) on the parallel roadway facility?	13705
3-113) What is the hourly volume (in both directions) for both the AM and PM peak periods on the parallel roadway facility?	568 / 352
3-114) Provide the year in which the above quoted AADT estimate originates from:	2020
3-115) What is the length (in centerline miles) of the proposed project route?	3.08
3-116) How many amenities/destinations are within 1/2 mile of the proposed project?	7
3-117) Is there an existing, parallel transit route near the project corridor?	No
3-119) Is the proposed facility situated within 2 miles of a major university or college?	No
3-120) Does the zoning code which covers the applicant's project area require or provide incentives for affordable housing or workforce	No

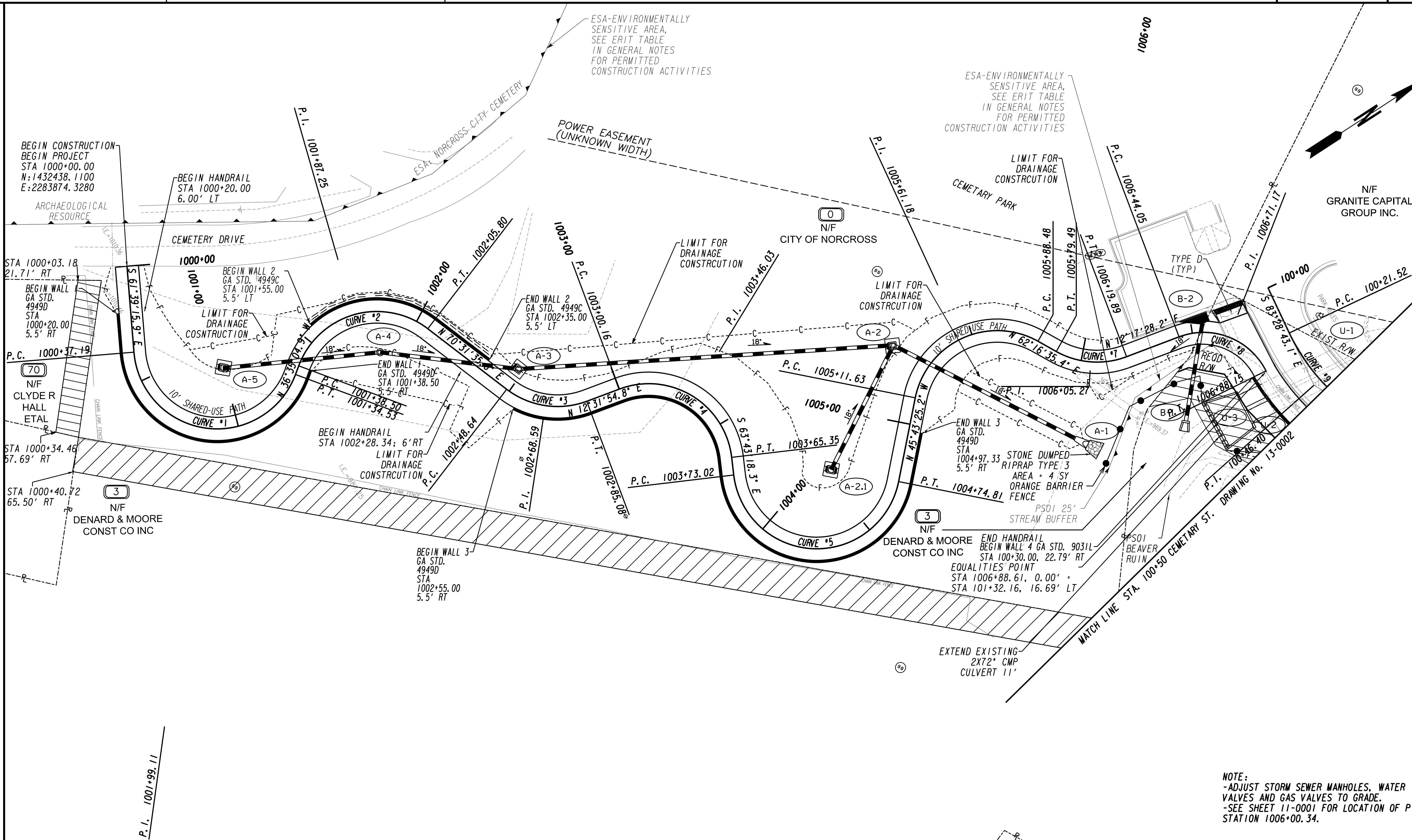
housing?	
3-121B) Please provide details on any HUD-subsidized, low-income housing or households served or connected by this project:	N/A
3-122) Is there a significant population of any of the following communities within or near your project area? Check all that apply:	Low-income
3-123) Describe how these communities, have been or will be engaged in project planning and prioritization. Note: broader engagement information may be gathered in Section 4.	For the concept study, UP 1512, public input was gathered through a web based survey and a series of three public meeting. Community benefits include: improved connectivity between neighborhoods and community destinations, greater recreational opportunities, increased economic vitality, better public and environmental health, reduced automobile traffic congestion.
3-124) Describe specific project benefits to these communities:	The project is located in the south side of the City of Norcross, Gwinnett County and is 3.8 miles long. The project provides bicycle and pedestrian improvement recommendations that include the following facilities: multi-use trail adjacent to road (sidepath); off-road multi-use trail (that includes segments of concrete trail as well as segments of boardwalk); and sidewalks and shared lane marking (sharrow). The existing traffic signals may require upgrades at the following intersections in order to accommodate the bicycle and pedestrian crossings: Holcomb Bridge Road at Buford Highway and Mitchell Road at Price Place. Additional project components include: striping and signing, planting, and site furnishings.

3-125) Describe any negative externalities that would place any burdens on these communities created by the project (EG. minority-owned business disruption due to construction or increased speeds near a school zone) along with measures that will be taken to mitigate them:	N/A
4-65) Please list the TOTAL funding amount requested. This figure should include all sources (federal and non-federal match):	4,444,000

4-66) If awarded the funding amount listed above, how would it be utilized? Complete the following schedule and budget table, which should reflect exactly how awarded funds should appear in the TIP. Leave no boxes blank. Enter N/A if the box is not applicable to your project proposal. Keep in mind that all federal amounts awarded through this solicitation have a 20 percent matching requirement:

PE	
Proposed Fiscal Year	N/A
Federal Share (80% max)	N/A
Non-Federal Share (20% min)	N/A
Total Cost	N/A
ROW	
Proposed Fiscal Year	2022
Federal Share (80% max)	547,200
Non-Federal Share (20% min)	136,800
Total Cost	684,000.00
UTL	
Proposed Fiscal Year	2023
Federal Share (80% max)	128,000
Non-Federal Share (20% min)	32,000
Total Cost	160,000
CST	

Proposed Fiscal Year	2023
Federal Share (80% max)	2,880,000
Non-Federal Share (20% min)	720,000
Total Cost	3,600,000
4-69) Attach funding match commitment AND project sponsor support resolution documentation from the local governing body or bodies. This documentation provides assurances to the ARC Board that the proposed sponsor of the project is willing to fulfill all applicable financial and administrative requirements associated with delivering a federal aid transportation project. All project sponsor support documentation must be on official letterhead and signed by the chief elected official of the local government that is serving as the project sponsor. Be sure to match the file name to the unique project identification number selected earlier for this proposal (e.g. CO-01-Match Commitment.pdf). Documentation may be covered by one or multiple files. If sending multiple documents, package them into a single .ZIP archive file:	ARC_Letter.pdf (174 KB)
Last Update	2021-12-02 21:45:40
Start Time	2021-12-02 21:30:16
Finish Time	2021-12-02 21:45:40
IP	47.36.9.160
Browser	IE
Device	Desktop
Referrer	https://fs19.formsite.com/res/formLoginReturn



NOTE:
-ADJUST STORM SEWER MANHOLES, WATER VALVES AND GAS VALVES TO GRADE.
-SEE SHEET 11-0001 FOR LOCATION OF PI & STATION 1006+00.34.

PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	—C— —F—
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS............BLA	
END LIMIT OF ACCESS.............ELA	
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE ENGINEERING PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

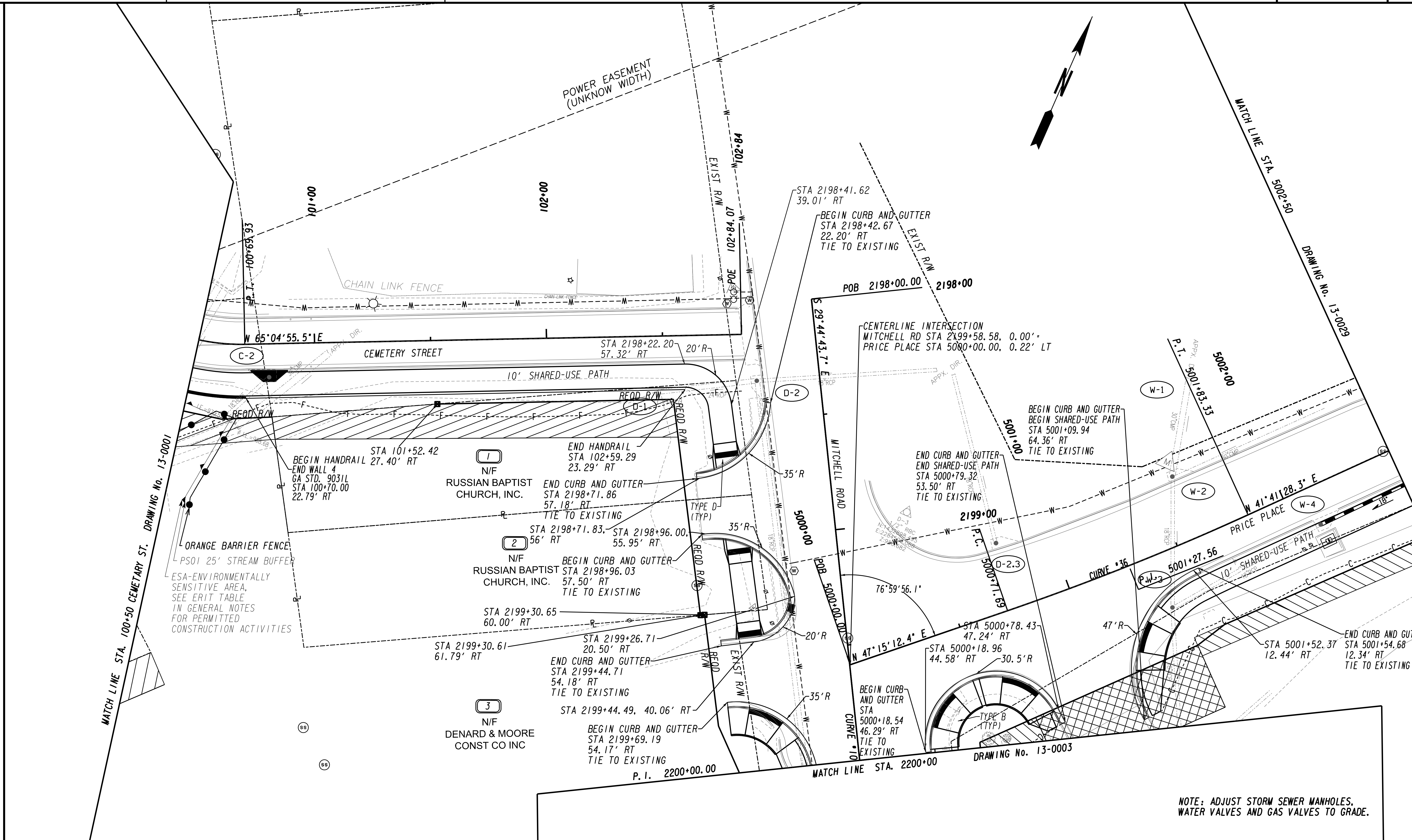
REVISION DATES

CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.
13-0001

10/23/2015 GPLN



NOTE: ADJUST STORM SEWER MANHOLES, WATER VALVES AND GAS VALVES TO GRADE.

PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

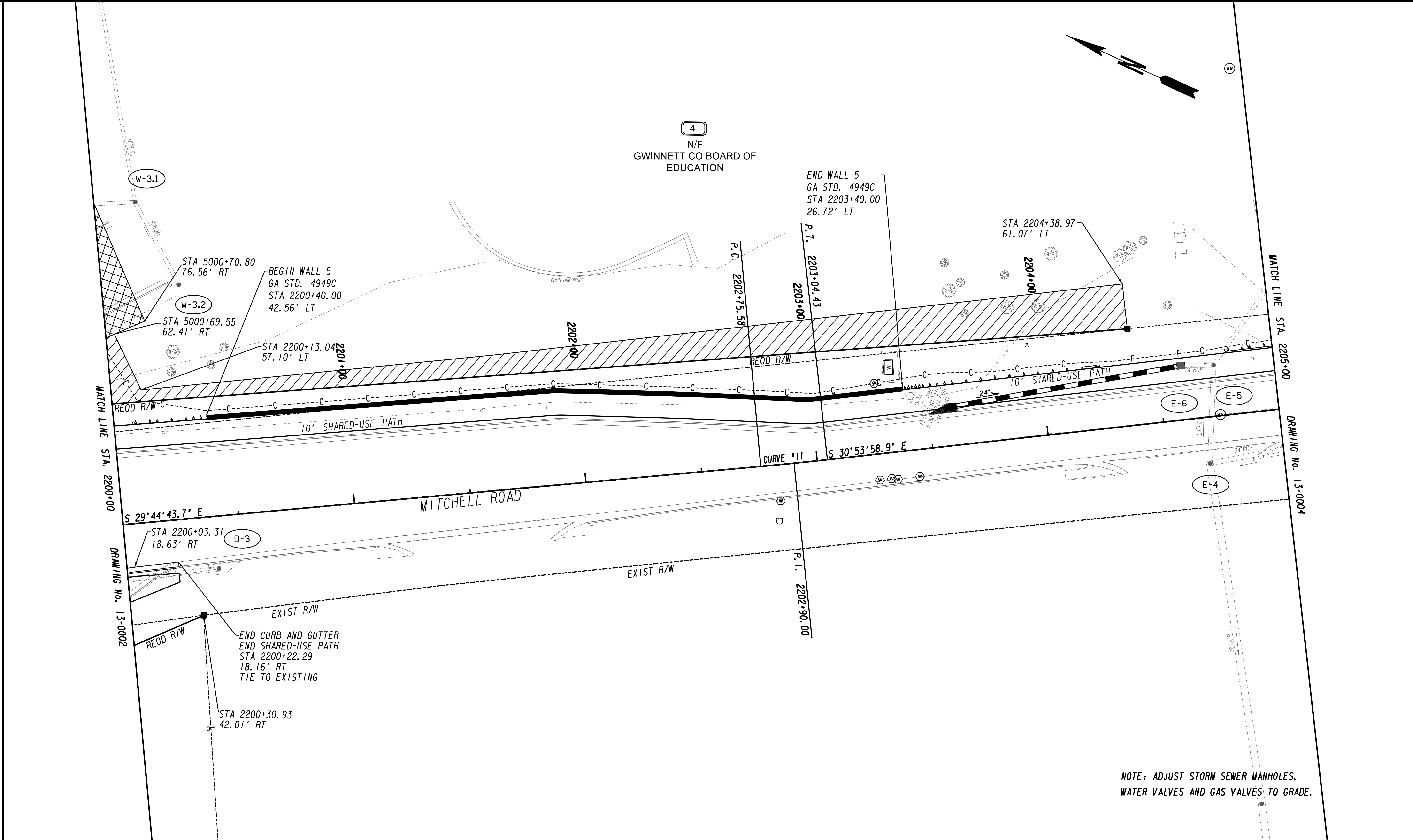
SCALE IN FEET
0 20 40 80

REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN



PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	
EASEMENT FOR CONSTR	
& MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

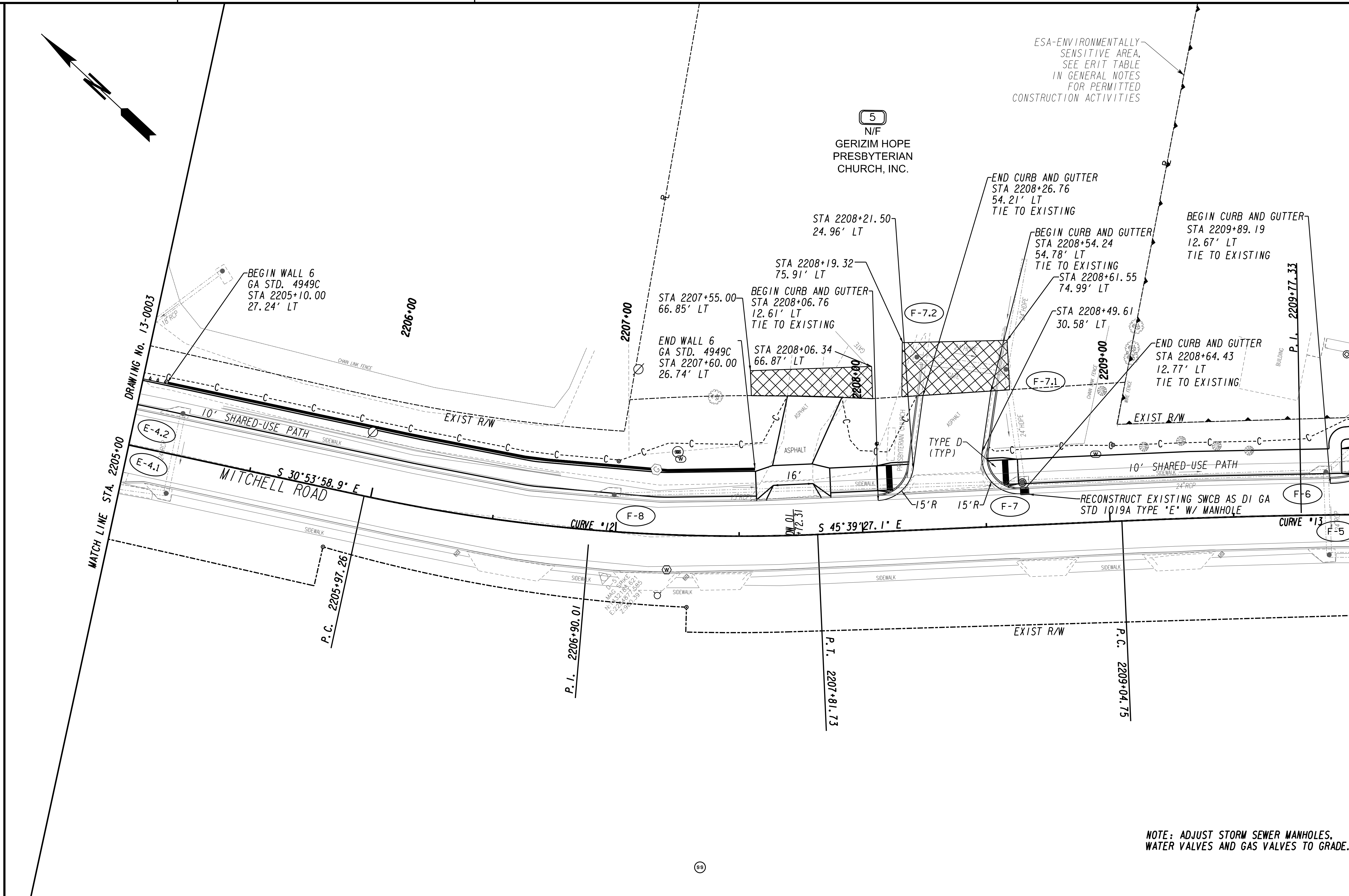
REVISION DATES

CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN



PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

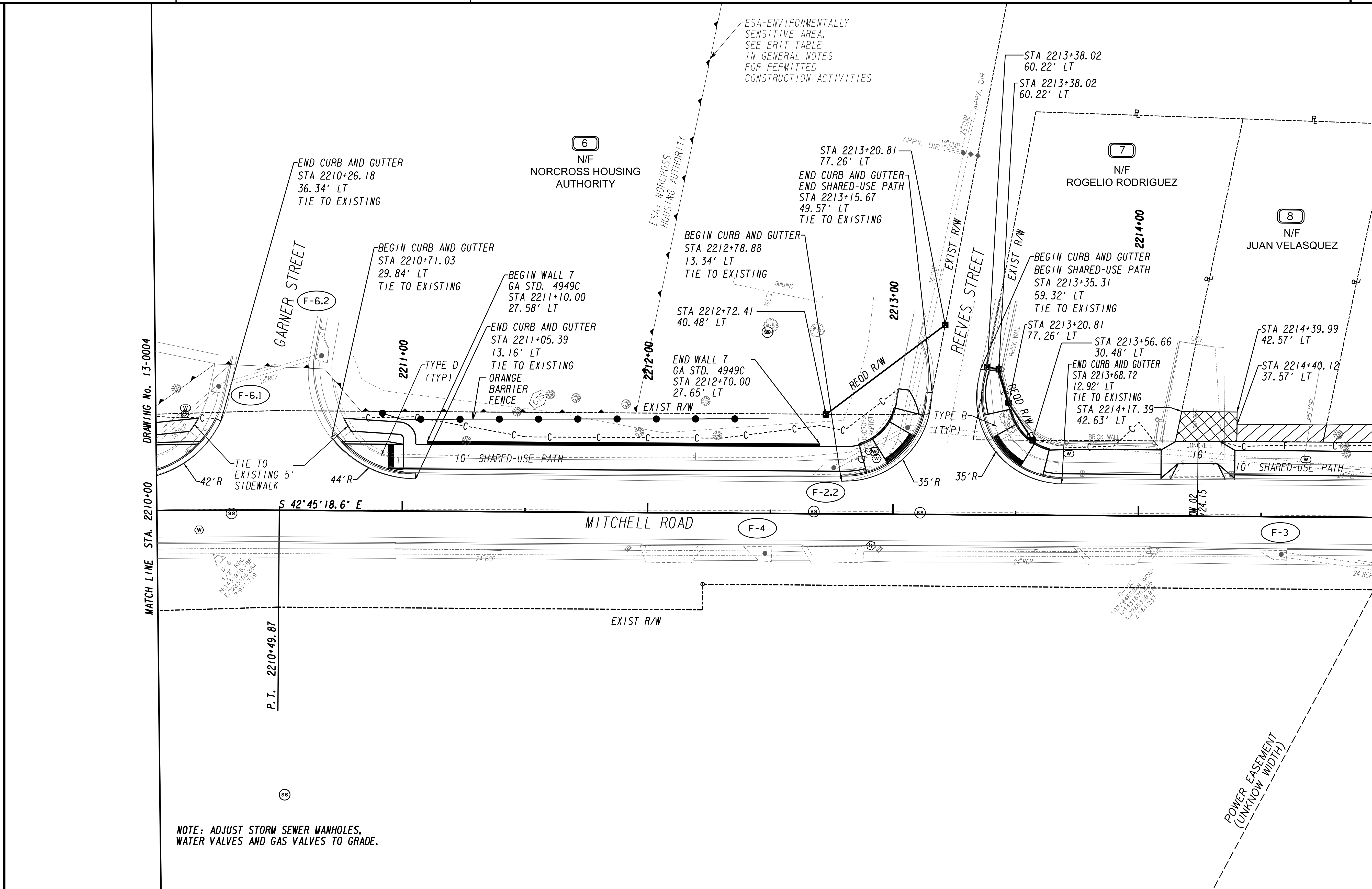
REVISION DATES

CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN



PROPERTY AND EXISTING R/W LINE		BEGIN LIMIT OF ACCESS............BLA	
REQUIRED R/W LINE		END LIMIT OF ACCESS.............ELA	
CONSTRUCTION LIMITS	—C— —F—	REQ'D LIMIT OF ACCESS	
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES		REQ'D LIMIT OF ACCESS & R/W	
EASEMENT FOR CONSTR OF SLOPES		ORANGE BARRIER FENCE	
EASEMENT FOR CONSTR OF DRIVES		ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

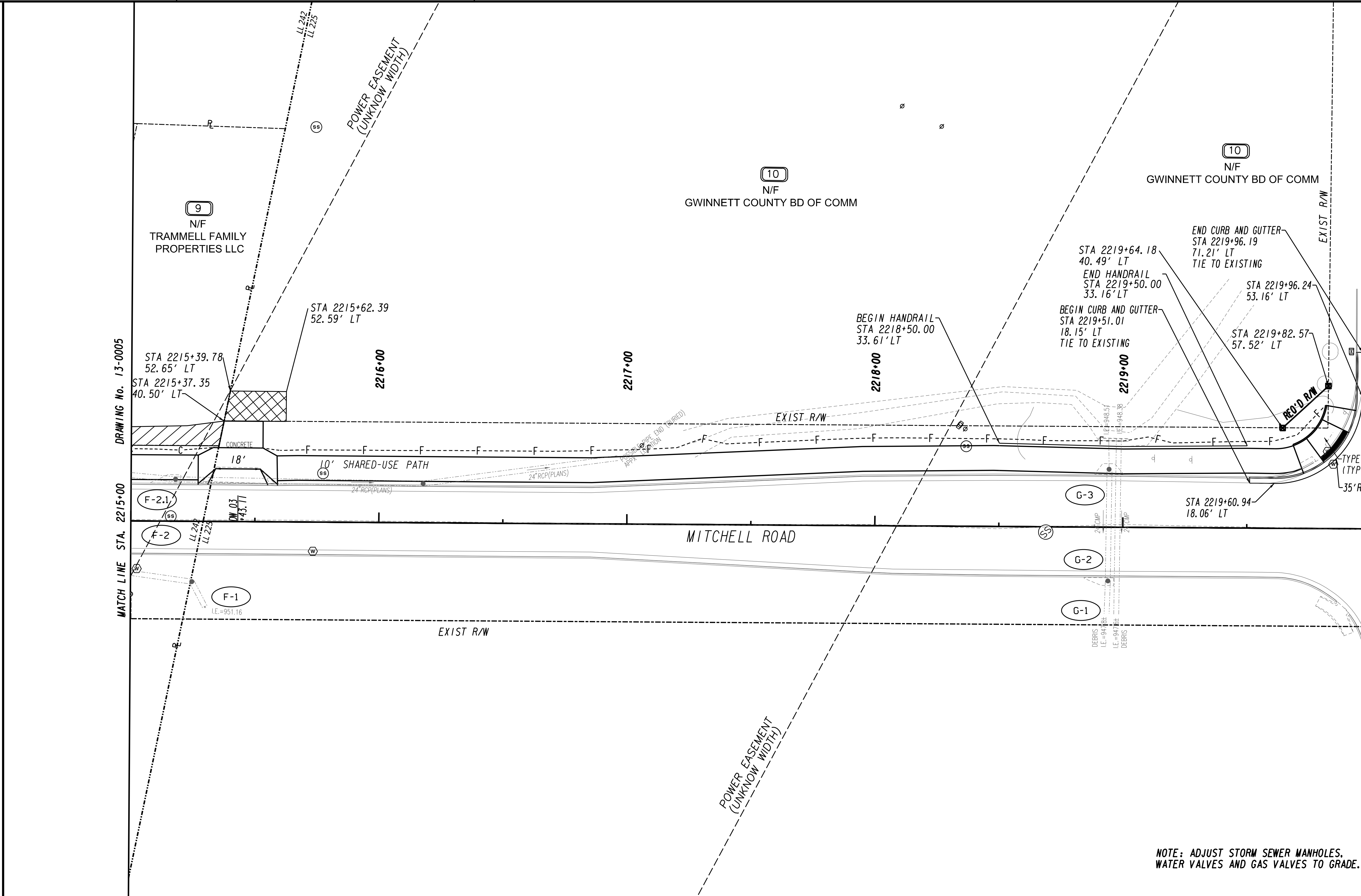
REVISION DATES

CONSTRUCTION PLAN

NORCROSS GREENWA-LCI

CHECKED:		DATE:		DRAWING No.
BACKCHECKED:		DATE:		13-0005
CORRECTED:		DATE:		
VERIFIED:		DATE:		

10/23/2015 GPLN



PROPERTY AND EXISTING R/W LINE		BEGIN LIMIT OF ACCESS............BLA	
REQUIRED R/W LINE		END LIMIT OF ACCESS.............ELA	
CONSTRUCTION LIMITS	—C— —F—	REQ'D LIMIT OF ACCESS	
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES		REQ'D LIMIT OF ACCESS & R/W	
EASEMENT FOR CONSTR OF SLOPES		ORANGE BARRIER FENCE	
EASEMENT FOR CONSTR OF DRIVES		ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

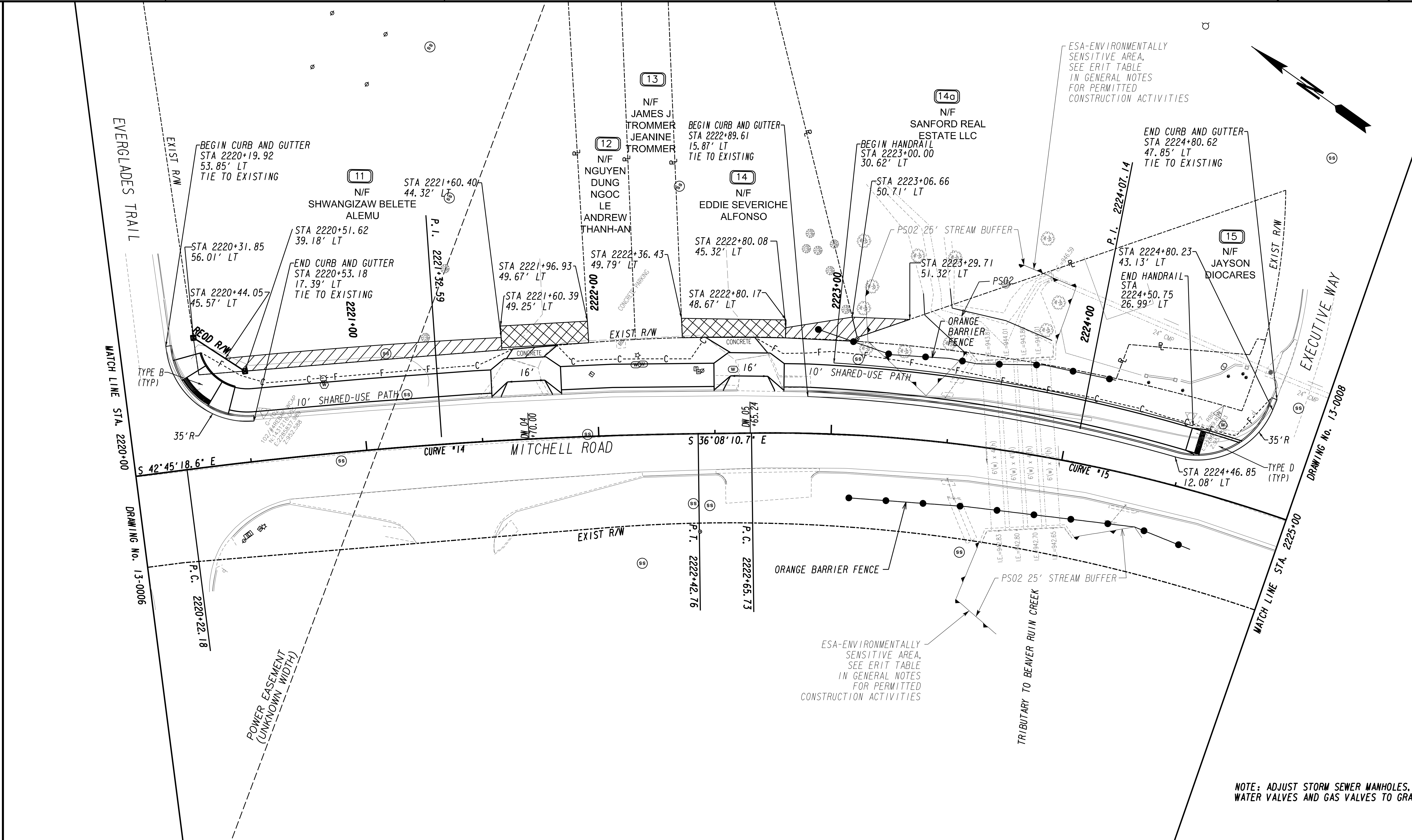
SCALE IN FEET
0 20 40 80

REVISION DATES

CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.



PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR
& MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS.............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)

CPL
ARCHITECTURE ENGINEERING PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

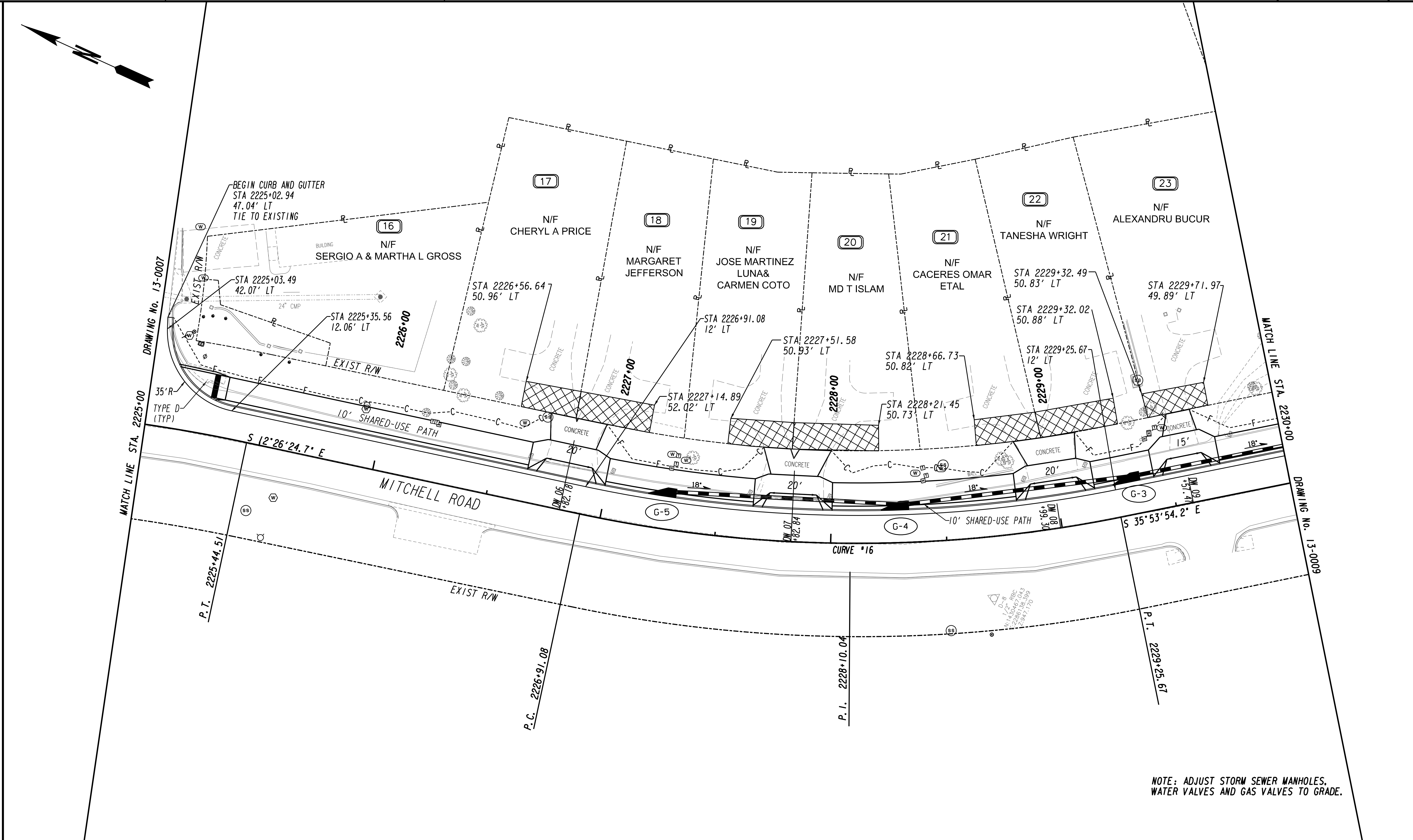
REVISION DATES

CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.
13-0007

10/23/2015 GPLN



PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS..............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

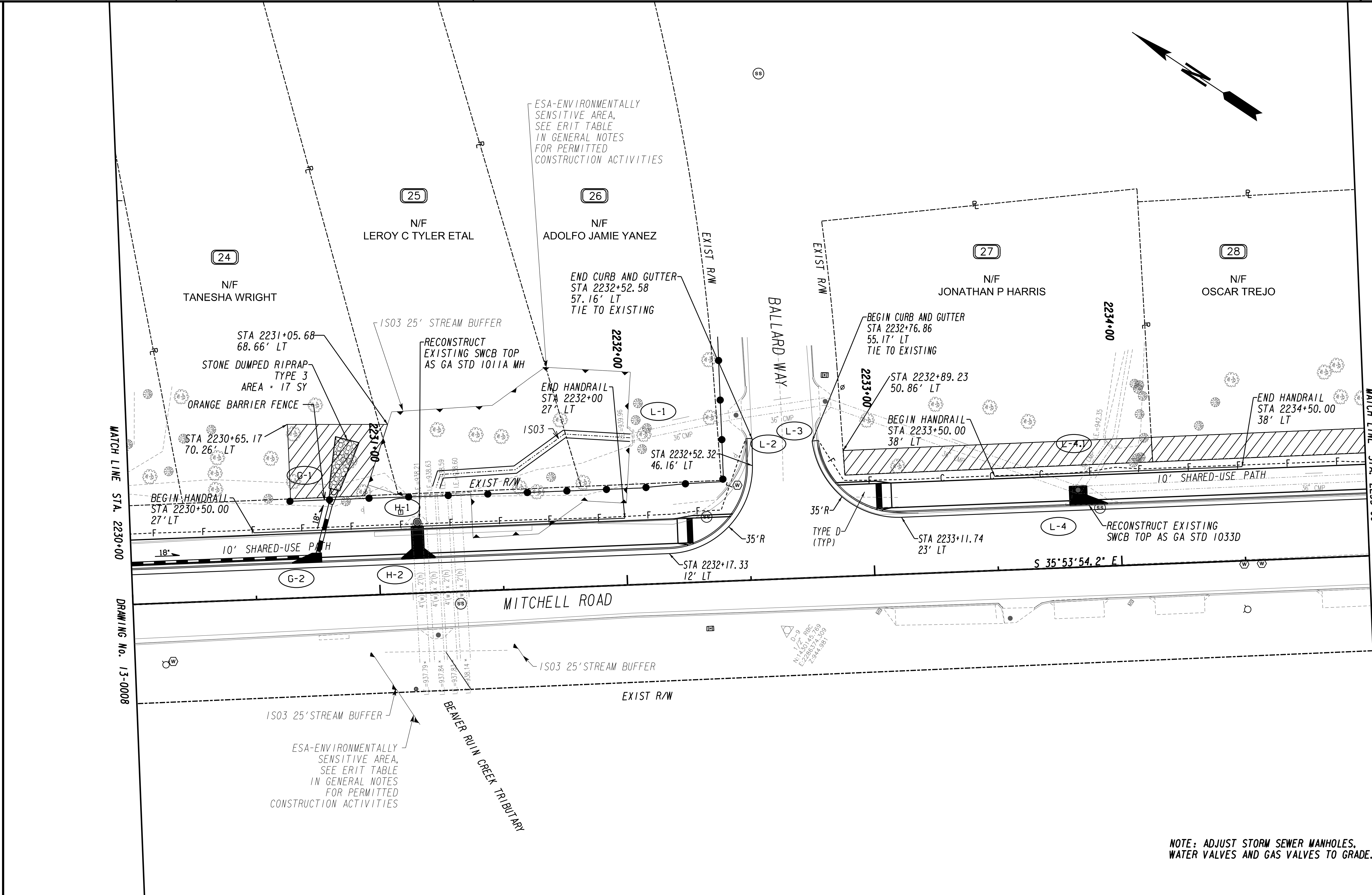
REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



NOTE: ADJUST STORM SEWER MANHOLES, WATER VALVES AND GAS VALVES TO GRADE.

PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS..............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)

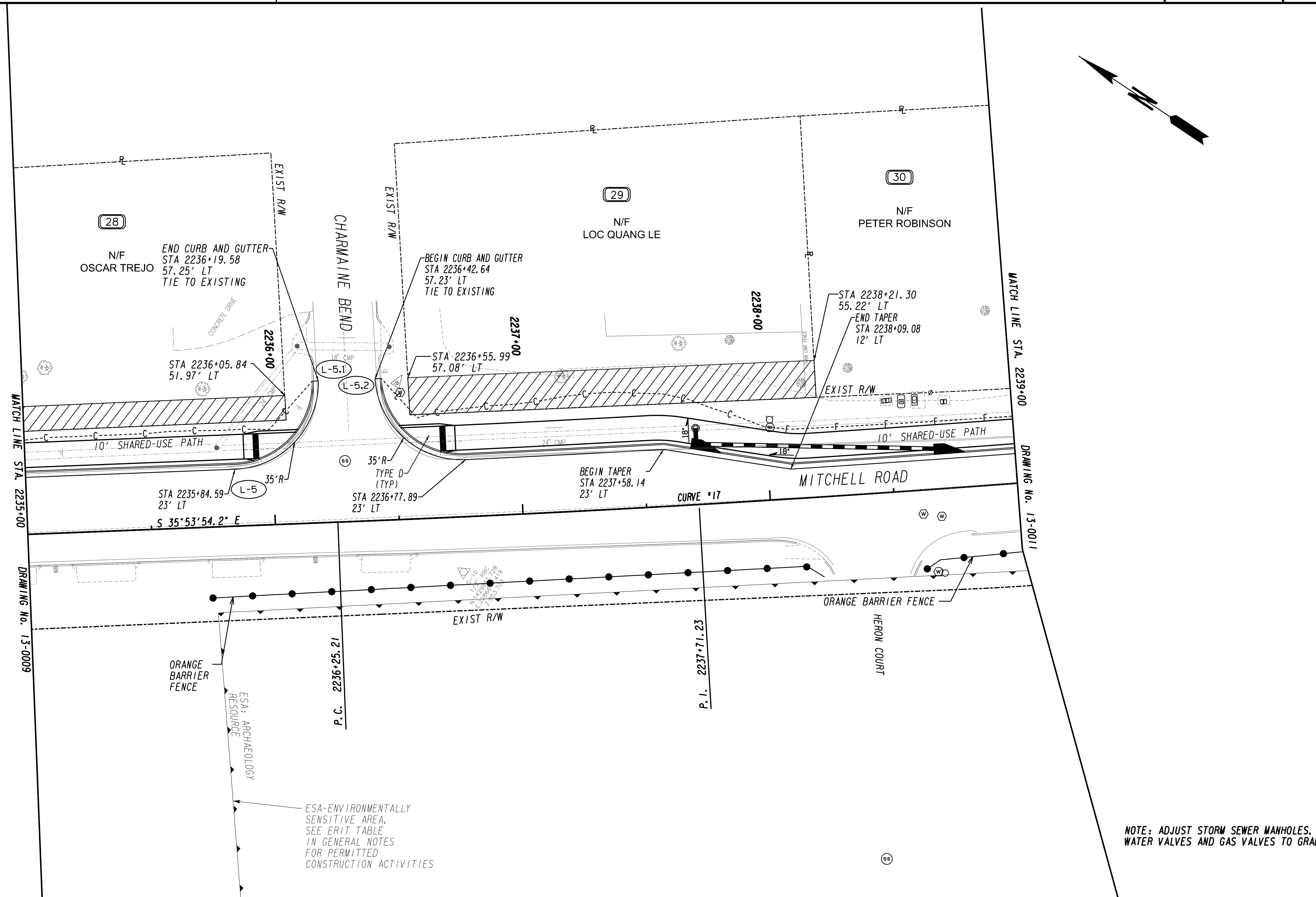
CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.



NOTE: ADJUST STORM SEWER MANHOLES, WATER VALVES AND GAS VALVES TO GRADE

PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	
EASEMENT FOR CONSTR	
& MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

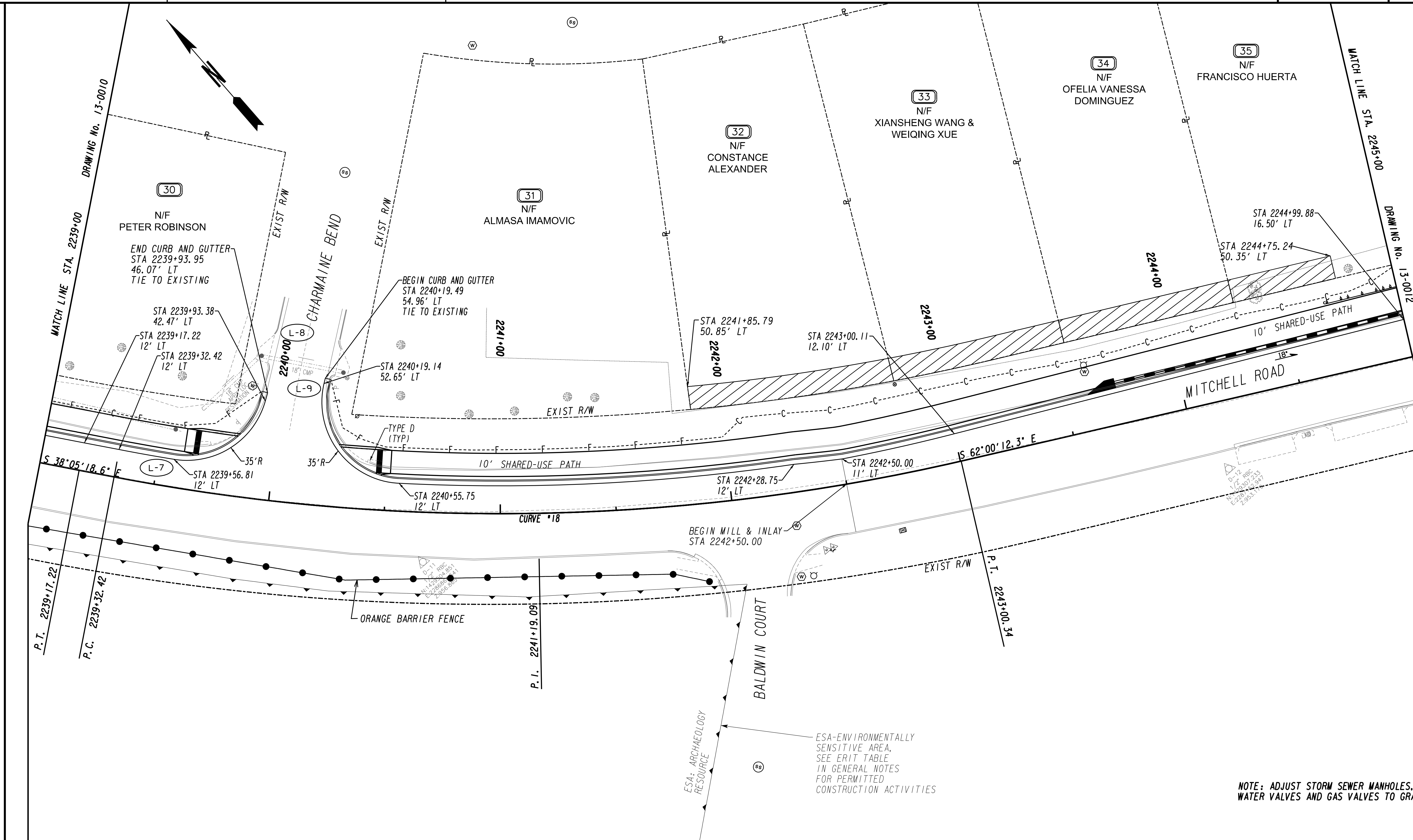
REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING

3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

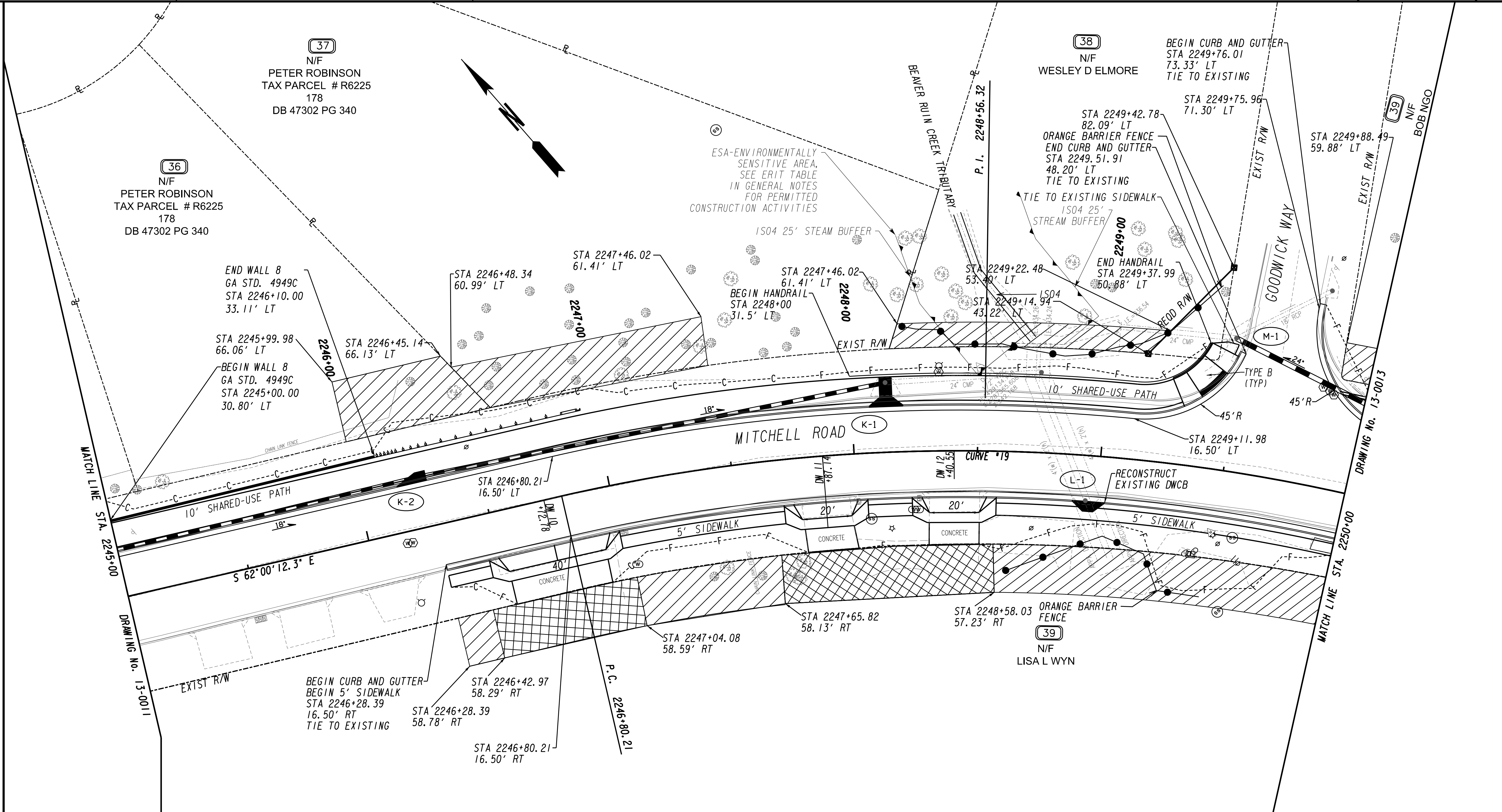
CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:

DRAWING No.

10/23/2015 GPLN



NOTE: ADJUST STORM SEWER MANHOLES, WATER VALVES AND GAS VALVES TO GRADE.

PROPERTY AND EXISTING R/W LINE	BEGIN LIMIT OF ACCESS............BLA
REQUIRED R/W LINE	END LIMIT OF ACCESS.............ELA
CONSTRUCTION LIMITS	REQ'D LIMIT OF ACCESS
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	REQ'D LIMIT OF ACCESS & R/W
EASEMENT FOR CONSTR OF SLOPES	ORANGE BARRIER FENCE
EASEMENT FOR CONSTR OF DRIVES	ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

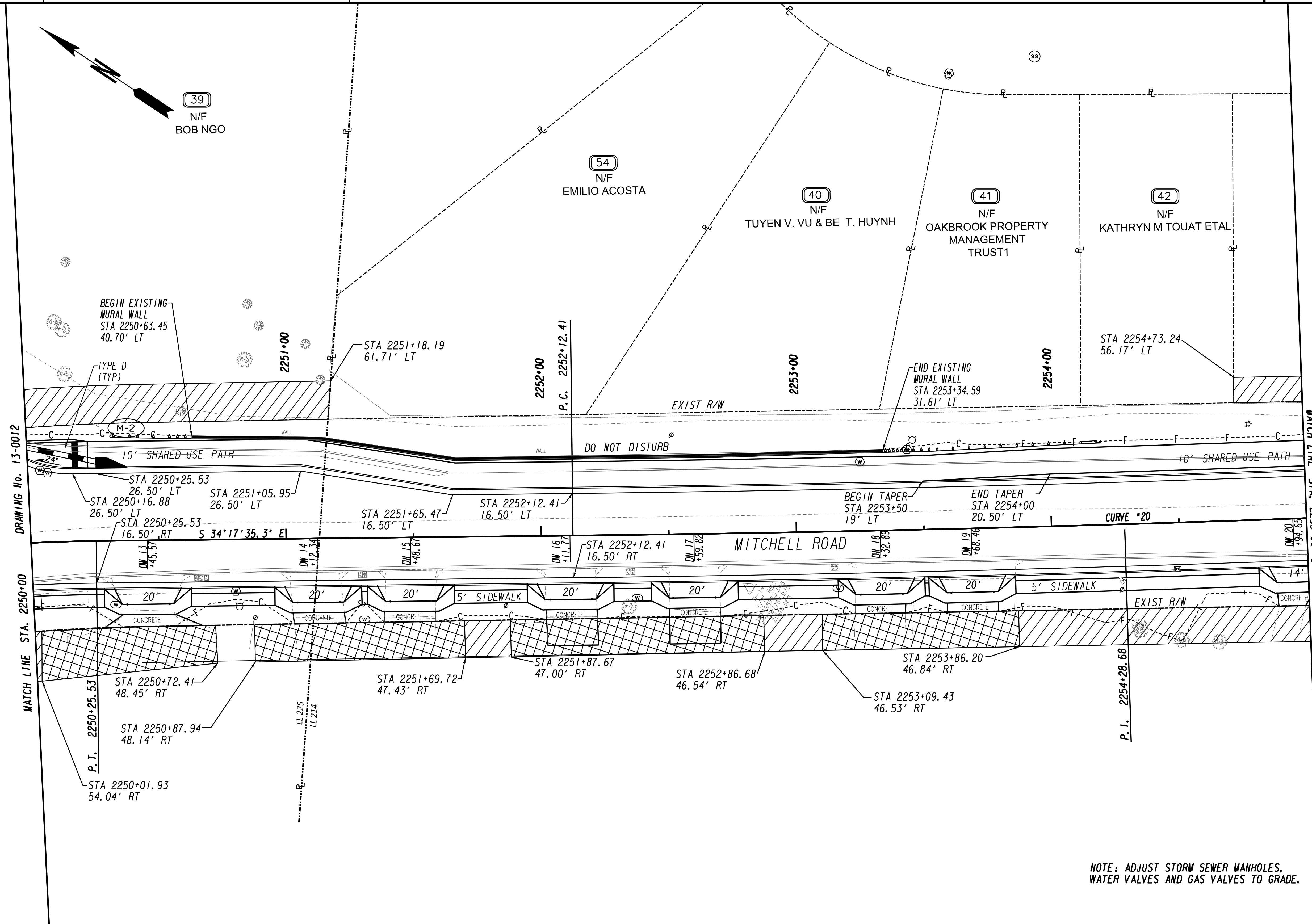
CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR
& MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS.............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA
(SEE ERIT TABLE)

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

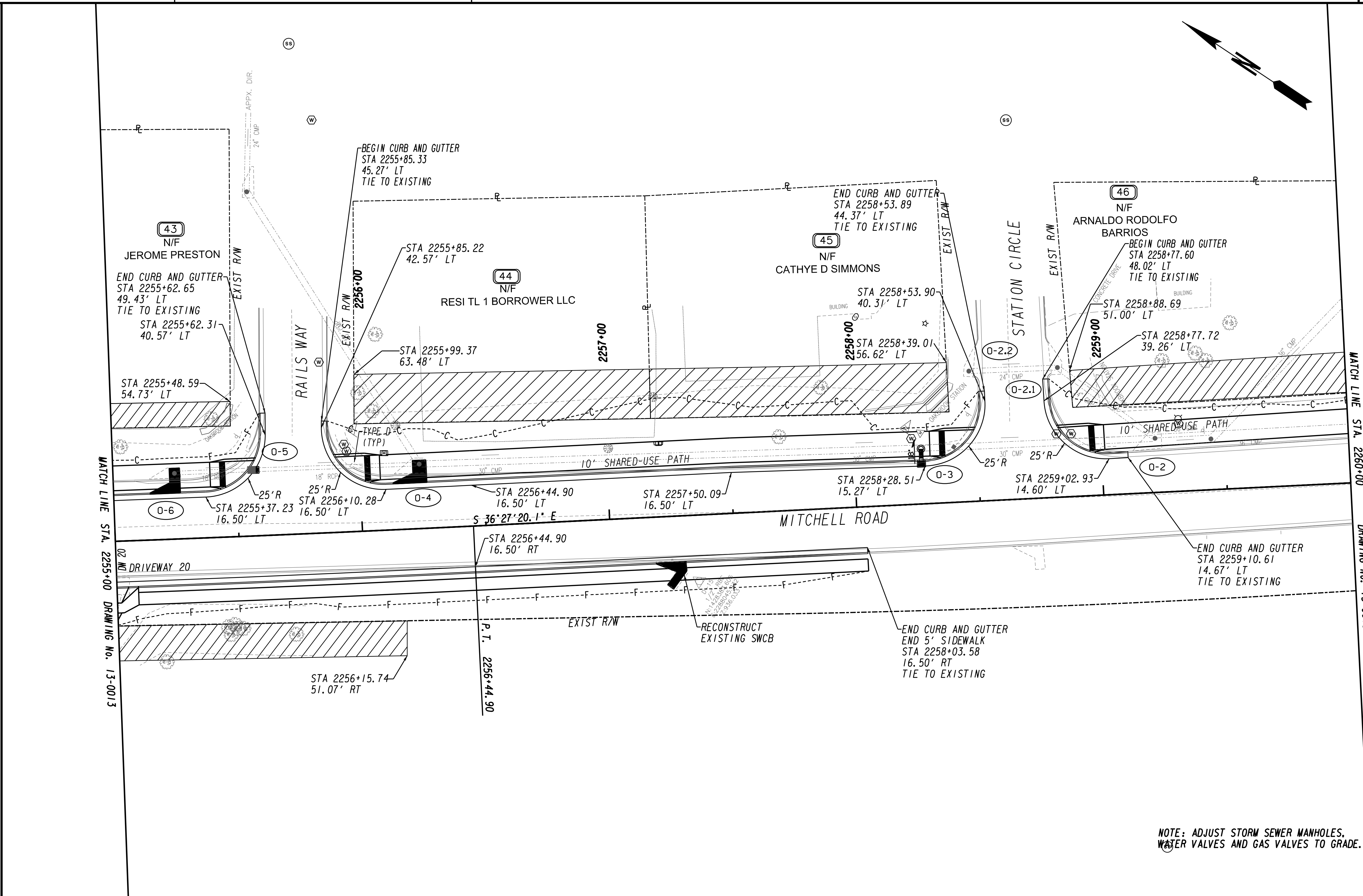
REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED:		DATE:	DRAWING No.
BACKCHECKED:		DATE:	
CORRECTED:		DATE:	
VERIFIED:		DATE:	

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS..............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

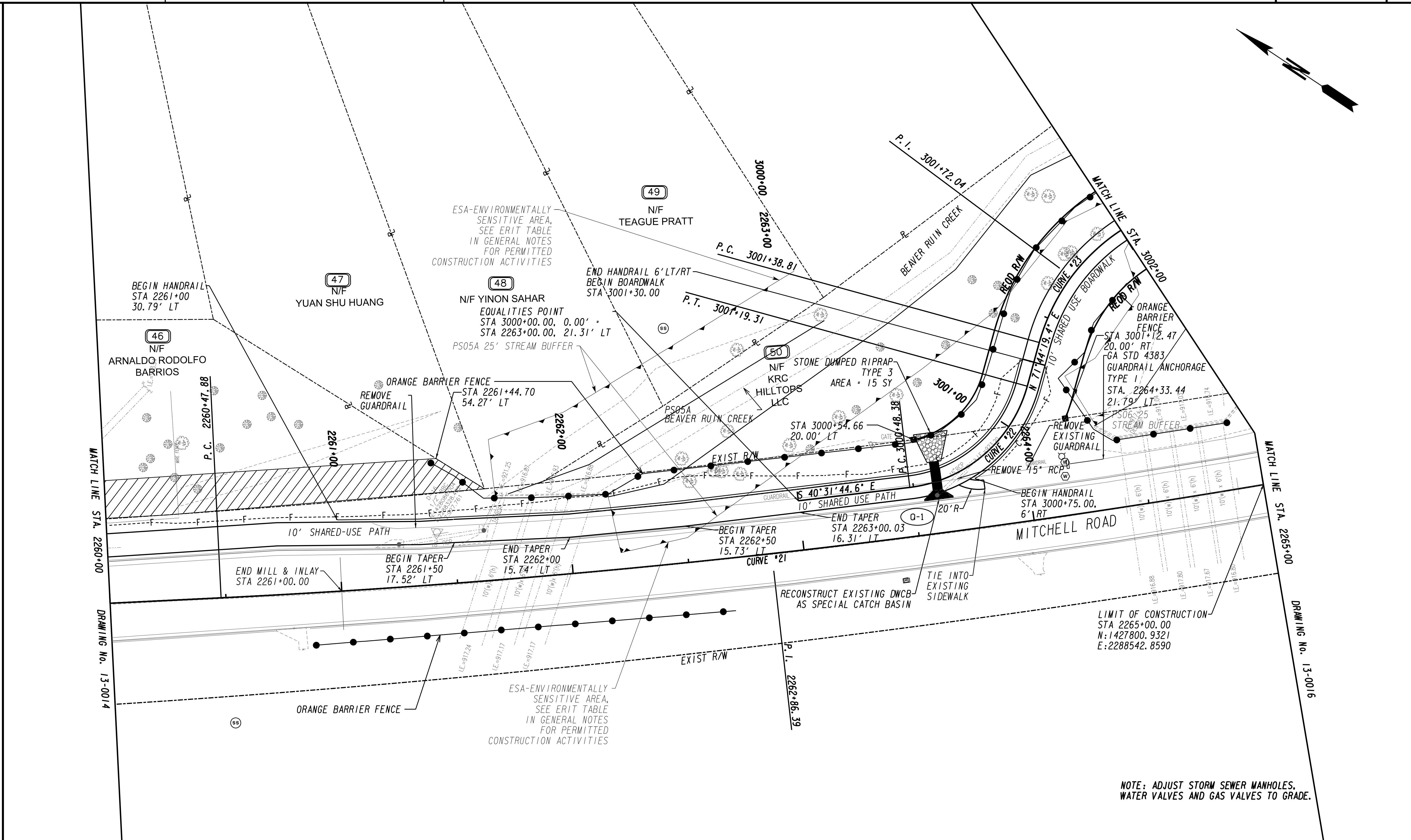
CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.
13-0014

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE ENGINEERING PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

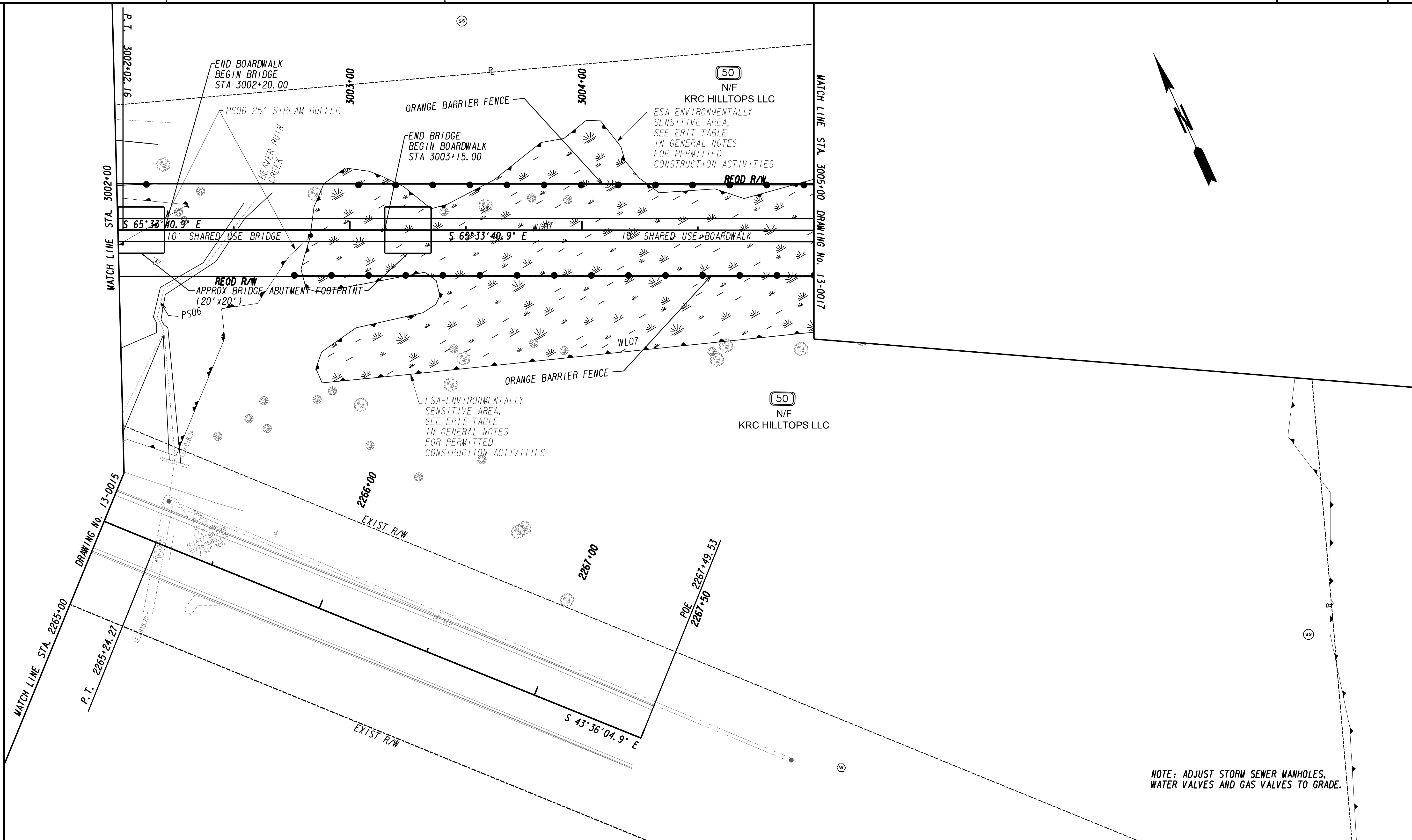
REVISION DATES

CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No. 13-0015

10/23/2015 GPLN



PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

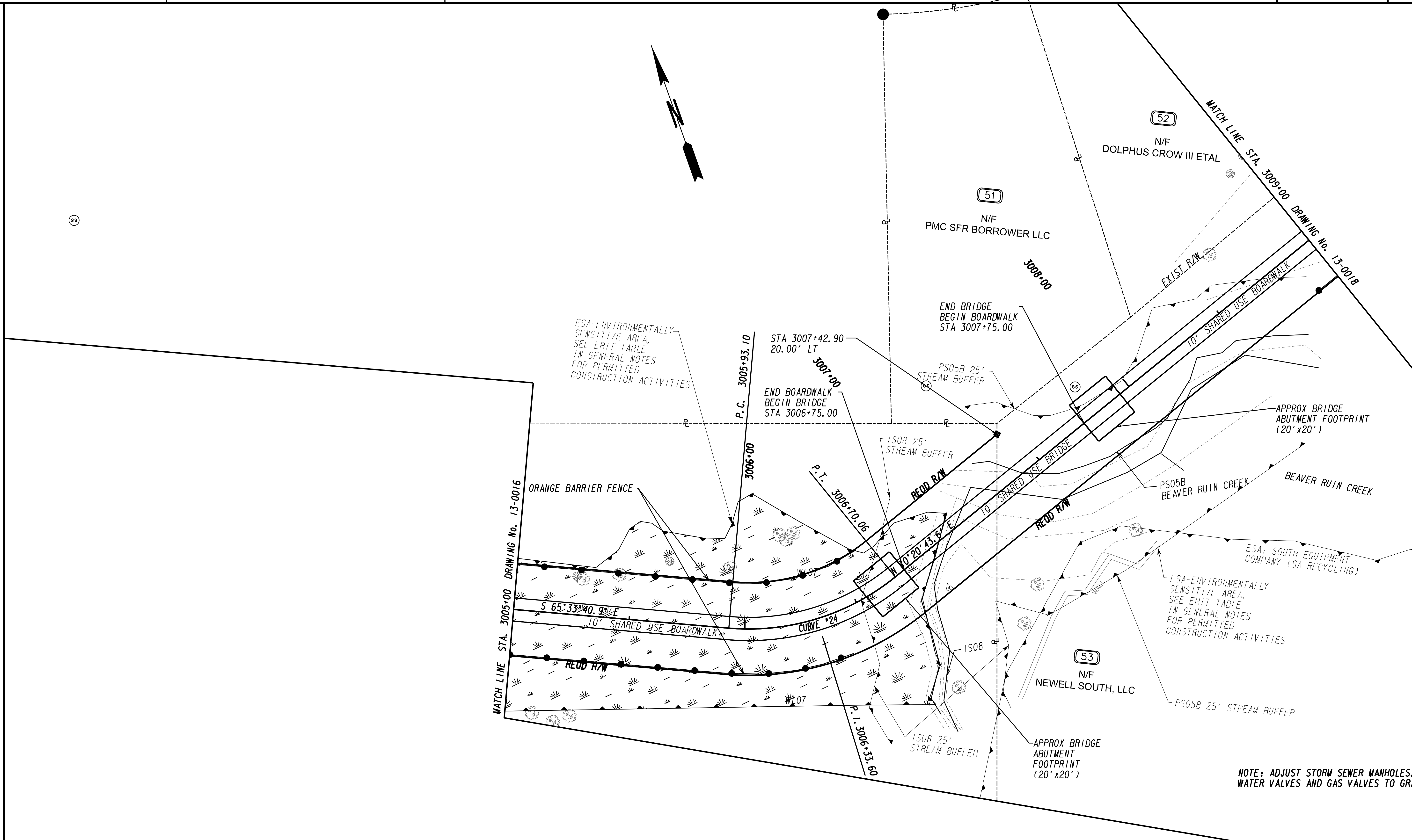
SCALE IN FEET
0 20 40 80

REVISION DATES

CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.
13-0016



PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR
& MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS..............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA
(SEE ERIT TABLE)

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

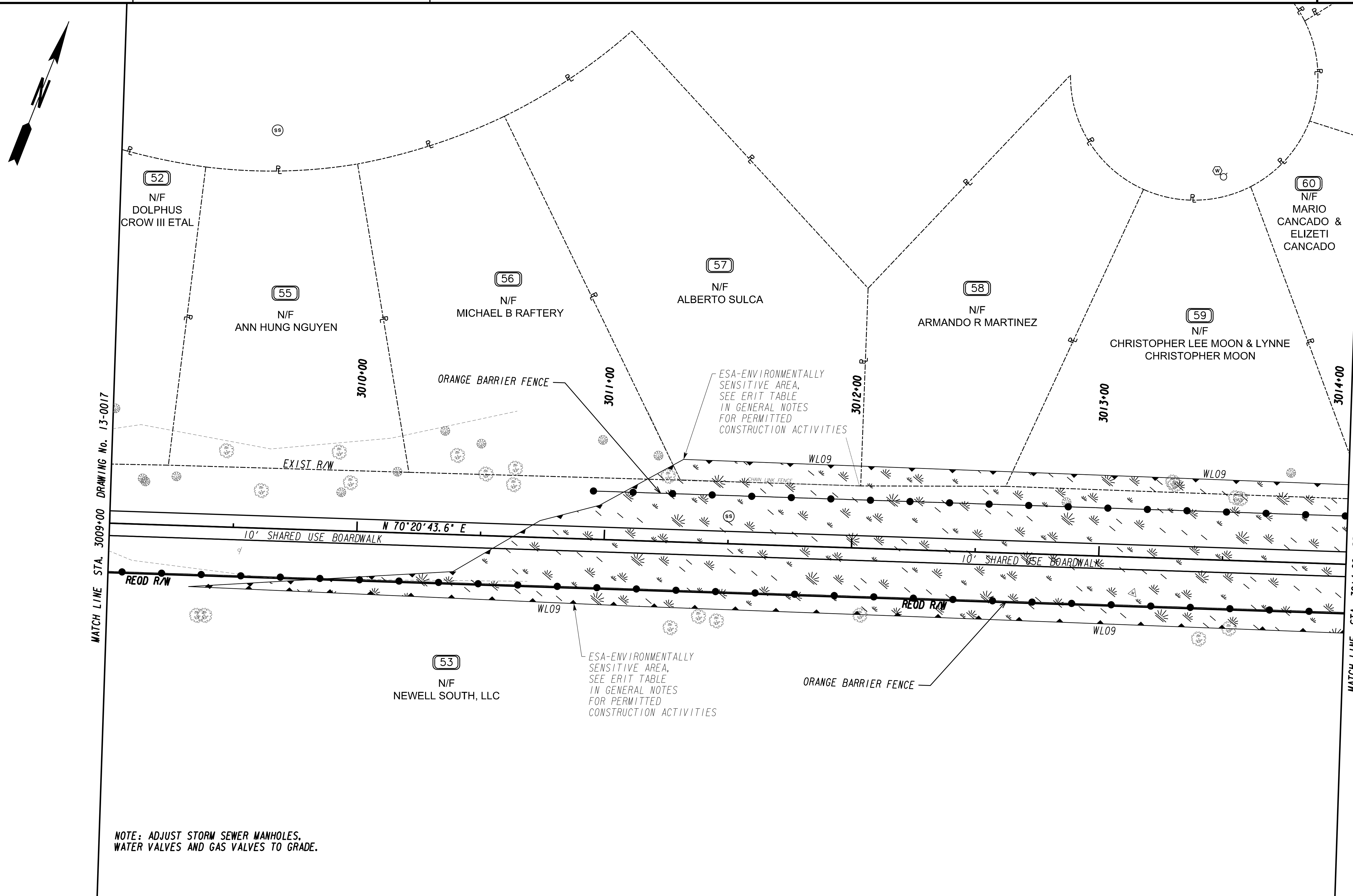
CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:

DRAWING No.
13-0017

10/23/2015 GPLN



NOTE: ADJUST STORM SEWER MANHOLES,
WATER VALVES AND GAS VALVES TO GRADE.

PROPERTY AND EXISTING R/W LINE	BEGIN LIMIT OF ACCESS............BLA
REQUIRED R/W LINE	END LIMIT OF ACCESS.............ELA
CONSTRUCTION LIMITS	REQ'D LIMIT OF ACCESS
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	REQ'D LIMIT OF ACCESS & R/W
EASEMENT FOR CONSTR FOR SLOPES	ORANGE BARRIER FENCE
EASEMENT FOR CONSTR OF DRIVES	ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)

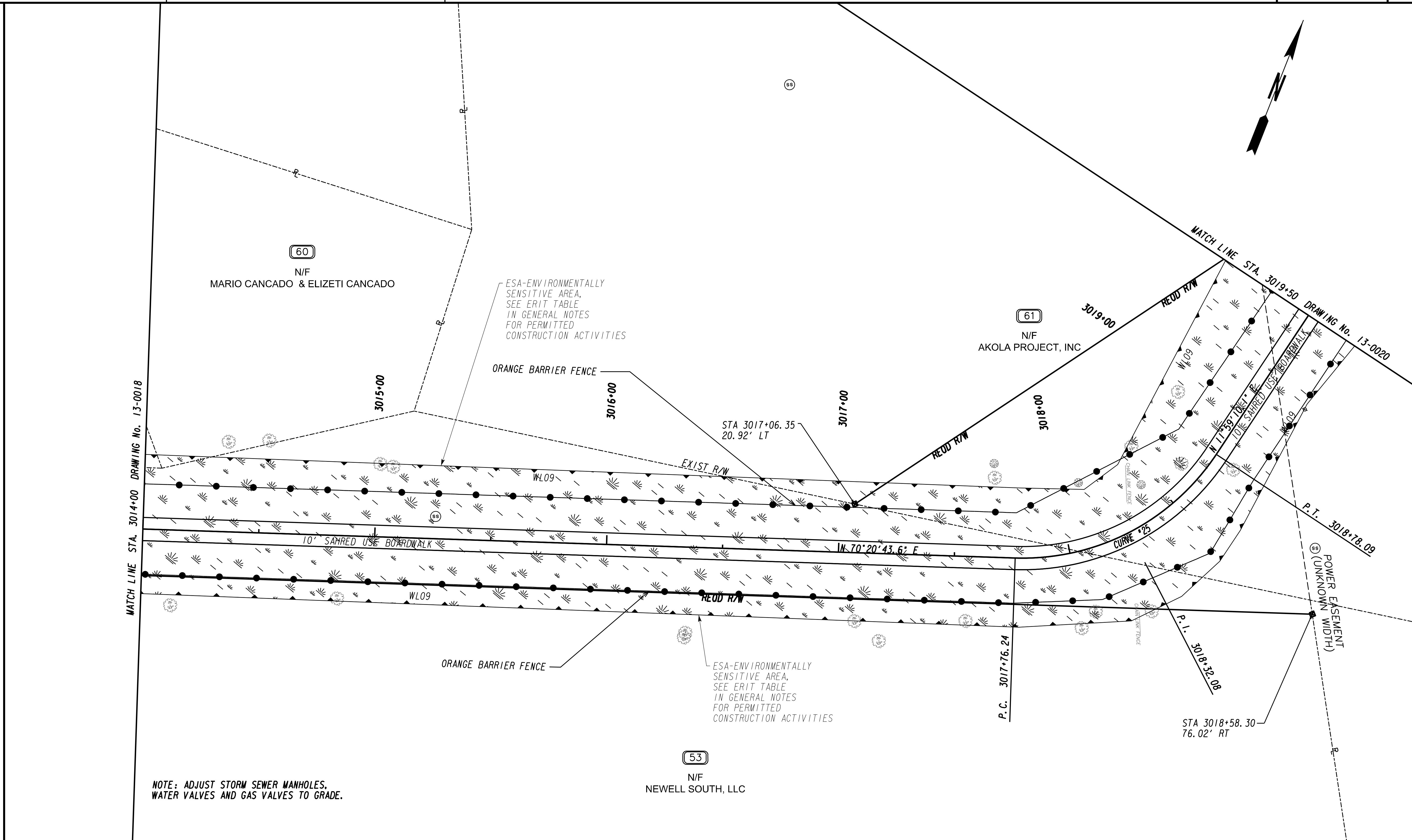
CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.



PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	—C— —F—
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

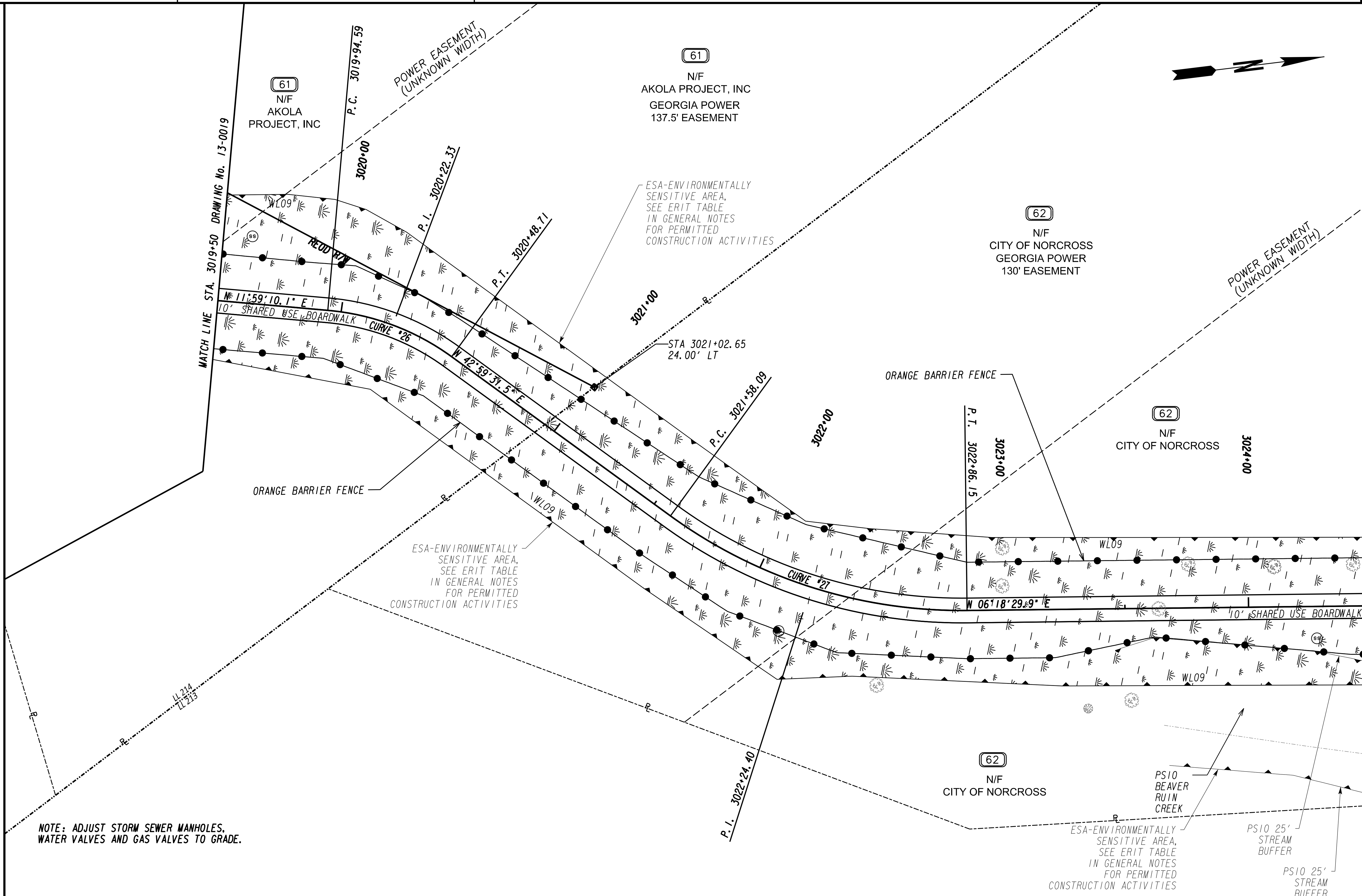
CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR
& MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS..............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA
(SEE ERIT TABLE)

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

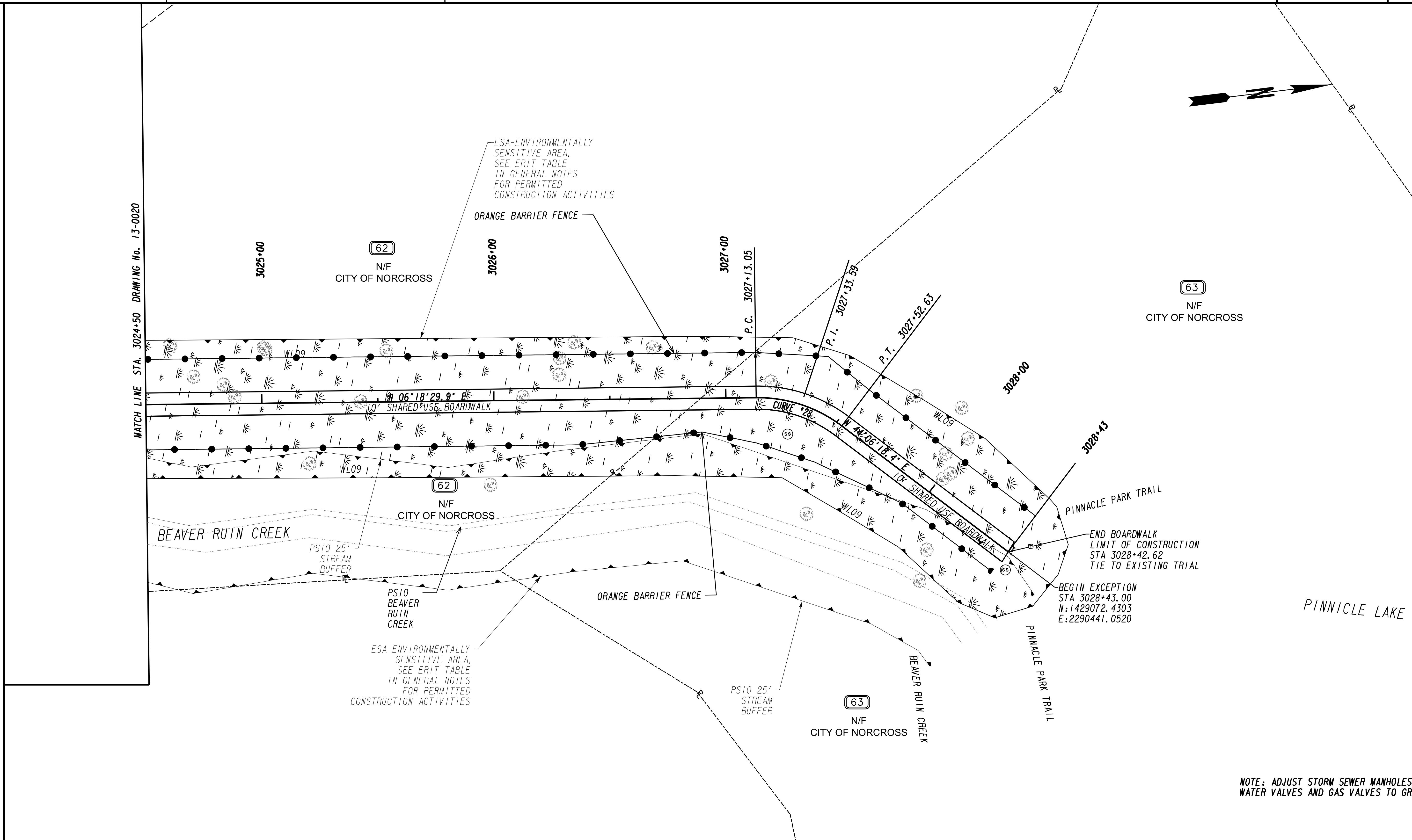
CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)

PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

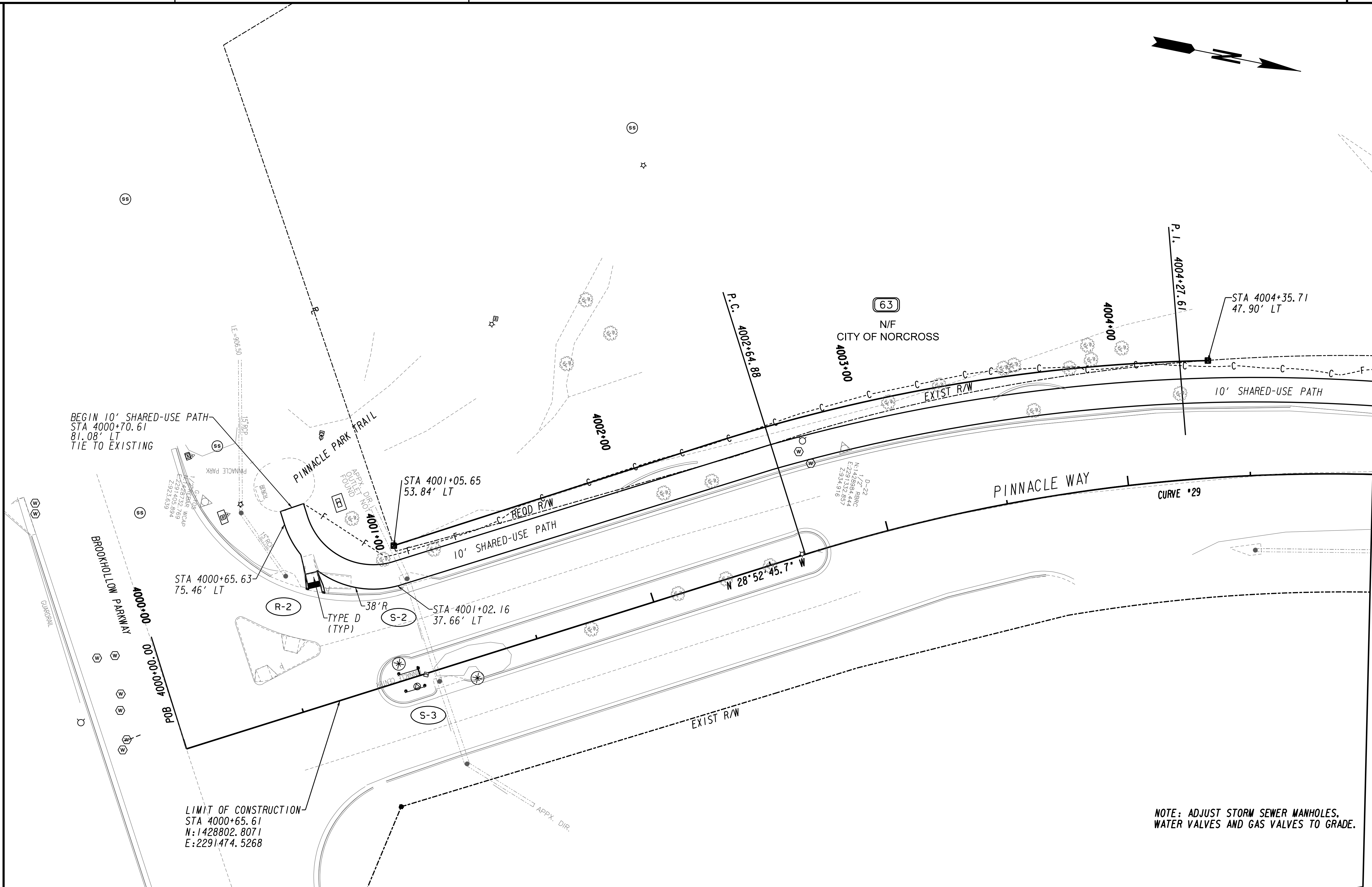
SCALE IN FEET
0 20 40 80

REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN



PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS.............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

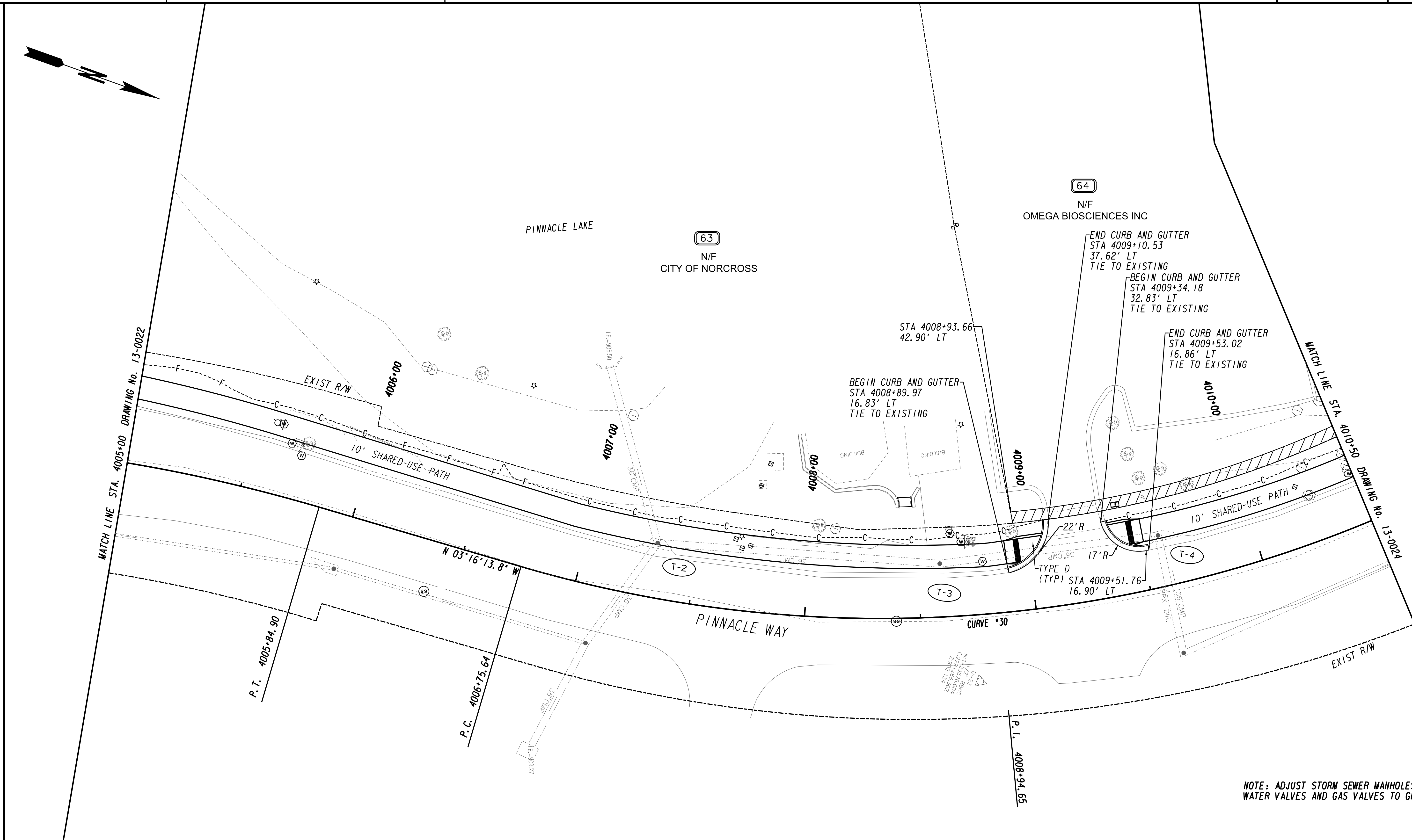
CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS.............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)

CPL
ARCHITECTURE ENGINEERING PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

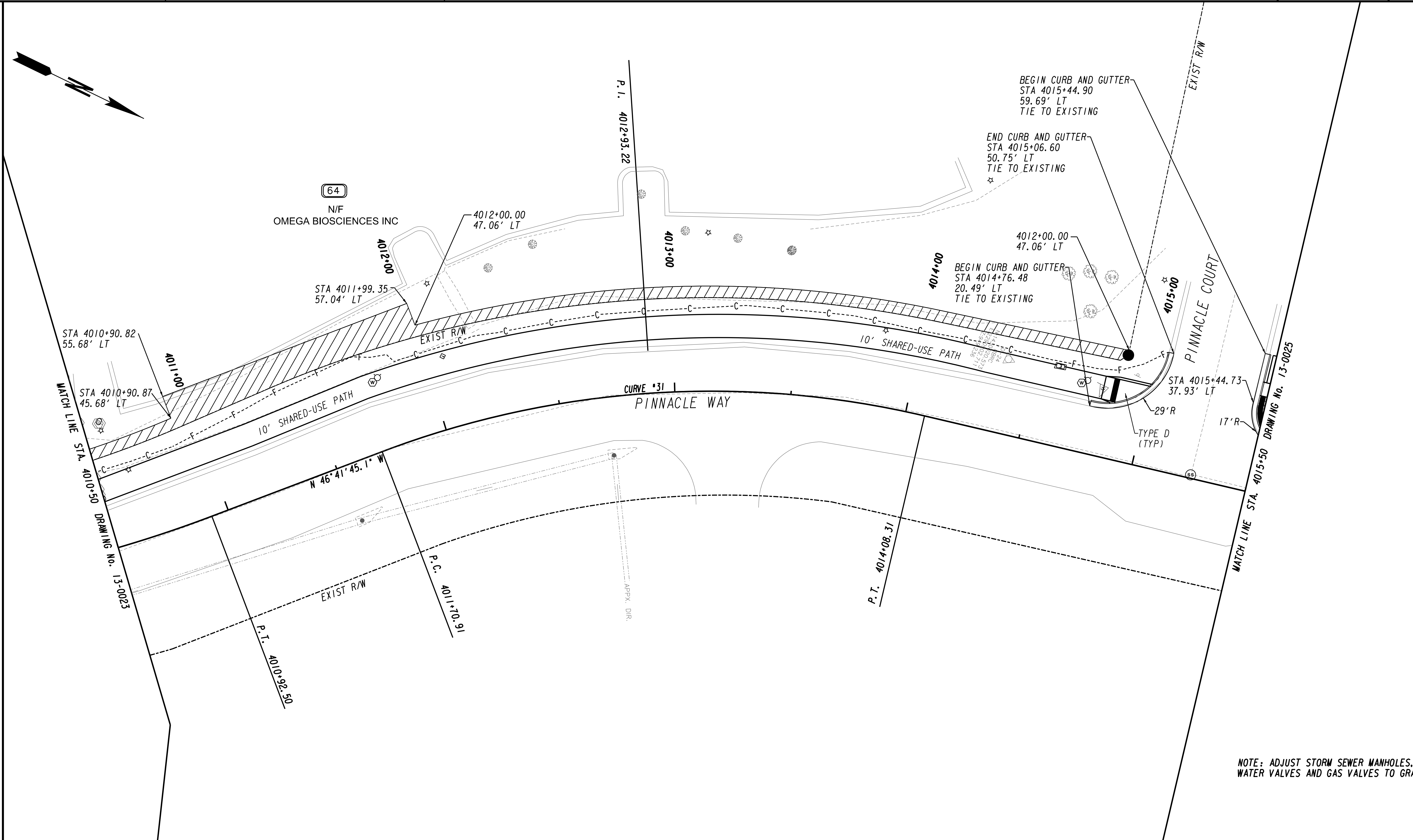
CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



NOTE: ADJUST STORM SEWER MANHOLES, WATER VALVES AND GAS VALVES TO GRADE

PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	—C— —F—
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

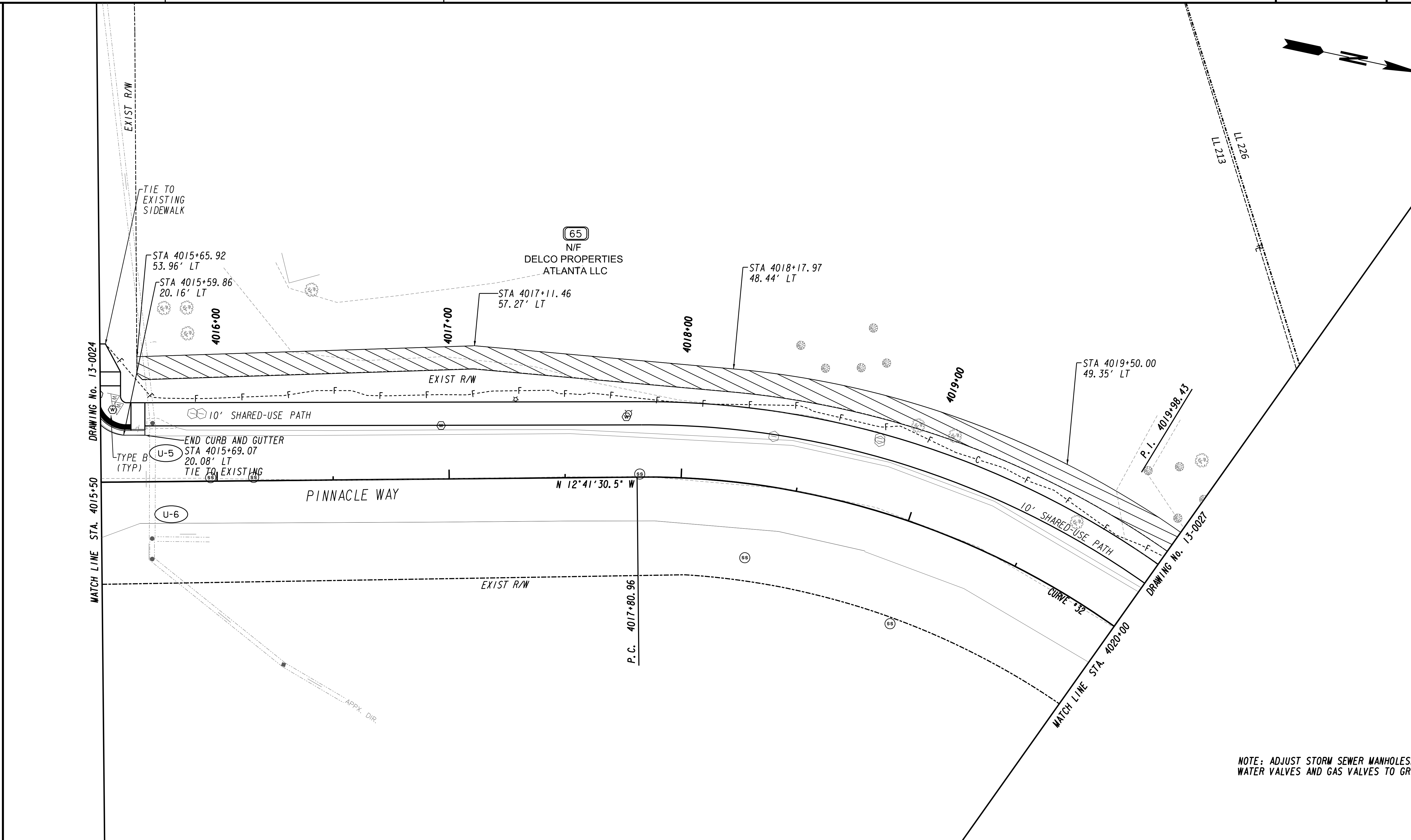
REVISION DATES

CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN



NOTE: ADJUST STORM SEWER MANHOLES, WATER VALVES AND GAS VALVES TO GRADE

PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	—C— —F—
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	

BEGIN LIMIT OF ACCESS............BLA	
END LIMIT OF ACCESS.............ELA	
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

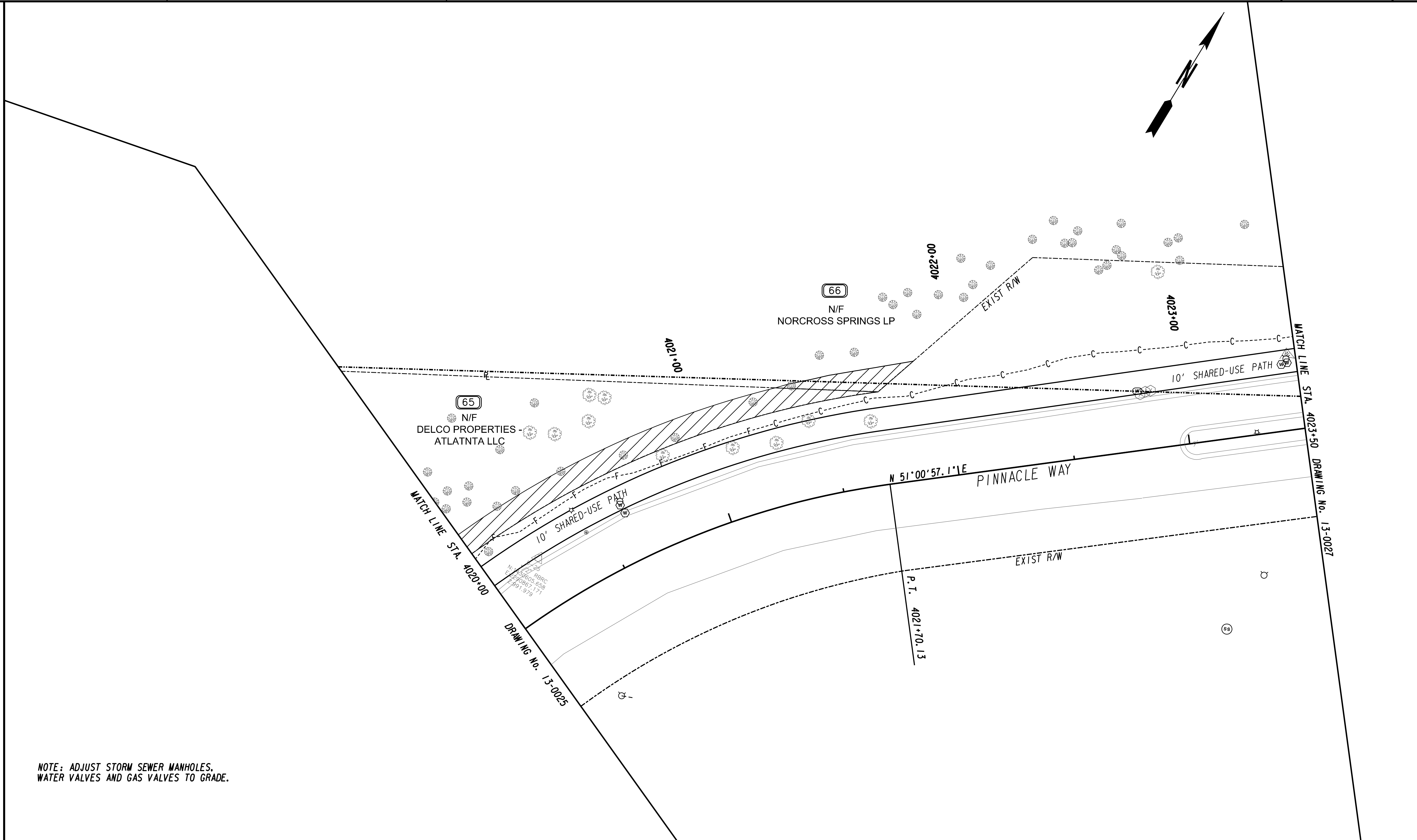
CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED:		DATE:	DRAWING No.
BACKCHECKED:		DATE:	
CORRECTED:		DATE:	
VERIFIED:		DATE:	

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



NOTE: ADJUST STORM SEWER MANHOLES, WATER VALVES AND GAS VALVES TO GRADE.

PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS..............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

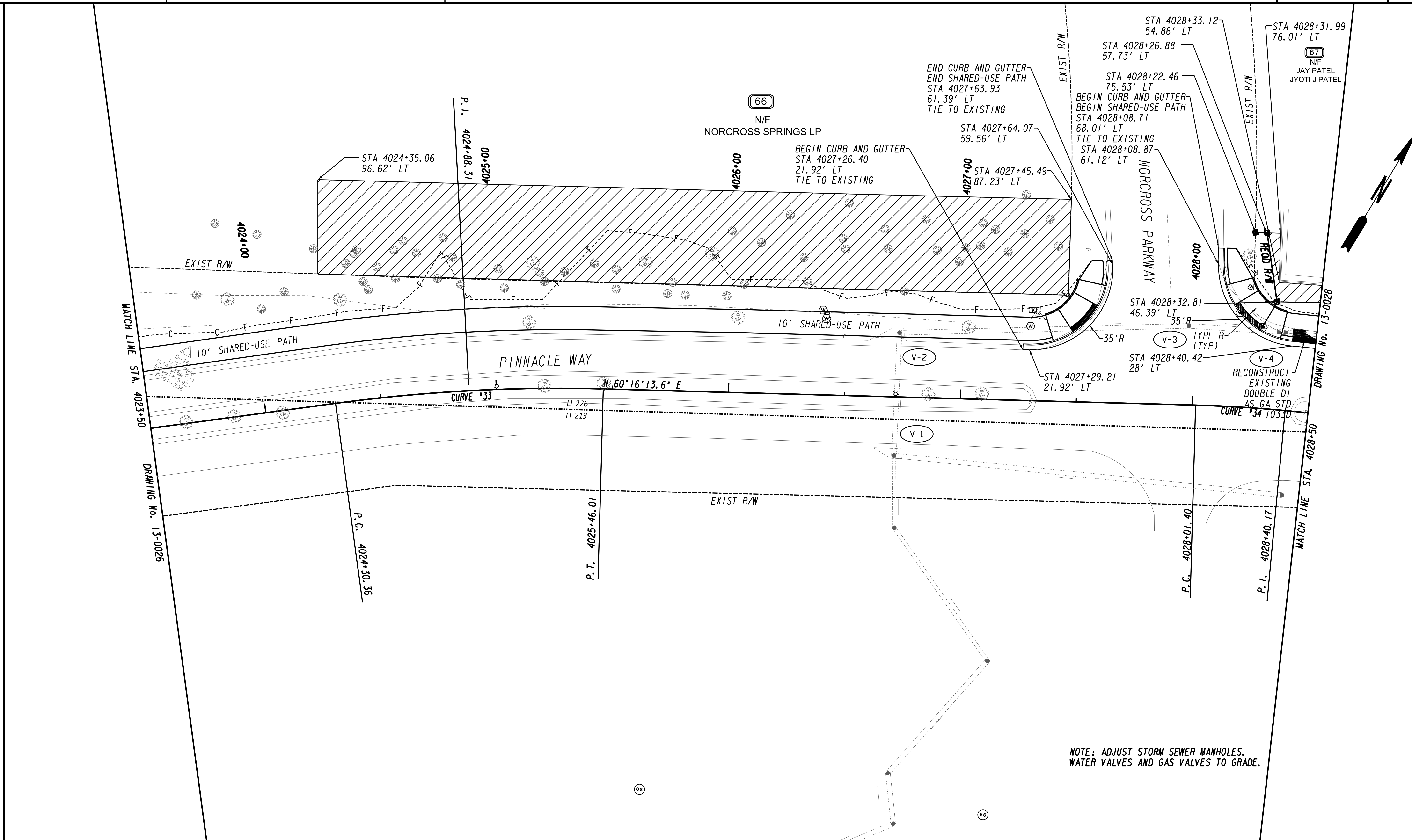
SCALE IN FEET
0 20 40 80

REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN



PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	—C—F—
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING

3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

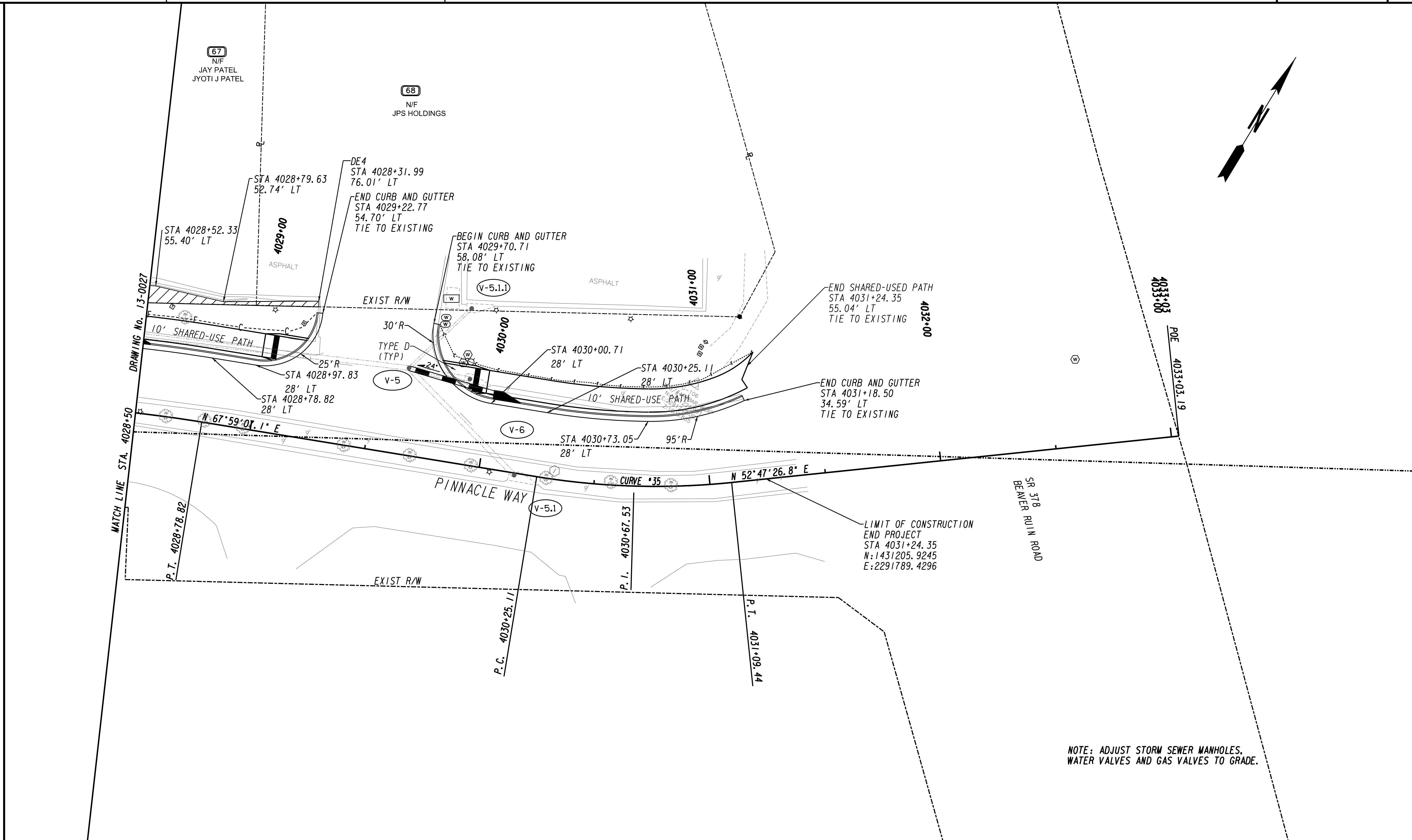
REVISION DATES

CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED:		DATE:	DRAWING No.
BACKCHECKED:		DATE:	13-0027
CORRECTED:		DATE:	
VERIFIED:		DATE:	

10/23/2015 GPLN



PROPERTY AND EXISTING R/W LINE	
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	
BEGIN LIMIT OF ACCESS	BLA
END LIMIT OF ACCESS	ELA
REQ'D LIMIT OF ACCESS	
REQ'D LIMIT OF ACCESS & R/W	
ORANGE BARRIER FENCE	
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

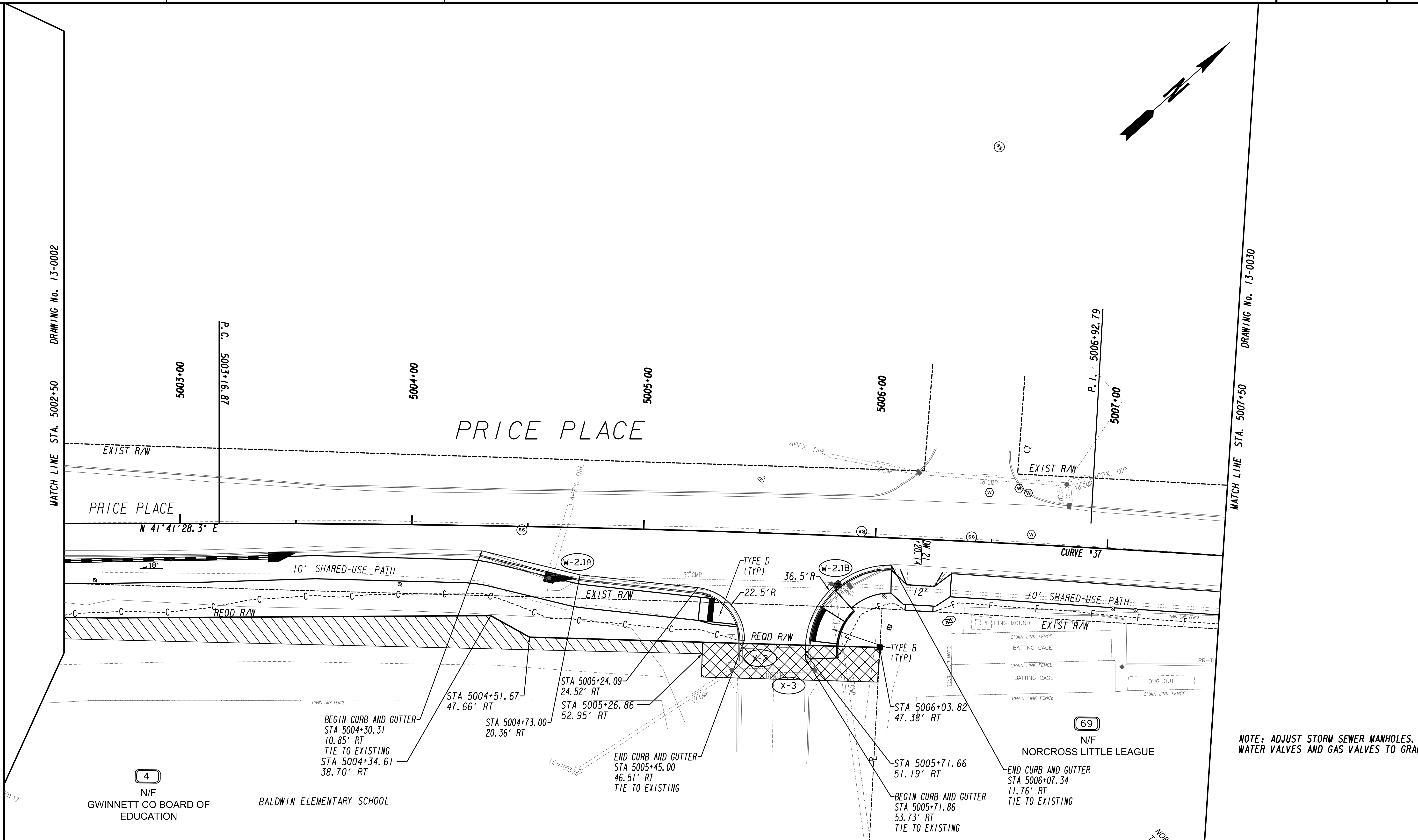
CONSTRUCTION PLAN

NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS..............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

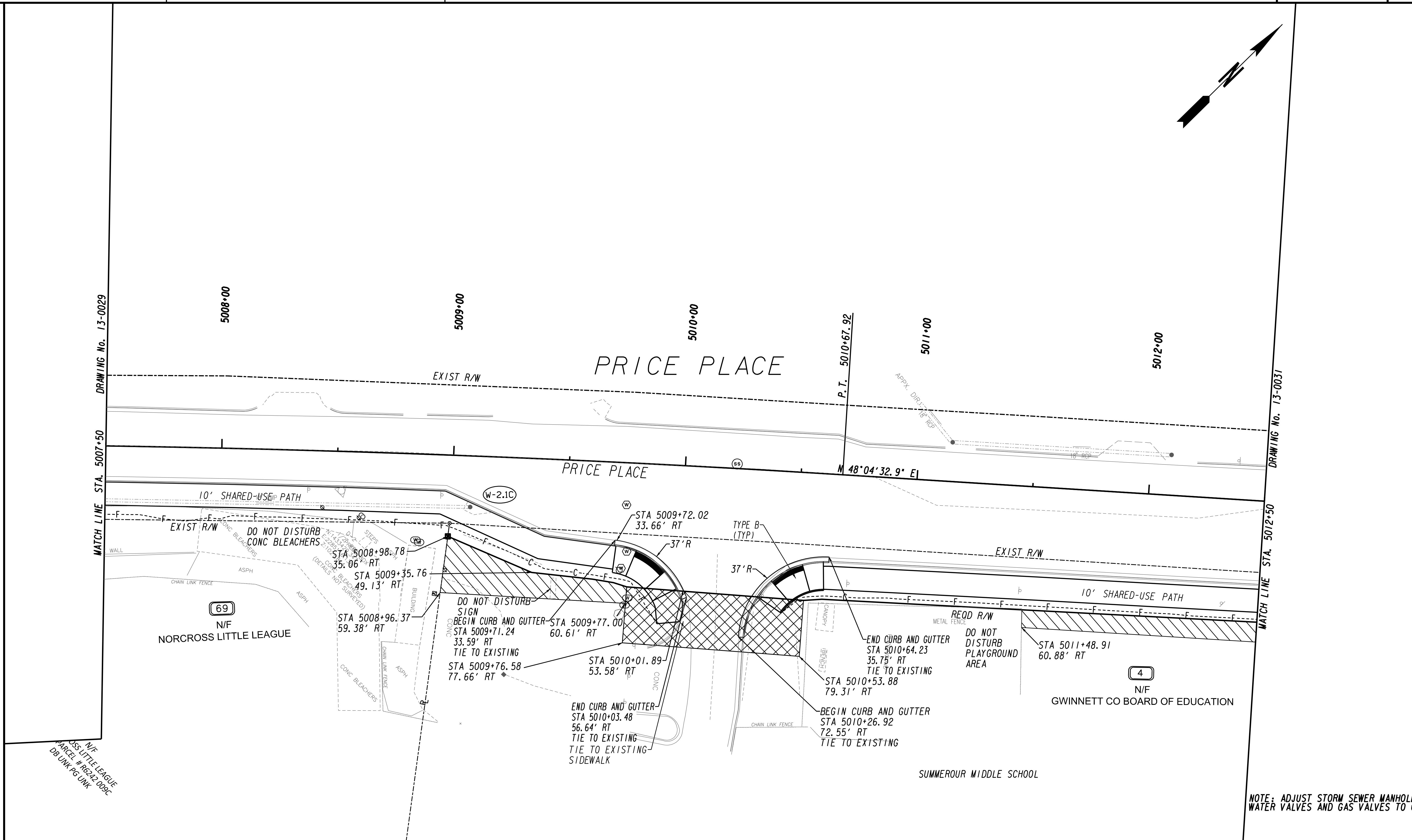
REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN

10/13/2021 1:52:56 PM GPLOT-V8 0016067_13-0030.dgn
MShakoor gplotborder-V8I-PO.tbl



PROPERTY AND EXISTING R/W LINE		BEGIN LIMIT OF ACCESS............BLA	
REQUIRED R/W LINE		END LIMIT OF ACCESS.............ELA	
CONSTRUCTION LIMITS	—C— —F—	REQ'D LIMIT OF ACCESS	
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES		REQ'D LIMIT OF ACCESS & R/W	
EASEMENT FOR CONSTR OF SLOPES		ORANGE BARRIER FENCE	
EASEMENT FOR CONSTR OF DRIVES		ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)	

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

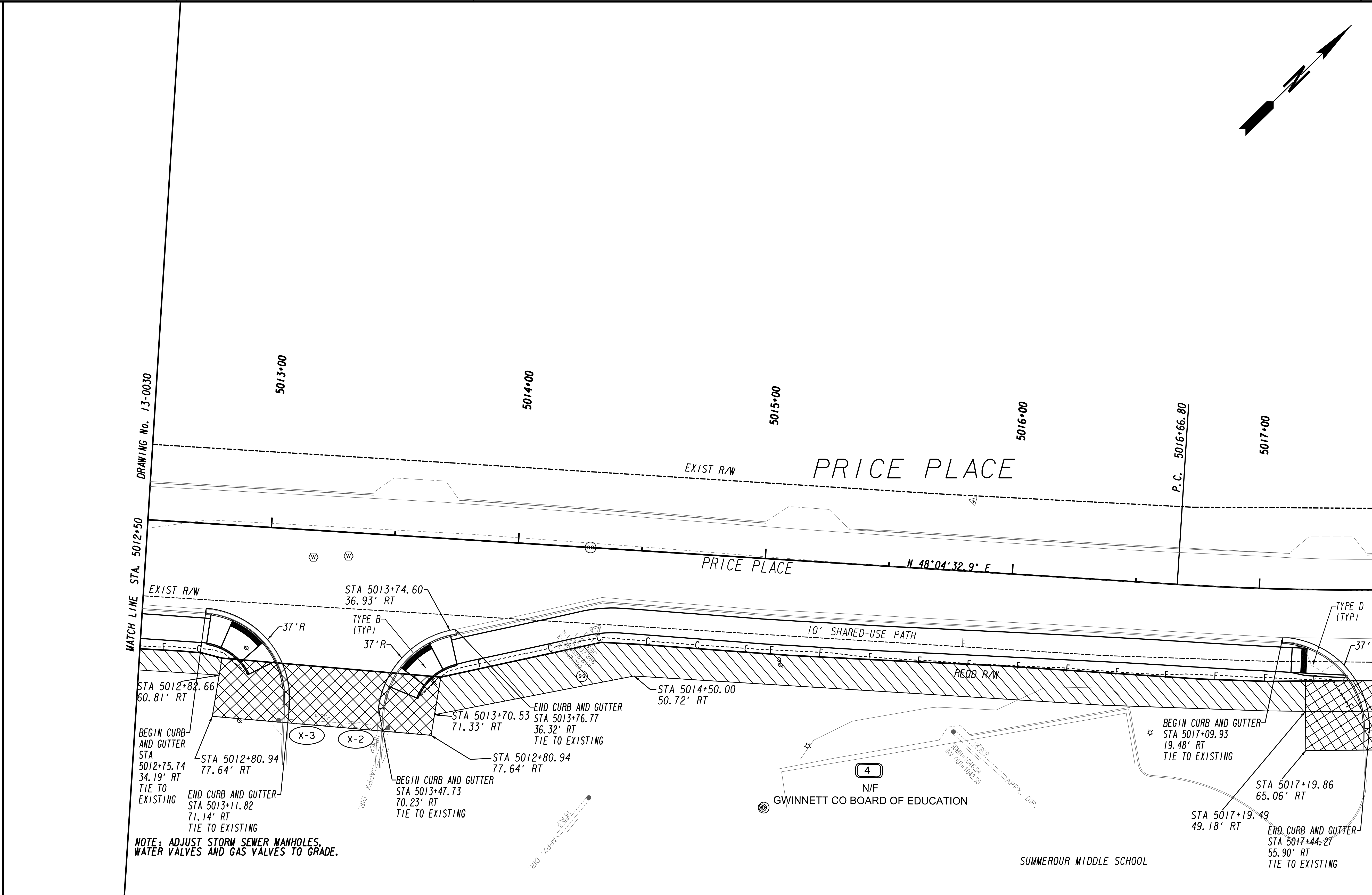
REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED:		DATE:		DRAWING No.
BACKCHECKED:		DATE:		13-0030
CORRECTED:		DATE:		
VERIFIED:		DATE:		

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)



PROPERTY AND EXISTING R/W LINE	---P---
REQUIRED R/W LINE	
CONSTRUCTION LIMITS	—C—F—
EASEMENT FOR CONSTR	
& MAINTENANCE OF SLOPES	
EASEMENT FOR CONSTR OF SLOPES	
EASEMENT FOR CONSTR OF DRIVES	

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS..............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA
(SEE ERIT TABLE)

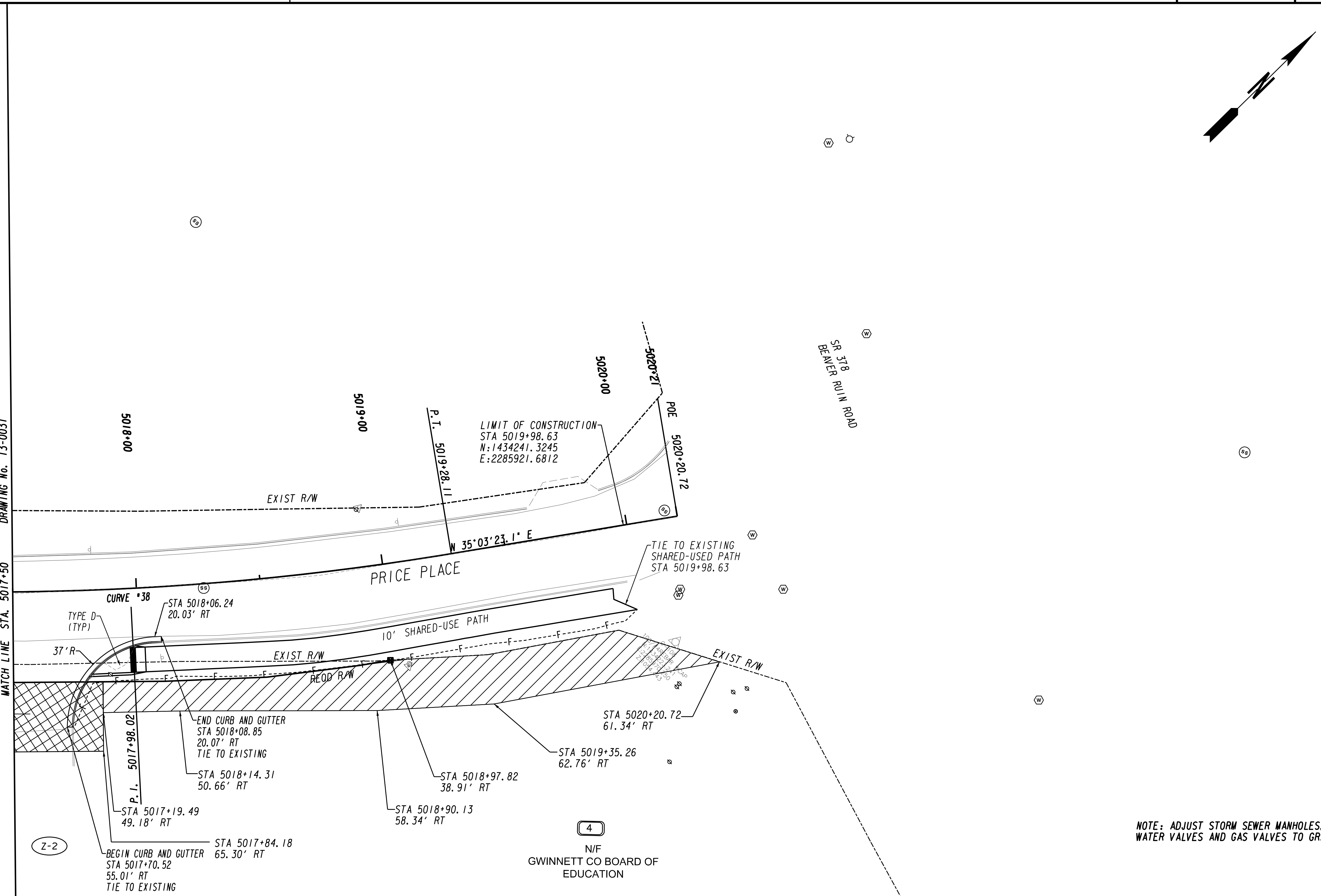
CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.



PROPERTY AND EXISTING R/W LINE
REQUIRED R/W LINE
CONSTRUCTION LIMITS
EASEMENT FOR CONSTR & MAINTENANCE OF SLOPES
EASEMENT FOR CONSTR OF SLOPES
EASEMENT FOR CONSTR OF DRIVES

BEGIN LIMIT OF ACCESS............BLA
END LIMIT OF ACCESS.............ELA
REQ'D LIMIT OF ACCESS
REQ'D LIMIT OF ACCESS & R/W
ORANGE BARRIER FENCE
ESA - ENV. SENSITIVE AREA (SEE ERIT TABLE)

CPL
ARCHITECTURE
ENGINEERING
PLANNING
3011 SUTTON GATE DRIVE, SUITE 130
SUWANEE, GEORGIA 30024
TEL (800) 274-9000
FAX (770) 831-9243
www.cplteam.com

SCALE IN FEET
0 20 40 80

REVISION DATES

CONSTRUCTION PLAN
NORCROSS GREENWAY-LCI

CHECKED: DATE:
BACKCHECKED: DATE:
CORRECTED: DATE:
VERIFIED: DATE:
DRAWING No.

10/23/2015 GPLN

Attachment: Revised Construction Plans -13 Series only (21-6358 : Request Additional Funds for the Greenway Project)

Georgia Department of Transportation

Interoffice Memo

FILE

PI NUMBER	0016067	PROJECT DESCRIPTION	Norcorss Greenway LCI
OFFICE	Office of Program Delivery		
DATE	Tuesday, March 16, 2021		

From: Kimberly Nesbitt, State Program Delivery Administriator

To: Erik Rohde, P.E., State Project Review Engineer
via email Mailbox: CostEstimatesandUpdates@dot.ga.gov

Subject: **REVISIONS TO PROGRAMMED COSTS**

Project Manager:	Kimberly Kimbrough
Management Let Date:	5/15/2022
Management Right of Way Date:	2/15/2021

Cost Estimate Review Iteration

Date of Submittal #1	
Date of Submittal #2	
Date of Submittal #3	

Summary of Programmed Costs and Proposed Revised Costs:

Estimate Type	Cost Estimate Amounts (T-Pro Without Inflation)	Last Estimate Date	Revised Cost Estimate
CONSTRUCTION	$5,893,707.71	03/31/2020	$7,985,506.97
RIGHT OF WAY	$1,217,000.00	03/331/2020	$1,901,000.00
UTILITIES	$490,000.00	03/31/2020	

Explanation for Cost Change and Contingency Justification:

The design has been updated from a Concept design to Preliminary design in preparation for PFPR submission. The more developed design requires has increased the right of way cost estimate by 56% and the construction cost estimate by 36%. The construction cost estimate increased due to environmental coordination that extended the proposed boardwalk from a little over 500' to approximately 2500' to reduce wetland impacts. In addition, the the beginning of the project requires extensive grading and walls to maintain ADA and bicycle requirements.The right or way cost estimate increased due to additional parcels being impacted than originally anticipated and that is reflected in the attached ROW worksheet. The utilities cost estimate went down to $0 since the utilities work required involves utilities in the public ROW being required to move as reflected in the attached Utility cost estimate.

Attachments:

PSR, 20% Cost Increase, AASHTOWare printout, ROW cost estimate worksheet and Utility cost estimate worksheet.

GDOT Georgia Department of Transportation

Interoffice Memo

Design Phase Leader Validation of Final QC/QA for Construction Cost Estimate Used In This Revision to Programmed Costs:

Consultant Company or GDOT Design Office:	CPL
Printed Name:	Jeffrey W. Mueller, P.E.
Title:	Associate
Signature:	JWM
Date:	3/16/2021

FOR PROJECTS WITH A LOCAL SPONSOR

If the project has a local sponsor, the project manager should ensure that the local authority completes the following validation indicating that it has reviewed the construction cost estimate and whether it is in concurrence with the construction costs presented.

Please select the appropriate validation below upon review of the cost estimate:

- [x] I acknowledge that I have reviewed the project construction cost estimate and concur with the costs presented.
- [ ] I acknowledge that I have reviewed the project construction cost estimate but do not concur with the costs presented.

Please provide an explanation for non-concurrence.	
Local Authority Name and Title:	Matthew Zaki, P.E. City Engineer
Local Authority Signature:	Matthew Zaki
Date:	03/30/2021

Georgia Department of Transportation

Interoffice Memo

Cost Estimate Worksheet:

CONSTRUCTION COST ESTIMATE (Required base estimate entered from CES and should not include E&I). →	A	$ 7,235,431.41
ENGINEERING AND INSPECTION (The default E&I percentage is 5.0%, but may be adjusted per project scope.) →	D	$ 361,771.57

Construction Cost	E&I Percentage	E&I Cost
B	C	D = B x C
$ 7,235,431.41	5%	$ 361,771.57

CONTINGENCY (Refer to the Risk and Contingencies Table included in GDOT Policy 3A-9 Cost Estimating Purpose) →	I	$ 379,860.15

Construction Cost	E&I Cost	Construction + E&I	Contingency Percentage	Contingency Cost
E	F	G = E + F	H	I = G x H
$ 7,235,431.41	$ 361,771.57	$ 7,597,202.98	5%	$ 379,860.15

ASPHALT FUEL PRICE ADJUSTMENT (Leave blank if not applicable) →	Q	$ 8,443.84

Date	Mar 2021
Regular Unleaded	$2.574/ GAL
Diesel	$2.829/ GAL
Liquid AC	$460.00/ TON

Current Asphalt Fuel Index Prices can be found at the link below:

http://www.dot.ga.gov/PS/Materials/AsphaltFuelIndex

Liquid AC	Description	Tons	Percentage of Asphaltic Concrete	Tons of Asphaltic Concrete	Total Monthly Tonnage of Asphalt Cement (TMT)	Monthly Asphalt Cement Price month project let (APL)	Max. Cap	Monthly Asphalt Cement Price month placed (APM)	Price Adjustment (PA)
		J	K	L = J x K	M = Sum of Columns L, T & W	N	O	P = (N x O)+N	Q = [((P - N) / N)] x M x N
	Leveling				30.59 TN	$460.00/ TON	60%	$ 736.00	$ 8,443.84
	Patching								
	9.5 mm SP	525.00 TN	5.00%	26.25 TN					
	12.5 OGFC								
	12.5 PEM								
	12.5 mm SP								
	19 mm SP	20.00 TN	5.00%	1.00 TN					
	25 mm SP	60.00 TN	5.00%	3.00 TN					
Bituminous Tack Coat		Tack Coat	GL/TN	Tons					
	Description	R	S	T = R/S					
	Tack Coat	80.00 GL	232.8234 GL/TN	0.34 TN					
Bituminous Tack Coat (Surface Treatment)		SY	GL/SY	TN					
	Description	U	V	W = (U x V) / (232.8234 GL/TN)					
	Single Surface Treatment		0.20 Gl/SY						
	Double Surface Treatment		0.44 Gl/SY						
	Triple Surface Treatment		0.71 Gl/SY						

CONSTRUCTION TOTAL COST →	X = A+D+I+Q	$ 7,985,506.97
RIGHT OF WAY COST →	Y	$ 1,901,000.00
UTILITIES COST (Provided by Utility Office) →	Z = Sum of Reimbursable Costs	$ -

Utility Owner	Reimbursable Cost	Utility Owner	Reimbursable Cost
Georgia Power	$ -		
Georgia Transmissiono Corp	$ -		
Norcross Power	$ -		
Comcast CATV	$ -		
Gwinnett County DWR	$ -		
Gwinnett County DOT	$ -		
Southern Company (AGL)	$ -		
AT&T	$ -		
Fiberlight	$ -		
Verizon	$ -		
Zayo	$ -		

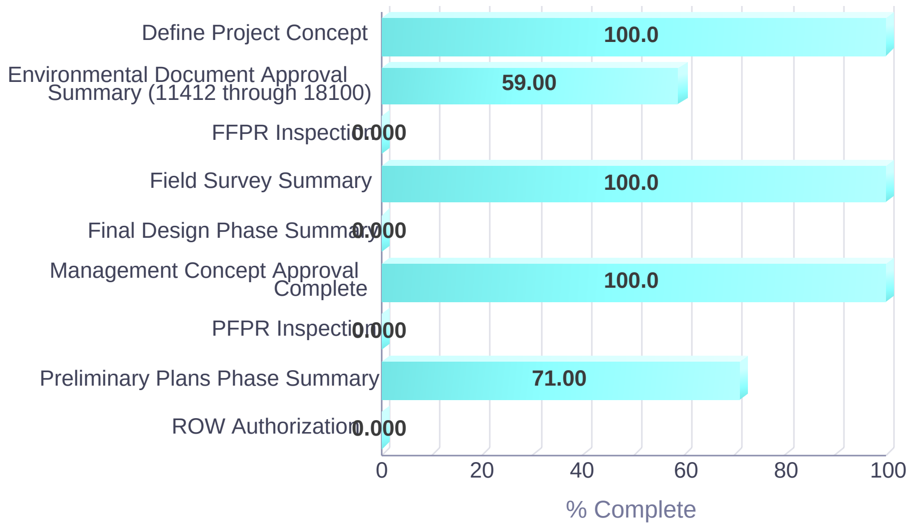
PRECONSTRUCTION STATUS REPORT

PROJ ID	COUNTY	DESCRIPTION
0016067	Gwinnett	**NORCROSS GREENWAY - LCI**
Mgmt Let Date:	2022-05-15	The Norcross Greenway project includes approximately 3.3 miles of shared-use path beginning southeast of Buford Highway/US 23/SR 13 on S. Cemetery Street and end nearing Pinnacle Way. The trail includes a combination of various on-street and off-street segments, and the undeveloped section of the shared-use path will include two bridges and two boardwalk sections.

PROJ NO:
MPO TIP#: GW-412
MPO: Atlanta TMA
PROJ LENGTH (MI): 3.36
TYPE WORK: Multi-use Trail
LET RESPONSIBILITY: Local Let
BIKE PROVISIONS INCLUDED? N

SPONSOR: Norcross
PROJ MGR: Kimbrough, Kimberly Jane
DOT DIST: 1
CONG DIST: 007
HOUSE DIST: 096
SENATE DIST: 005

Phase	FY Approved	Approved FY Estimate*	Fund	Phase Status
Right of Way		$1,007,000.00	LOC	PRECST
Engineering	2019	$900,000.00	Z230	AUTHORIZED
Utility		$160,000.00	LOC	PRECST
Construction	2023	$4,435,025.00	Z230	PRECST
Right of Way	2021	$210,000.00	Z230	PRECST
Construction		$1,458,682.71	LOC	PRECST
Utility	2023	$330,000.00	Z230	PRECST



Activity	Actual Start Date	Actual Finish Date
FFPR Inspection		
Final Design Phase Summary		
Field Survey Summary	2019-09-05	2020-01-06
PFPR Inspection		
Preliminary Plans Phase Summary	2019-11-14	
Management Concept Approval Complete	2019-11-13	2019-11-13
ROW Authorization		
Define Project Concept	2019-04-11	2019-08-05
Environmental Document Approval Summary (11412 through 18100)	2019-04-18	

Right of Way Acquisition Information:
Preliminary Parcel Count: 26 **Total Parcel Count:** **Acquired by :** LOC

ARCHITECTURE
ENGINEERING
PLANNING
CPLteam.com

March 16, 2021

PI No. 0016067, Gwinnett County
Norcross Greenway LCI

Ms. Kimberly Kimbrough
Project Manager
Georgia Department of Transportation
Office of Program Delivery
600 W. Peachtree St. N.W. 25th Floor
Atlanta, Georgia 30308

RE: 20% Cost Estimate Increase

Dear Ms. Kimbrough:

The purpose of this letter is to detail why the proposed construction and right of way cost estimates are 36% and 56% higher respectively than the previous cost estimates. The previous cost estimate provided were based on the concept layout while the proposed cost estimates were developed from the preliminary design prior to PFPR submission.

The construction cost estimate increased due to additional retaining walls and boardwalks. During preliminary design the steep incline at the beginning of the project required 230' of retaining walls to minimize right of way and utility impacts while ensuring ADA compliance. In addition, the A3M identified the wetland in the undeveloped section from Mitchell Road to Pinnacle Park was far more extensive than the concept identified; this required extending the boardwalk from approximately 525' to approximately 2500' to minimize environmental impacts.

The right of way cost estimate increased due more parcels being impacted by the preliminary design than the concept layout.

If you have any questions, please contact Jeff Mueller at 678-318-1243 or JMueller@CPLteam.com.

Sincerely,

Jeffrey W. Mueller, P.E.
Clark Patterson Engineers, Surveyors and Architects, PC
Associate

3/17/2021

Cost Estimate Budget Class Report

Report v1

Cost Estimate: 0016067 Gwinnett - 0016067 Gwinnett

Cost Estimation Phase: 2-DE

Cost Estimate Item Total: $7,235,431.41

Cost Estimate Budget Class Report - Estimate Level Details

Budget Class	Amount	Assignment Level
	$7,235,431.41	Cost Estimate

GDOT Georgia Department of Transportation

3/17/2021

Cost Estimate Budget Class Report

Report v1

Cost Estimate Budget Class Report - Item Level Details

Budget Class	Line Number	Item	Item Description	Quantity	Unit	Amount
	5	150-1000	TRAFFIC CONTROL -	1.000	LS	$250,000.00
	10	210-0100	GRADING COMPLETE -	1.000	LS	$1,155,000.00
	15	515-2105	42 IN METAL SAFETY RAIL	1,960.000	LF	$58,800.00
	20	610-1055	REM GUARDRAIL	305.000	LF	$3,071.11
	25	610-1066	REM GUARDRAIL ANCH, TP 1	1.000	EA	$200.00
	30	641-5001	GUARDRAIL ANCHORAGE, TP 1	1.000	EA	$1,402.64
	35	310-1101	GR AGGR BASE CRS, INCL MATL	2,260.000	TN	$83,607.21
	40	402-1812	RECYCLED ASPH CONC LEVELING, INCL BITUM MATL & H LIME	215.000	TN	$23,421.07
	45	402-3103	RECYCLED ASPH CONC 9.5 MM SUPERPAVE, TYPE II, GP 2 ONLY, INCL BITUM MATL & H LIME	525.000	TN	$53,284.65
	50	402-3111	RECYCLED ASPH CONC 19 MM MIX, GP 1 OR 2, INCL BITUM MATL & H LIME	20.000	TN	$1,780.00
	55	402-3121	RECYCLED ASPH CONC 25 MM SUPERPAVE, GP 1 OR 2, INCL BITUM MATL & H LIME	60.000	TN	$7,121.65
	60	413-0750	TACK COAT	80.000	GL	$370.23
	65	432-5010	MILL ASPH CONC PVMT, VARIABLE DEPTH	7,725.000	SY	$9,618.24
	70	441-0016	DRIVEWAY CONCRETE, 6 IN TK	1,230.000	SY	$62,355.60
	75	441-0106	CONC SIDEWALK, 6 IN	13,494.000	SY	$654,189.12
	80	441-4020	CONC VALLEY GUTTER, 6 IN	200.000	SY	$11,770.49
	85	441-6222	CONC CURB & GUTTER, 8 IN X 30 IN, TP 2	7,215.000	LF	$115,338.77

Georgia Department of Transportation

3/17/2021

Cost Estimate Budget Class Report

Report v1

Cost Estimate Budget Class Report - Item Level Details

Budget Class	Line Number	Item	Item Description	Quantity	Unit	Amount
	90	444-1000	SAWED JOINTS IN EXIST PAVEMENTS - PCC	3,815.000	LF	$13,717.29
	95	446-1100	PVMT REINF FABRIC STRIPS, TP 2, 18 INCH WIDTH	1,050.000	LF	$8,267.82
	100	500-9999	CLASS B CONC, BASE OR PVMT WIDENING	1,610.000	CY	$281,363.78
	105	207-0203	FOUND BKFILL MATL, TP II	7.000	CY	$779.55
	110	500-3200	CLASS B CONCRETE	12.000	CY	$9,286.43
	115	500-3800	CLASS A CONCRETE, INCL REINF STEEL	19.000	CY	$24,544.94
	120	511-1000	BAR REINF STEEL	229.000	LB	$459.45
	125	550-1180	STORM DRAIN PIPE, 18 IN, H 1-10	1,100.000	LF	$61,026.93
	130	550-1181	STORM DRAIN PIPE, 18 IN, H 10-15	478.000	LF	$26,156.55
	135	550-1240	STORM DRAIN PIPE, 24 IN, H 1-10	88.000	LF	$6,029.91
	140	550-1721	STORM DRAIN PIPE, 72 IN, H 10-15	22.000	LF	$7,194.00
	145	550-4218	FLARED END SECTION 18 IN, STORM DRAIN	2.000	EA	$1,896.57
	150	603-2181	STN DUMPED RIP RAP, TP 3, 18 IN	36.000	SY	$2,160.00
	155	603-7000	PLASTIC FILTER FABRIC	36.000	SY	$213.01
	160	610-1880	REM STORM DRAIN PIPE	24.000	LF	$326.40
	165	610-5715	REM CATCH BASIN, DROP INLET OR JCT BOX	5.000	EA	$1,530.00
	170	610-5825	REM CONC CLVT WINGWALL	2.000	EA	$4,120.00
	175	610-5828	REM CONC HDWL ALL SIZES	1.000	EA	$1,767.99
	180	610-5910	REM CONC SPILLWAY	1.000	EA	$305.00

Cost Estimate Budget Class Report - Item Level Details

Budget Class	Line Number	Item	Item Description	Quantity	Unit	Amount
	185	611-3000	RECONSTR CATCH BASIN, GROUP 1	8.000	EA	$26,391.69
	190	611-3010	RECONSTR DROP INLET, GROUP 1	2.000	EA	$3,856.04
	195	611-3030	RECONSTR STORM SEW MANHOLE, TYPE 1	2.000	EA	$3,864.88
	200	611-8000	ADJUST CATCH BASIN TO GRADE	17.000	EA	$41,568.63
	205	611-8040	ADJUST DROP INLET TO GRADE	1.000	EA	$1,917.17
	210	611-8050	ADJUST MANHOLE TO GRADE	5.000	EA	$5,423.26
	215	668-1100	CATCH BASIN, GP 1	13.000	EA	$40,133.06
	220	668-1110	CATCH BASIN, GP 1, ADDL DEPTH	2.000	LF	$586.04
	225	668-2100	DROP INLET, GP 1	7.000	EA	$20,077.05
	230	668-2110	DROP INLET, GP 1, ADDL DEPTH	6.000	LF	$1,837.49
	235	668-4300	STORM SEWER MANHOLE, TP 1	4.000	EA	$9,393.98
	240	668-4311	STORM SEWER MANHOLE, TP 1, ADDL DEPTH, CL 1	10.000	LF	$2,022.98
	245	163-0240	MULCH	25.500	TN	$10,559.79
	250	163-0232	TEMPORARY GRASSING	1.700	AC	$389.12
	255	163-0301	CONSTRUCT AND REMOVE CONSTRUCTION EXITS	4.000	EA	$6,912.70
	260	163-0550	CONSTRUCT AND REMOVE INLET SEDIMENT TRAP	32.000	EA	$7,287.24
	265	165-0030	MAINTENANCE OF TEMPORARY SILT FENCE, TP C	8,295.000	LF	$2,644.61
	270	165-0101	MAINTENANCE OF CONSTRUCTION EXIT	2.000	EA	$1,300.70
	275	165-0105	MAINTENANCE OF INLET SEDIMENT TRAP	16.000	EA	$1,856.96

Cost Estimate Budget Class Report - Item Level Details

Budget Class	Line Number	Item	Item Description	Quantity	Unit	Amount
	280	167-1000	WATER QUALITY MONITORING AND SAMPLING	11.000	EA	$2,451.60
	285	167-1500	WATER QUALITY INSPECTIONS	18.000	MO	$11,917.50
	290	171-0030	TEMPORARY SILT FENCE, TYPE C	16,585.000	LF	$56,910.43
	295	643-8200	BARRIER FENCE (ORANGE), 4 FT	6,650.000	LF	$12,847.73
	300	716-2000	EROSION CONTROL MATS, SLOPES	1,556.000	SY	$1,547.63
	305	700-6910	PERMANENT GRASSING	1.260	AC	$1,651.14
	310	700-7000	AGRICULTURAL LIME	5.100	TN	$949.90
	315	700-8000	FERTILIZER MIXED GRADE	1.530	TN	$1,499.61
	320	700-8100	FERTILIZER NITROGEN CONTENT	85.000	LB	$314.61
	325	700-9300	SOD	2,020.000	SY	$15,249.08
	330	610-9001	REM SIGN	47.000	EA	$2,208.28
	335	611-5551	RESET SIGN	46.000	EA	$7,911.85
	340	653-0120	THERMOPLASTIC PVMT MARKING, ARROW, TP 2	5.000	EA	$468.44
	345	653-0210	THERMOPLASTIC PVMT MARKING, WORD, TP 1	4.000	EA	$631.99
	350	653-1501	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN, WHITE	5,454.000	LF	$2,172.60
	355	653-1502	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN, YELLOW	2,501.000	LF	$990.47
	360	653-1704	THERMOPLASTIC SOLID TRAF STRIPE, 24 IN, WHITE	252.000	LF	$1,923.23
	365	653-1804	THERMOPLASTIC SOLID TRAF STRIPE, 8 IN, WHITE	5,636.000	LF	$14,062.50
	370	653-3501	THERMOPLASTIC SKIP TRAF STRIPE, 5 IN, WHITE	337.000	GLF	$95.98

Cost Estimate Budget Class Report - Item Level Details

Budget Class	Line Number	Item	Item Description	Quantity	Unit	Amount
	375	653-3502	THERMOPLASTIC SKIP TRAF STRIPE, 5 IN, YELLOW	2,501.000	GLF	$1,242.37
	380	653-6006	THERMOPLASTIC TRAF STRIPING, YELLOW	258.000	SY	$1,142.70
	385	654-1001	RAISED PVMT MARKERS TP 1	97.000	EA	$426.42
	390	656-0080	REMOVE EXIST SOLID TRAF STRIPE, 8 IN, THERMOPLASTIC	5,636.000	LF	$8,580.87
	395	656-0240	REMOVE EXIST SOLID TRAF STRIPE, 24 IN, THERMOPLASTIC	252.000	LF	$896.75
	400	009-3000	MISCELLANEOUS CONSTRUCTION	1.000	LS	$97,327.95
	405	534-1000	PEDESTRIAN OVERPASS BRIDGE, STA -	1.000	LS	$190,000.00
	410	009-3000	MISCELLANEOUS CONSTRUCTION	1.000	LS	$384,511.82
	415	534-1000	PEDESTRIAN OVERPASS BRIDGE, STA -	1.000	LS	$200,000.00
	420	009-3000	MISCELLANEOUS CONSTRUCTION	1.000	LS	$2,183,518.23
	425	500-3110	CLASS A CONCRETE, TYPE P1, RETAINING WALL	40.000	LF	$20,349.03
	430	500-3115	CLASS A CONCRETE, TYPE P2, RETAINING WALL	30.000	LF	$18,715.42
	435	500-3120	CLASS A CONCRETE, TYPE P3, RETAINING WALL	70.000	LF	$62,032.16
	440	603-1012	STN PLAIN RIP RAP, 12 IN	21.000	SY	$945.00
	445	603-7000	PLASTIC FILTER FABRIC	21.000	SY	$124.26
	450	621-6211	CONCRETE SIDE BARRIER, TP 6-SA	10.000	LF	$6,177.98
	455	621-6212	CONCRETE SIDE BARRIER, TP 6-SB	21.000	LF	$14,700.00

Cost Estimate Budget Class Report - Item Level Details

Budget Class	Line Number	Item	Item Description	Quantity	Unit	Amount
	460	621-6213	CONCRETE SIDE BARRIER, TP 6-SC	60.000	LF	$35,400.00
	465	500-3110	CLASS A CONCRETE, TYPE P1, RETAINING WALL	175.000	LF	$89,026.99
	470	500-3120	CLASS A CONCRETE, TYPE P3, RETAINING WALL	80.000	LF	$70,893.90
	475	500-3201	CLASS B CONCRETE, RETAINING WALL	155.000	CY	$107,851.13
	480	603-1012	STN PLAIN RIP RAP, 12 IN	55.000	SY	$2,475.00
	485	603-7000	PLASTIC FILTER FABRIC	55.000	SY	$325.44
	490	621-6210	CONCRETE SIDE BARRIER, TP 6-S	160.000	LF	$80,378.07
	495	621-6211	CONCRETE SIDE BARRIER, TP 6-SA	85.000	LF	$52,512.80
	500	603-1012	STN PLAIN RIP RAP, 12 IN	41.000	SY	$1,845.00
	505	603-7000	PLASTIC FILTER FABRIC	41.000	SY	$242.60
	510	621-6210	CONCRETE SIDE BARRIER, TP 6-S	22.000	LF	$11,051.98
	515	621-6211	CONCRETE SIDE BARRIER, TP 6-SA	60.000	LF	$37,067.86
	520	621-6212	CONCRETE SIDE BARRIER, TP 6-SB	99.000	LF	$69,300.00
	525	603-1012	STN PLAIN RIP RAP, 12 IN	19.000	SY	$855.00
	530	603-7000	PLASTIC FILTER FABRIC	19.000	SY	$112.42
	535	621-6210	CONCRETE SIDE BARRIER, TP 6-S	58.000	LF	$29,137.05
	540	621-6211	CONCRETE SIDE BARRIER, TP 6-SA	25.000	LF	$15,444.94
	545	603-1012	STN PLAIN RIP RAP, 12 IN	23.000	SY	$1,035.00

Cost Estimate Budget Class Report - Item Level Details

Budget Class	Line Number	Item	Item Description	Quantity	Unit	Amount
	550	603-7000	PLASTIC FILTER FABRIC	23.000	SY	$136.09
	555	621-6210	CONCRETE SIDE BARRIER, TP 6-S	100.000	LF	$50,236.29
	560	611-8050	ADJUST MANHOLE TO GRADE	7.000	EA	$7,592.56
	565	611-8120	ADJUST WATER METER BOX TO GRADE	17.000	EA	$8,078.83
	570	611-8140	ADJUST WATER VALVE BOX TO GRADE	42.000	EA	$70,254.06
	575	670-2002	VALVE MARKER	9.000	EA	$615.34
	580	670-9710	RELOCATE EXIST FIRE HYDRANT	14.000	EA	$36,567.74

GEORGIA DEPARTMENT OF TRANSPORTATION
PRELIMINARY ROW COST ESTIMATE SUMMARY

Date: 2.15.2021
Revised:

Project: Norcross Greenway
County: Gwinnett
PI: 0015441

Description: Norcross Beaver Ruin Creek Greenway
Project Termini: Buford Hwy to Beaver Ruin Rd.

Existing ROW: Varies
Required ROW: Varies

Parcels: 44

Land and Improvements	$903,750.00
Proximity Damage	*$0.00*
Consequential Damage	*$0.00*
Cost to Cures	*$0.00*
Trade Fixtures	*$0.00*
Improvements	*$40,000.00*
Valuation Services	$200,625.00
Legal Services	$292,200.00
Relocation	$132,000.00
Demolition	$1,500.00
Administrative	$370,500.00
TOTAL ESTIMATED COSTS	$1,900,575.00
TOTAL ESTIMATED COSTS (ROUNDED)	***$1,901,000.00***

Prepared By: Gary Webb — Gary Webb — 2/15/2021
Print Name — Signature — Date

Cost Estimation Supervisor :
Print Name — Signature — Date

NOTE: Superviser is only attesting that the estimate was completed using the correct information provided for the the project. The Supervisor is not attesting to property values or the accuracy of the market value estimations provided in this report. No Market Appreciation is included in this Preliminary Cost Estimate.

Comments:

allsop

Attachment: 0016067 Gwinnett County Revisions to Programmed Costs Package_Signed (21-6358 : Request Additional Funds for the Greenway

FILE

Project No:	**N/A**	Office:	**CPL**
County	**Gwinnett**	Date:	**March 16, 2021**
P.I.#	**0016067**		
Description:	***Norcross Greenway LCI***		

FROM Matthew S. Zaki, City Engineer, City of Norcross

TO Kimberly Kimbrough, Project Manager

SUBJECT **PRELIMINARY UTILITY COST ESTIMATE**

A review of utilities located on the above referenced project has been conducted based on the latest available plans. Listed below is a breakdown of the anticipated reimbursable, non-reimbursable cost, and in contract costs.

Utility Owner		Reimbursable	Non-Reimbursable	In Contract/CIA (Non-Reimbursable)	Estimate Based on
Georgia Power			$796,320.00		Site Visit / Available Drawings
Georgia Transmission Corp			$0.00		Site Visit / Available Drawings
Norcross Power			$43,998.00		Site Visit / Available Drawings
Comcast CATV			$42,556.00		Site Visit / Available Drawings
Gwinnett County DWR			$61,706.00		Site Visit / Available Drawings
Gwinnett County DOT			$22,680.00		Site Visit / Available Drawings
Southern Company (AGL)			$0.00		Site Visit / Available Drawings
AT&T			$87,637.00		Site Visit / Available Drawings
Fiberlight			$0.00		Site Visit / Available Drawings
Verizon			$0.00		Site Visit / Available Drawings
Zayo			$0.00		Site Visit / Available Drawings
Total	100.00%	$0.00	$1,054,897.00	$0.00	
City of Norcross Responsibility	100.00%	$0.00		$0.00	
Utility Owner Responsibility	100.00%	$0.00	$1,054,897.00	$0.00	PFA Dated N/A with N/A

Estimate is based on the best available information at the current stage, unforeseen prior rights information may be provided by the Utility Company at a later date that could cause some non-reimbursable costs to shift to the reimbursable cost column.

If additional information is needed, please contact Jeff Mueller at 678-318-1243.

City of Norcross

Legislation Details (With Details)

File #:	21-6359	**Version:**	
Type #:	Agenda Item	**Status:**	Agenda Ready
On Agenda:	12/20/2021 6:30 PM	**In Control:**	Policy Work Session
Title:	Execution of 2017 SPLOST IGA Change Orders for Medlock Bridge at North Peachtree/Langford		

Sponsors:

Code Sections:

Attachments:

1. Agenda Report-IGA-COs-Dec PWS
2. Norcross 2017 SPLOST City Managed CO #1 Final
3. Norcross 2017 SPLOST County Managed CO #2 Final
4. Executed IGA 2017 SPLOST Project- County-Managed project #F 1234

Title
Execution of 2017 SPLOST IGA Change Orders for Medlock Bridge at North Peachtree/Langford

Drafter
Matthew Zaki

65 Lawrenceville ST., NORCROSS, GEORGIA 30071
(770) 448-2122 **FAX** (770) 242-0824
http://www.norcrossga.net

MAYOR **CRAIG NEWTON** · MAYOR PRO TEM **JOSH BARE** · COUNCILMEMBER **ANDREW HIXSON** ·COUNCILMEMBER **MATT MYERS**·
COUNCILMEMBER **BRUCE GAYNOR** · COUNCILMEMBER **ARLENE BECKLES** · CITY MANAGER **ERIC JOHNSON** · CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council

From: **Matthew Zaki**

Agenda: December 20, 2021 – Policy Work Session

Agenda #: 21-6359

Item: **Norcross 2017 SPLOST City Managed Change Order # 1 & Norcross 2017 SPLOST County Managed Change Order # 2**

CC: Eric Johnson

Recommendation

To execute Change Order #1 between Gwinnett County and the City regarding Jointly funded 2017 SPLOST Project(s) (City-Managed Project # F-1234) and to execute Change Order #2 between Gwinnett County and the City regarding Jointly funded 2017 SPLOST Project(s) (County-Managed Project # F-1234)

Background

Both Gwinnett County and City of Norcross combined their resources and efforts to provide for efficient design and construction of the Norcross County-managed projects. As the executed IGA between Gwinnett County and the City of Norcross outlines the total costs responsibilities from each party, the total Norcross County -managed contribution is estimated to be $1,400,000, meanwhile the County will contribute a maximum of $1,134,000 towards Norcross County-managed projects, the Change Orders include the city-managed and the County-managed projects which include two sub-projects

1) A safety and alignment Project located at Holcomb Bridge Road @ Norfolk Southern Railroad crossing and
2) An intersection improvement project located at Medlock Bridge Road @ North Peachtree Street/Langford Road

Change Order No. 1 between Gwinnett County and the City of Norcross (City-managed projects) amends the original IGA by reducing the County's contribution to the City-managed projects by $121,500 from $711,242 to $589,742 and reallocating that same amount to the 2017 SPLOST County-managed project.

Change Order No. 2 between Gwinnett County and the City of Norcross (County-managed projects) amends the original IGA by increasing the County's contribution to the County-managed projects by $121,500 from $1,134,000 to $1,255,500 by reallocating that $121,500 from Change Order 1 (City-managed projects)

For change Order No 2. The city will contribute an additional $28,500 to the County-managed projects by increasing the City's contribution to the County-managed projects from $286,000 to $314,500

It is also important to note that in no event the County's contribution shall exceed 81% of the total Norcross's County-managed project costs.

Financial Impact

The re-allocated $121,500 from City-managed projects to County-managed projects and the additional $28,500 to the County managed project indicated in Change Order No. 2 will be funded by the 2017 SPLOST

Consistent with Comprehensive Plan?

The execution of these Change Orders will facilitate the coordination with Gwinnett County Department of Transportation for the construction of the Medlock Bridge Road @ North Peachtree Street / Langford Road prject to improve the intersection, such coordination reinforces Goal 2 of the Community Vision outlined in the 2040 Norcross Comprehensive Plan: Continue to strength Norcross as a livable, inclusive, and safe Environment as well as Goal 3 to promote safe and efficient transportation for pedestrians, cyclists

Next Steps

After Execution of Change Order #1 between Gwinnett County and the City regarding Jointly funded 2017 SPLOST Project(s) (City-Managed Project # F-1234) and to execute Change Order #2 between Gwinnett County and the City regarding Jointly funded 2017 SPLOST Project(s) (County-Managed Project # F-1234), the executed forms will be sent to GC DOT to place them on Board of Commissioner's agenda.

Attachments

1) Norcross 2017 SPLOST City Managed Change Order # 1
2) Norcross 2017 SPLOST County Managed Change Order # 2
3) Executed IGA between Gwinnett County and the City of Norcross regarding jointly funded 2017 SPLOST project(s) (County-Managed project #F 1234

Update

N/A

CHANGE ORDER NO. 1 BETWEEN GWINNETT COUNTY
AND THE CITY OF NORCROSS REGARDING
JOINTLY FUNDED 2017 SPLOST PROJECT(S)
(CITY-MANAGED PROJECT # F-1234)

This Change Order (hereinafter referred to as “Change Order No. 1”), made by and between the City of Norcross, a municipal corporation chartered by the State of Georgia and headquartered 65 Lawrenceville Street, Norcross, GA 30071 (herein referred to as “CITY”) and Gwinnett County, Georgia, a political subdivision of the State of Georgia headquartered at 75 Langley Drive, Lawrenceville, Georgia 30046 (hereinafter referred to as “COUNTY”) each of whom has been duly authorized to enter into this Change Order No. 1.

WITNESSETH

WHEREAS, the COUNTY entered into an agreement (hereinafter referred to as “Original Agreement”) with the CITY dated December 19, 2017 to jointly fund a transportation project (City-managed Project) to be managed by the CITY; and

WHEREAS, the Original Agreement specifies that the COUNTY’s contribution to jointly fund 2017 SPLOST projects is limited to the maximum COUNTY contribution as shown in the Original Agreement; and

WHEREAS, the Original Agreement specifies that the COUNTY’s contribution to jointly fund 2017 SPLOST projects is limited to the projects as shown in the Original Agreement; and

NOW, THEREFORE, the COUNTY and the CITY, in consideration of the mutual promises and agreements set forth herein, do agree as follows:

1. This Change Order No. 1 amends the Original Agreement between the COUNTY and CITY as follows: The COUNTY will reduce its contribution to the City-managed Project by $121,500 reducing the total COUNTY contribution to the City-managed Project from $711,242 to $589,742 and will increase its contribution to the 2017 SPLOST County-managed Project by $121,500.

2. The revised maximum COUNTY contribution is outlined in Exhibit A attached hereto. In no event shall the COUNTY’s contribution exceed eighty one percent (81%) of the total County-managed Project cost.

3. Except as explicitly stated in Sections 1 and 2 of this Change Order No.1, the existing projects shall not be updated, amended, or altered in any way. The scope of the existing projects shall remain as stated in the Original Agreement.

4. All notices pursuant to this agreement shall be served as follows: As to the COUNTY, Chairwoman, Gwinnett County Board of Commissioners, 75 Langley Drive, Lawrenceville, Georgia 30046. As to the CITY, Mayor, City of Norcross, 65 Lawrenceville Street, Norcross, GA 30071.

Except as herein supplemented, modified and amended, the Original Agreement will remain in full force and effect and shall in all respects govern and control.

It is expressly agreed by the parties that this Change Order No. 1 is supplemental to the Original Agreement and all previous Agreements which are by reference made a part hereof. All terms, conditions, and provisions thereof unless specifically modified herein are to apply to this Change Order No. 1 and are made a part hereof as though they were expressly rewritten, incorporated, and included herein.

IN WITNESS WHEREOF, the parties hereto acting through their duly authorized agents have caused this agreement to be signed and delivered on the date set forth below.

This _____________ day of ________________, 2021.

GWINNETT COUNTY, GEORGIA	CITY OF NORCROSS, GEORGIA
By: ________________________________ NICOLE L. HENDRICKSON	By: ________________________________
Title: CHAIRWOMAN	Title: MAYOR
ATTEST:	ATTEST:
By: ________________________________	By: ________________________________
Title: County Clerk/Deputy County Clerk (SEAL)	Title: City Clerk (SEAL)

APPROVED AS TO FORM:

____
Senior Assistant County Attorney

Exhibit A – 2017 SPLOST City-managed Jointly Funded Transportation Projects

Project Name	Improvement Type	Location	Maximum County Contribution
Beaver Ruin Greenway, Phase 1	Multi-use Path	Holcomb Bridge Road to I-85	$589,742
Holcomb Bridge Road Multi-use Path	Multi-use Path	West Peachtree Street to Queens Court	

CHANGE ORDER NO. 2 BETWEEN GWINNETT COUNTY
AND THE CITY OF NORCROSS REGARDING
JOINTLY FUNDED 2017 SPLOST PROJECT(S)
(COUNTY-MANAGED PROJECT # F-1234)

This Change Order (hereinafter referred to as "Change Order No. 2"), made by and between the City of Norcross, a municipal corporation chartered by the State of Georgia and headquartered 65 Lawrenceville Street, Norcross, GA 30071 (herein referred to as "CITY") and Gwinnett County, Georgia, a political subdivision of the State of Georgia headquartered at 75 Langley Drive, Lawrenceville, Georgia 30046 (hereinafter referred to as "COUNTY") each of whom has been duly authorized to enter into this Change Order No. 2.

WITNESSETH

WHEREAS, the COUNTY entered into an agreement (hereinafter referred to as "Original Agreement") with the CITY dated December 19, 2017 and Change Order No. 1 (hereinafter referred to as "Change Order No. 1") dated September 28, 2020 to jointly fund a transportation project (County-managed Project) to be managed by the COUNTY; and

WHEREAS, the Original Agreement and Change Order No. 1 specify that the COUNTY's contribution to jointly fund 2017 SPLOST projects is limited to the maximum COUNTY contribution as shown in each agreement; and

WHEREAS, the Original Agreement and Change Order No. 1 specify that the COUNTY's contribution to jointly fund 2017 SPLOST projects is limited to the projects as shown in each agreement; and

NOW, THEREFORE, the COUNTY and the CITY, in consideration of the mutual promises and agreements set forth herein, do agree as follows:

1. This Change Order No. 2 amends the Original Agreement and Change Order No. 1 between the COUNTY and CITY as follows: The County will contribute an additional $121,500 to the County-managed Project cost increasing the COUNTY's contribution to the County-managed Project from $1,134,000 to $1,255,500 and will reduce its contribution to the 2017 SPLOST City-managed Project by $121,500.

2. The CITY will contribute an additional $28,500 to the County-managed Project increasing the CITY's contribution to the County-managed Project from $286,000 to $314,500.

3. The revised maximum COUNTY contribution and minimum CITY contribution for each project is outlined in Exhibit A attached hereto. In no event shall the COUNTY's contribution exceed eighty one percent (81%) of the total County-managed Project's cost.

4. Except as explicitly stated in Sections 1 and 2 of this Change Order No. 2, the existing projects shall not be updated, amended, or altered in any way. The scope of the existing projects shall remain as stated in the Original Agreement and Change Order No. 1.

5. All notices pursuant to this agreement shall be served as follows: As to the COUNTY, Chairwoman, Gwinnett County Board of Commissioners, 75 Langley Drive, Lawrenceville, Georgia 30046. As to the CITY, Mayor, City of Norcross, 65 Lawrenceville Street, Norcross, GA 30071.

Except as herein supplemented, modified and amended, the Original Agreement and Change Order No. 1 will remain in full force and effect and shall in all respects govern and control.

It is expressly agreed by the parties that this Change Order No. 2 is supplemental to the Original Agreement and Change Order No. 1 and all previous Agreements which are by reference made a part hereof. All terms, conditions, and provisions thereof unless specifically modified herein are to apply to this Change Order No. 2 and are made a part hereof as though they were expressly rewritten, incorporated, and included herein.

IN WITNESS WHEREOF, the parties hereto acting through their duly authorized agents have caused this agreement to be signed and delivered on the date set forth below.

This _____________ day of ________________, 2021.

GWINNETT COUNTY, GEORGIA

By: _________________________________
NICOLE L. HENDRICKSON

Title: CHAIRWOMAN

ATTEST:

By: _________________________________

Title: County Clerk/Deputy County Clerk (SEAL)

CITY OF NORCROSS, GEORGIA

By: _________________________________

Title: MAYOR

ATTEST:

By: _________________________________

Title: City Clerk (SEAL)

APPROVED AS TO FORM:

____
Senior Assistant County Attorney

Exhibit A – 2017 SPLOST County-managed Jointly Funded Transportation Projects

Project Name	Improvement Type	Description	Maximum County Contribution*	Minimum City Contribution
Holcomb Bridge Road	Safety & Alignment	At Norfolk Southern Railroad Crossing	$716,761.81	$168,129.32
Medlock Bridge Road	Intersection	At North Peachtree Street/Langford Road	$538,738.19	$146,370.68*

*Any County cost contribution or reimbursement expensed to any Norcross County-managed sub-project shall be deducted from the total amount available for the Norcross County-managed Project and the remaining balance can be used for another jointly funded Norcross County-managed sub-project until the entire amount is exhausted

**City contribution exceeds standard 19% minimum contribution

20175373

11/28/17

INTERGOVERNMENTAL AGREEMENT BETWEEN GWINNETT COUNTY AND THE CITY OF NORCROSS REGARDING JOINTLY FUNDED 2017 SPLOST PROJECT(S)

(COUNTY MANAGED PROJECT PROJECT # F 1234)

This agreement made by and between the City of Norcross, a municipal corporation chartered by the State of Georgia and headquartered at 65 Lawrenceville Street, Norcross, Georgia 30071 (hereinafter referred to as "City") and Gwinnett County, Georgia, a political subdivision of the State of Georgia headquartered at 75 Langley Drive, Lawrenceville, Georgia 30046 (hereinafter referred to as "County") each of whom has been duly authorized to enter into this Agreement

WITNESSETH

WHEREAS, the parties to this agreement are governmental units located within Gwinnett County, Georgia and authorized by law to enter into intergovernmental agreements, and

WHEREAS, the parties hereto desire to serve the needs of the citizens of Gwinnett County by providing a safe and efficient roadway improvement within Gwinnett County, and

WHEREAS, on July 19, 2016, the parties entered into an Intergovernmental Agreement for the use and distribution of proceeds generated by the 2017 Special Purpose Local Option Sales Tax (SPLOST) Program which was approved in a referendum by the voters of Gwinnett County on November 8, 2016 (hereinafter referred to as "SPLOST Intergovernmental Agreement"), and

WHEREAS, in recognition of the need for transportation improvements across the County and its Cities, the County and Cities agreed pursuant to the SPLOST Intergovernmental Agreement to utilize a minimum of sixty-five percent of their respective shares of total net proceeds of the 2017 SPLOST Program for transportation projects, and

WHEREAS, to further provide for transportation improvements and encourage partnership projects between the County and the Cities, the County agreed to set aside the sum of Thirty Million Eight Hundred Forty Five Thousand Seven Hundred Seventy Dollars ($30,845,770 00 and hereinafter referred to as "Total City/County Sum") from its allocated share of the net proceeds of the 2017 SPLOST Program for the purpose of funding transportation projects jointly with the Cities, and

WHEREAS, the Parties agreed that each sponsoring City shall provide at least 19% matching funds from its own sources to the County's allocation for the City from the Total City/County Sum set aside for County/City joint projects for any joint project proposed and approved in accordance with the SPLOST Intergovernmental Agreement, and

WHEREAS, the SPLOST Intergovernmental Agreement requires that separate Intergovernmental Agreements containing specific provisions and funding arrangements be executed for each joint project between the County and a City where a portion of the Total City/County Sum set aside by the County is sought to be used, and

WHEREAS, pursuant to the SPLOST Intergovernmental Agreement, the City of Norcross has proposed a transportation project located within the corporate limits of the City of Norcross which includes "Sub-projects" further specified and defined on Exhibit A attached hereto for the purposes of making transportation improvements that will jointly benefit residents of unincorporated and incorporated Gwinnett County, and

WHEREAS, both parties to this Agreement have certain funds allocated for use in connection with the project described in the paragraph above, further identified as Jointly Funded 2017 SPLOST Project (hereinafter referred to as the "Norcross County-managed Project"), and

WHEREAS, both parties believe that the Norcross County-managed Project proposed will further the purposes of meeting the transportation improvement needs of the County and the City in accordance with the SPLOST Intergovernmental Agreement, and

WHEREAS, both parties believe that it would be in the interest of the health, safety and welfare of the citizens of Gwinnett County to combine their resources and efforts to provide for the efficient design and construction of the Norcross County-managed Project,

NOW, THEREFORE, in consideration of the mutual promises, covenants and undertakings set forth herein and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto do consent and agree as follows

1 The Norcross County-managed Project consists of two Sub-projects The City contributions and maximum County contributions for each Sub-project are shown in Exhibit A The description and limits for each Sub-project are as follows and as outlined in Exhibit A attached hereto
   a) Holcomb Bridge Road at Norfolk Southern Railroad Crossing safety and alignment project
   b) Medlock Bridge Road at North Peachtree Street/Langford Road intersection improvement project

2 Project Costs
   a) The total Norcross County-managed Project cost, including Sub-projects, is estimated to be $1,400,000
   b) The County will contribute a maximum of $1,134,000 toward the total Norcross County-managed project In no event shall the County's contribution exceed 81% of the total Norcross County-managed Project cost
   c) The estimated cost of the County-managed Sub-project named Holcomb Bridge Road at Norfolk Southern Railroad Crossing is $1,200,000 The estimated cost of the County-managed Sub-project named Medlock Bridge Road at North Peachtree Street/Langford Road is $200,000 Funds used for a jointly-funded Norcross County-managed sub-project, shall be subtracted from the total available funding and will not be available for the other jointly-funded County-managed sub-projects
   d) The City agrees that it will be responsible for the remaining amount of the estimated and final Project cost, which shall constitute at least nineteen percent (19%) of the total Norcross Project cost

e) The parties further agree that should the final cost of the Norcross County-managed Project be less than the estimated cost, that the City's portion of the final cost shall in no event be less than nineteen (19%) of the final cost of the Norcross Project Both parties agree that the estimated cost shown (under 2 a) is a reasonable, good faith estimate based on the total scope of the Norcross County-managed Project including Sub-projects The estimated cost shown also includes all costs necessary to complete all phases of a typical, complex transportation project, including design, right-of way acquisition and related professional services, and construction The Norcross Project shall be considered complete when all Sub-projects are completed in accordance with Exhibit A A Sub-project is considered complete when it is open to traffic, operational, or otherwise useable to the public The City agrees that the County's contribution is to be used only for sub-projects where the City has a reasonable expectation that funding is available to complete the sub-project To the extent that the County's contribution combined with the City's minimum contribution is not sufficient to complete the Norcross Project, the County and the City agree that the City will provide additional funding to complete the Norcross County-managed Project or the City and County may by subsequent mutual agreement revise the scope of the Norcross Project to fall within the available funding

3 County Responsibilities

a) The County shall be responsible for the management of all aspects of the Norcross County-managed Project as specified in Exhibit A

b) The County shall process and pay all invoices from vendors/contractors through its Department of Transportation

4 City Responsibilities

a) The City's payment to the County shall be in the form of a reimbursement

b) Upon receipt of an invoice from the County for qualified Norcross County-managed Project expenses, the City shall pay 19% of the invoiced expenses within thirty (30) days by check or electronic transfer

5 As to the Norcross County-managed Project, the parties agree that neither the County nor the City shall indemnify or hold harmless the other party's agents, inspectors, servants and employees, past and present Both the City and the County, if requested, shall assume and defend at their own cost, any suit, action or other legal proceeding arising therefrom for the Norcross County-managed Project

6 All notices pursuant to this agreement shall be served as follows As to the County, Chairman, Gwinnett County Board of Commissioners, 75 Langley Drive, Lawrenceville, Georgia 30046 As to the City, Mayor, City of Norcross, 65 Lawrenceville Street, Norcross, Georgia 30071

7 This agreement constitutes the entire written agreement between the parties hereto as to all matters contained herein All subsequent changes to this contract must be in writing and signed by both parties This agreement is for the benefit of the parties hereto only and is not intended to benefit any third party or to give rise to any duty or causes of

action for any third party, and no provisions contained within this agreement are intended to nor shall they in any way be construed to relieve any contractor performing services in connection with the Project of any liability or to complete the work in a good, substantial and workmanlike manner No provision in this agreement is intended to nor shall it be construed to in any way waive immunities or protections provided to either the County or to the City by the Constitution and laws of the State of Georgia

IN WITNESS WHEREOF, the parties hereto acting through their duly authorized agents have caused this agreement to be signed and delivered on the date set forth below

This 19th day of December, 2017

GWINNETT COUNTY, GEORGIA

By ______________________
CHARLOTTE J NASH

Title CHAIRMAN

ATTEST

By ______________________

Title County Clerk/Deputy County Clerk (SEAL)

APPROVED AS TO FORM

____
County Attorney

CITY OF NORCROSS, GEORGIA

By ______________________

Title MAYOR

ATTEST

By ______________________

Title City Clerk (SEAL)

20175373

EXHIBIT A – CITY OF NORCROSS/GWINNETT COUNTY IGA COUNTY-MANAGED PROJECT

PROJECT # F-1234

SUB PROJECT NAME	IMPROVEMENT TYPE	LOCATION	ESTIMATED SUBPROJECT COST	City Contribution (19%)	MAXIMUM COUNTY CONTRIBUTION TO SUBPROJECT*
Holcomb Bridge Road	Safety & Alignment	at Norfolk Southern Railroad Crossing	$1 200 000	$228 000	$972 000
Medlock Bridge Road	Intersection	at North Peachtree Street/Langford Road	$200 000	$38 000	$162,000

* Any County cost, contribution, or reimbursement expensed to any Norcross County-managed sub-project shall be deducted from the total amount available for the Norcross County-managed Project ($1,134,000) and the remaining balance can be used for another jointly funded Norcross County-managed sub-project until the entire amount is exhausted

2017

City of Norcross

Legislation Details (With Details)

File #:	21-6360	**Version:**	
Type #:	Agenda Item	**Status:**	Agenda Ready
On Agenda:	12/20/2021 6:30 PM	**In Control:**	Policy Work Session
Title:	Georgia Public Web		
Sponsors:			
Code Sections:			

Attachments:

1. Agenda Report- Georgia Public Web
2. Letter to GPW Members
3. GPW MEAG Mayors Summit Presentation Slides
4. Member Consent - City of Norcross
5. Asset Purchase Agreement

Title
Georgia Public Web

Drafter
Mary Beth Bender

65 Lawrenceville ST., NORCROSS, GEORGIA 30071
(770) 448-2122 **FAX** (770) 242-0824
http://www.norcrossga.net

Agenda Report

To: Mayor and Council

From: **Mary Beth Bender**

Agenda: December 20, 2021 – Policy Work Session

Agenda #: 21-6360

Item: **Georgia Public Web**

CC: Eric Johnson

Recommendation
Proceed with the recommended asset sale transaction and MEAG Contract amendment.

Background
MEAG Power members created MEAG Telecom in the mid 90's to permit high speed internet connectivity across the state.

Legally, there was a concern as to whether MEAG could sell telecom services to the public in general. GPW was created to overcome that challenge. Norcross has been an owner in the project but has never provided services across the network.

The project has been over a 20yr investment for the City of Norcross which can now yield an estimated $223,000 in returns.

All initial purposes have been accomplished by the members, supporting rural education, bringing competition, and supporting SCADA communications. GPW board has voted to sell the network to someone with the capital and industry experience to carry GPW's mission to the next level. GPW is seeking written consent to proceed with the recommended asset sale transaction and MEAG Contract amendment.

65 LAWRENCEVILLE STREET, NORCROSS, GEORGIA 30071
(678) 421-2027 UPSTAIRS CITY HALL (770) 242-0824 FAX (770) 448-2111 POLICE DEPARTMENT
http://www.norcrossga.net

See letter to GPW members for additional information.

Financial Impact
The estimated funds upon exit will close out Norcross' over 20yr investment and bring it back positive. Closing distribution for Norcross is expected to be $849,000 (and when combining all monies charged to Norcross or paid to Norcross over the life of this project (GPW and MEAG combined) the net result is positive cash of approx. $223,000.

Consistent with Comprehensive Plan?
Yes, Goal 4: Maintain a Vibrant Economy by enhancing our economic well-being.

The original intent of the creation of MEAG Telecom and Georgia Public Web supported Goal 4, Policy 4-8: Maintain and support citywide access to broadband services. However, it never achieved that purpose for the City of Norcross. Recovering our investment allows the Electric Fund to pursue other priorities for the City since the City is currently built out with broadband access.

Next Steps
Mayor and Council to give GPW written consent to proceed with the transaction.

Attachments
Letter to GPW Members
Member Consent Form
Asset Purchase Agreement
GPW MEAG Mayors Summit Presentation

GeorgiaPublicWeb

CONFIDENTIAL

VIA OVERNIGHT COURIER

November 4, 2021

Re: Approval for GPW's Sale of Substantially All Assets and Other Matters

Dear Sir/Madam:

The Board of Directors of Georgia Public Web, Inc. ("GPW") seeks your approval to sell substantially all of GPW's assets in a transaction (the "Transaction") with an affiliate of Macquarie Capital ("Macquarie").

NOTE: If you have any questions about this letter, please contact Eric Snell, GPW's President and Chief Executive Officer at (770) 563-1244 and esnell@gapublicweb.net. If any city attorney copied on this letter would like to speak with GPW's legal counsel, contact Scott Harris of Friend, Hudak & Harris, LLP at (770) 399-9500 x114 and sharris@fh2.com.

1. **Overview**. On September 28, 2021, the GPW board unanimously approved the Transaction outlined in the draft of the Asset Purchase Agreement ("APA") enclosed and summarized below. The GPW board took this action at the conclusion of a long and deliberate process. The final step before signing the APA is to obtain the written consent of GPW's members to proceed with the Transaction. The form of that consent is also enclosed.

2. **Background**. The following is some background to help you understand events leading up to the Transaction.

GPW was formed in 1998 with the mission to bring high-bandwidth, reliable telecommunications services benefitting businesses and communities across Georgia. While GPW believes it has fulfilled this mission, the future holds new challenges to develop its network to support new 5G and FTTx services required to keep GPW's customers and members competitive. GPW has a choice. It can either raise significant capital to retrofit and improve its network to support these new services or sell its network to someone with the capital and industry experience to carry GPW's mission to the next level.

So, catalyzed by unsolicited inquiries to purchase GPW, in May 2020 GPW engaged investment banker Houlihan Lokey ("Houlihan") to serve as its exclusive financial advisor to explore a potential sale. Houlihan commenced a formal marketing process in November 2020 soliciting a comprehensive mix of strategic and financial buyers. Initial bids were due in late December 2020. After initial bids were evaluated, a select number of bidders were invited to participate in a second round of additional due diligence, in-depth meetings and calls with management, and proposing comments and revisions to a form asset purchase agreement offered by GPW. This culminated in the submission of a handful of revised, final bids by a March 25, 2021 deadline. On March 31st GPW's board reviewed and considered all second-round bids and unanimously concluded that Macquarie's proposal was the most favorable. The GPW board authorized the company to move forward with Macquarie, on an exclusive basis, with the intention of completing the Transaction. Since that time, GPW and Macquarie have worked together on completing confirmatory diligence and negotiating the APA.

Not only was Macquarie's bid superior, but GPW's board believes that Macquarie is uniquely capable of carrying GPW's mission to the next level. Macquarie's parent is Macquarie Group Limited (together with its subsidiaries, "Macquarie Group"), a global provider of banking, financial, advisory, investment, and fund management services. Founded in 1969, Macquarie Group operates in more than 70 office locations in 28 countries. Macquarie Group has assets under management of more than $431.3 billion.

Macquarie comprises Macquarie Group's corporate advisory, capital markets, and principal investing capabilities. Macquarie's expertise spans a variety of industry sectors including telecommunications, media, entertainment, technology, gaming, financial institutions, industrials, energy, resources, infrastructure, utilities, and renewables. Macquarie has been increasingly active in the digital infrastructure sector, with numerous investments and sector-dedicated teams in the Americas, EMEA, as well as Asia. Notable and relevant investments include:

- $350m Kentucky Wired Fiber PPP (2015): Macquarie was the lead developer, majority equity investor, and exclusive financial adviser for the first fiber optic PPP in the US

- OpenFiber Kentucky (2020): Macquarie's subsidiary launched to commercialize surplus capacity on the Kentucky Wired Fiber PPP by providing communications services to enterprise and wholesale customers.

3. **Transaction Summary**. The following is a summary of some (but not all) of the terms of the Transaction contained in the APA.

a. Type: GPW will sell substantially all of its rights and assets to the buyer, except that the balance of cash in GPW's bank accounts will be retained (and not sold) by GPW. The buyer will also assume certain liabilities of GPW arising after the closing. GPW will retain (and be required to pay off) other liabilities.

b. Parties: GPW is the seller and the buyer will be Macquarie Communications Infrastructure Holdings LLC (the "Purchaser"), an affiliate of Macquarie.

c. Purchase Price: The purchase price has a few components. The gross purchase price is $40,000,000. However, the portion of the purchase price that will be paid, in cash, at closing has a $2,000,000 deduction for an indemnification escrow (discussed in item 3.f, below), plus another estimated $500,000 for working capital. This leaves approximately $37,500,000, plus or minus certain adjustments that will be calculated immediately before closing.

d. Timing: There are several phases to the Transaction.

   i. *Currently*. Right now, GPW is seeking approval of the Transaction by its members in a process expected to take at least eight weeks.

   ii. *Signing*. Once member approval is obtained, GPW and the buyer will sign the APA.

   iii. *Executory Period*. Once the APA is signed, the parties will proceed with the process of obtaining various third party consents necessary before the Transaction can be closed. This is called an "executory period." Because the Transaction is subject to obtaining governmental regulatory approvals in multiple jurisdictions, the executory period is anticipated to take up to seven months. During the executory period GPW has agreed to various restrictions on conducting its business intended to preserve the business for its eventual transfer to the buyer.

   iv. *Closing*. Only after sufficient third party consents and all regulatory approvals have been obtained, will the closing occur. On that date, GPW's assets will be transferred and the purchase price payable at closing will be remitted to GPW.

   v. *Disbursement*. Shortly after the closing, GPW will distribute its remaining bank account balances plus the bulk of the purchase price paid at closing to its members (although it will retain some funds for post-closing expenses). All told, the members should not expect to receive their pro-rata share of any proceeds before July 2022, assuming current estimates. Including GPW's bank account balances, the aggregate amount expected to be distributed to members shortly after the closing is estimated to be around $55,000,000, though this amount is anticipated to fluctuate. ***To estimate the amount of proceeds distributable to each member, individually, after closing, multiply $55M times the membership percentage set forth on your signature page for the enclosed written consent action.***

vi. *Post-Closing*. After the closing, GPW will continue to exist but without any operations, other than to discharge post-closing obligations under the APA, and to await payment of the escrowed portion of the purchase price.

e. Representations and Warranties. As is customary with these transactions, GPW will make extensive written promises (the legal shorthand for which is "reps and warranties") in the APA concerning its assets, business, and many other things, in order to assure the buyer and encourage it to purchase the assets. These reps and warranties were the subject of extensive negotiations. In addition to reps and warranties, GPW has also agreed to pay costs and damages incurred by the buyer on account of various things, including GPW's operation of the assets and business before the closing. Reflexively, the buyer has agreed to do the same for GPW with respect to buyer's operation of the business and assets after the closing.

f. Indemnification and Escrow. Also as is customary, in order to provide funds in case GPW breaches the APA, $2,000,000 is being withheld from the purchase price paid at closing and deposited with a third-party escrow agent pursuant to a separate Escrow Agreement. The buyer has the right to make claims against this amount for a period of up to 18 months after closing. If no claims are made, the escrowed amount is to be paid to GPW. When and as escrowed portions of the purchase price are released from escrow and paid to GPW, it anticipates distributing such amounts to its members, pro-rata.

4. **APA and Consent Resolutions**. Copies of the APA and the written consent resolution approving these matters are enclosed with this letter.

5. **Other Matters**. For sake of completeness and to avoid confusion, we mention two other matters related to, but distinct from, the Transaction and your consent to it.

a. *MEAG Amendment*. To facilitate the GPW Transaction, it is necessary to obtain an amendment to the original MEAG Telecom contracts with the 32 GPW members. MEAG Power will be forwarding that draft document for your review and consideration.

b. *Consents*. Some of the contracts being assigned to the Purchaser in the transactions require the consent of GPW's members or other entities to permit assignment. Should such consents need to be obtained, there is a separate enclosure, entitled Consent to Assignment of Contracts, for signature. If no such agreement is enclosure, please disregard this paragraph as it does not apply to you.

We look forward to receiving your duly authorized and signed written consent resolution (plus any applicable Consent to Assignment of Contracts mentioned in 5.b. above). Once executed, please scan and email these documents to our attorney, Scott Harris, at sharris@fh2.com and mail the signed paper copies to him at: Scott Harris, Friend, Hudak & Harris, LLP, Three Ravinia Drive, Suite 1700, Atlanta, GA 30346.

Thank you for your timely consideration of these activities.

GeorgiaPublicWeb

Should you have any questions please contact me at 770-563-1244 or esnell@gapublicweb.net.

Regards,

Eric Snell
President and Chief Executive Officer of Georgia Public Web, Inc.

cc: The mayor or chief executive of each GPW member, with enclosures
The city attorney or legal counsel for each GPW member, with enclosures
The entities needing to sign any Consents to Assignment of Contracts (if applicable; see 5.b. above)

Enclosures: APA
Written Consent Resolutions
Consent to Assignment of Contracts, if applicable (see 5.b above).

TRANSACTION PROCESS

The following is a summary of some (but not all) of the remaining processes related to the Transaction

All Dates are approximate

- Nov 4 – transaction packages issued to all 32 members
- Nov/Dec – members approval of the Transaction and the MEAG Contract amendment
- Upon all approvals received – execution of APA
- Process regulatory approvals and other required consents (Federal and 5 states) – Jan-Jun 2022
- MEAG board approval of Contract amendment
- **Jul 2022 – closing and Initial funds release**
- **Jan 2024 – Final escrow release**

ESTIMATED TRANSACTION AMOUNTS

The following is an estimate of the expected distribution amounts expected per members related to the Transaction

Member	GPW Shares	Estimated distribution
Adel	3.1840%	$ 1,751,200
Albany	11.5740%	$ 6,365,700
Barnesville	1.1580%	$ 636,900
Blakely	1.5440%	$ 849,200
Cairo	2.3150%	$ 1,273,250
Calhoun	4.2450%	$ 2,334,750
Camilla	1.5440%	$ 849,200
Cartersville	5.4000%	$ 2,970,000
Commerce	1.5440%	$ 849,200
Covington	3.4730%	$ 1,910,150
Crisp County	2.7010%	$ 1,485,550
Douglas	3.0820%	$ 1,695,100
Elberton	2.3150%	$ 1,273,250
Ellaville	1.1580%	$ 636,900
Fairburn	2.5470%	$ 1,400,850
Fitzgerald	2.7010%	$ 1,485,550

Member	GPW Shares	Estimated distribution
Forsyth	1.5440%	$ 849,200
Fort Valley	2.3150%	$ 1,273,250
Griffin	5.0170%	$ 2,759,350
LaGrange	0.6370%	$ 350,350
Marietta	11.9630%	$ 6,579,650
Monticello	2.5470%	$ 1,400,850
Moultrie	3.0870%	$ 1,697,850
Newnan	5.0940%	$ 2,801,700
Norcross	1.5440%	$ 849,200
Palmetto	1.1580%	$ 636,900
Quitman	1.5440%	$ 849,200
Sandersville	1.5440%	$ 849,200
Sylvania	1.9300%	$ 1,061,500
Thomaston	1.9300%	$ 1,061,500
Thomasville	5.7310%	$ 3,152,050
Washington	1.9300%	$ 1,061,500

KEY GPW PERSONNEL INVOLVED

The following is the contact information to address questions related to the Transaction.

GPW Board Members

Member	GPW Role	Municipality	Title	Email
Brad Carrick	Chairman	Calhoun	Telecom Manager	bcarrick@calnet-ga.net
Lanier Dunn	Vice-Chairman	Elberton	City Manager	ldunn@cityofelberton.net
Alan Slaughenhaupt	Secretary-Treasurer	LaGrange	Director, Information Technology	cas@lagrange-ga.org
Chris Addleton		Cairo	City Manager	caddleton@cairocity.net
Steven Carter		Albany	Interim City Manager	carter@albanyga.gov
Dan Porta		Cartersville	City Manager	dporta@cityofcartersville.org
James Wascher		Commerce	City Manager	jamesw@commercega.org
Chris White		Thomasville	Assistant City Manager	chrisw@thomasville.org

GPW Key Contacts

Name	GPW Role	Office	Cell	Email
Eric Snell	President	770-563-1244	404-376-8631	esnell@gapublicweb.net
Scott Harris	Transaction Counsel	770-399-9500		sharris@fh2.com

WRITTEN CONSENT OF THE MEMBERS OF GEORGIA PUBLIC WEB, INC.

The undersigned, being members of Georgia Public Web, Inc., a nonprofit corporation organized and existing under the laws of the State of Georgia (the "**Corporation**"), pursuant to Section 14-3-704 of the Georgia Nonprofit Corporation Code and the Bylaws of the Corporation, hereby consent that the following actions be taken by the Corporation and that the following resolutions be adopted without the necessity of a formal or informal meeting by the Corporation and without the requirement of any notices of or materials with respect to such meeting for the purposes set forth hereafter, and hereby direct that this consent be delivered to the Corporation for inclusion in the minutes or filing with the corporate records.

RESOLVED, that the undersigned members of the Corporation hereby approve of the Corporation entering into the transactions substantially described in that certain Asset Purchase Agreement by and between the Corporation and other party named therein (the "**Agreement**"), a current copy of which is attached hereto as Exhibit A, and all other exhibits, documents and transactions related thereto or delivered therewith.

IN WITNESS WHEREOF, the undersigned do hereby give their consent to these resolutions.

[Signature pages attached]

WRITTEN CONSENT OF THE MEMBERS OF GEORGIA PUBLIC WEB, INC.

SIGNATURE PAGE

The City of Norcross, Georgia

By:______________________________
Name:________________________
Title:_________________________

Date signed: ___________________

Membership percentage: 1.544%

WRITTEN CONSENT OF THE MEMBERS OF GEORGIA PUBLIC WEB, INC.

EXHIBIT A

Asset Purchase Agreement

WRITTEN CONSENT
OF THE MEMBERS OF
GEORGIA PUBLIC WEB, INC.

ALL MEMBERS AND ALL PERCENTAGES

1.	City of Adel	3.184%
2.	City of Albany	11.574%
3.	City of Barnesville	1.158%
4.	City of Blakely	1.544%
5.	City of Cairo	2.315%
6.	City of Calhoun	4.245%
7.	City of Camilla	1.544%
8.	City of Cartersville	5.400%
9.	City of Commerce	1.544%
10.	City of Covington	3.473%
11.	Crisp County Power Commission	2.701%
12.	City of Douglas	3.082%
13.	City of Elberton	2.315%
14.	City of Ellaville	1.158%
15.	City of Fairburn	2.547%
16.	City of Fitzgerald	2.701%
17.	City of Forsyth	1.544%
18.	City of Fort Valley	2.315%
19.	City of Griffin	5.017%
20.	City of LaGrange	0.637%
21.	City of Marietta	11.963%
22.	City of Monticello	2.547%
23.	City of Moultrie	3.087%
24.	City of Newnan	5.094%
25.	City of Norcross	1.544%
26.	City of Palmetto	1.158%
27.	City of Quitman	1.544%
28	City of Sandersville	1.544%
29.	City of Sylvania	1.930%
30.	City of Thomaston	1.930%
31.	City of Thomasville	5.731%
32.	City of Washington	1.930%
		100.00%

Confidential

ASSET PURCHASE AGREEMENT

by and between

[Macquarie Newco, LLC]

and

Georgia Public Web, Inc.

dated as of _________ ___, 202_

Table of Contents

Table of Contents

Table of Contents

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "***Agreement***"), dated as of ______ __, 202_, is by and between [Macquarie Newco, LLC], a Delaware limited liability company (the "***Purchaser***") and Georgia Public Web, Inc., a Georgia non-profit corporation (the "***Seller***").

Background

A. The Seller is engaged in the business of providing telecommunication services (the "***Business***").

B. The Purchaser desires to purchase from the Seller, and the Seller desires to sell to the Purchaser, all of the Seller's right, title and interest in and to the Purchased Assets (as hereinafter defined).

C. The Seller desires to transfer to the Purchaser, and the Purchaser desires to accept and assume from the Seller, the Assumed Liabilities (as hereinafter defined).

Now, therefore, in consideration of the mutual promises and representations and subject to the terms and conditions herein contained, and other good and valuable consideration, had and received, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1: Definitions

"***Additional Inventory Item***" has the meaning set forth in Section 3.4(c).

"***Affiliate***" of any Person means any Person directly or indirectly controlling, controlled by, or under common control with, any such Person and any officer, director, or controlling person of such Person.

"***Agreement***" has the meaning set forth in the preamble.

"***Allocation***" has the meaning set forth in Section 3.3.

"***Allocation Schedule***" has the meaning set forth in Section 3.3.

"***Ancillary Agreements***" means the Bill of Sale, the Escrow Agreement, the Assumption Agreement, Assignment and Assumption of Lease and each agreement, document, instrument or certificate contemplated by this Agreement or to be executed by the Purchaser or the Seller in connection with the consummation of the transactions contemplated by this Agreement, in each case only as applicable to the relevant party or parties to such Ancillary Agreement, as indicated by the context in which such term is used.

"***Arbitration Firm***" has the meaning set forth in Section 3.2(c).

"***Assignment and Assumption of Lease***" has the meaning set forth in Section 7.1(h)(vii).

"***Assumed Liabilities***" has the meaning set forth in Section 2.4.

"***Assumption Agreement***" has the meaning set forth in Section 7.2(e)(ii).

"***Bill of Sale***" has the meaning set forth in Section 7.1(h)(ii).

"***Business***" has the meaning set forth in the recitals.

"***CARES Act***" means the Coronavirus Aid, Relief, and Economic Security Act of 2020, as in effect from time to time, together with all rules and regulations and guidance issued by any Governmental Authority with respect thereto and any similar or successor statute with respect thereto (including for the avoidance of doubt the Consolidated Appropriations Act of 2021, P.L. 116-260), and any similar applicable executive order or executive memo (including the Memorandum on Deferring Payroll Tax Obligations in Light of the Ongoing COVID-19 Disaster, dated August 8, 2020, and Internal Revenue Service Notice 2020-65).

"***Claims Notice***" has the meaning set forth in Section 10.2(a).

"***Closing***" has the meaning set forth in ARTICLE 8:.

"***Closing Date***" has the meaning set forth in ARTICLE 8:.

"***Closing Working Capital***" has the meaning set forth in Section 3.2(b).

"***Code***" means the Internal Revenue Code of 1986, as amended.

"***Communications Act***" means the Communications Act of 1934, as amended, and the rules, regulations, and published policies, procedures, orders and decision of the FCC.

"***Communications Law***" means (a) the Communications Act; (b) the State Telecommunications Laws; and (c) any Laws of any other Governmental Authority regulating or overseeing communications facilities or communications services, including Laws relating to the occupancy or use of any public rights-of-way.

"***Communications License***" means any Permit issued by the FCC, a State PUC or any applicable Governmental Authority pursuant to the applicable Communications Laws.

"***Consent Condition***" has the meaning set forth in Section 6.8(b).

"***Consents***" has the meaning set forth in Section 4.5.

"***Contracts***" means any contracts, agreements, purchase orders, bids, proposals, leases, instruments and other arrangements (whether written or oral) currently in effect.

"***Count***" has the meaning set forth in Section 3.4(b).

"***Debt Financing***" has the meaning set forth in Section 6.14(a).

"***Effective Time***" has the meaning set forth in ARTICLE 8:.

"***Employee Benefit Plans***" has the meaning set forth in Section 4.12(a).

"***Environment***" means soil, soil gas, surface waters, groundwater, drinking water, natural resources (including flora and fauna), land, stream sediments, surface or subsurface strata, ambient air, indoor air or indoor air quality, including any material or substance used in the physical structure of any building or improvement.

"***Environmental Condition***" means any condition, existing on or before the Closing (but regardless of when discovered), of the Environment with respect to the Leased Real Property, which violates any Environmental Law, or results in any Release, or Threat of Release, claim, demand, order or liability.

"***Environmental Law***" means any Law relating to (a) protection of the Environment, (b) Releases, manufacture, generation, treatment, storage, sale, distribution, marketing, importation, exportation, labeling, processing, handling, recycling, reporting, registration or use of Hazardous Materials, or products containing Hazardous Materials, or (c) injury or adverse health effects to persons relating to exposure to any Hazardous Materials.

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended.

"***ERISA Affiliate***" means any Person or entity that together with the Seller would be deemed to be under common control within the meaning of Section 414(b), (c), (m) or (o) of the Code or Section 4001(b)(1) of ERISA.

"***Escrow Agent***" means Citibank, N.A.

"***Escrow Agreement***" means that certain escrow agreement, to be executed on or prior to the Closing, by and among the Purchaser, the Seller, and the Escrow Agent, in the form of Exhibit A attached hereto.

"***Escrow Amount***" means the Indemnification Escrow Amount and the Working Capital Escrow Amount.

"***Escrow Release Date***" has the meaning set forth in Section 10.6(b).

"***Estimated Working Capital***" has the meaning set forth in Section 3.1(d).

"***Excess Amount***" has the meaning set forth in Section 3.2(f).

"***Expiration Date***" has the meaning set forth in Section 10.3(a).

"***Export Approvals***" has the meaning set forth in Section 4.31(c)(i).

"***FCC***" means the Federal Communications Commission.

"***FCC Approvals***" means such consents from, or such registrations, declarations, notices or other filings made to or with the FCC.

"***Final Inventory Report***" has the meaning set forth in Section 3.4(d).

"***Financial Statements***" has the meaning set forth in Section 4.17(a).

"***Fund Administrator***" means the entity that administers a state or the federal Universal Service Fund, state or federal telecommunications relay service fund, the North America Number Plan, or number portability.

"***GAAP***" means United States generally accepted accounting principles, applied on a consistent basis.

"***General Enforceability Exceptions***" has the meaning set forth in Section 4.3.

"***Government Contracts***" has the meaning set forth in Section 4.28(a).

"***Governmental Authority***" means any government or political subdivision or regulatory body, whether federal, state or local, or any agency or instrumentality of any such government or political subdivision or regulatory authority, or any federal, state, or local court or arbitrator or, with respect to the Purchaser only, any self-regulatory authority.

"***Governmental Regulatory Approvals***" means such consents from, or such registrations, declarations, notices or other filings made to or with, any Governmental Authority other than the FCC or a State PUC as are required in order to effect the assignment of applicable Purchased Assets, or as are otherwise necessary to consummate the transactions contemplated by this Agreement.

"***GPW Maintained Huts***" has the meaning set forth in Section 4.13.

"***Hazardous Material***" means any pollutant, toxic substance, including asbestos and asbestos-containing materials, hazardous waste, hazardous material, hazardous substance, contaminant, petroleum and petroleum-containing materials, asbestos-containing material, radiation and radioactive materials, leaded paints, toxic mold and other harmful biological agents, medical waste, infectious waste, polychlorinated biphenyls, fungicides, pesticides, insecticides, bactericides and germicides and any other materials and substances in any form as defined in, the subject of, or that could give rise to liability under, any Environmental Law.

"***In-Service Inventory***" has the meaning set forth in Section 3.4(a).

"***Indebtedness***" means (a) any indebtedness for borrowed money, (b) any indebtedness evidenced by any note, bond, debenture or other debt security, (c) any indebtedness for the deferred purchase price of property or services with respect to which a Person is liable, contingently or otherwise, as obligor or otherwise, (d) any commitment by which a Person assures a creditor against loss (including contingent reimbursement Liability with respect to letters of credit), (e) any indebtedness guaranteed in any manner by a Person (including guarantees in the form of an agreement to repurchase or reimburse), (f) any Liabilities under leases that would be considered capitalized leases under GAAP, (g) any indebtedness secured by a Lien on a Person's assets, (h) any amounts owed to any Person under any noncompetition, severance or similar arrangement, (i) any change-of-control or similar payment or increased cost that is triggered in whole or in part by the transactions contemplated by this Agreement, (j) any Liability of a Person under deferred compensation plans, phantom stock plans, severance or bonus plans, accrued employee awards or similar arrangements made payable in whole or in part as a result of the transactions contemplated herein, including the employer portion of any payroll Taxes payable with respect to such amounts, (k) any off-balance sheet financing of a Person (but excluding all leases recorded for accounting purposes by the applicable Person as operating leases), (l) any accrued and unpaid interest on, and any prepayment premiums, penalties or similar contractual charges in respect of, any of the foregoing obligations computed as though payment is being made in respect thereof on the Closing Date, (m) liabilities associated with repairs of MEAG optical power ground wire, (n) MEAG fiber lease liability (o) any accrued but unpaid property or similar Taxes imposed with respect to the Purchased Assets or the Business for periods (or portions thereof) ending on or before the Closing Date, and (p) any Seller Transaction Expenses.

"***Indemnification Escrow Amount***" means an amount equal to $2,000,000.

"***Indemnified Party***" has the meaning set forth in Section 10.2(a).

"***Indemnifying Party***" has the meaning set forth in Section 10.2(a).

"***Indemnity Resolution Date***" has the meaning set forth in Section 10.6(a).

"***Information Services***" has the meaning provided in Section 3(24) of the Communications Act, 47 U.S.C. § 153.

"***Information Systems***" means all computer hardware, databases and data storage systems, computer, data, database and communications networks (other than the Internet), architecture interfaces and firewalls (whether for data, voice, video or other media access, transmission or reception) and other apparatus used to create, store, transmit, exchange or receive information in any form.

"***Initial Purchase Price***" has the meaning set forth in Section 3.1(a).

"***Intellectual Property***" means any and all of the following in any jurisdiction throughout the world, by whatever name or term known or designated, tangible or intangible, whether arising by operation of Law, contract, license or otherwise: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice) as well as all improvements thereto; (b) all patents, patent applications of any kind and patent rights; (c) all copyrights in both published and unpublished works and registrations and applications for registration of any of the foregoing; (d) all trade secrets and other confidential or proprietary information (including all, technical, business, customer-related, and supplier-related information, technologies, processes, formulae, formulations, blends, blueprints, algorithms, industrial models, architectures, layouts, look-and-feel, designs, specifications, and methodologies) and rights under applicable trade secret Law in the foregoing (collectively, "***Trade Secrets***"); (e) registered and unregistered trademarks, service marks, trade names, and Internet domain names, and other indicia of source, origin or quality, together with all goodwill associated with any of the foregoing, and registrations and applications for registration of any of the foregoing; and (f) any and all other intellectual property rights and/or proprietary rights recognized by Law.

"***Interim Financial Statements***" has the meaning set forth in Section 4.17(a).

"***International Trade Laws***" means any applicable (i) Sanctions; (ii) U.S. export control applicable Law including, without limitation, the International Traffic in Arms Regulations (22 CFR §§ 120-130, as amended), the Export Administration Regulations (15 CFR §§ 730-774, as amended) and any regulation, order, or directive promulgated, issued or enforced pursuant to such applicable Law; (iii) Applicable Laws pertaining to imports and customs, including those administered by the Bureau of Customs and Border Protection in the U.S. Department of Homeland Security (and any successor thereof) and any regulation, order, or directive promulgated, issued or enforced pursuant to such applicable Laws; (iv) the anti-boycott applicable Laws administered by the U.S. Department of Commerce and the U.S. Department of the Treasury and (v) export, import and customs Applicable Laws of other countries in which the Seller has conducted and/or currently conducts business.

"***Interstate Traffic***" includes (a) Internet traffic, (b) interstate switched access, and (c) data or switched voice traffic that originates and terminates in different states.

"***Inventory Item***" has the meaning set forth in Section 3.4(a).

"***IRS***" means the U.S. Internal Revenue Service.

"***IRU***" has the meaning set forth in the definition of "Network Agreements."

"***Knowledge of the Seller***" means the (i) actual, personal knowledge of Eric Snell, Kerry Hull, Shari Esposito and Greg Clay and (ii) the knowledge that would have been obtained after due inquiry and reasonable investigation by such Persons.

"***Law***" means any law, statute, code, ordinance, rule, regulation, common law or other requirement of any Governmental Authority.

"***Leased Real Property***" has the meaning set forth in Section 4.6(b).

"***Liability***" means any liability, debt, obligation, deficiency, Tax, penalty, assessment, fine, claim, cause of action or other Loss, fee, cost or expense of any kind or nature whatsoever, whether asserted or unasserted, absolute or contingent, known or unknown, accrued or unaccrued, liquidated or unliquidated, and whether due or to become due and regardless of when asserted.

"***Liability Claim***" has the meaning set forth in Section 10.2(a).

"***Licenses In***" has the meaning set forth in Section 4.16(f).

"***Licenses Out***" has the meaning set forth in Section 4.16(f).

"***Lien***" means any mortgage, pledge, hypothecation, deed of trust, lease, claim, security interest, encumbrance, easement, servitude, proxy, transfer restriction, option, lien, or charge.

"***Litigation Conditions***" has the meaning set forth in Section 10.2(b).

"***Location***" has the meaning set forth in Section 3.4(a).

"***Losses***" has the meaning set forth in Section 10.1(a).

"***Material Adverse Effect***" means any change or effect that is or would reasonably be expected to be, individually or in the aggregate, materially adverse on or to (a) the assets, the condition (financial or otherwise) or results of the operations of the Business as a whole, (b) the ability of the Seller to perform its obligations under this Agreement or to consummate the transactions contemplated by this Agreement, or (c) the validity, binding effect or enforceability of this Agreement, but does not include any such change or effect that is attributable to (i) any change (or changes taken together) or effect resulting from changes in general national or regional economic or financial conditions; (ii) any change (or changes taken together) or effect generally affecting national or regional telecommunications businesses; or (iii) any change in any Law applicable to any business in which such Person is engaged, other than to the extent that any such change (or changes taken together) or effect has a disproportionate impact on the Business as compared to other Persons operating in the same or substantially similar industries as the Business.

"***Material Contracts***" has the meaning set forth in Section 4.14(a).

"***Material Customers***" has the meaning set forth in Section 4.22(a).

"***Material Vendors***" has the meaning set forth in Section 4.22(b).

"***MEAG***" means the Municipal Electric Authority of Georgia.

"***MEAG Office Lease***" has the meaning set forth in Section 6.15.

"***MEAG Rights and Assets***" means all those rights and assets described in Schedule 4.7.

"***Members***" mean the members of the Seller.

"***Missing Item***" has the meaning set forth in Section 3.4(d).

“***Net Purchase Price***” has the meaning set forth in Section 3.1(a).

“***Net Working Capital***” means an amount equal to (a) the Seller’s current assets less (b) the Seller’s current liabilities, which assets and liabilities shall be determined in accordance with the principles set forth on Schedule 3.2(a).

“***Network***” has the meaning set forth in Section 4.29(a).

“***Network Agreements***” means each (a) indefeasible-right-of-use (“***IRU***”), fiber lease, license or similar right to use dark or lit network fiber or an associated wavelength to which the Seller is a recipient of the IRU, leased or licensed fiber or similar right; (b) underlying right, easement, right-of-way, license, pole attachment agreement, collocation or similar right or agreement in relation to network fiber owned by the Seller or permitting or requiring the laying, building operation or placement of cable, wires, conduits or other equipment or facilities over land, underground or in other third party locations for network fiber owned by the Seller (the rights described in clauses (a) and (b), the “***Network Underlying Rights***”); (c) other than Network Underlying Rights, each franchise agreement, license agreement or similar agreement or Law under which the Seller is authorized or permitted to place, keep or otherwise locate network fiber in or on public property owned or otherwise held by a municipality or similar Governmental Authority, but for clarity excluding business licenses and construction Permits; (d) other than Network Underlying Rights, each collocation agreement or similar agreement relating to locations where the Seller is authorized or permitted to place, keep or otherwise locate Network Facilities; (e) each interconnection agreement, peering agreement or similar agreement; (f) each agreement under which circuits, bandwidth, wavelength, capacity or Network Facilities used by the Seller to provide connectivity to, or at the request of, a customer is provided to or otherwise accessed by the Seller; (g) each agreement under which network fiber is serviced or maintained; (h) each agreement under which Network Equipment is serviced, maintained or purchased and (i) each amendment, modification or supplement to the agreements described in (a) through (h).

“***Network Equipment***” means all of the equipment used by the Seller to provide telecommunications services or information services (including voice over internet protocol and broadband internet access services) on or over the Network.

“***Network Facilities***” means the Network Equipment and the network fiber that comprise the Network, including fiber optic cabling and other fixed wired and wireless network-related assets and telecommunications equipment used by the Seller to carry out its business as presently conducted, whether owned, leased, or licensed by the Seller and irrespective of whether they are located on public or private property, including wires, cables, conduits, poles, antennas, microwave transmission equipment, junction boxes, manholes, hand holes, huts, connecting equipment and electronics.

“***Network Underlying Rights***” has the meaning set forth in the definition of “Network Agreements.”

“***No-Fault Change***” has the meaning set forth in Section 6.10.

“***Objection Notice***” has the meaning set forth in Section 3.2(c).

“***OFAC***” has the meaning set forth in the definition of “Sanctions.”

“***Order***” means any order, judgment, injunction, ruling, or writ of any Governmental Authority.

"***Ordinary Course of Business***" means the ordinary course of business consistent with past custom and practice of the Business and as customary for an intrastate middle mile telecommunications service provider.

"***Other Representations***" has the meaning set forth in Section 10.3(a).

"***Owned Intellectual Property***" means any and all Intellectual Property owned by the Seller or that the Seller claims it owns, whether in whole or in part.

"***Permit***" means any permit, license, approval, certificate, qualification, consent, or authorization issued by a Governmental Authority.

"***Permitted Liens***" has the meaning set forth in Section 4.6(a).

"***Person***" means any individual, sole proprietorship, partnership, corporation, limited liability company, unincorporated society or association, trust, or other entity.

"***Personal Information***" means information about an identified or identifiable individual.

"***Preliminary Inventory List***" has the meaning set forth in Section 3.4(a).

"***Preliminary Inventory Report***" has the meaning set forth in Section 3.4(c).

"***Privacy Laws***" means any Laws that govern the processing of Personal Information that are applicable to the Business.

"***Proceeding***" means any demand, charge, complaint, action, suit, proceeding, arbitration, hearing, investigation or claim of any kind (whether civil, criminal, administrative, investigative, informal or other, at law or in equity) commenced, filed, brought, or conducted by any Governmental Authority on or before the Closing Date.

"***Purchase Price***" has the meaning set forth in Section 3.1(c).

"***Purchased Assets***" has the meaning set forth in Section 2.1.

"***Purchased Contracts***" has the meaning set forth in Section 2.2(c).

"***Purchaser***" has the meaning set forth in the preamble.

"***Purchaser Communications Licenses***" has the meaning set forth in Section 6.8(a).

"***Purchaser Indemnified Parties***" has the meaning set forth in Section 10.1(a).

"***Purchaser Plans***" has the meaning set forth in Section 6.11(b).

"***Real Property Leases***" has the meaning set forth in Section 4.6(b).

"***Registered Owned Intellectual Property***" means all Owned Intellectual Property that is registered with, as applicable, the U.S. Patent and Trademark Office, the U.S. Copyright Office or any similar office or agency anywhere in the world.

"***Regulatory Consent***" means all authorizations, approvals, and consents from any Governmental Authority advisable or required by Law relating to any of the Purchased Assets for (a) the Seller to transfer and assign the Purchased Assets and the Business to the Purchaser, (b) the Purchaser to conduct the Business in accordance with Law and to own, lease, use, and operate the Purchased Assets at the places and in the manner in which the Business is conducted by the Seller as of the date of this Agreement and on the Closing Date, (c) the Purchaser to assume and perform the Purchased Contracts and Permits, (d) the FCC Approvals, (e) the State PUC Approvals, and (f) the Purchaser Communications Licenses.

"***Regulatory Payments***" means the amounts necessary to satisfy any billed or unbilled regulatory fees, assessments, fines, penalties, forfeitures, contributions or other payments assessed by or otherwise owed to the FCC, any State PUC, and the Fund Administrators or their agents, based upon the revenues of the Seller.

"***Release***" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, disposing, or dumping of a Hazardous Material into the Environment (including the abandonment or unpermitted discarding of barrels, containers and other closed receptacles containing any Hazardous Materials).

"***Retained Assets***" has the meaning set forth in Section 2.3.

"***Retained Liabilities***" has the meaning set forth in Section 2.5.

"***Sanctions***" means economic or financial sanctions, requirements or trade embargoes imposed, administered or enforced from time to time by U.S. Governmental Authorities (including the Office of Foreign Assets Control ("**OFAC**"), the U.S. Department of State and the U.S. Department of Commerce), the United Nations Security Council, the European Union, Her Majesty's Treasury or any other relevant Governmental Authority.

"***Sanctions Target***" means any Person: (i) that is the subject or target of any Sanctions; (ii) named in any Sanctions-related list maintained by the U.S. Department of State; the U.S. Department of Commerce, including the Bureau of Industry and Security's Entity List and Denied Persons List; or the U.S. Department of the Treasury, including the OFAC Specially Designated Nationals and Blocked Persons List, the Sectoral Sanctions Identifications List, and the Foreign Sanctions Evaders List; or any similar list maintained by the United Nations Security Council, the European Union, Her Majesty's Treasury or any other relevant Governmental Authority; (iii) located, organized or resident in a country, territory or geographical region which is itself the subject or target of any territory-wide Sanctions (including the Crimea region of Ukraine, Cuba, Iran, North Korea, Syria and, prior to January 17, 2017, Sudan); or (iv) owned or controlled by any such Person or Persons described in the foregoing clauses (i)-(iii).

"***Sandersville Hut***" has the meaning set forth in Section 4.13.

"***Schedules***" means the disclosure schedules delivered by or on behalf of the Seller concurrently with the execution and delivery of this Agreement.

"***Secure Networks Act***" means the Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124, 133 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601–1609).

"***Seller***" has the meaning set forth in the preamble.

"***Seller 401(k) Plan***" has the meaning set forth in Section 6.11(d).

"***Seller Indemnity Payment***" has the meaning set forth in Section 10.6(a).

"***Seller Transaction Expenses***" means any Liabilities incurred by the Seller (or by any other Person on behalf of the Seller) in connection with the negotiation of this Agreement, the Ancillary Agreements, the performance of such Person's and its pre-Closing Affiliates' obligations and covenants hereunder and thereunder, and the consummation of the transactions contemplated hereby and thereby.

"***Shortfall Amount***" has the meaning set forth in Section 3.2(e).

"***Software***" means all computer software and code, including assemblers, applets, compilers, source code, object code, development tools, design tools, user interfaces and data, in any form or format, however fixed, including databases and data collections.

"***Spare Inventory***" has the meaning set forth in Section 3.4(a).

"***Special Representations***" has the meaning set forth in Section 10.3(a).

"***State PUC***" means any state public service or public utilities commission, or similar state regulatory agency or body responsible for regulating the telecommunications industry within the states of Alabama, Florida, Georgia, or Tennessee or a particular state having regulatory authority over telecommunications services and/or any of the property, assets or business of the Seller.

"***State PUC Approvals***" means such consents from, or such registrations, declarations, notices or other filings made to or with, any State PUC as are required in order to effect the assignment of applicable Purchased Assets, or as are otherwise necessary to consummate the transactions contemplated by this Agreement.

"***State Telecommunications Laws***" means the state statutes governing intrastate telecommunications services and/or facilities and the rules, regulations, and published policies, procedures, orders and decisions of the State PUCs.

"***Target Working Capital***" means $-1,238,268.

"***Tax***" means any United States federal, state or local net income, alternative minimum tax, gross income, gross receipts, gross margins, sales, use, ad valorem, business and occupation, unclaimed property or escheat, imputed underpayment, value added, transfer, franchise, profits, license, withholding, payroll, employment, unemployment, excise, stamp, occupation, property, motor vehicle registration, environmental or windfall profit tax, custom, duty or other tax, of any kind whatsoever, including any obligations to indemnify or otherwise assume or succeed to the Tax liability of any other person, together with any interest, penalty, or addition to tax imposed by any Law or Taxing Authority, whether disputed or not.

"***Taxing Authority***" means any Governmental Authority responsible for the imposition, determination, assessment, enforcement, correction, or administration of any Tax.

"***Tax Returns***" means all Tax returns, statements, reports, elections, schedules, claims for refund, and forms (including estimated Tax or information returns and reports), including any supplement or attachment thereto and any amendment thereof.

"***Telecommunications***" has the meaning provided in Section 3(50) of the Communications Act, 47 U.S.C. § 153.

"***Telecommunications Service***" has the meaning provided in Section 3(53) of the Communications Act, 47 U.S.C. § 153.

"***Termination Date***" has the meaning set forth in Section 9.1(c).

"***Threat of Release***" means a substantial likelihood of a Release that requires action to prevent or mitigate damage or harm to human health or the Environment that might result from such Release.

"***Trade Secrets***" has the meaning set forth in the definition of "Intellectual Property."

"***Transfer Taxes***" has the meaning set forth in Section 6.12(b).

"***Transferred Employee***" and "***Transferred Employees***" have the meanings set forth in Section 6.11(a).

"***Universal Service Fund***" means a state or the federal mechanism designated by applicable Law to support the availability of communications services, whether in high cost areas or to specific classes of customers (such as schools and libraries, low income consumers, hospitals or other designated customer classes).

"***Universal Service Subsidies***" means any amounts paid from Universal Service Funds to carriers for services that qualify for support under a state or the federal Universal Service Fund.

"***Unresolved Claim***" has the meaning set forth in Section 10.6(b).

"***USF Jurisdictional Certification***" means a certificate from a customer stating whether or not a telecommunications circuit transmits or otherwise carries more than ten percent (10%) Interstate Traffic.

"***USF Reseller Certificate***" means a certificate from a reseller or wholesale customer that purchases telecommunications with respect to that customer's Universal Service Fund contributions consistent with the requirements of the applicable FCC Form 499A Instructions.

"***WARN Act***" has the meaning set forth in Section 2.5(e).

"***Working Capital Escrow Amount***" means an amount equal to $500,000.

"***Working Capital Overage***" has the meaning set forth in Section 3.1(d).

"***Working Capital Statement***" has the meaning set forth in Section 3.2(b).

"***Working Capital Underage***" has the meaning set forth in Section 3.1(d).

ARTICLE 2: Purchase and Sale of Assets

2.1 Agreement to Purchase and Sell; Assumption. Subject to the terms and conditions of this Agreement, at the Closing, and except as otherwise specifically provided in this Agreement, the Purchaser shall purchase from the Seller, and the Seller shall sell, transfer, assign, convey, and deliver to the Purchaser, all of the Seller's right, title, and interest in and to all of its assets, rights, and properties of every nature, kind, and description, whether tangible or intangible, owned, leased, or licensed, real, personal, or mixed, but not including the Retained Assets (collectively, the "***Purchased Assets***"), free and clear of all Liens other than Permitted Liens, and the Purchaser shall assume the Assumed Liabilities.

2.2 Purchased Assets. Except as expressly set forth in Section 2.3 (with respect to Retained Assets), the Purchased Assets shall include the following assets, rights, and properties of the Seller as of the Closing Date:

(a) all tangible property, including such property listed on Schedule 2.2(a);

(b) all raw materials, supplies, work in process, finished goods, and other inventories, including such inventories listed on Schedule 2.2(b);

(c) (i) the Contracts set forth on Schedule 2.2(c) and (ii) open sales orders or other Contracts for the sale of products or services with respect to which such products or services have not been delivered as of the Closing, whether or not set forth on Schedule 2.2(c) (collectively, the "***Purchased Contracts***");

(d) all Contracts (i) to which the Seller is a party prior to the Closing Date (ii) but that are not included on Schedule 2.2(c), and (iii) the benefits of which the Purchaser affirmatively accepts after the Closing Date by either (x) discharging the Seller's obligations thereunder arising after the Closing Date or (y) receiving the Seller's benefits thereunder arising after the Closing Date, as if it was the Seller. The Contracts described in this Section 2.2(d) shall be deemed Purchased Contracts as of the earliest date that the Purchaser discharges the obligations referred to in clause (x) of this Section 2.2(d) or receives the benefits referred to in clause (y) of this Section 2.2(d);

(e) other than with respect to Tax refunds or Tax credits, all credits, rebates, prepaid expenses, advance payments, deposits, surety accounts and other similar deposits, including deposits with vendors;

(f) all accounts and notes receivable, unbilled revenues, reimbursable costs and expenses and other claims for money due to the Seller, including the accounts receivable listed on Schedule 2.2(f);

(g) all Owned Intellectual Property, including those items listed on Schedule 4.16(a) , and all goodwill associated therewith and the right to sue and collect damages for past and future infringement, misappropriation, or violation of any rights in the Owned Intellectual Property;

(h) all Network Equipment and all other machinery, materials, equipment, rolling stock, tools, and other tangible personal property owned or leased by the Seller and related to, used, or held for use in connection with the Business, the Network or any other Purchased Asset, including as identified on Schedule 2.2(h);

(i) the Network and the Network Underlying Rights;

(j) all Leased Real Property (and the Contracts related thereto) and any and all post office boxes used in the Business;

(k) all Permits and building, safety, fire and health approvals, or any waiver of any of the foregoing, in each case, to the extent assignable;

(l) the Business as a going concern and all of the goodwill associated with the Business, including all customer and vendor relationships;

(m) all telephone numbers, facsimile numbers, and email addresses owned by the Seller and used in the Business;

(n) except for the company minute books and related equity records of the Seller, all business records of the Seller and all employment records, to the extent permitted by law, with respect to the Transferred Employees, including all books, records, ledgers, files, documents, correspondence, lists (including customer and vendor lists and customer and vendor information, in whatever form or medium), plats, drawings, photographs, creative materials, advertising and promotional materials, studies, reports and other materials (in whatever form or medium), owned or maintained by the Seller;

(o) the Communications Licenses listed on Schedule 2.2(o);

(p) the USF Reseller Certificates and USF Jurisdictional Certifications obtained by the Seller from any customer; and

(q) all claims and causes of action of the Seller against third parties and all rights to proceeds therefrom.

2.3 Retained Assets. Notwithstanding anything in this Agreement to the contrary, the Seller shall retain those assets, rights, and properties set forth below (collectively, the "***Retained Assets***"):

(a) all cash, bank account balances, and cash equivalents owned by the Seller;

(b) the company minute books, communications with Members, and equity records of the Seller;

(c) all insurance policies owned or maintained by the Seller;

(d) all Employee Benefit Plans (including any Contracts related thereto) and all assets held with respect to the Employee Benefit Plans;

(e) all abandoned or unclaimed property under any applicable state or local unclaimed property, escheat, or similar Law;

(f) all rights that accrue to the Seller under this Agreement or any Ancillary Agreement;

(g) all prepaid premiums under insurance policies maintained by the Seller;

(h) any Permit or similar right that is not transferrable to the Purchaser;

(i) all Tax refunds, Tax credits, Tax deposits and advance Tax payments, and other Tax attributes that relate to the Purchased Assets or the Business, in each case for any Tax period (or portion thereof) that ends on or prior to the Closing Date, and all Tax papers, Tax Returns, worksheets, audit work papers, and similar documents of Seller and related to the Purchased Assets or the Business;

(j) all Contracts other than the Purchased Contracts;

(k) any advance payments for IRUs received prior to the Closing Date associated with the Seller's Contracts with the Board of Regents of the University System of Georgia and Tower Cloud (who may now be doing business as Uniti) for periods after the Closing;

(l) the MEAG Rights and Assets;

(m) any Communications License not listed on Schedule 2.2(o) or not transferrable to the Purchaser; and

(n) all assets set forth on Schedule 2.3(n).

The Purchaser will in no way be construed to have purchased or acquired (or to be obligated to purchase or to acquire) any interest whatsoever in any of the Retained Assets.

2.4 Assumed Liabilities. Effective as of the Closing Date, the Purchaser shall assume the following liabilities and obligations arising out of the conduct of the Business on or after the Closing Date (collectively, the "***Assumed Liabilities***"):

(a) all trade accounts payable and accrued liabilities reflected on the Working Capital Statement (as finally determined pursuant to Section 3.2(c));

(b) all liabilities and obligations of the Seller arising under or related to the Purchased Assets and Purchased Contracts, whether or not they are trade accounts payable or accrued liabilities reflected on the Working Capital Statement; provided, however, that the Purchaser will not assume or be responsible for any such liabilities or obligations (i) that arise from breaches of such Contracts or defaults under such Contracts on or prior to the Closing Date or (ii) relating to, based upon, or arising out of the packaging, sale, distribution, delivery, ownership, possession or use of products that were packaged, sold, delivered, or otherwise distributed, or services provided or delivered, by the Seller prior to the Closing Date, all of which liabilities and obligations listed in the foregoing Sections 2.4(b)(i) through (ii) constitute Retained Liabilities; and

(c) all liabilities and obligations of the Seller arising under or related to any Contracts (i) to which the Seller is a party prior to the Closing Date (ii) but that are not included in Schedule 2.2(c), and (iii) the benefits of which the Purchaser affirmatively accepts after the Closing Date by either (x) discharging the Seller's obligations thereunder arising after the Closing Date or (y) receiving the Seller's benefits thereunder arising after the Closing Date, as if it was the Seller. The Contracts described in this Section 2.4(c) shall be deemed Purchased Contracts as of the earliest date that the Purchaser discharges the obligations referred to in clause (x) of this Section 2.4(c) or receives the benefits referred to in clause (y) of this Section 2.4(c).

2.5 Retained Liabilities. Other than the Assumed Liabilities, the Purchaser will not assume any liability or obligation of the Seller; whether in connection with the Purchased Assets, the Business or otherwise, of whatever nature, whether known or unknown, contingent or otherwise, and whether currently in existence or arising hereafter (collectively, "***Retained Liabilities***"). Without limiting the foregoing, the Retained Liabilities shall include:

(a) all obligations and liabilities of the Seller not arising out of the operation of the Business or the ownership of the Purchased Assets;

(b) all obligations and liabilities of the Seller related to, based upon, or arising out of any of the Retained Assets;

(c) all liabilities for (i) Taxes of the Seller or any Affiliate of the Seller (or for which the Seller is liable) for any taxable period; (ii) Taxes relating to the Retained Assets for any taxable period; (iii) Taxes relating to the Purchased Assets and Assumed Liabilities for any taxable period ending on or before the Closing Date and the portion through the Closing Date of any taxable period that includes but does not end on the Closing Date; and (iv) Transfer Taxes for which the Seller is liable under Section 6.12(b)6.12;

(d) all obligations and liabilities of the Seller with respect to any current or former employees, consultants, or independent contractors of the Seller, including liabilities or obligations (i) relating to the employment of, termination of, or provision of compensation, severance or benefits to such Persons; (ii) under any employment, wage and hour, equal opportunity, discrimination, plant closing or immigration and naturalization Laws; (iii) under any collective bargaining or labor Laws, agreements or arrangements; (iv) in connection with any workers' compensation or any other employee health, accident, disability (including any short-term disability salary continuation payment obligations, or long-term disability payment obligations for any employee who is receiving long-term disability payments from the Seller at the time of the Closing Date) or safety claims; and/or (v) triggered in connection with the consummation of the transactions contemplated hereby;

(e) all Liabilities of the Seller pursuant to the Worker Adjustment and Retraining Notification Act (the "***WARN Act***") or any similar state or local Laws arising on or prior to the Closing Date;

(f) all obligations and liabilities of the Seller with respect to (i) the Employee Benefit Plans and (ii) the matters specifically referenced in the last sentence of Section 6.11(a);

(g) all obligations and liabilities of the Seller relating to, based upon, or arising out of or under any Environmental Condition or Environmental Laws;

(h) all obligations and liabilities of the Seller related to, based upon, or arising out of the manufacture, packaging, sale, delivery, distribution, ownership, possession, or use of products that were manufactured, packaged, sold, distributed, or delivered, or services provided or delivered, by the Seller prior to the Closing Date, including (i) all obligations and liabilities related to, based upon, or arising out of the failure of any such products or services to conform to all applicable contractual commitments and (ii) all obligations and liabilities related to, based upon, or arising out of any injury to Person or property as a result of the ownership, possession, or use of such products or services, as applicable;

(i) all obligations and liabilities of the Seller related to, based upon, or arising out of any Proceeding against the Seller or related to the Business (whether currently pending) but excluding any relating to ownership of the Purchased Assets or operation of the Business after the Closing Date;

(j) all liabilities of the Seller for Regulatory Payments, including those that are invoiced after the Closing Date, for services provided by the Seller prior to the Closing Date;

(k) all liabilities of the Seller for Regulatory Payments resulting from the recharacterization by a company, a Fund Administrator or the FCC or State PUC of revenues for telecommunications (as defined in the Communications Act) provided by the Seller prior to the Closing Date;

(l) any and all liabilities of the Seller for the recovery by a Fund Administrator for Universal Service Subsidies received for services provided by the Seller prior to the Closing Date; and

(m) except for the Assumed Liabilities, all obligations and liabilities of the Seller related to, based upon, or arising out of the ownership and operation of the Business prior to the Closing (whether accrued, absolute, contingent, unasserted, or otherwise) including any Indebtedness of the Seller.

The Retained Liabilities will be retained by and remain the obligations of the Seller.

2.6 Transfer of Purchased Assets or Assumption of Assumed Liabilities not Effected at the Closing.

(a) If and to the extent that the valid, complete and perfected transfer or assignment to the Purchaser of any Purchased Assets or the assumption by the Purchaser of any Assumed Liabilities would be a violation of applicable Law or require any Consent or Regulatory Consent that has not been obtained at or prior to the Closing Date, then, unless the parties hereto shall mutually otherwise determine, the transfer or assignment to the Purchaser of such Purchased Assets or the assumption by the Purchaser of such Assumed Liabilities, as the case may be, shall be automatically deemed deferred and any such purported transfer, assignment or assumption shall be null and void until such time as all legal impediments are removed or such Consent or Regulatory Consent has been obtained. Notwithstanding the foregoing, any such Purchased Assets or Assumed Liabilities shall continue to constitute Purchased Assets and Assumed Liabilities for all other purposes of this Agreement.

(b) If any transfer or assignment of any Purchased Asset or any assumption of any Assumed Liability intended to be transferred, assigned or assumed under this Agreement is not consummated on or prior to the Closing Date, whether as a result of the provisions of Section 2.6(b) or for any other reason, then the parties hereto shall cooperate to effect such transfers as promptly following the Closing Date as practicable and, prior to the effectiveness of such transfer of Purchased Assets or assumption of Assumed Liabilities, the Seller shall thereafter hold such Purchased Asset in trust for the use and benefit of the Purchaser (at the expense of the Purchaser) and retain such Assumed Liability for the account of the Purchaser. In addition, the Seller shall, insofar as reasonably possible and to the extent permitted by applicable Law, treat such Purchased Asset or Assumed Liability in the Ordinary Course of Business and take such other actions as may be reasonably requested by the Purchaser in order to place the Purchaser in the same position as if such Purchased Asset or Assumed Liability had been transferred, assigned or assumed as contemplated hereby and so that all the benefits and burdens relating to such Purchased Asset or Assumed Liability, as the case may be, including use, risk of loss, potential for gain and dominion, control and command over such Purchased Asset or Assumed Liability, as the case may be, are to inure from and after the Closing Date to the Purchaser. Except to the extent otherwise required by applicable Law, each of the Seller and the Purchaser shall, and shall cause its Affiliates to, (i) for all Tax purposes, treat any Purchased Asset and any Assumed Liability transferred, assigned or assumed after the Closing Date pursuant to this Section 2.6(b) as having been so transferred, assigned or assumed on the Closing Date and (ii) file all Tax Returns in a manner consistent with such treatment and not take any Tax position inconsistent therewith. For the avoidance of doubt, to the extent the transfer or assignment of any Purchased Asset is not consummated on or prior to the Closing Date (other than a Purchased Asset for which the Seller elects to take a reduction to the Purchase Price pursuant to Section 3.4(e)(ii)), the transfer or assignment shall be effected pursuant to this Section 2.6(b) and Section 2.6(c) and the Purchase Price shall not be reduced.

(c) If and when the Consents or Regulatory Consents, the absence of which caused the deferral of transfer or assignment of any Purchased Asset or the deferral of assumption of any Assumed Liability pursuant to Section 2.6(b), are obtained or made, and, if and when any other legal impediments for the transfer or assignment of any Purchased Assets or the assumption of any Assumed Liabilities have been removed, the transfer or assignment of the applicable Purchased Asset or the assumption of the applicable Assumed Liability, as the case may be, shall be effected in accordance with the terms of this Agreement.

ARTICLE 3: Purchase Price; Adjustment; Allocation

3.1 Purchase Price.

(a) The aggregate purchase price paid by the Purchaser to the Seller in consideration for the Purchased Assets is an amount equal to $40,000,000 minus (i) the Escrow Amount and (ii) the reduction of the Purchase Price provided in Section 3.4(e)(ii), if any (the result of the foregoing computation is referred to herein as the "***Initial Purchase Price***") increased by (x) any Working Capital Overage or decreased by (y) any Working Capital Underage (as adjusted, the "***Net Purchase Price***").

(b) At the Closing, the Purchaser shall disburse or cause to be disbursed (i) the Net Purchase Price to the Seller, by bank wire transfer of immediately available funds to an account designated in writing by the Seller and (ii) the Escrow Amount pursuant to the terms of and to the escrow account identified in the Escrow Agreement. (The Escrow Amount shall be disbursed pursuant to the terms of the Escrow Agreement.)

(c) The Assumed Liabilities, the Net Purchase Price, as finally adjusted in accordance with Section 3.2(e) or Section 3.2(f), as applicable, and that portion of the Escrow Amount that is actually released to the Seller, if any, are referred to herein as the "***Purchase Price***".

(d) No less than three (3) business days prior to the Closing Date, Seller will prepare and deliver to the Purchaser a good faith estimate of the Net Working Capital as of the Effective Time (such estimate, the "***Estimated Working Capital***"). As contemplated by Section 3.1(a), if the Estimated Working Capital is less than the Target Working Capital, the Initial Purchase Price will be reduced by the amount of such shortfall (the "***Working Capital Underage***"), subject to further adjustment as provided in Section 3.2. If the Estimated Working Capital is greater than the Target Working Capital, the Initial Purchase Price will be increased by the amount of such excess (the "***Working Capital Overage***"), subject to further adjustment as provided in Section 3.2.

3.2 Purchase Price Adjustment.

(a) The Purchaser and the Seller agree that for purposes of determinations of Net Working Capital, including the calculation of Closing Working Capital, the principles set forth in on Schedule 3.2(a) shall be utilized.

(b) Within one-hundred twenty (120) days after the Closing Date, the Purchaser shall prepare and deliver to the Seller a working capital statement (the "***Working Capital Statement***"), setting forth the calculation of the Net Working Capital as of the Effective Time (the "***Closing Working Capital***").

(c) Within thirty (30) days following delivery by the Purchaser of the Working Capital Statement, the Seller shall deliver written notice (the "***Objection Notice***") to the Purchaser of any dispute it has with respect to the preparation or content of such statement and the calculation of the Closing Working Capital. An Objection Notice must describe in reasonable detail the items contained in the Working Capital Statement that the Seller disputes and the basis for any such disputes. Any items not disputed in the Objection Notice will be deemed to have been accepted by the Seller. If the Seller does not deliver an Objection Notice with respect to the Working Capital Statement within such thirty (30)-day period, such statement will be final, conclusive, and binding on the parties. If the Seller delivers a timely Objection Notice, the Purchaser and the Seller shall negotiate in good faith to resolve such dispute. If the Purchaser and the Seller, notwithstanding such good faith effort, fail to resolve such dispute within thirty (30) days after the Seller delivers the Objection Notice, then the Purchaser and the Seller, jointly, shall engage a mutually acceptable nationally recognized independent accounting firm (the "***Arbitration Firm***") to resolve such dispute. As promptly as practicable thereafter, the Purchaser and the Seller shall each prepare and submit a presentation to the Arbitration Firm. The scope of the disputes to be resolved by the Arbitration Firm is limited to the items in the Objection Notice that remain unresolved at the time the Arbitration Firm is engaged pursuant to this Section 3.2(c). As soon as practicable thereafter, the Purchaser and the Seller shall cause the Arbitration Firm to render a written decision resolving the matters submitted to the Arbitration Firm based solely upon the presentations by the Purchaser and the Seller. The Arbitration Firm may not assign a value greater than the greatest value for such item claimed by either party or smaller than the smallest value for such item claimed by either party. The fees and expenses of the Arbitration Firm incurred pursuant to this Section 3.2(c) shall be borne by the Seller, on the one hand, and the Purchaser, on the other hand, in proportion to the final allocation made by such Arbitration Firm of the disputed items weighted in relation to the respective amount of such claims made by the Seller, on the one hand, and the respective amount of such claim made by the Purchaser, on the other hand, such that the prevailing party pays the lesser proportion of such fees, costs and expenses. For example, if the Seller claims that the appropriate adjustments are $1,000 greater than the amount claimed by the Purchaser and if the Arbitration Firm ultimately resolves the dispute by awarding to the Seller $300 of the $1,000 contested, then the fees, costs and expenses of the Arbitration Firm will be allocated 30% (i.e., 300 ÷ 1,000) to the Purchaser and 70% (i.e., 700 ÷ 1000) to the Seller. All determinations made by the Arbitration Firm will be final, conclusive and binding on the parties hereto.

(d) For purposes of complying with the terms set forth in this Section 3.2, each party shall cooperate with and make available to the other party and its representatives all information, records, data, and working papers, and shall permit access to its facilities and personnel, as may be reasonably required in connection with the preparation and analysis of the Working Capital Statement and the resolution of any disputes thereunder; provided, however, that (i) the provision of any information or access pursuant to this Section 3.2(d) will be subject to appropriate confidentiality undertakings and, if applicable, execution of customary release letters in favor of the auditors as requested by the auditors in connection with the sharing of work papers and (ii) nothing in this Section 3.2(d) will require any party hereto to disclose information that is subject to attorney-client privilege.

(e) If the Closing Working Capital (as finally determined pursuant to Section 3.2(c)) is less than the Estimated Working Capital, then the Net Purchase Price will be adjusted downward by the amount of such shortfall (the "***Shortfall Amount***") and the Seller and the Purchaser shall deliver a joint written instruction to the Escrow Agent not later than two (2) business days after the date upon which such determination shall have become final instructing the Escrow Agent to (A) release to the Purchaser from the account holding the Working Capital Escrow Amount an amount in cash equal to the Shortfall Amount and (B) release to the Seller the balance, if any, of the Working Capital Escrow Amount, in each case by wire transfer of immediately available funds, to an account designated in writing by the Purchaser or the Seller, as applicable. In the event the

Shortfall Amount exceeds the Working Capital Escrow Amount, then the Seller and the Purchaser shall deliver a joint written instruction to the Escrow Agent not later than two (2) business days after the date upon which such determination shall have become final instructing the Escrow Agent to release to the Purchaser from the account holding the Working Capital Escrow Amount the entirety of the Working Capital Escrow Amount and the Seller shall pay or cause to be paid to the Purchaser by wire transfer of immediately available funds, to an account or accounts designated in writing by the Purchaser, the amount by which the Shortfall Amount exceeds the Working Capital Escrow Amount.

(f) If the Closing Working Capital (as finally determined pursuant to Section 3.2(c)) is greater than or equal to the Estimated Working Capital, then the Net Purchase Price will be adjusted upward by the amount of any such excess (the "***Excess Amount***") and (i) the Purchaser shall pay or cause to be paid to the Seller, not later than two (2) business days after the date upon which such determination shall have become final, an amount in cash equal to any Excess Amount by wire transfer of immediately available funds, to an account designated in writing by the Seller, and (ii) the Seller and the Purchaser shall deliver a joint written instruction to the Escrow Agent not later than two (2) business days after the date upon which such determination shall have become final instructing the Escrow Agent to release to the Seller from the account holding the Working Capital Escrow Amount an amount equal to the entire Working Capital Escrow Amount by wire transfer of immediately available funds, to an account designated in writing by the Seller.

(g) For the avoidance of doubt, any payments made pursuant to this Section 3.2 shall be treated as an adjustment to Net Purchase Price for all Tax purposes to the extent permitted by applicable Law.

3.3 Allocation.

(a) Within thirty (30) days after the finalization of the Purchase Price in accordance with Section 3.2, the Purchaser shall prepare and deliver to the Seller an allocation (the "***Allocation***") of the Purchase Price (taking into account any adjustments thereto), the Assumed Liabilities and any other items treated as amounts realized for income Tax purposes among the Purchased Assets in accordance with Section 1060 of the Code, the Treasury Regulations thereunder, and the methodology as set forth on Schedule 3.3 (the "***Allocation Schedule***"). If the Seller disputes any portion of the Allocation Schedule, the dispute resolution provisions set forth in Sections 3.2(c) and 3.2(d) above shall apply *mutatis mutandis* to this Section 3.3.

(b) The Purchaser and the Seller shall report the purchase and sale of the Purchased Assets in accordance with the Allocation, as finalized pursuant to Section 3.3(a), on all relevant Tax Returns, including IRS Form 8594, including any amendments thereto. Except as otherwise required pursuant to any "determination" within the meaning of Section 1313(a) of the Code (or any comparable provision of state or local Law), neither the Purchaser nor the Seller (nor any relevant Affiliate of the Purchaser or the Seller) shall voluntarily take any position inconsistent with the Allocation, as finalized pursuant to Section 3.3(a). Within a reasonable period before the due date of all relevant Tax Returns, each of the Purchaser and the Seller shall reasonably cooperate with the other in preparing IRS Form 8594 or any equivalent statements required by any Taxing Authority, which shall be prepared consistently with the Allocation, as finalized pursuant to Section 3.3(a). The parties agree to notify each other with respect to the initiation of any Proceeding by any Taxing Authority relating to the Allocation as finally determined pursuant to Section 3.3(a) and agree to consult with each other with respect to any such Proceeding by any Taxing Authority.

3.4 Inventory.

(a) On or before the date hereof, the Seller shall prepare and deliver to the Purchaser an inventory substantially in the form of the following previously-provided files:

(i) Schedule 2.2(a) – Tangible Property – In-Service Inventory – Draft v2. xlsx (the "***In-Service Inventory***"),
(ii) Schedule 2.2(a) – Tangible Property – Spares Inventory – Draft v1.xlsx (the "***Spare Inventory***"),
(iii) Schedule 2.2(a) – Tangible Property – Motor Vehicle Inventory – Draft v2.xlsx,
(iv) Schedule 2.2(b) – Other Inventories – Spare Fiber Inventory – Draft v2.xlsx,
(v) Schedule 2.2(b) – Other Inventories – Spare Outside Plant Inventory – Draft v2.xlsx, and
(vi) Schedule 2.2(a) – Tangible Property – Tech Tool Inventory – Draft v1.xlsx

(such files collectively, the "***Preliminary Inventory List***"). The Preliminary Inventory List will not include the MEAG Huts and will not include any obsolete, to-be-replaced, or non-functioning items. The In-Service Inventory shall include equipment located in the MEAG Huts, even if that property is deemed to be owned by MEAG pursuant to the terms of the MEAG Master Agreement. The Preliminary Inventory List shall contain: (i) a description of each piece of inventory, (ii) the number of pieces of such inventory (each piece being an "***Inventory Item***"), and (iii) the Inventory Item's stationary location as of the date of this Agreement (if the Inventory Item is stationary) or its overnight storage location as of the date of this Agreement (if the Inventory Item is a vehicle, trailer or carried on a vehicle or trailer) (whichever is applicable, the "***Location***").

(b) Within ten (10) business days after the date of this Agreement, the Purchaser or its agent will commence a visual count of the Inventory Items (the "***Count***"). For clarification, the Count shall have no impact on the operation or functioning of the Network and will not include any plugging in or unplugging of Inventory Items. The Seller will designate an employee to escort and provide the Purchaser or its agent with access to all Inventory Item Locations. The Count shall take place on weekdays during normal business hours. Purchaser and its agent shall (and Purchaser shall cause the agent to) use reasonable best efforts to complete the Count within thirty (30) days, but not more than forty-five (45) days from commencement the Count.

(c) Within twenty (20) business days after the completion of the Count, the Purchaser shall submit a preliminary report to the Seller indicating the number and type of each Inventory Item that is

(i) missing from its respective Location as indicated in the Preliminary Inventory List (except for vehicles, trailers or equipment carried on vehicles or trailers that are away from their Location in the Ordinary Course of the Business),
(ii) In-Service Inventory having a value of $2,500 or more as indicated on the Preliminary Inventory List but that is incapable of being operated,
(iii) Spare Inventory having a value of $2,500 or more as indicated on the Preliminary Inventory List but that is incapable of being operated, or
(iv) in addition to the number and type of Inventory Items indicated in the Preliminary Inventory List for each particular Location (each, an "***Additional Inventory Item***").

The report described in this Section 3.4(c) shall be the "***Preliminary Inventory Report***."

(d) The parties shall have ten (10) business days after the Seller receives the Preliminary Inventory Report to reconcile any errors or oversights in the Preliminary Inventory Report and to come up with a final, complete and accurate list of each (i) Inventory Item described in Section 3.4(a) (i), (ii) and (iii) (each, a "***Missing Item***") and (ii) Additional Inventory Item. The report described in this Section 3.4(d) shall be the "***Final Inventory Report***."

(e) Within ten (10) business days of receiving the Final Inventory Report, the Seller shall have the option of either (i) replacing such Missing Item included on the Final Inventory Report, either by (A) substituting an Additional Inventory Item of the same type, (B) purchasing a replacement of such Missing Item (or submitting a purchase order to purchase a replacement of such Missing Item included on the Final Inventory Report that cannot be physically obtained by the Seller within ten business days) with the same, functionally-equivalent or better item, at the Seller's sole cost or expense, or (C) for any Missing Item of the types included in Spare Inventory finding the same or similar item for such Missing Item and that is not included on the Spare Inventory or (ii) reducing the Purchase Price by the replacement cost (as reasonably determined by the Purchaser) of each Missing Item not replaced or purchased under Section 3.4(e)(i).

(f) For the avoidance of doubt, any reductions made pursuant to this Section 3.4 shall be treated as an adjustment to the Net Purchase Price for all Tax purposes.

ARTICLE 4: Representations and Warranties of the Seller

The Seller represents and warrants to the Purchaser as follows, both as of the date of this Agreement and on the Closing Date, except as otherwise specifically noted in any particular representations or warranties:

4.1 Existence; Good Standing and Capitalization. The Seller is a nonprofit corporation duly incorporated, validly existing and in good standing under the laws of the State of Georgia, and is duly qualified to do business as a foreign corporation and is in good standing in the jurisdictions set forth on Schedule 4.1(a), which are the only jurisdictions in which the Seller is required to be so qualified. The Seller does not own any equity interests in any Person. The Seller has the Members set forth on Schedule 4.1(b). There are no options, warrants or other rights, agreements, arrangements or commitments of any character relating to the issued or unissued capital stock of, or other equity interests in, the Seller or obligating the Seller to issue or sell any shares of capital stock of, or other equity interests in, the Seller. The Seller has delivered to the Purchaser true, complete, and correct copies of the articles of incorporation, as currently in effect and reflecting any and all amendments thereto through the Closing Date. Such organizational documents are in full force and effect.

4.2 Power. The Seller has the power and authority to (a) own, operate, and lease its properties and assets as and where currently owned, operated, and leased, and (b) carry on its business as currently conducted. The Seller has the requisite power and authority to execute, deliver, and perform its obligations under this Agreement and the Ancillary Agreements.

4.3 Enforceability. The execution, delivery, and performance of this Agreement and the Ancillary Agreements, and the consummation of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary action on the part of the Seller and the Members. This Agreement and each of the Ancillary Agreements have been duly executed and delivered by the Seller, and constitute the valid and legally binding obligations of the Seller, enforceable against the Seller in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, fraudulent conveyance, and other similar Laws and principles of equity affecting creditors' rights and remedies generally (the "***General Enforceability Exceptions***").

4.4 No Conflict. Except as set forth on Schedule 4.4, neither the execution of this Agreement nor the Ancillary Agreements, nor the performance by the Seller of its obligations hereunder, nor the consummation of the transactions contemplated hereby will (a) assuming all Regulatory Consents have been obtained or made, violate any Law or Order applicable to the Seller, (b) violate or conflict with the Seller's organizational documents, (c) violate, conflict with, or result in a breach or termination of, or otherwise give any Person additional rights or compensation under, or the right to terminate or accelerate, or the loss of a material benefit under, or constitute (with notice or lapse of time, or both) a default under the terms of any Purchased Contract to which the Seller is a party or by which any of the Purchased Assets are bound or (d) result in the creation or imposition of any Lien with respect to, or otherwise have an adverse effect upon, any of the Purchased Assets.

4.5 Consents. Except as set forth on Schedule 4.5, no (a) consent, approval, authorization of, or notice to any third party ("***Consents***") or (b) Regulatory Consent is required in connection with the execution and delivery by the Seller of this Agreement or the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby.

4.6 Property.

(a) Title. The Seller has good and marketable title to, or valid and enforceable leasehold interests in, all of the Purchased Assets, in each case free and clear of all Liens other than (i) Liens for current Taxes that are not due and payable as of the Closing Date or that are being contested in good faith by appropriate proceedings, and (ii) those matters described on Schedule 4.6(a) (collectively, the "***Permitted Liens***"). The Purchased Assets are in good condition and repair (subject to normal wear and tear). All of the Purchased Assets have been maintained, repaired, and replaced consistent with past practice. Except as described on Schedule 4.6(a), the Seller does not own, and has never owned, any real property.

(b) Leased Real Property. Schedule 4.6(b) sets forth (i) a true and complete description of all real property that is leased, subleased, licensed to, or otherwise used or occupied by the Seller and all real property interests of the Seller in third party property, including easements, rights of way or similar rights of access necessary for all lawful access to, use, maintenance, repair and operation of the Network (collectively, the "***Leased Real Property***"), including the address thereof, the annual fixed rental charges, the expiration of the term, any extension options and any security deposits, and (ii) a list of all leases, licenses, easements and similar agreements, including all amendments, extensions and renewals thereof and guarantees, and security agreements pertaining to the Leased Real Property (collectively, the "***Real Property Leases***"). The Seller has valid and enforceable leasehold interests or valid legal right or title in all of its Leased Real Property. All of the Leased Real Property is used or occupied by the Seller pursuant to a Purchased Contract. All Real Property Leases are valid and binding agreements of the Seller and the counterparties thereto, are in full force and effect (except for those that have terminated or will terminate by their own terms), and are enforceable against the Seller and, to the Knowledge of the Seller, all other counterparties thereto, subject to the General Enforceability Exceptions. Neither the Seller nor, to the Knowledge of the Seller, any other party thereto is in violation or breach of or in default (or with notice or lapse of time, or both, would be in violation or breach of or in default) under the terms of any Real Property Lease. The Seller has not received any written notice alleging violation, breach or default under any such Real Property Lease. Except as set forth on Schedule 4.6(b), the Seller has not leased or sublet as lessor or sublessor nor assigned, and no third party is in possession of, any of the Leased Real Property

(c) Reassessment. There is not now pending or, to the Knowledge of the Seller, contemplated any reassessment of any parcel included in the Leased Real Property that could result in a material increase in the rent, additional rent or other sums and charges payable by the Seller under any agreement relating to the Leased Real Property.

(d) No Condemnation. There is not now pending or, to the Knowledge of the Seller, contemplated any condemnation, expropriation, eminent domain, or similar proceeding affecting all or any portion of the Leased Real Property. The Seller has not received any written notice or oral notice of any such proceeding, and to the Knowledge of the Seller, no such proceeding is contemplated.

(e) Operation of Property. There are no material defects in, mechanical failure of, or damage to, the Leased Real Property. The Leased Real Property is sufficient for the operation of the Business as it is currently conducted. The Seller has obtained all Permits necessary for the operation of the Business at the Leased Real Property and such Permits will be transferred and assigned to the Purchaser as of the Closing, to the extent they are assignable.

(f) Brokerage Commissions. The Seller does not owe any material brokerage commissions or finder's fees with respect to any Real Property Lease or any renewal or extension thereof or the exercise of any right or option thereunder.

4.7 Necessary Property. Except for the MEAG Rights and Assets and other items set forth on Schedule 4.7, the Purchased Assets, when transferred to the Purchaser, will be adequate and sufficient to permit the Purchaser to conduct the Business as conducted by the Seller immediately prior to the Closing Date. The Seller is the only entity through which the Business is conducted.

4.8 Proceedings. Except as set forth on Schedule 4.8, there is no instance in which the Seller is or has been, or the Purchased Assets are or have been, in each case within the three (3)-year period prior to the Closing Date (a) subject to any unsatisfied Order or (b) a party, or, to the Knowledge of the Seller, threatened to be made a party, to any Proceeding. There are no Proceedings pending or, to the Knowledge of the Seller, threatened that question the validity of this Agreement, the Ancillary Agreements or any of the transactions contemplated hereby or thereby. To the Knowledge of the Seller, no event has occurred or circumstances exist that could give rise to or serve as a basis for the commencement of any Proceeding by or against the Seller.

4.9 Compliance with Laws.

(a) The Seller is now, and has been, and the Purchased Assets are now and have been operated, in substantial compliance with all Laws and Orders. Except as set forth on Schedule 4.9(a), to the Knowledge of the Seller, there is no proposed Law or Order that would have a material adverse effect, when taken as a whole, on the Seller, the Purchased Assets, the Business or the liabilities, operations or prospects of the Business. The Seller has not received any notice from any Governmental Authority or any other Person regarding any actual, alleged or potential violation of, or failure to comply with, or liability under any applicable Law.

(b) During the last six (6) years: (i) all written representations, certifications, and disclosures made by or on behalf of the Seller relating to any Government Contract were current, accurate, and complete at the time of certification or disclosure and (ii) except as set forth on Schedule 4.9(a), neither any Governmental Authority nor any prime contractor, subcontractor, or other Person has notified the Seller in writing or, to the Knowledge of the Seller, orally that the Seller has, or is alleged to have, breached or violated any Law, representation, certification, disclosure, clause, provision, or requirement pertaining to any Contract.

4.10 Conduct of Business. Except as set forth on Schedule 4.10, since December 31, 2020 the Seller has conducted its business in the Ordinary Course of Business and there has not been any material adverse change in the operation of its business or the performance, financial condition or prospects of the Seller. Without limiting the generality of the foregoing, since December 31, 2020, the Seller has not:

(a) borrowed any amount or incurred or become subject to any liability except (i) current liabilities incurred in the Ordinary Course of Business, (ii) liabilities under Contracts entered into in the Ordinary Course of Business, and (iii) borrowings under lines of credit existing on such date;

(b) mortgaged, pledged, or subjected to any Lien, any of the Purchased Assets, except Permitted Liens;

(c) sold, assigned, or transferred (including transfers to any employees) any Purchased Assets except in the Ordinary Course of Business, or canceled any debts or claims;

(d) waived any rights of material value;

(e) taken any other action or entered into any other transaction or Contract (including any transactions with employees) other than in the Ordinary Course of Business or other than the transactions contemplated by this Agreement;

(f) made any material change in accounting or Tax principles, practices, policies, or methods;

(g) with respect to the Purchased Assets or the Business, (i) amended any Tax Return, (ii) entered into any "closing agreement" as described in Section 7121 of the Code (or any similar provision of state, local or foreign Law) with any Tax authority with respect to a Tax, (iii) settled any claim or assessment in respect of any Tax, or (iv) consented to any extension or waiver of the limitation period applicable to any claim or assessment in respect of any Tax that would give rise to any claim or assessment of Taxes;

(h) made any write-off or write-down of or made any determination to write-off or write-down any of its assets and properties other than in the Ordinary Course of Business;

(i) made any change in its general pricing practices or policies or any change in the credit or allowance practices or policies;

(j) accelerated revenues, collected on accounts receivable or deferred expenses or the payment of accounts payable, in each case other than in the Ordinary Course of Business;

(k) engaged in any activity that reasonably could be expected to result in a reduction, temporary or otherwise, in the demands for products following the Closing;

(l) commenced or terminated any line of business;

(m) experienced any damage, destruction or casualty loss in excess of $5,000 (other than those covered by insurance) with respect to any of the Purchased Assets;

(n) made any capital expenditures that aggregate in excess of $500,000;

(o) instituted or settled any Proceeding for an amount involving in excess of $100,000 in the aggregate or involving equitable or injunctive relief;

(p) as to any current or former employees or independent contractors of the Seller: (i) granted any bonuses, whether monetary or otherwise, or increased any wages, salary, severance, pension or other compensation or benefits, other than as provided for in any written agreements or required by applicable Law, (ii) changed the terms of employment, or (iii) accelerated the vesting or payment of any compensation or benefit;

(q) adopted, modified or terminated any (i) employment, severance, retention or other agreement with any current or former employee or independent contractor of the Seller; (ii) Employee Benefit Plan; or (iii) collective bargaining agreement, in each case whether written or oral;

(r) acquired any other business or Person (or any significant portion or division thereof), whether by merger, consolidation or reorganization or by purchase of its assets or equity interests, or acquired any other material assets; or

(s) committed or agreed, in writing or otherwise, to any of the foregoing, except as expressly contemplated by this Agreement and the Ancillary Agreements.

4.11 Labor Matters.

(a) Union and Employee Contracts. (i) The Seller is not a party to or bound by any union contract, collective bargaining agreement or other similar type of contract with any labor organization, (ii) the Seller has not agreed to recognize any union or other collective bargaining representative, (iii) no union or other collective bargaining representative has been certified as representing any employees of the Seller, (iv) there has not been any union organizing activity to the Knowledge of the Seller with respect to any employees of the Seller during the past five (5) years, (v) the Seller has not experienced any labor strike, slowdown, work stoppage, or any other labor dispute during the past five (5) years; and (vi) there are no unfair labor practice charges, grievances, or complaints pending, or to the Knowledge of the Seller, threatened by or on behalf of any employee or group of employees of the Seller. Except as disclosed on Schedule 4.11(a), the Seller is not bound by any independent contractor agreement or consultant agreement.

(b) List of Employees, Etc. Schedule 4.11(b) lists, to the extent applicable, for each employee, independent contractor, consultant, and sales representative of the Seller or any individual who provides services to the Seller, his or her: name, title, location, date of hire or engagement, exempt/non-exempt status, employment status (i.e., whether full-time, temporary, leased, etc.), active or inactive status (including type of leave, if any), accrued but unused vacation (as of the date indicated on Schedule 4.11(b)), current year annual base salary or hourly wage rate (or other compensation), current year target bonus/commission and current year to date total compensation (as of the date indicated on Schedule 4.11(b)). Except as set forth on Schedule 4.11(b), the employees of the Seller are "at will" and, to the Knowledge of the Seller, no employee of the Seller intends to terminate his or her employment or other relationship with the Seller.

(c) Unemployment, Social Security and Other Benefits. The Seller is not liable for any payment to any trust or other fund or to any Governmental Authority, with respect to unemployment compensation benefits, social security or other benefits or, except as disclosed in Schedule 4.11(c), obligations for employees (other than routine payments to be made in the Ordinary Course of Business). There are no pending claims against the Seller under any workers' compensation plan or policy or for long-term disability.

(d) Manuals, Handbooks, Policies, etc. True and complete copies have been made available to the Purchaser of the material written personnel manuals, handbooks, policies, rules or procedures applicable to any employee of the Seller.

(e) Compliance and Investigations. Neither the Seller, nor any of its officers, have received within the past five (5) years any written or, to the Knowledge of the Seller, oral notice of intent by any Governmental Authority responsible for the enforcement of labor or employment laws to conduct an investigation relating to the Seller and no such investigation is in progress. The Seller is not a party to, or otherwise bound by, any consent decree with, or citation by, any Governmental Authority relating to employees or employment practices. The Seller is in compliance with all applicable Laws respecting labor and employment, including termination of employment or failure to employ, employment practices, terms and conditions of employment, immigration, wages and hours, working time, employment standards, civil rights, discrimination and retaliation, occupational safety and health, family or medical leave, exempt/non-exempt and contingent worker classifications and workers' compensation. There are no labor or employment actions pending, or to the Knowledge of the Seller threatened, between the Seller and any employees, current or former, of the Seller.

(f) Foreign Employees. No employee of the Seller is under a work permit or visa. To the Knowledge of the Seller, all employees who are performing services for the Seller are legally permitted to work in the United States.

(g) WARN Act. In the five (5) years prior to the date of this Agreement, the Seller has not effectuated (i) a "plant closing" (as defined in the WARN Act or any similar state, local or foreign Law) affecting any site of employment or one or more facilities or operating units within any site of employment or facility related to the Business or (ii) a "mass layoff" (as defined in the WARN Act, or any similar state, local or foreign Law) affecting any site of employment or facility related to the Business.

(h) There are not now, and have not been in the past five years, any internal or external complaints of any type of harassment, including sexual harassment, made against any employee or, to the Knowledge of the Seller, any service provider of the Seller or by any employee or to the Knowledge of the Seller, any service provider of the Seller.

4.12 Employee Benefit Plans.

(a) Schedule 4.12(a) sets forth a correct and complete list of (i) all "employee benefit plans," as defined in Section 3(3) of ERISA, (ii) all other employment, severance pay, change in control, salary continuation, bonus, incentive, stock option, equity-based, retirement, pension, profit sharing or deferred compensation plans, contracts, programs, funds, or arrangements of any kind, and (iii) all other employee benefit plans, contracts, programs, funds, or arrangements (whether written or oral, qualified or nonqualified, funded or unfunded) and any trust, escrow, or similar agreement related thereto, whether or not funded, in respect of any present or former employees or officers of the Seller that are sponsored or maintained by the Seller or with respect to which the Seller has made or is required to make payments, transfers, or contributions or with respect to which the Seller has or may have any liability or obligation, including by reason of being an ERISA Affiliate (all of the above being hereinafter individually or collectively referred to as "***Employee Benefit Plan***" or "***Employee Benefit Plans***," respectively). The Seller does not have any liability with respect to any plan, arrangement, or practice of the type described in the preceding sentence other than the Employee Benefit Plans.

(b) Each Employee Benefit Plan has been maintained, operated, and administered in compliance with its terms and any related documents or agreements and in compliance with all applicable Laws. No suit, litigation, investigation, administrative proceeding, disputed claim, settlement, adjudication or action (other than routine claims for benefits) has been brought or is pending, or to the Knowledge of the Seller, is threatened, against or with respect to any such Employee Benefit Plan or the assets of any such plan. Any Employee Benefit Plan intended to be qualified under Section 401(a) of the Code has obtained from the IRS a favorable determination or opinion letter as to its qualified status under the Code and nothing has occurred since the issuance of each such letter that would reasonably be expected to cause the loss of the tax-qualified status of any Employee Benefit Plan subject to Section 401(a) of the Code.

(c) True, up-to-date, correct and complete copies of the following documents with respect to each of the Employee Benefit Plans have been made available to the Purchaser to the extent applicable: (i) summaries of the material terms of all Employee Benefit Plans; (ii) the most recent IRS determination or opinion letter; and (iii) all material communications regarding the Employee Benefit Plans sent by the Seller in 2021, 2020 and 2019 to employees of the Business.

(d) Neither the Seller nor any of its ERISA Affiliates currently has any, and at no time in the past has had any, obligation to contribute to or any liability under (i) a "defined benefit plan" as defined in Section 3(35) of ERISA, (ii) a pension plan subject to the funding standards of Section 302 of ERISA or Section 412 of the Code, (iii) a "multiemployer plan" as defined in Section 3(37) of ERISA or Section 414(f) of the Code or (iv) a "multiple employer plan" within the meaning of Section 210(a) of ERISA or Section 413(c) of the Code. The Seller has not incurred, and, to the Knowledge of the Seller, no event has occurred and no condition or circumstance exists that could result, directly or indirectly, in, any unsatisfied liability (including any indirect, contingent or secondary liability) of the Seller under Title IV of ERISA or Section 412 or 430 of the Code or Section 302 or 303 of ERISA. No asset or property of the Seller is or may be subject to any lien arising under Section 430(k) of the Code or Section 303(k) of ERISA.

(e) Full payment has been made of all amounts that the Seller is required under applicable Law or under any Employee Benefit Plan or any agreement relating to any Employee Benefit Plan to have paid as contributions or premiums thereunder.

(f) Except as set forth on Schedule 4.12(f), the execution and performance of this Agreement will not (i) constitute a stated triggering event under any Employee Benefit Plan that will result in any payment (whether of severance pay or otherwise) becoming due from the Seller to any current or former officer or employee (or dependents of such Persons) of the Seller, or (ii) accelerate the time of payment or vesting, or increase the amount of compensation due to any current or former officer, or employee (or dependents of such Persons) of the Seller.

(g) Except as disclosed in Schedule 4.12(g), no amount that could be received (whether in cash or property or the vesting of property) as a result of any of the transactions contemplated by this Agreement by any employee or officer of the Seller or any of its Affiliates who is a "disqualified individual" (as such term is defined in Treasury Regulation Section 1.280G-

1) could be characterized as an "excess parachute payment" (as such term is defined in Section 280G(b)(1) of the Code).

(h) Each Employee Benefit Plan that constitutes in any part a nonqualified deferred compensation plan within the meaning of Section 409A of the Code has been operated and maintained in all material respects in operational and documentary compliance with Section 409A of the Code and applicable guidance thereunder. No payment to be made under any Employee Benefit Plan is, or to the Knowledge of the Seller, will be, subject to the penalties of Section 409A(a)(1) of the Code.

(i) None of the Employee Benefit Plans, nor any liability of any kind thereunder or with respect thereto, will be required by operation of law or otherwise (except as expressly provided herein) to be transferred to the Purchaser and/or its Affiliates as a result of the transactions contemplated hereby.

4.13 Environmental. The representations in Sections 4.13(a), (b), (d), (e)(ii), (g), and (i) apply only to: (i) the 14 MEAG huts referenced in Schedule 2.2(a) and only for the period since the date of the MEAG Master Agreement and (ii) the Sandersville, Georgia hut referenced in the Leased Real Property and only for the period since September 2, 2008 (the "***Sandersville Hut***") and only for the period since the date of the Real Property Lease for same as disclosed on Schedule 4.6(b) (such locations, including the contiguous real property immediately surrounding such huts (up to any fences surrounding the huts) and the contiguous real property immediately surrounding the above ground tanks that service such huts, being the "***GPW Maintained Huts***"). Except as set forth on Schedule 4.13:

(a) To the Knowledge of the Seller, there are no, and have not been any, underground tanks and related pipes, pumps, and other facilities for such underground tanks regardless of their use or purpose whether active or abandoned at the Leased Real Property.

(b) To the Knowledge of the Seller, there is no asbestos nor any asbestos containing materials used in, applied to, or in any way incorporated in any building, structure, or other form of improvement on the Leased Real Property.

(c) The Seller is presently and for the preceding five (5) years has been in material compliance with all Environmental Laws applicable to the Leased Real Property or its business.

(d) There exists no Environmental Condition that requires reporting, investigation, assessment, cleanup, remediation, or any other type of response action pursuant to any Environmental Law or that could be the basis for any material liability of any kind pursuant to any Environmental Law.

(e) (i) The Seller has not generated, manufactured, refined, transported, treated, stored, handled, disposed, transferred, produced, or processed any Hazardous Materials at or upon the Leased Real Property, except in material compliance with all applicable Environmental Laws, and (ii) to the Knowledge of the Seller, there has been no Release or Threat of Release of any Hazardous Material at the Leased Real Property that requires or may require reporting, investigation, assessment, cleanup, remediation or any other type of response action by the Seller pursuant to any Environmental Law.

(f) The Seller has not: (i) entered into or been subject to any consent decree, compliance order, or administrative order with respect to the Release of any Hazardous Materials or any Environmental Law; (ii) received any written request for information, notice, demand letter, administrative inquiry, or written complaint or claim with respect to any Environmental Condition, Release of any Hazardous Materials or liability under any Environmental Law; or (iii) been subject to or threatened with any governmental or citizen enforcement action with respect to any Environmental Law.

(g) There currently are effective all Permits required under any Environmental Law that are necessary for the Seller's activities and operations or use of the Leased Real Property and the Seller has materially complied with the terms and conditions of such Permits since issuance.

(h) The Seller has not sold, marketed, or distributed any product that contains asbestos.

(i) The Seller has made available to the Purchaser copies of all material documents, records, and written information in its possession or control concerning Environmental Conditions and potential liability under Environmental Laws, including previously conducted environmental site assessments, asbestos surveys and documents regarding any Release of Hazardous Materials at or from the Leased Real Property.

4.14 Contracts.

(a) Schedule 4.14(a) sets forth, by reference to the applicable subsection of this Section 4.14(a), each Purchased Contract (and in the case of an oral Purchased Contract, the material terms of such Purchased Contract) to which the Seller is a party or to which any of the Purchased Assets are bound:

(i) governing, relating to or evidencing the borrowing of money or the guarantee for the benefit of a third party of Indebtedness by the Seller, or the granting of Liens on any Purchased Asset;

(ii) containing covenants limiting the freedom of the Seller to compete in any line of business or with any Person or in any geographic area or market or not to solicit or hire any Person;

(iii) with any officer or employee of the Seller (other than the Employee Benefit Plans or Retained Assets referred to on Schedule 2.3(n));

(iv) providing for the future or ongoing purchase, maintenance, or acquisition, or the sale or furnishing, of services, materials, supplies, merchandise, or equipment (including computer hardware or software or other property or services) in excess of $25,000;

(v) granting to any Person a first-refusal, first-offer or similar preferential right to purchase or acquire, in the future, any right, asset, or property of the Seller;

(vi) other than the IRUs or fiber leases disclosed on Schedule 2.2(c) relating to Network Agreements, for the sale or lease of any real property, equipment, or other personal property (where the Seller is the lessor or lessee under any such lease);

(vii) containing a "most favored nation" pricing agreement, any exclusive license or exclusive supply or distribution agreement, or other exclusive rights with a customer or vendor;

(viii) involving a joint venture or partnership or involving the sharing of profits, losses, costs, or liability by the Seller with any other Person;

(ix) involving the acquisition of any business enterprise whether via stock or asset purchase or otherwise, except as expressly contemplated by this Agreement and the Ancillary Agreements;

(x) involving a Material Customer or Material Vendor;

(xi) that is a Government Contract;

(xii) union contracts, collective bargaining agreements, side agreements, or other written agreements between the Seller and any labor organization;

(xiii) under which the Seller has an existing obligation with respect to an "earn out," contingent purchase price, or similar deferred or contingent payment obligation payable by the Seller;

(xiv) that provides for a change of control, retention or similar payment by the Seller;

(xv) evidencing a capital expenditure or obligation to make any capital commitment in an amount in excess of $50,000 in the aggregate; or

(xvi) relating to the settlement of any Proceeding, any internal complaint, grievance, claim or investigation, or any other dispute involving the Seller or the Business.

The contracts described in clauses 4.14(a)(i)-(xii), together with the Licenses In and Licenses Out, are each a "***Material Contract***" and collectively, the "***Material Contracts***". The Seller has provided to the Purchaser true and complete copies of each Material Contract, as amended through the Closing Date.

(b) Except as set forth on Schedule 4.14(b): (i) the Purchased Contracts constitute all of the Contracts adequate and sufficient to permit the Purchaser to conduct the Business as conducted by the Seller immediately prior to the Closing Date; (ii) each Purchased Contract is a valid, binding, and enforceable obligation of the Seller and the other parties thereto, enforceable in accordance with its terms, subject to the General Enforceability Exceptions; (iii) neither the Seller nor, to the Knowledge of the Seller, is any other party thereto is in default under or in violation of any Purchased Contract; and (iv) to the Knowledge of the Seller, no event has occurred that, with notice or lapse of time or both, would constitute such a default or violation under any Purchased Contract.

4.15 Permits. Schedule 4.15 sets forth a complete and accurate list and description of all Permits currently held by the Seller. The Seller is in compliance with the terms of such Permits and there is no pending or, to the Knowledge of the Seller, threatened, termination, expiration or revocation thereof. The Seller has not received written notice of any violation of any Permit. All reports required to be filed by or on behalf of the Seller with any Governmental Authority in connection with a Permit have been filed and, to the Knowledge of the Seller, were correct and complete when so filed. Except as set forth and described on Schedule 4.15, the Seller possesses all Permits required to conduct its business as presently conducted. Each Permit set forth on Schedule 4.15 is valid and in full force and effect, and none of such Permits will lapse, terminate, expire, or otherwise be impaired as a result of the performance of this Agreement by the Seller or the consummation of the transactions contemplated hereby.

4.16 Intellectual Property.

(a) Schedule 4.16(a) sets forth a complete and correct list as of the date hereof of all the following Owned Intellectual Property: (i) patents and applications therefor; (ii) registered copyrights and applications therefor; (iii) registered trademarks and service marks and pending applications for registration of trademarks or service marks and material unregistered trademarks and service marks; and (iv) Internet domain name registrations. All fees associated with filing or maintaining any Owned Intellectual Property have been paid in full in a timely manner to the proper Governmental Authority and, except as set forth on Schedule 4.16(a), no such fees are due within the three (3)-month period after the Closing Date. Each item of Registered Owned Intellectual Property is valid, subsisting, and in full force and effect, and has not been cancelled, expired, or abandoned. No Proceeding is pending or, to the Knowledge of the Seller, threatened challenging the Seller's rights to, or validity or enforceability of, any Owned Intellectual Property, or asserting that upon consummation of the transactions contemplated hereby the Seller's rights to any Owned Intellectual Property will be invalid or unenforceable. The Seller has taken all necessary actions, that must be taken on or prior to the Closing Date, to maintain each item of Registered Owned Intellectual Property that is material to the Business, including payment of maintenance fees, filing of applications for renewal and affidavits of use, or the filing of opposition, interference, or cancellation proceedings before the United States Patent and Trademark Office, the United States Copyright Office, or in any similar Governmental Authority. Seller exclusively owns all Owned Intellectual Property free and clear of all Liens other than Permitted Liens.

(b) Except as set forth on Schedule 4.16(b), the Intellectual Property used by the Seller or otherwise in its possession is sufficient for the conduct of the Seller's business as currently conducted, the Seller has a valid and enforceable right to use or possess, as applicable, such Intellectual Property. Neither the operation of the Business as it is currently conducted by the Seller, nor any activity by the Seller, including the design, development, use, import, branding, advertising, promotion, marketing, manufacture, delivery, sale and/or licensing of any Business product or service, (i) infringes or violates or (ii) in the past infringed or violated, any rights of others in or to any Intellectual Property; provided, however, that the representations and warranties in this Section 4.16(b) are made to the Knowledge of the Seller with respect to the rights of others in or to any patents. To the Knowledge of the Seller, there is no, nor has there been any, infringement or violation of any person or entity of any of the Owned Intellectual Property or the Seller's rights therein or thereto.

(c) Except as set forth on Schedule 4.16(c), no officer or employee of the Seller owns or claims any rights in (nor has any of them made application for) any Owned Intellectual Property. All persons that created, or assisted in the development of the Owned Intellectual Property have assigned all right, title, and interest in that Intellectual Property to the Seller or the Seller is otherwise the owner of such rights.

(d) Except as set forth on Schedule 4.16(d), the Seller has not received any written notice of any claim and there is, to the Knowledge of the Seller, no threatened claim, against the Seller asserting that the Seller has infringed, misappropriated, diluted, violated or otherwise conflicted with any Intellectual Property right of any other Person or that the Owned Intellectual Property infringes, misappropriates, dilutes, violates, or otherwise conflicts with the Intellectual Property of any Person. The Seller has not, within the last three (3) years, given any notice to any Person asserting infringement by such Person of any of the Owned Intellectual Property.

(e) All Information Systems used by the Seller are sufficient for the conduct of the Seller's business as currently conducted. There are no breaches of such Information Systems in the last three (3) years.

(f) Schedule 4.16(f) lists all of the (i) Contracts under which the Seller is granted rights by others in Software and/or Intellectual Property, in each case that is not Owned Intellectual Property (excluding commercially available off-the-shelf software with a per copy or per seat annual license fee of $10,000 or less) ("***Licenses In***"), and (ii) Contracts under which the Seller has granted rights to others in Owned Intellectual Property (not including customer agreements entered into in the Ordinary Course of Business, substantially in the form of the Seller's form of customer agreement) ("***Licenses Out***"). To the Knowledge of the Seller, there are no problems viruses, worms, time-bombs, key-locks or defects in any Software used by the Seller in its business that could prevent, disrupt or interfere with any such Software or Information Systems from materially operating in fulfillment of its intended purpose or substantially as described in its related documentation or specifications. The Seller uses industry standard methods in the Business to (x) detect and prevent viruses and any third party software routines designed to permit unauthorized access, disable or erase software, hardware or data, or perform any other similar actions that may be present in the Seller's products and services, and (y) subsequently correct or remove such viruses and subroutines. To the Knowledge of the Seller, none of the Software used by the Seller include or install undocumented or unauthorized portals, key-logs, codes, commands or other access to such Software or the data, information or signals the Software produces or processes, or any spyware, adware, or other similar software that monitors the use of the Software or contacts any remote computer without the knowledge and express consent of the user(s) of the applicable Software or remote computer, as applicable. The Seller has obtained and possesses valid licenses to use all of the Software programs that are material to its business and present on the computers it owns or leases that are used in connection with the Business.

(g) The Seller has taken reasonable security measures to protect the confidentiality and value of all Trade Secrets owned or purported to be owned by the Seller.

(h) All Owned Intellectual Property is (i) fully transferable by the Seller to the Purchaser as contemplated by the transactions contemplated in this Agreement and (ii) fully alienable and licensable by the Seller without restriction and without payment of any kind to any third party.

(i) The Seller is currently in compliance with, and at all times within the past three (3) years has complied with, all applicable Privacy Laws. The Seller does not accept any credit cards as a form of payment in the Business. The Seller has a privacy policy that incorporates all disclosures to data subjects required by the Privacy Laws and the privacy policy has been provided to data subjects whose Personal Information is collected, stored or processed by the Seller. None of the disclosures made or contained in such privacy policy has been materially inaccurate, misleading or deceptive or in violation of the Privacy Laws (including containing any material omission).

(j) The Seller has at all times within the past three (3) years implemented all organizational, physical, administrative and technical measures required by Privacy Laws designed to protect Personal Information against data security incidents or other misuse. The Seller has implemented commercially reasonable procedures, satisfying the requirements of applicable Privacy Laws, to detect data security incidents.

(k) The Seller or its agents (i) regularly conducts vulnerability testing, risk assessments, and external audits of, and tracks security incidents related to the Seller's systems, (ii) promptly corrects any material exceptions or vulnerabilities identified, and (iii) promptly installs software security patches and other fixes to identified technical information security vulnerabilities.

(l) In the past three (3) years there have been no data security incidents, personal data breaches or other adverse events or incidents related to Personal Information in the custody or control of the Seller or, to the Knowledge of the Seller, any service provider acting on behalf of the Seller. No breach or violation of the Seller's information security systems has occurred in the past three (3) years or is threatened in writing, and there has been no unauthorized or illegal use of or access to any personal Information. The Seller has a commercially reasonable data breach response plan that it tests on at least an annual basis.

(m) In the past three (3) years there have not been any claims or proceedings related to any data security incidents or any violations of any Privacy Laws, and to the Knowledge of the Seller there are no facts or circumstances that could reasonably serve as the basis for any such allegations or claims, and the Seller has not received any correspondence relating to, or notice of any proceedings, claims, investigations or alleged violations of, Privacy Laws, with respect to Personal Information from any person or governmental authority, and there is no such ongoing proceeding, claim, investigation or allegation.

4.17 Financial Statements.

(a) Attached as Schedule 4.17(a) are correct and complete copies of (i) the audited statements of financial position of the Seller as of December 31, 2019 and 2020, and the related audited statements of activities and the statements of functional expenses for the years then ended, and the other financial information included therewith (collectively, the "***Financial Statements***"), and (ii) the unaudited statement of financial position of the Business as of **[MOST RECENT INTERIM FINANCIAL STATEMENTS DATE]**, 2021 and the related unaudited statement of activities for the **[#OF MONTHS]**-month period then ended (collectively, the "***Interim Financial Statements***").

(b) Except as set forth on Schedule 4.17(b), (i) the Financial Statements present fairly, in all material respects, the financial position and results of operations of the Seller at the dates and for the time periods indicated and have been prepared by the Seller's auditors in accordance with GAAP, consistently applied throughout the periods indicated, and (ii) the Interim Financial Statements present fairly in all material respects the financial position and results of operations at the date and for the period indicated. The Financial Statements and the Interim Financial Statements were derived from the books and records of the Seller.

4.18 Undisclosed Liabilities. The Seller has no material liabilities, except (a) liabilities reflected in the Interim Financial Statements, (b) liabilities that have arisen after the date of the Interim Financial Statements in the Ordinary Course of Business, or (c) as otherwise set forth on Schedule 4.18.

4.19 Accounts Receivable. All of the Seller's accounts represent sales actually made in the Ordinary Course of Business or valid claims as to which full performance has been rendered by the Seller. All of such accounts are, in the aggregate, collectible in full, net of the reserve therefor, in the Ordinary Course of Business. There are no disputes with respect to any of such accounts receivable. The reserve on the Financial Statements against the accounts receivable for returns and bad debts is adequate and has been calculated in accordance with GAAP. Except as set forth on Schedule 4.19, no counter claims, defenses, or offsetting claims with respect to the accounts receivable of the Seller are pending or, to the Knowledge of the Seller, threatened. The Seller has not agreed to any deduction, free goods, discount, or other deferred price or quantity adjustment with respect to any of its accounts receivables. All of the Seller's accounts receivable relate solely to sales of goods or services to customers of the Seller, none of which is an employee of the Seller.

4.20 Inventories. The inventories of the Seller are of a quality and quantity useable and saleable in the normal and Ordinary Course of Business and fit for the purpose for which they were procured or manufactured and such inventory is saleable at gross margins consistent with historical practice, subject to appropriate and adequate allowances reflected on the Interim Financial Statements for obsolete, excess, slow-moving, and other irregular items.

4.21 Taxes.

(a) Except as set forth on Schedule 4.21(a), the Seller has timely filed all Tax Returns and timely paid all Taxes to the appropriate Taxing Authority related to the Purchased Assets and the Business. Such Tax Returns are true, correct and complete in all material respects. There are no Liens for Taxes encumbering any of the Purchased Assets.

(b) The Seller has withheld and timely paid to the appropriate Taxing Authority all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, or other third party, and all Forms W-2 and 1099 (or similar reporting form) required with respect thereto have been properly completed and timely filed with the appropriate Taxing Authority.

(c) None of the Purchased Contracts contains a Tax allocation, sharing, indemnification, or similar agreement (other than pursuant to customary commercial contracts the primary purpose of which is not Taxes).

(d) Except as set forth on Schedule 4.21(d), there is no material dispute or claim concerning any Tax of the Seller related to the Purchased Assets or the Business that has been claimed or raised by any Governmental Authority in writing. With respect to the Purchased Assets or the Business, no written claim has ever been made by a Governmental Authority in a jurisdiction where the Seller does not file Tax Returns that the Seller is or may be subject to taxation by that jurisdiction as a result of the operation of the Business in that jurisdiction nor, to the Knowledge of the Seller, is there any factual or legal basis for any such claim. All deficiencies asserted, or assessments made, against the Seller as a result of any examinations by any Taxing Authority with respect to the Purchased Assets or the Business have been fully paid.

(e) None of the Purchased Assets constitutes stock of a corporation (or an entity treated as a corporation for U.S. federal income Tax purposes), an interest in a partnership (or an entity treated as a partnership for U.S. federal income Tax purposes), or any other equity interest in any other entity.

(f) The Seller is not and has never been a party to, or bound by, any Tax indemnity, Tax sharing or Tax allocation agreement (other than pursuant to customary commercial contracts the primary purpose of which is not Taxes).

(g) Except as set forth on Schedule 4.21(g), (i) the Seller has not made any changes to its Tax accounting or reporting, or deferred any payroll Taxes that otherwise would have been required to be remitted or paid in connection with amounts paid by it to any employee or individual service provider as a result of provisions in the CARES Act, and (ii) has not otherwise taken advantage of any tax benefit or tax program provided by or pursuant to the CARES Act.

4.22 Customers; Vendors.

(a) Schedule 4.22(a) sets forth (i) the Seller's twenty (20) largest customers (listed in order of dollar amount of sales to such customers calculated in accordance with GAAP) for the years ended December 31, 2019 and December 31, 2020 (the "***Material Customers***") and (ii) the dollar amount of sales to such Material Customers. Except as set forth on Schedule 4.22(a), (A) all Material Customers continue to be customers of the Seller and none of such Material Customers has reduced materially its business with the Seller from the levels achieved during the year ended December 31, 2020, and, to the Knowledge of the Seller, there is no reason to believe that any such reduction will occur; (B) no Material Customer has terminated its relationship with the Seller, nor has the Seller received notice, nor to the Knowledge of the Seller is there any other reason to believe, that any Material Customer intends to do so or to materially alter the terms of its relationship with the Seller; (C) the Seller is not involved in any claim, dispute, or controversy with any Material Customer; and (D) no Material Customer has materially reduced, or has requested in writing, or to the Knowledge of the Seller orally, to materially reduce, in either case, in the aggregate, the pricing of any good or service it purchases from the Seller, nor, to the Knowledge of the Seller, is there any other reason to believe that any Material Customer intends to do so.

(b) Schedule 4.22(b) sets forth (i) the Seller's twenty (20) largest vendors (listed in order of the dollar amount purchased from such vendors calculated in accordance with GAAP) for each of the years ended December 31, 2019 and December 31, 2020 ("***Material Vendors***") and (ii) the dollar amount of purchases from such Material Vendors. Except as set forth on Schedule 4.22(b), (A) all Material Vendors continue to be vendors of the Seller and none of such Material Vendors has materially reduced its business with the Seller from the levels achieved during the year ended December 31, 2020, and, to the Knowledge of the Seller, there is no reason to believe that any such reduction will occur; (B) no Material Vendor has terminated its relationship with the Seller, nor has the Seller received notice, nor to the Knowledge of the Seller is there any other reason to believe, that any Material Vendor intends to do so; (C) the Seller is not involved in any claim, dispute, or controversy with any Material Vendor; (D) no Material Vendor has materially increased or requested in writing, or to the Knowledge of the Seller orally, to materially increase, in either case, in the aggregate, the pricing of any good or service it sells to the Seller nor, to the Knowledge of the Seller, is there any other reason to believe that any Material Vendor intends to do so.

4.23 Related Party Transactions. Except as set forth on Schedule 4.23, no officer or employee of the Seller (a) has, or during the last two (2) fiscal years has had, direct or indirect interest (i) in any Person that is a customer, vendor, lessor, creditor, or competitor of the Seller, or (ii) in any material property, asset, or right that is owned or used by the Seller in the Business, or (b) is, or during the last two (2) fiscal years has been, a party to any agreement or transaction with the Seller, other than agreements with employees with respect to employment, compensation, non-disclosure, non-solicitation, non-competition, and/or confidentiality.

4.24 Books and Records. All of the books and records of the Seller have been maintained in the Ordinary Course of Business and fairly and accurately reflect, in all material respects, transactions arising from the Business.

4.25 Product Liability and Warranty.

(a) Each product or service sold, manufactured, or otherwise delivered, as applicable, by the Seller has been in conformity with all applicable contractual commitments, and the Seller has no liability (and, to the Knowledge of the Seller, there is no basis for any present or future Proceeding against the Seller) for replacement or repair of any such products or services or other damages in connection therewith, subject only to the reserve for product and service warranty claims set forth in the Interim Financial Statements. No product sold, leased, licensed, distributed or delivered, and no service provided, by the Seller is subject to any guaranty, warranty, or other indemnity beyond the applicable standard terms and conditions of sale, lease, or service in the Ordinary Course of Business.

(b) The Seller does not have any liability, and to the Knowledge of the Seller, there is no basis for any present or future Proceeding or demand against the Seller giving rise to any such liability, arising out of any injury to Person or property as a result of the ownership, possession, or use of a product or service manufactured, delivered, or provided by the Seller.

4.26 Insurance. Schedule 4.26 sets forth a true and complete list and brief description (including all applicable premiums and deductibles) of all insurance policies to which the Seller is a party or named insured, or under which the Seller or any current officer of the Seller (but solely with respect to such employee's capacity as an employee of the Seller, and not otherwise) is a party, or an insured. All of such insurance policies are in full force and effect, all premiums due and payable with respect to such insurance policies have been paid to date, and the Seller has never been in default with respect to its Liabilities under any such insurance policies. No written notice of cancellation or termination or non-renewal has been received by the Seller with respect to any such policy. The insurance maintained by the Seller is sufficient to comply, in all material respects, with all applicable Laws and Purchased Contracts to which the Seller is a party or by which the Purchased Assets are bound. During the last three (3) years, the Seller has not been refused any insurance.

4.27 Brokers. Other than Houlihan Lokey who has acted as an advisor to the Seller (i) no Person has acted directly or indirectly as a broker, finder, or financial advisor for the Seller in connection with the transactions contemplated by this Agreement and (ii) except as set forth on Schedule 4.27, which such schedule sets forth the name and amount of payment, no other Person is entitled to any fee or commission or like payment in respect thereof based in any way on any agreement, arrangement, or understanding made by or on behalf of the Seller.

4.28 Government Contracts.

(a) With respect to any Contract between the Seller and any Governmental Authority, including any Purchased Contract under which the Seller knowingly agrees to provide goods or services for eventual use by a Governmental Authority (collectively referenced as "***Government Contracts***"): (i) there have been no investigations, external or internal, in connection with any alleged fraud or material contractual noncompliance by or of the Seller; (ii) there has been no suspension or debarment proceeding (or equivalent proceeding, such as a "show cause") against the Seller; and (iii) the Seller is in compliance in all material respects with all statutory, regulatory, and contractual requirements applicable to each Government Contract.

(b) The Seller and its officers and employees have not been debarred, suspended, or otherwise formally rendered generally ineligible for award of Contracts with any U.S. federal Governmental Authority.

4.29 Network.

(a) The Seller has provided to the Purchaser a Google Earth KMZ digital file of a map showing the route and location of the Seller's Network Facilities that comprise the Seller's network (the "***Network***") including, in all material respects, (i) the routes and locations of all fiber optic lines and other cabling owned by the Seller; (ii) the routes and locations of all fiber optic lines and other cabling that the Seller leases or obtains from others; (iii) the number and location of all regeneration sites in the Network Facilities; and (iv) locations (transmitting and receiving) of the Seller's wireless Network Facilities.

(b) The Network Facilities necessary for the conduct of the business of the Seller as presently conducted are in good working order, structurally sound and adequate for the uses to which they are being put (ordinary wear and tear excepted) and, for the portion of the Network owned or maintained by the Seller, are free from any material defect and have been maintained in all material respects in the Ordinary Course of Business.

(c) Schedule 4.29(c) sets forth (i) a description that is true and complete in all material respects of the collocation facilities operated by the Seller as of the date hereof and (ii) a complete list of outages, failures, breakdowns or continuous periods of substandard service or network or collocation service unavailability which was material or resulted in (A) customer service credits greater than Twenty Five Thousand Dollars ($25,000), (B) cancellation or termination of a customer order or agreement, or (C) required notification to the FCC, in each case, during the two (2) years prior to the date hereof.

(d) Each of the collocation facilities operated by the Seller and the Network are, in all material respects, working, functional and fit for the purpose intended, taken as a whole. The portion of the Network maintained by the Seller has been maintained, subject to ordinary wear and tear, in good working condition for purposes of operating the Business, taken as a whole.

(e) No third party has delivered written notice whereby it challenges or repudiates, or threatens to challenge or repudiate, or asserts the right to terminate or repudiate any Network Underlying Rights, and no property owner or other third party has challenged in writing to the Seller the right of the Seller to install, operate or maintain cable, wires, conduits or other equipment or facilities in a customer or other third party location necessary for the provision of service to existing customers. The Network Underlying Rights constitute some (but not all) of the material rights necessary to run the Network.

(f) The Seller owns or has a valid right to use the Network Underlying Rights free and clear of all Liens arising through the Seller and the Seller and has held all of the Network Underlying Rights in a manner that the Seller does not violate in any material respect the terms of any such Network Underlying Right.

(g) The Seller has the right to use all equipment necessary to operate the Network as currently operated by the Seller. Except as provided in Schedule 4.29(c), other than through the process of eminent domain, no Governmental Authority or other third party has any right to purchase or otherwise acquire or lease the Network owned by the Seller or any material portion thereof, and there is currently no action or proceeding pending or, to the Knowledge of the Seller, threatened, whereby a Governmental Authority or other third party is seeking to purchase or otherwise acquire or lease the Network or any portion thereof.

(h) The Seller has (i) acquired the rights necessary or required for using the Network and (ii) obtained the necessary consent, waiver, approval, authorization or other Permit of, or filing or registration with or notification to any Governmental Authority and rights-of-way, obtained easements and placed conduit, cables and structures in the appropriate locations along the physical Network owned by the Seller as necessary or required. Further, the Seller has adequate rights of access to the buildings and other property included in the Leased Real Property to service its Network Facilities.

4.30 Regulatory Matters. Without limiting any of the other representations or warranties made in this ARTICLE 4:

(a) The Seller holds all Communications Licenses necessary for the Seller to own, lease and operate its Network Facilities or to conduct its business in the manner in which such business is currently being conducted. Schedule 2.2(o) sets forth a true, correct and complete list of all such Communications Licenses. Except as set forth on Schedule 4.30(a), each Communications License is in full force and effect, there are no Proceedings pending, or, to the Knowledge of the Seller, threatened which have resulted or would reasonably be expected to result in any revocation, suspension, default or violation of or with respect to any Communications License, a material condition on the Communications License, or any material fine or forfeiture in connection therewith.

(b) Except as set forth in Schedule 4.30(b), since December 31, 2017, the Seller has operated and conducted its business in all material respects in compliance with the terms and conditions of the Communications Licenses and the Communications Laws, including timely and accurately submitting all material reports, notifications and applications required by applicable Communications Laws, and the payment of all Regulatory Payments.

(c) Except as set forth in Schedule 4.30(c), since December 31, 2017, the Seller has filed all required reports, including FCC Forms 499A and 499Q, and all such filings were, when made or amended, true, correct and complete and in accordance with existing precedent of the relevant Governmental Authority. At the Closing, the Seller shall have paid, or made adequate provision for the payment of, all federal and state Regulatory Payments billed by the FCC, State PUCs, and Fund Administrators and pertaining to the period prior to the Closing Date. At the Closing, the Seller shall have filed all required reports, including FCC Forms 499A and 499Q, that were due prior to the Closing Date, and retained all supporting documentation, necessary for the FCC, State PUCs, and Fund Administrators to calculate their Regulatory Payments. Where such reports are not due to be filed until after the Closing Date, the Seller shall also have compiled and retained all documentation needed to file any reports necessary for the FCC, State PUCs, and Fund Administrators to calculate Regulatory Payments for the period prior to the Closing Date. Since December 31, 2017, the Seller has not been the subject of any audit, investigation, enforcement, Proceeding, assessment, fine, penalty or interest related to Universal Service Subsidies or Regulatory Payments and, to the Knowledge of the Seller, no such audit, investigation, enforcement, Proceeding, fine, penalty or interests is threatened.

(d) The Seller has not deployed or, to the Knowledge of the Seller, used Network Facilities or other communications equipment and services that are on the FCC's covered list of equipment and services covered by Section 2 of the Secure Networks Act, including Huawei or ZTE.

4.31 Certain Business Practices.

(a) Since December 31, 2017, none of the Seller or any of its employees or, to the Knowledge of the Seller, any non-employee representatives on its behalf, has (a) used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity; (b) made any unlawful payment or unlawfully given, offered, promised, or authorized or agreed to give, any money or thing of value, directly or indirectly, to foreign or domestic government officials or employees or to foreign or domestic political parties or campaigns; (c) violated any provision of the Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act of 2010, or any rules or regulations thereunder, or the provisions of any anti-bribery, anti-corruption and anti-money laundering laws of each jurisdiction in which the Seller operates, or any comparable foreign law or statute; (d) directly or indirectly taken any action in violation of any export restrictions, anti-boycott regulations, embargo regulations or other similar applicable United States or foreign applicable Laws; or (e) engaged in any business with any Person with whom, or in any country in which, it is prohibited for a United States Person to engage under applicable Law or under applicable United States sanctions administered by the Office of Foreign Assets Control, except as permitted by applicable Law.

(b) To the Knowledge of the Seller, the Seller has not engaged in unfair competition or trade practices or any false or misleading advertising practices under the Laws of any jurisdiction in which the Seller operates or markets any of its products or services.

(c) To the Knowledge of the Seller, the Seller, during all times as to which the applicable statute of limitations has not yet expired, has complied in all material respects with all International Trade Laws applicable to the Seller. Without limiting the foregoing and in each case to the Knowledge of the Seller:

(i) the Seller has obtained, and is in compliance in all material respects with, all export licenses, license exceptions and other consents, notices, waivers, approvals, orders, authorizations, registrations, declarations, classifications and filings with any Governmental Authority required for (A) the export and re-export of products, services, software and technologies and (B) releases of technologies and software to foreign nationals located in the United States and abroad (“***Export Approvals***”);

(ii) there are no pending claims against the Seller with respect to such Export Approvals;

(iii) no Export Approvals with respect to the Seller and the transactions contemplated hereby are required;

(iv) the Seller has not received written notice that the Seller, its directors, officers or employees, in each case in their capacity as such, is a Sanctions Target;

(v) for the past five (5) years, the Seller has not received written notice to the effect that a Governmental Authority claimed or alleged that the Seller was not in compliance with International Trade Laws;

(vi) the Seller has not made any voluntary disclosures to, or has been subject to any fines, penalties or sanctions from, any Governmental Authority regarding any past violations of International Trade Laws; and

(vii) during the past five (5) years, the Seller has not marked or advertised any products as "Made in the USA," "Made in America," or otherwise promoted products using equivalent markings, including American flag symbols.

4.32 Disclosure. Neither this Agreement nor any of the Ancillary Agreements, including their respective schedules and exhibits, contains any untrue statement of material fact by the Seller or omits a material fact necessary to be disclosed by the Seller to make each such statement contained herein or therein not misleading.

ARTICLE 5: Representations and Warranties of the Purchaser

The Purchaser hereby represents and warrants to the Seller as follows:

5.1 Existence and Good Standing. The Purchaser is a corporation duly formed, validly existing and in good standing under the laws of the State of Delaware, and is duly qualified to do business as a foreign limited liability company and is in good standing in the jurisdictions set forth on Schedule 5.1, which are the only jurisdictions in which the Purchaser is required to be so qualified.

5.2 Power. The Purchaser has the power and authority to (a) own, operate, and lease its properties and assets as and where currently owned, operated, and leased, and (b) carry on its business as currently conducted. The Purchaser has the power and authority to execute, deliver, and perform its obligations under this Agreement and the Ancillary Agreements.

5.3 Enforceability. The execution, delivery, and performance of this Agreement and the Ancillary Agreements, and the consummation of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary action on the part of the Purchaser. This Agreement and each of the Ancillary Agreements have been duly executed and delivered by the Purchaser, and constitute the valid and legally binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their terms, subject to General Enforceability Exceptions.

5.4 No Conflict. Neither the execution of this Agreement or the Ancillary Agreements, nor the performance by the Purchaser of its obligations hereunder, nor the consummation of the transactions contemplated hereby will (a) assuming all Regulatory Consents have been obtained or made, violate any Law or Order applicable to the Purchaser; or (b) violate or conflict with the Purchaser's organizational documents.

5.5 Consents. Except as set forth on Schedule 5.5, no Consent is required in connection with the execution and delivery by the Purchaser of this Agreement or the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby.

5.6 No Financing Contingency. The Purchaser's obligations under this Agreement are not subject to or conditioned upon obtaining any funds or financing from third parties. The Purchaser has, or will have at Closing, all necessary funds on hand to discharge its obligations under this Agreement, including under Section 3.1(b) and Section 7.2(e)(i).

5.7 Brokers. No Person has acted directly or indirectly as a broker, finder, or financial advisor for the Purchaser in connection with the transactions contemplated by this Agreement, and no Person is entitled to any fee or commission or like payment in respect thereof based in any way on any agreement, arrangement, or understanding made by or on behalf of the Purchaser.

ARTICLE 6: Covenants

6.1 Conduct of Business. Except as otherwise required by any Law or as contemplated by this Agreement, until the Closing, the Seller shall operate the Business in the Ordinary Course of Business. The Seller will use best efforts to (i) preserve the Business intact, including preserving existing relationships with suppliers, customers, and others having business dealings with the Seller; (ii) keep available the services of its employees; and (iii) continue to carry insurance with respect to the Business in such amounts and with respect to such risks as has been historically carried. The Seller shall not take actions or engage in transactions outside the Ordinary Course of Business without first notifying the Purchaser. Without limiting the foregoing, except as otherwise required by any Law or as permitted by this Agreement, until the Closing, the Seller will not, without the prior written consent of the Purchaser, which such consent will not be unreasonably withheld, delayed or denied:

(a) make any sale, assignment, transfer, conveyance, abandonment, or other disposition of any of the Purchased Assets, except for dispositions of inventory or worn-out or obsolete equipment for fair or reasonable value in the Ordinary Course of Business;

(b) subject any of the Purchased Assets, or any part thereof, to any new Lien except Permitted Liens;

(c) enter into any Material Contract or agreement or series of related contracts or agreements, or make any commitment, whether directly or indirectly by way of guarantee or otherwise, for an expenditure relating to the Business that is not in the Ordinary Course of Business or, except in the Ordinary Course of Business, make any material amendment of or terminate any Purchased Contract;

(d) fail to use commercially reasonable efforts in accordance with the Ordinary Course of Business to maintain the Purchased Assets in good condition and repair, reasonable wear and tear excepted;

(e) fail to maintain its records in the usual, regular and ordinary manner consistent with past practices or materially change its accounting or cash management practices or policies or its application thereof, except as required by GAAP or other accounting or financial reporting rules and regulations, provided that, in the event of any such required change, the Seller shall promptly notify the Purchaser thereof in writing;

(f) except as may be required by any Law and normal increases in the Ordinary Course of Business, materially increase benefits or compensation or otherwise, or grant any bonus or retention or severance pay to any of the Seller's employees, except for bonuses, retention and severance pay that will be fully paid by the Seller; provided, in each case, that the Seller informs the Purchaser prior thereto;

(g) except in the Ordinary Course of Business, sell, transfer, or lease any Purchased Asset;

(h) terminate, fail to renew, abandon, cancel, let lapse, fail to continue to prosecute or defend, sell, transfer, exclusively license, as may be applicable, or otherwise dispose of any of the Owned Intellectual Property;

(i) acquire or agree to acquire by merging or consolidating with, or by purchasing substantially all assets or any equity securities of, or by any other manner, any Person or otherwise acquire or agree to acquire any material assets in excess of $100,000 and not in the Ordinary Course of Business;

(j) waive or release any material right or claim of the Business;

(k) adopt a plan or agreement of complete or partial liquidation, dissolution, restructuring, recapitalization, merger, consolidation or other reorganization;

(l) initiate or settle any Proceeding relating to the Business or any Purchased Asset, or pay, discharge or satisfy any Liabilities in connection with any Proceeding in an amount in excess of $20,000 individually or $50,000 in the aggregate;

(m) with respect to the Purchased Assets or the Business, (i) amend any Tax Return, (ii) enter into any "closing agreement" as described in Section 7121 of the Code (or any similar provision of state, local or foreign Law) with any Tax authority with respect to a Tax, (iii) settle any claim or assessment in respect of any Tax, or (iv) consent to any extension or waiver of the limitation period applicable to any claim or assessment in respect of any Tax that would give rise to any claim or assessment of Taxes;

(n) amend or modify the Seller's organizational documents;

(o) revalue any of the Purchased Assets (whether tangible or intangible);

(p) enter any new agreement or contract to own or operate any Telecommunications Service, Information Service, or fiber optic cable serving any military installation; or

(q) commit to do any of the foregoing.

6.2 Access to Information.

(a) Until the Closing, the Seller will (i) allow the Purchaser and its authorized representatives reasonable access, upon reasonable prior notice to the Seller, during regular business hours and consistent with the normal operation of the Seller, to the Purchased Assets and the Seller's books and records and to officers and employees of the Seller for purposes of providing Purchaser with information regarding the Seller's operations, (ii) allow the Purchaser and its authorized representatives reasonable access, upon reasonable prior notice to the Seller, during regular business hours and consistent with the normal operations of the Seller, to the GPW Maintained Huts for the purpose of conducting Phase I Environmental Site Assessments (the "***Phase I ESAs***") and (iii) furnish the Purchaser with such financial and operating data and other information with respect to the Seller as the Purchaser may reasonably request, except to the extent that furnishing such information would violate any legal obligation of the Seller.

(b) After the Closing, the Seller will allow the Purchaser and its authorized representatives reasonable access, upon reasonable prior notice to the Seller, during regular business hours and consistent with the normal operation of the Seller, to the Seller's books and records for any purpose reasonably related to the Purchaser's interest in the Purchase Assets or the Assumed Liabilities.

(c) After the Closing, the Purchaser will allow the Seller and its authorized representatives reasonable access, upon reasonable prior notice to the Purchaser, during regular business hours and consistent with the normal operation of the Purchaser, to the Purchaser's books and records for any purpose reasonably related to the Seller's interest in the Retained Assets, the Retained Liabilities, or otherwise with respect to the Seller's obligations under this Agreement and the Ancillary Agreements. Such access shall not be provided to the extent it would (i) violate applicable Law or (ii) cause the Purchaser to waive any attorney-client privilege with respect to such books and records.

6.3 Fulfillment of Conditions. Subject to the terms of this Agreement and fiduciary obligations under Law, Seller and Purchaser will do all such commercially reasonable acts and things as may be required to satisfy the covenants and obligations under this Agreement and to consummate and complete the transactions contemplated by this Agreement.

6.4 Interim Financial Statements. As promptly as practicable following each regular accounting period subsequent to the end of the dates and periods covered by the Interim Financial Statements and prior to the Closing Date, the Seller shall deliver to the Purchaser periodic financial reports in the form that it customarily prepares for its internal purposes concerning the Business and, if available, financial statements similar in form to unaudited statements of the financial position of the Business as of the last day of each accounting period (beginning and through) and statements of income and changes in cash flows of the Seller for the monthly and year-to-date periods then ended. Such Interim Financial Statements shall be compiled by the Seller's customary auditor and the written report of such compilation shall be delivered to the Purchaser. The Interim Financial Statements and financial statements will not include the related notes to the Financial Statements.

6.5 Notification to Changes. If at any time prior to the Closing either party learns that (i) the occurrence or existence of any fact, event or circumstance that, with respect to such party or the Purchased Assets, has had or would reasonably be expected to have a Material Adverse Effect or (ii) any of its representations or warranties in this Agreement were untrue when made, or would be untrue if made at any time after the date of this Agreement up until the Closing, in any material respect (or with respect to those representations and warranties qualified by materiality, untrue, after consideration of such qualifier, in any respect), such party will give the other party prompt written notice thereof (and will subsequently keep the other informed on a reasonably current basis of any material developments related to such notice).

6.6 Evidence of Lien Terminations. The Seller will provide to the Purchaser at the Closing evidence reasonably satisfactory to the Purchaser that all Liens (other than Permitted Liens) affecting or encumbering the Purchased Assets have been terminated.

6.7 Consents. As soon as reasonably practicable after the date of this Agreement, the Seller shall, for the remaining term of each Purchased Contract, use reasonable best efforts to (i) obtain the Consents of the applicable third parties thereto (and the Purchaser shall jointly work with the Seller to so obtain such Consents), (ii) make the benefit of such Purchased Contract available to the Purchaser following the Closing, and (iii) enforce following the Closing, at the request of the Purchaser and at the expense and for the account of the Purchaser, any right of the Seller arising from such Purchased Contract against the other party or parties thereto (including the right to elect to terminate any such Purchased Contract in accordance with the terms thereof). The Seller will not take any action that would limit or restrict or terminate the benefits to the Purchaser of any Purchased Contract unless, after consultation with the Purchaser, the Seller is ordered in writing to do so by a Governmental Authority of competent jurisdiction or the Seller is otherwise advised by counsel that it is required to do so by Law; provided that if any such order or requirement is appealable, the Seller will, at the Purchaser's cost and expense, take such actions as are requested by the Purchaser to file and pursue such appeal and to obtain a stay of such order. With respect to any Purchased Contract for which the Consent of the applicable third party or parties thereto is obtained after the Closing, the Seller shall transfer and assign such Purchased Contract to the Purchaser by delivery of an agreement in the form of the Assumption Agreement, but addressing that particular Purchased Contract only, within five (5) business days following receipt of such Consent.

6.8 Regulatory Consent.

(a) As soon as reasonably practicable after the date of this Agreement, but in any event no later than thirty (30) calendar days from the date hereof, (i) the parties hereto will jointly prepare (in consultation and cooperation with each other) and file or submit all initial filings required to be made for the FCC Approvals and the State PUC Approvals and other Governmental Regulatory Approvals as set forth on Schedule 6.8(a)(i), and (ii) the Purchaser shall prepare and submit all initial filings required to be made to obtain any necessary Communications License not otherwise assigned to the Purchaser (the "***Purchaser Communications Licenses***") as set forth on Schedule 6.8(a)(ii). Each party will promptly file any additional information requested by any Governmental Authority as soon as practicable after receipt of any request for additional information. The parties will cooperate fully with each other in all reasonable respects in promptly seeking to obtain the Regulatory Consents. Each party will have the right to review and approve the other party's filings with Governmental Authorities with respect to this Section 6.8, in advance, with such approvals not to be unreasonably withheld or delayed. Each party will coordinate and cooperate with one another in exchanging such information and providing such reasonable assistance as may be requested in connection with such filings. Each party will promptly supply the other party with copies of all non-confidential correspondence, filings, or communications (or memoranda setting forth the substance thereof) between such party or its representatives and any Governmental Authority or members of such Governmental Authorities' respective staffs with respect to any FCC Approvals, State PUC Approvals or Governmental Regulatory Approvals. No party will take in bad faith any action that would have the effect of delaying, impairing, or impeding the receipt of any Regulatory Consents.

(b) The Seller and the Purchaser will agree on forms of request for the Regulatory Consents. Each party will employ commercially reasonable efforts to promptly request and obtain each Regulatory Consent that such party is required to obtain as indicated on Schedule 7.1(c) for the Purchaser and Schedule 7.2(c) for the Seller, using the appropriate agreed-upon form, and the parties will cooperate with each other in all commercially reasonable respects to obtain each Regulatory Consent. Each party shall promptly notify the other if, in connection with obtaining any Regulatory Consent, a Governmental Authority or other Person seeks to impose any condition on or change to any Communications License or Purchased Asset (any such condition or change being referred to as a "***Consent Condition***"). Without the Purchaser's prior written consent, which may be withheld in Purchaser's sole discretion, the Seller shall not agree to any Consent Conditions other than monetary Consent Conditions that the Seller will satisfy prior to the Closing.

(c) On or before April 1, 2022, the Seller shall file a "closing" FCC Form 499-A with the Fund Administrator with respect to taxable periods (and portions thereof) between January 1, 2021 and the Closing Date. The Seller shall be solely responsible for the payment (or reimbursement, if applicable) of any and all Universal Service Contributions with respect to the Business (including state and federal Universal Service Contributions) that are due as of the Closing Date or become due at any time thereafter (whether as a result of the filing of such Form 499-A, any other action or "true up," or for any other reason) relating to taxable periods (or portions thereof) ending on or prior to the Closing Date. From the Closing Date until the Filer ID Deactivation Form is submitted, the Seller shall file FCC Form 499-Q for each quarter and report no projected revenue for the upcoming quarter. On or before April 1, 2022, the Purchaser shall file a Form 499-A that includes the revenue of the Business for service provided after the Closing Date. The Purchaser shall be responsible for, and receive the benefit of (to the extent applicable), any

Universal Service Contributions and any and all credits relating thereto (whether arising as a result of a "true-up" or for any other reason) with respect to the Business that relate to taxable periods (or portions thereof) after the Closing Date. No later than 30 days after the Closing Date, the Seller and the Purchaser shall file with the Fund Administrator a Filer ID Deactivation Form, Sale of One Entity to Another (or such successor filing that may exist on that date) indicating that the Purchaser included or will include revenues on FCC Form 499- Q from the Business for the first period following the Closing Date.

(d) As soon as practicable after the execution of this Agreement, the parties hereto will jointly prepare and file or submit (i) all filings required to be made with the Fund Administrators to assign to the Purchaser, for periods after the Closing Date, commitments for Universal Service Subsidies made to the Seller and (ii) all notices required to be made to customers served with Universal Service Subsidies. The Purchaser shall have primary responsibility for preparing the filings and notices. Each party hereto will promptly file any additional information requested by the Fund Administrators or customers as soon as practicable after receipt of a request for additional information. The parties hereto will cooperate fully with each other and any applicable Fund Administrator or customer in all reasonable respects in promptly seeking to make or obtain the assignments. Each party hereto will have the right to review and approve in advance, with such approvals not to be unreasonably withheld, conditioned or delayed, all filings with the Fund Administrators to be made jointly or by the other party in connection with the transactions contemplated by this Agreement. Each party hereto will coordinate and cooperate with one another in exchanging such information and providing such reasonable assistance as may be requested in connection with such filings, but the Purchaser will not be required to agree to any changes in, or the imposition of any condition on, any Universal Service Subsidies as a condition to obtaining any assignment if such change in or the imposition of any condition on the Universal Service Subsidies would result in a Material Adverse Effect. Each party hereto will promptly supply the other with copies of all nonconfidential correspondence, filings or communications (or memoranda setting forth the substance thereof) between such party or its representatives and any Fund Administrator or members of their respective staffs with respect to this Agreement or the transactions contemplated by this Agreement. Notwithstanding anything to the contrary in this Section 6.8(d), materials provided to the other party or its counsel may be redacted to remove competitively sensitive material, as well as information otherwise not germane to regulatory review.

6.9 Further Assurances. From time to time after the Closing, each party, upon the request of the other party and without further consideration, will execute, deliver, and acknowledge all such instruments of transfer and conveyance and do and perform all such other acts and things as either party may reasonably require to carry out the intent of this Agreement.

6.10 Supplements to Disclosure Schedules . From time to time after the date of this Agreement and up to the Closing Date, the Seller may supplement or amend any Schedules that it delivered on the date hereof with respect to any matter first existing or occurring following the date hereof which, if existing or occurring as of the date hereof, would have been required to be set forth or described in such Schedules delivered on the date hereof (a "***No-Fault Change***"). For purposes of Seller's obligation to indemnify the Purchaser Indemnified Parties pursuant to Section 10.1(a), no matter constituting a No-Fault Change shall be deemed a breach of any representation or warranty made by the Seller as of the date of this Agreement or as of the Closing.

6.11 Employee Matters.

(a) Not less than fifteen (15) days prior to the Closing Date, the Purchaser will make offers of employment to all employees of the Seller on terms and conditions that are no less favorable in the aggregate with respect to each individual employee's terms and conditions, to each employee's current employment terms and conditions and only to the extent disclosed to Purchaser as of the date of this Agreement. Any such employee who shall have (i) accepted such offer of employment by the Purchaser and (ii) not rescinded it on or before the Closing Date (each a "***Transferred Employee***," and collectively, the "***Transferred Employees***") shall be deemed to have resigned his or her employment with Seller effective as of the Closing Date. No offers of employment by the Purchaser shall be subject to any conditions other than as set forth in this Section 6.11(a) and the Purchaser's usual and customary hiring procedures, which shall be in conformance with all Laws. The Seller shall retain responsibility for the payment of any employee benefits or entitlement, including severance pay, accrued vacation, sick or holiday pay, to any Transferred Employee or any other employee of the Seller pursuant to any Employee Benefit Plan, applicable Law, or otherwise as a result of or in connection with the consummation of the transactions contemplated hereby.

(b) The Purchaser shall provide Transferred Employees with the ability to participate in employee benefit plans, programs, policies, and arrangements of the Purchaser (the "***Purchaser Plans***") and to receive benefits under the Purchaser Plans commensurate with the Purchaser's obligations under Section 6.11(a). The Purchaser shall not assume (i) any accruals prior to the applicable hire date of each Transferred Employee for unused vacation or (ii) any short-term disability salary continuation payment obligations, or long-term disability payment obligations for any Transferred Employee who is receiving long-term disability payments from the Seller at the time of the Closing Date. The Seller will pay Transferred Employees for such pre-Closing accruals for unused vacation at the Closing.

(c) The Seller will have full responsibility and liability for offering and providing "continuation coverage" to any "covered employee" of the Seller's employees, and to any "qualified beneficiary" of such employees, and who is in each case covered by a "group health plan" sponsored or contributed to by the Seller to the extent that such continuation coverage is required to be provided by the Seller under Section 4980B of the Code and the regulations promulgated thereunder as a result of a "qualifying event" experienced by such covered employee or qualified beneficiary with respect to or in connection with the transactions contemplated by this Agreement. "Continuation coverage," "covered employee," "qualified beneficiary," "qualifying event" and "group health plan" all will have the meanings given such terms under Section 4980B of the Code and Section 601 et seq. of ERISA.

(d) The Seller will be responsible for the maintenance and distribution of benefits accrued up to the Closing Date under the Seller's employee benefit plan or employee program, including any 401(k) plan maintained by the Seller, pursuant to the provisions of such plans and programs and any Law. The Purchaser will not assume any obligation or liability for any such accrued benefits or any fiduciary or administrative responsibility to account for or dispose of any such accrued benefits under any employee benefit plan or employee program. The Seller shall take such action as is necessary to provide that all Transferred Employees who are participants in the Seller's 401(k) Plan (the "***Seller 401(k) Plan***") have a fully vested and nonforfeitable interest in their entire respective account balances under such plan as of the Closing Date (regardless of their years of vesting credit under the Seller 401(k) Plan). On or prior to the Closing Date, with respect to all of the Transferred Employees, the Seller shall contribute all contributions to the Seller 401(k) Plan (i) which are required to be made on or before the Closing Date under the Seller 401(k) Plan, and (ii) which relate to service or employee salary deferral contributions on or prior to the Closing Date, whether or not required to be made on prior to the Closing Date under the Seller 401(k) Plan.

(e) The Seller shall permit the Purchaser to contact and make arrangements with the Seller's employees regarding employment or prospective employment by the Purchaser not more than fifteen (15) days prior to the Closing and for the purpose of ensuring the continuity of the Business, and the Seller agrees not to discourage any such employees from having contact with the Purchaser. The Seller shall make available to the Purchaser such personnel and similar information as the Purchaser may request with respect to any Transferred Employee, including compensation and employment records, in accordance with Law. The Seller shall use its best efforts to keep available the services of its present employees through the Closing Date.

(f) Except as specifically set forth in this Agreement, (i) the Purchaser shall not be obligated to assume, continue or maintain any of the Employee Benefit Plans; (ii) no assets or Liabilities of the Employee Benefit Plans shall be transferred to, or assumed by, the Purchaser or the Purchaser's benefit plans; and (iii) the Seller shall be solely responsible for funding and/or paying any benefits under any of the Employee Benefit Plans, including any termination benefits and other employee entitlements accrued under such plans by or attributable to employees or former employees of the Seller.

(g) Nothing in this Section 0 or elsewhere in this Agreement will be deemed to make any of the Seller's employees third party beneficiaries of this Agreement. Nothing in this Agreement, whether express or implied, shall (i) confer upon any employee of the Seller, or any representative of any such employee, any rights or remedies, including any right to employment or continued employment for any period or terms of employment, of any nature whatsoever, (ii) be interpreted to prevent or restrict the Purchaser or its Affiliates from modifying or terminating the employment or terms of employment of any Transferred Employee, including the amendment or termination of any employee benefit or compensation plan, program or arrangement, after the Closing Date or (iii) be treated as an amendment or other modification of any employee benefit plan or arrangement.

6.12 Tax Matters.

(a) Each of the Purchaser and the Seller will cooperate fully, as and to the extent reasonably requested by the other party, in connection with the filing of Tax Returns and any audit, litigation or other proceeding with respect to Taxes related to the Purchased Assets and the Business. Such cooperation will include the retention and, upon the other party's request, the provision of records and information that are reasonably relevant to any such audit, litigation, or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Purchaser and the Seller will (i) retain all books and records with respect to Tax matters pertinent to the Purchased Assets and the Business relating to any taxable period beginning before the Closing Date until the expiration of the statute of limitations (and, to the extent notified by the Purchaser or the Seller, any extensions thereof) of the respective taxable periods, (ii) abide by all record retention agreements entered into with any Taxing Authority with respect to the Purchased Assets and the Business, and (iii) give the other party reasonable written notice prior to transferring, destroying, or discarding any such books and records and, if the other party so requests, allow the other party to take possession of such books and records.

(b) All transfer, documentary, sales, use, stamp, registration, value added and other similar Taxes, and all conveyance fees, recording charges, and other charges and fees (including with respect to each, any penalties and interest) incurred in connection with consummation of the transactions contemplated by this Agreement ("***Transfer Taxes***") are to be borne and timely paid by the Seller when due, and Tax Returns relating to Transfer Taxes shall be prepared by the Seller, at its own expense, and filed by the party responsible for filing such Tax Return under applicable Law. The Seller shall provide the Purchaser with copies of all Tax Returns for Transfer Taxes and evidence that such Transfer Taxes have been paid. If the Purchaser is required by Law to remit payment for Transfer Taxes, the Seller shall promptly reimburse the Purchaser for any such Transfer Taxes actually paid by the Purchaser. The parties hereto and their Affiliates shall cooperate in connection with the filing of any such Tax Returns for Transfer Taxes including joining in the execution of such Tax Returns for Transfer Taxes and in obtaining all available exemptions from such Transfer Taxes.

6.13 Risk of Loss. The risk of loss with respect to the Purchased Assets shall remain with the Seller until the Closing. Until the Closing, the Seller shall maintain in force all the policies of property damage insurance under which any of the Purchased Assets is insured. In the event prior to the Closing any Purchased Asset is lost, damaged, or destroyed and the loss, damage, or destruction would result in a Material Adverse Effect, then:

(a) the Purchaser may terminate this Agreement in accordance with the provisions of Section 9.1(b)(ii); or

(b) the Purchaser may require the Seller to assign to the Purchaser the proceeds of any insurance payable as a result of the occurrence of such loss, damage, or destruction and to reduce the Purchase Price by the amount of the replacement cost of the Purchased Assets that were lost, damaged, or destroyed less the amount of any proceeds of insurance payable as a result of the occurrence.

6.14 Financing Cooperation.

(a) Until the Closing, the Seller shall provide, and shall use its commercially reasonable efforts to cause each of its officers, directors, managers, representatives and advisors to provide all cooperation to the Purchaser, at the Purchaser's sole cost and expense, as reasonably requested by the Purchaser in connection with obtaining and consummating debt financing for the purpose of consummating the transactions contemplated by this Agreement (the "***Debt Financing***"), including the following: (i) facilitating the obtaining of guarantees, the pledging of collateral and the granting of security interests (and the perfection thereof) in any collateral and assisting with the preparation of definitive loan documentation (including perfection certificates and schedules), including executing and delivering any customary definitive loan and security documents, instruments and customary closing certificates as may be reasonably requested by the Purchaser (provided that any such documents or certificates and any obligations contained in such documents shall be subject to the occurrence of, and effective no earlier than, the Closing); (ii) at least three (3) business days prior to Closing, providing all documentation about the Seller that is reasonably requested by the Purchaser in writing at least nine (9) business days prior to Closing and which is required by applicable "beneficial ownership," "know your customer" and anti-money laundering rules and regulations including the USA PATRIOT Act; (iii) furnishing to the Purchaser as promptly as practicable (A) the Financial Statements and (B) all other customary and readily available financial and other pertinent information reasonably requested by the Purchaser regarding the Seller customarily required in connection with the Debt Financing; (iv) causing the Seller's senior officers to participate on reasonable advanced notice and at reasonable locations in a reasonable number of meetings and presentations with actual or prospective lenders and due diligence sessions (and providing customary diligence materials reasonably requested by the Purchaser); (v) providing financial information and other data regarding the Seller reasonably required or requested in connection with the preparation of any pro forma financial statements required in connection with the Debt Financing; (vi) requesting and providing drafts of the payoff letters, lien releases and other termination notices and delivering (by the date required under the agreements governing such Indebtedness) any notices (including notices of prepayment) required in connection with the prepayment, payoff, discharge and termination in full at and subject to the occurrence of Closing of all Indebtedness required by this Agreement to be repaid at Closing; and (vii) promptly upon becoming aware thereof, supplementing the written information concerning the Seller furnished pursuant to this Section 6.14 to the extent any such information contains any untrue statement of a material fact regarding the Seller, or omits to state any material fact regarding the Seller necessary to make the statements contained therein not misleading under the circumstances under which such statements were made.

(b) Notwithstanding anything in this Agreement to the contrary, neither the Seller nor its directors, officers, managers, members, employees, equityholders, representatives and Affiliates shall (i) be required to pay any commitment or other similar fee in connection with the Debt Financing, (ii) have any liability or obligation under the definitive loan documentation for the Debt Financing, (iii) be required to take any action that would (A) violate or result in a material breach of or material default under this Agreement, any Material Contract, any organizational documents of the Seller or any applicable Law binding on the Seller or (B) unreasonably interfere with the ongoing business of the Seller; provided, that, in the event the Seller does not take an action in reliance on this clause (iii), the Seller shall inform the Purchaser thereof and of the general nature of the information being withheld, or (iv) be required to (A) prepare or deliver any financial statements for any period that are not otherwise available or prepared in the Ordinary Course of Business or any pro forma financial statements, (B) execute or deliver any certificate, document or agreement in connection with the Debt Financing unless the effectiveness of such certificate, document or agreement is contingent upon the occurrence of the Closing, (C) deliver or cause its counsel to deliver any legal opinion letters in connection with the Debt Financing, (D) take any action that would subject any officer, director or manager of the Seller to any personal liability with respect to any matters relating to the Debt Financing or (E) provide access to, or disclose any information to, the Purchaser or any of the Purchaser's representatives if such access or disclosure would reasonably be expected to result in waiving any attorney-client privilege; provided that if the Seller so withholds any reasonably requested access or disclosure of any information from the Purchaser, it shall notify the Purchaser in writing that disclosure or information has been withheld and of the general nature of the disclosure or information being withheld.

(c) The Purchaser shall promptly upon written request by the Seller following the termination of this Agreement pursuant to and in accordance with ARTICLE 9: hereof (other than by reason of a breach of this Agreement by the Seller), reimburse the Seller for all fees and reasonable and documented out-of-pocket expenses (including reasonable and documented legal and accounting fees and expenses) incurred by the Seller or its representatives in connection with providing the assistance contemplated by this Section 6.14 (it being understood and agreed, however, that the Seller (and not the Purchaser) shall be responsible for (i) ordinary course amounts payable to existing employees of the Seller and (ii) any such amounts incurred by the Seller that would have been incurred by the Seller in connection with the transactions contemplated hereby regardless of the Debt Financing (including the preparation and delivery of the Financial Statements, payoff letters and lien releases).

6.15 MEAG Office Lease and MEAG Rights and Assets. (a) If Seller's then existing lease with MEAG for the space located at 1470 Riveredge Parkway, Atlanta, GA 30328 (the "***MEAG Office Lease***") is on the same terms as those terms in effect as of the date of execution of this Agreement and the term of the MEAG Office Lease has not been extended for a period in excess of twelve (12) months after the date of Closing, then the Purchaser shall enter into an assignment and assumption of the MEAG Office Lease, so long as MEAG shall have consented to such assignment and assumption and (b) the Purchaser shall have entered into one or more agreements with MEAG to acquire the MEAG Rights and Assets on commercially reasonable terms, in each case of (a) and (b) to be effective as of the Closing.

6.16 Universal Service Fund Certifications. Seller shall request and take commercially reasonable actions to obtain a USF Jurisdictional Certification in the form set forth on Schedule 6.16 from each of Seller's end user customers that purchases Telecommunications circuits with both end points within the same state.

ARTICLE 7: Conditions to Closing

7.1 Of the Purchaser. Subject to the provisions of Section 7.1(i), the obligations of the Purchaser to proceed with the transactions contemplated by this Agreement are subject to the satisfaction, on or prior to the Closing Date, of the following conditions:

(a) *Representations and Warranties of the Seller*. (i) the representations and warranties of the Seller set forth in Section 4.1 (Existence; Good Standing and Capitalization), Section 4.2(Power), Section 4.3 (Enforceability), Section 4.7 (Necessary Property), Section 4.13 (Environmental) and Section 4.27 (Brokers) shall have been true and correct in all material respects as of the date of this Agreement and shall be true and correct in all material respects as of the Closing Date as if made on the Closing Date (except to the extent that any such representation or warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct only as of such earlier date) and (ii) the representations and warranties of the Seller set forth in ARTICLE 4: (other than those described in the foregoing clause (i)) shall have been true and correct as of the date of this Agreement and shall be true and correct (without giving effect to any qualifications or limitations as to "materiality," "Material Adverse Effect" or words of similar import) on the Closing Date, in each case taking into consideration any of the changes referred to in Section 6.10, except (A) for a representation and warranty that expressly speaks only as of a specific date or time, which need only be true and correct as of such date or time, and (B) to the extent that all untrue or incorrect representations and warranties set forth in this clause (a)(ii), in the aggregate, have not had and would not reasonably be expected to have a Material Adverse Effect.

(b) *Performance of the Seller's Obligations*. The Seller shall have performed in all material respects all covenants, agreements, and other obligations to be performed by it on or before the Closing Date under this Agreement.

(c) *Regulatory Consents*. All Regulatory Consents set forth on Schedule 7.1(c) shall have been obtained and are in effect as of the Closing Date.

(d) *No Material Adverse Effect*. Since the date of this Agreement, there shall not have occurred any event, condition, or circumstance that, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect that has not been cured by the Seller or waived by the Purchaser in accordance with this Agreement.

(e) *Officer's Certificate*. The Seller shall have delivered to the Purchaser a certificate, dated as of the Closing Date and signed by one of the Seller's officers, stating that the conditions set forth in Sections 7.1(a), 7.1(b), 7.1(c), and 7.1(d) have been fulfilled.

(f) *MEAG Office Lease and MEAG Rights and Assets*. The Purchaser shall have entered into the assignment and assumption of the MEAG Office Lease and other documents referred to in Section 6.15 with respect to acquiring the MEAG Rights and Assets.

(g) *Transferred Employees*. (i) All of Seller's top ten (10) highest compensated employees and (ii) ninety percent (90%) of the rest of Seller's employees shall have accepted the Purchaser's offer of employment in accordance with Section 6.11(a) to become Transferred Employees effective upon the Closing.

(h) *The Seller's Closing Deliveries*. At the Closing, the Seller shall deliver, or cause to be delivered, to the Purchaser the following:

(i) possession of the Purchased Assets;

(ii) a bill of sale, in the form of Exhibit B attached hereto, duly executed by the Seller (the "***Bill of Sale***");

(iii) all files and other data and documents relating to the Purchased Assets and copies of the Purchased Contracts;

(iv) payoff letters and appropriate termination statements under the Uniform Commercial Code and other instruments as may be requested by the Purchaser to extinguish all security interests in the Purchased Assets, except Permitted Liens, to the extent directed by the Purchaser;

(v) a copy of the Escrow Agreement, duly executed by the Seller;

(vi) a valid IRS Form W-9, duly executed by the Seller;

(vii) with respect to each Real Property Lease (other than the MEAG Office Lease), an assignment and assumption of lease in the form attached hereto as Exhibit D (each, an "***Assignment and Assumption of Lease***") and duly executed by the Seller; and

(viii) the Consents set forth on Schedule 5.5.

(i) *Intellectual Property Assignment*. The Purchaser shall have received from the Seller, to the extent necessary, a patent assignment conveying any patents included in the Purchased Assets, and a trademark assignment conveying any trademarks included in the Purchased Assets, in each case, in a form reasonably acceptable to the Purchaser.

(j) *Phase I ESAs*. The Purchaser shall have completed Phase I ESAs of the GPW Maintained Huts and any Environmental Conditions identified in such Phase I ESAs shall have been resolved to the reasonable satisfaction of the Purchaser.

(k) *Assignment and Assumption of Purchased Contracts*. The Purchaser shall have received consents (obtained as described in Section 6.7(i)) to the assignment of Purchased Contracts from counterparties representing at least (i) 95% of the Seller's dollar amount in revenue and (ii) 95% of the Seller's dollar amount in expenses, in each case for the trailing twelve months prior to the Closing.

(l) *Waiver of Conditions*. The Purchaser may waive in writing any or all of the conditions to its obligations under this Agreement, provided that the waiver of any condition to Closing by the Purchaser will in no way limit the Purchaser's right to be indemnified by the Seller pursuant to ARTICLE 10, provided, however, that if the Purchaser elects to waive the condition set forth in Section 7.1(k) above and proceeds to Closing, then Purchaser shall have no recourse against Seller after the Closing (whether in respect of indemnification or otherwise) for Losses incurred by Purchaser arising solely from the failure of Seller to obtain and deliver any such consent to the assignment of a Purchased Contract.

7.2 Of the Seller. Subject to the provisions of Section 7.2(f), the obligations of the Seller to proceed with the transactions contemplated by this Agreement are subject to the satisfaction, on or prior to the Closing Date, of the following conditions:

(a) *Representations, Warranties of the Purchaser*. Each representation and warranty made by the Purchaser shall be true and correct in all material respects when first made and on and as of the Closing Date, except (i) for a representation and warranty that expressly speaks only as of a specific date or time which need only be true and correct as of such date or time, and (ii) to the extent that all untrue or incorrect representations and warranties, in the aggregate, would not materially impair the Purchaser's ability to perform its obligations under this Agreement or to consummate the transactions contemplated by this Agreement.

(b) *Performance of the Purchaser's Obligations*. The Purchaser shall have performed in all material respects all covenants, agreements, and other obligations to be performed by it on or before the Closing Date under this Agreement including, without limitation, delivery of the full Escrow Amount to the Escrow Agent.

(c) *Regulatory Consents*. All Regulatory Consents set forth on Schedule 7.2(c) shall have been obtained and are in effect as of the Closing Date.

(d) *Officer's Certificate*. The Purchaser shall have delivered to the Seller a certificate, dated as of the Closing Date and signed by one of the Purchaser's officers, stating that the conditions set forth in Sections 7.2(a), 7.2(b), and 7.2(c) have been fulfilled.

(e) *The Purchaser's Closing Deliveries*. At the Closing the Purchaser shall deliver, or cause to be delivered, to the Seller the following:

(i) the Net Purchase Price payable as set forth in Section 3.1;

(ii) an Assumption Agreement, in the form of Exhibit C attached hereto (the "***Assumption Agreement***"), duly executed by the Purchaser;

(iii) with respect to each Real Property Lease (other than the MEAG Office Lease), an Assignment and Assumption of Lease duly executed by the Purchaser; and

(iv) a copy of the Escrow Agreement, duly executed by the Purchaser.

(f) *Waiver of Conditions*. The Seller may waive in writing any or all of the conditions to its obligations under this Agreement, provided that the waiver of any condition to Closing by the Seller will in no way limit the Seller's right to be indemnified by the Purchaser pursuant to ARTICLE 10, except as provided in Section 6.10.

7.3 Of the Parties. The respective obligations of each party to proceed with the transactions contemplated by this Agreement are subject to the satisfaction, on or prior to the Closing Date, that there shall be no effective injunction, writ, or preliminary restraining order or any order of any nature issued by a Governmental Authority of competent jurisdiction to the effect that the transactions contemplated by this Agreement may not be consummated as provided in this Agreement, no proceeding or lawsuit shall have been commenced by any Governmental Authority for the purpose of obtaining any such injunction, writ, or preliminary restraining order and no written notice shall have been received from any Governmental Authority indicating an intent to restrain, prevent, materially delay or restructure the transactions contemplated by this Agreement.

ARTICLE 8: Closing

Assuming the conditions to Closing set forth in this Agreement are satisfied or waived by each party, the closing of the transactions contemplated hereby (the "***Closing***") will take place via the electronic exchange of documents and signatures and the wiring of funds, or in such other manner as the Purchaser and the Seller shall agree in writing, three (3) business days following the satisfaction of all conditions set forth in ARTICLE 7 or such other date as the Seller and the Purchaser shall mutually agree (the "***Closing Date***") and shall be effective as of 12:01 a.m., Eastern time, on the Closing Date (the "***Effective Time***").

ARTICLE 9: Termination

9.1 Termination. The parties may terminate this Agreement prior to the Closing as provided below:

(a) The Purchaser and the Seller may terminate this Agreement by mutual written consent at any time prior to the Closing;

(b) The Purchaser may terminate this Agreement by giving written notice to the Seller at any time prior to the Closing in the event (i) (A) the Seller breaches any representation, warranty, or covenant contained in this Agreement and such breach causes any of the conditions in Section 7.1(a) or 7.1(b) not to be satisfied, (B) the Purchaser has notified the Seller of the breach (specifying in reasonable detail such breach), and (C) the breach has continued without cure or written waiver by the Purchaser before the earlier of thirty (30) days after the Purchaser's delivery of such notice of breach and the Termination Date, (ii) any Purchased Asset is lost, damaged, or destroyed resulting in a Material Adverse Effect pursuant to Section 6.13, or (iii) the condition in Section 7.1(d) is not satisfied;

(c) The Purchaser or the Seller may terminate this Agreement by giving written notice to the other at any time prior to the Closing, if the Closing does not occur on or before the date that is nine (9) months after the date of this Agreement (the "***Termination Date***"); provided, that if the only condition to the Closing that remains unsatisfied as of the Termination Date is the receipt of any Regulatory Consents pursuant to Section 7.1(c) or Section 7.2(c), then the Termination Date shall automatically be extended by thirty (30) days.

(d) The Seller may terminate this Agreement by giving written notice to the Purchaser at any time prior to the Closing in the event (i) the Purchaser has breached any representation, warranty, or covenant contained in this Agreement and such breach causes any of the conditions in Section 7.2(a) or 7.2(b) not to be satisfied, (ii) the Seller has notified the Purchaser of the breach (specifying in reasonable detail such breach), and (iii) the breach has continued without cure or written waiver by the Seller before the earlier of thirty (30) days after the Seller's delivery of such notice of breach and the Termination Date;

(e) By the Purchaser, on the one hand, or the Seller, on the other hand, if a Governmental Authority shall have issued an Order or taken any other action, in any case having the effect of restraining, enjoining or otherwise prohibiting, or attempting to restrain, enjoin or otherwise prohibit, the transactions contemplated by this Agreement, and such Order or other action is final and non-appealable; or

(f) The Purchaser may terminate this Agreement pursuant to Section 11.13.

9.2 Effect of Termination. Upon termination pursuant to Section 9.1, this Agreement will become void and of no further force and effect, except that Sections 11.1, 11.8 and 11.11 will survive indefinitely, and except that, if either party commits a breach of this Agreement prior to such termination, the other party will be entitled to the remedy of specific performance in addition to any and all other available legal or equitable remedies (including damages).

ARTICLE 10: Remedies

10.1 General Indemnification Obligation.

(a) The Seller shall indemnify and hold harmless the Purchaser and its officers, directors, employees, agents, and Affiliates (collectively, the "***Purchaser Indemnified Parties***") from and against any and all losses, liabilities, claims, damages of any nature, penalties, fines, judgments, awards, settlements, Taxes, costs, fees, expenses (including reasonable attorneys' fees), and disbursements, and any and all consequential, special and incidental damages, loss of future revenue or profits, diminution in value and multiples of earnings, damages, and exemplary and punitive damages (to the extent such exemplary or punitive damages are awarded to a third party in connection with a Liability Claim) (collectively "***Losses***") based upon, arising out of, or otherwise in respect of (i) any inaccuracies in or any breach of any representation or warranty of the Seller contained in this Agreement, the Seller deliverables pursuant to Section 7.1(h) hereof or in any other certificate delivered by or on behalf of the Seller to the Purchaser in connection herewith (without giving effect to any qualifications or limitations as to "materiality," "Material Adverse Effect" or words of similar import), (ii) any breach of any covenant or agreement of the Seller contained in this Agreement, (iii) any of the Retained Assets, (iv) any of the Retained Liabilities, including the failure of the Seller to pay, perform, satisfy, or discharge when due the Retained Liabilities, and (v) the operation of the Business or the ownership or use of the Purchased Assets prior to the Closing.

(b) The Purchaser shall indemnify and hold harmless the Seller and its officers, directors, directors, employees, agents and Affiliates (as applicable) from and against any and all Losses sustained by any of such Persons based upon, arising out of, or otherwise in respect of (i) any inaccuracies in or any breach of any representation or warranty of the Purchaser contained in this Agreement, the Purchaser deliverables pursuant to Section 7.2(e) hereof or in any other certificate delivered by or on behalf of the Purchaser to the Seller in connection herewith (without giving effect to any qualifications or limitations as to "materiality," "Material Adverse Effect" or words of similar import), (ii) any breach of any covenant or agreement of the Purchaser contained in this Agreement, (iii) any of the Assumed Liabilities, including the failure of the Purchaser to pay, perform, satisfy, or discharge when due the Assumed Liabilities, and (iv) the operation of the Business or the ownership or use of the Purchased Assets after the Closing Date, other than Losses attributable to Seller's breach of the representations set forth in Sections 4.21(d), 4.21(f) and 4.21(g).

10.2 Notice and Opportunity to Defend.

(a) Notice. As soon as is reasonably practicable after the Seller, on the one hand, or the Purchaser, on the other hand, becomes aware of any claim that it has under Section 10.1 that may result in a Loss (a "***Liability Claim***"), such party (the "***Indemnified Party***") shall give notice thereof (a "***Claims Notice***") to the other party (the "***Indemnifying Party***"). A Claims Notice must describe the Liability Claim in reasonable detail, and indicate the amount (estimated, if necessary and to the extent feasible) of the Loss that has been or may be suffered by the Indemnified Party. No delay in or failure to give a Claims Notice by the Indemnified Party to the Indemnifying Party pursuant to this Section 10.2(a) will adversely affect any of the other rights or remedies that the Indemnified Party has under this Agreement, or alter or relieve the Indemnifying Party of its obligation to indemnify the Indemnified Party to the extent that such delay or failure has not materially prejudiced the Indemnifying Party.

(b) The Indemnifying Party has the right, exercisable by written notice to the Indemnified Party within thirty (30) days of receipt of a Claims Notice from the Indemnified Party of the commencement or assertion of any Liability Claim in respect of which indemnity may be sought hereunder, to assume and conduct the defense of such Liability Claim against any third party claimant in accordance with the limits set forth in this Agreement with counsel selected by the Indemnifying Party and reasonably acceptable to the Indemnified Party; provided, however, that (i) the defense of such Liability Claim by the Indemnifying Party does not, in the reasonable judgment of the Indemnified Party, have a material adverse effect on the Indemnified Party; (ii) the Liability Claim solely seeks (and continues to seek) monetary damages and does not involve criminal charges; (iii) the Indemnifying Party expressly agrees in writing that as between the Indemnifying Party and the Indemnified Party, the Indemnifying Party will be solely obligated to satisfy and discharge the Liability Claim in accordance with the limits set forth in this Agreement; (iv) the Liability Claim does not involve any current customers, vendors, or employees of the Business and (v) in the case of a third-party claim relating to Taxes, such third-party claim relates solely to taxable periods ending on or before the Closing Date (the conditions set forth in clauses (i) through (v) are collectively referred to as the "***Litigation Conditions***"). If the Indemnifying Party does not assume the defense of a Liability Claim in accordance with this Section 10.2(b), the Indemnified Party may continue to defend the Liability Claim. If the Indemnifying Party has assumed the defense of a Liability Claim as provided in this Section 10.2(b), the Indemnifying Party will not be liable for any legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof; provided, however, that if (A) any of the Litigation Conditions cease to be met or (B) the Indemnifying Party fails to take reasonable steps necessary to defend diligently such Liability Claim, the Indemnified Party may assume its own defense, and the Indemnifying Party shall be liable for all reasonable costs or expenses paid or incurred in connection therewith. The Indemnifying Party or the Indemnified Party, as the case may be, will have the right to participate in (but not control), at its own expense, the defense of any Liability Claim that the other is defending as provided in this Agreement. The Indemnifying Party, if it has assumed the defense of any Liability Claim as provided in this Agreement, shall not, without the prior written consent of the Indemnified Party, consent to a settlement of, or the entry of any judgment arising from, any such Liability Claim that (x) does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party a complete release from all liability in respect of such Liability Claim, (y) grants any injunctive or equitable relief or (z) may reasonably be expected to have a material adverse effect on the Indemnified Party. The Indemnified Party has the right to settle any Liability Claim the defense of which has not been assumed by the Indemnifying Party.

10.3 Survivability; Limitations.

(a) The representations and warranties contained in this Agreement or in any Ancillary Agreement, any deliverables pursuant to Section 7.1(h) or Section 7.2(e) hereof, as applicable, or any other certificate delivered by or on behalf of any party to the other party in connection herewith will survive for a period ending on the eighteenth-month anniversary of the Closing Date (the "***Expiration Date***"); except that: (i) the Expiration Date for any Liability Claim relating to a breach of or inaccuracy in the representations and warranties set forth in Section 4.12 (Employee Benefit Plans), Section 4.13 (Environmental) and Section 4.21 (Taxes) will be the expiration of the applicable statute of limitations, as extended, plus a period of sixty (60) days; (ii) the Expiration Date for any Liability Claim relating to a breach of or inaccuracy in the representations and warranties set forth in Section 4.9(a) (Compliance with Laws) will be the date that is three (3) years after the Closing Date (the representations and warranties described in the foregoing clauses (i) and (ii), collectively, the "***Other Representations***"); (iii) there will be no Expiration Date for any Liability Claim relating to a breach of or inaccuracy in the representations and warranties set forth in Section 4.1 (Existence; Good Standing and Capitalization), Section 4.2 (Power), Section 4.3 (Enforceability), Section 4.6 (Property) (first sentence of paragraph (a) and second sentence of paragraph (b) only), and Section 4.27 (Brokers) (the representations and warranties described in the foregoing clause (iii), collectively, the "***Special Representations***"); and (iv) any Liability Claim pending on any Expiration Date for which a Claims Notice has been given in accordance with Section 10.2(a) on or before such Expiration Date may continue to be asserted and indemnified against until finally resolved. All of the covenants and agreements contained in this Agreement will survive after the Closing Date in accordance with their terms.

(b) Notwithstanding anything to the contrary contained in this ARTICLE 10, the Seller will not have any liability pursuant to Section 10.3(a)(i) or Section 10.3(a)(ii) (other than with respect to the Special Representations, the representations and warranties set forth in Section 4.21 (Taxes) or claims based on fraud, for which the following limitations will not apply) for Losses claimed thereunder in excess of $8,000,000 in the aggregate.

(c) Notwithstanding anything to the contrary contained in this ARTICLE 10, the Seller will not have any liability for any Losses based upon, arising out of, or otherwise in respect of any inaccuracies in or breach of any of the Special Representations or the representations and warranties set forth in Section 4.21 (Taxes) (other than with respect to claims based on fraud, for which the following limitations will not apply) in excess of the Purchase Price in the aggregate.

(d) Notwithstanding anything to the contrary contained in this ARTICLE 10, no Indemnifying Party shall be obligated to indemnify any Indemnified Party for any Losses incurred pursuant to Section 10.1(a)(i) or 10.1(b)(i) until the aggregate amount of indemnifiable Losses incurred by the Indemnified Party has exceeded $100,000, in which case the Indemnifying Party shall be obligated to indemnify the Indemnified Party for the full amount of Losses incurred.

(e) The right to indemnification, payment of Losses of a Purchaser Indemnified Party or for other remedies based upon any representation, warranty, covenant, or obligation of the Seller contained in or made pursuant to this Agreement will not be affected by any investigation conducted, or any knowledge acquired, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant, or obligation.

10.4 Specific Performance. Each party's obligation under this Agreement is unique. If any party hereto should breach its covenants under this Agreement, the parties hereto each acknowledge that it would be extremely impracticable to measure the resulting damages; accordingly, the nonbreaching party or parties, in addition to any other available rights or remedies, may sue in equity for specific performance, and each party hereto expressly waives the defense that a remedy in damages will be adequate.

10.5 Adjustments to Purchase Price. Any payments made pursuant to Section 10.1 shall be treated for all Tax purposes as an adjustment to the Net Purchase Price, except as otherwise required by applicable Law.

10.6 Release of Indemnification Escrow Amount.

(a) Upon the final resolution of any Liability Claim (which shall be by (a) written agreement of the parties hereto or (b) final, non-appealable order of a court of competent jurisdiction) pursuant to which the Seller is obligated to make any indemnity payment to the Purchaser pursuant to Section 10.1(a) (the "***Indemnity Resolution Date***"), the Seller and the Purchaser shall deliver a joint written instruction to the Escrow Agent not later than two (2) business days after the Indemnity Resolution Date instructing the Escrow Agent to release to the Purchaser from the account holding the Indemnification Escrow Amount an amount in cash equal to the amount to be paid by the Seller to the Purchaser set forth in the written agreement described in clause (a) above or the court order described in clause (b) above (the "***Seller Indemnity Payment***"); provided, that if the available Indemnification Escrow Amount is less than the amount of the Seller Indemnity Payment, then (i) the Seller and the Purchaser shall instruct the Escrow Agent to release all of the Indemnification Escrow Amount to the Purchaser and (ii) the Seller shall pay the difference between the remaining Indemnification Escrow Amount and the Seller Indemnity Payment to the Purchaser by wire transfer of immediately available funds not later than two (2) business days after the Indemnity Resolution Date.

(b) On the first anniversary of the Closing Date the Seller and the Purchaser shall deliver a joint written instruction to the Escrow Agent instructing the Escrow Agent to release to the Seller one half of the remaining Escrow Amount; provided, that if any Liability Claim, pursuant to which a Claims Notice has previously been delivered, remains unresolved on the first anniversary of the Closing Date, there shall be no release of any Escrow Amount on such date.

(c) On the eighteenth-month anniversary of the Closing Date (the "***Escrow Release Date***"), the Seller and the Purchaser shall deliver a joint written instruction to the Escrow Agent instructing the Escrow Agent to release to the Seller all of the remaining Escrow Amount; provided, that if any Liability Claim pursuant to which a Claims Notice was delivered prior to the applicable Expiration Date remains unresolved on the Escrow Release Date (an "***Unresolved Claim***"), the Seller and the Purchaser shall deliver a joint written instruction to the Escrow Agent instructing the Escrow Agent to release to the Seller an amount equal to (i) the remaining Escrow Amount minus (ii) the amount claimed by the Purchaser in such Claims Notice. Not later than two (2) business days after the final resolution of all Unresolved Claims, the Seller and the Purchaser shall deliver a joint written instruction to the Escrow Agent and the terms of Section 10.6(a) above shall apply to the release of the remaining Indemnification Escrow Amount.

10.7 Exclusive Remedy. Except for claims based on fraud and as provided in Section 9.2 and Section 10.4, the right of the parties to assert indemnification claims and receive indemnity payments under this Agreement is the sole and exclusive right and remedy exercisable by the parties with respect to any Losses arising out of any breach by any party of any representation, warranty, covenant, or agreement of such party set forth in this Agreement or otherwise relating to this Agreement and the transactions contemplated hereby. No party will have any other remedy (statutory, equitable, common law or otherwise) against any other party with respect to such matters, and all such other remedies are hereby waived. Without limiting the foregoing, each of the parties acknowledges that it will not have any remedy after the Closing for any breach of any representation, warranty, covenant, or agreement set forth in this Agreement, except as expressly provided in this ARTICLE 10.

ARTICLE 11: Miscellaneous

11.1 Press Release and Announcements. No party hereto shall issue any press release or other public announcement relating to the subject matter of this Agreement or the transactions contemplated hereunder without the prior approval of the other party hereto, which approval shall not be unreasonably withheld, conditioned or delayed; provided that the Purchaser may issue or cause the publication of a "tombstone" or similar advertisement without the consent of the Seller. Nothing in this Section 11.1 will restrict the Purchaser or any of its Affiliates' ability to disclose information to the Purchaser's, or any of its Affiliates', lenders, direct or indirect investors, or prospective lenders or investors.

11.2 No Assignment. The rights and obligations of the parties hereunder may not be assigned without the prior written consent of the other party hereto. Notwithstanding the previous sentence, the Purchaser may, without the consent of any Member or the Seller, assign its rights under this Agreement to any lender of the Purchaser, to any Affiliate of the Purchaser or to any purchaser of all or substantially all of the assets or business of the Purchaser. Notwithstanding anything to the contrary contained herein, in the event the Seller is dissolved or winds up following the Closing, the Members shall designate one of the Members to take all actions that otherwise would have been taken by the Seller hereunder.

11.3 Headings. The headings contained in this Agreement are included for purposes of convenience only, and will not affect the meaning or interpretation of this Agreement.

11.4 Integration, Modification and Waiver. This Agreement, together with the Exhibits, Schedules and certificates or other instruments delivered hereunder, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior understandings of the parties. No supplement, modification or amendment of this Agreement will be binding unless executed in writing by each of the parties hereto. No waiver of any of the provisions of this Agreement will be deemed to be or will constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

11.5 Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties hereto and no presumption or burden of proof will arise favoring or disfavoring any party hereto by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, or local statute or law will be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" means including without limitation. Any reference to the singular in this Agreement shall also include the plural and vice versa.

11.6 Severability. If any provision of this Agreement or the application of any provision hereof to any party or circumstance is, to any extent, adjudged invalid or unenforceable, the application of the remainder of such provision to such party or circumstance, the application of such provision to other parties or circumstances, and the application of the remainder of this Agreement will not be affected thereby.

11.7 Notices. All notices and other communications required or permitted hereunder must be in writing and will be deemed to have been duly given when delivered in person or when dispatched by electronic mail (with evidence of such dispatch) or facsimile, or one (1) business day after having been dispatched by a nationally recognized overnight courier service to the appropriate party at the address specified below:

If to the Seller:

Georgia Public Web, Inc.
1470 Riveredge Parkway
Atlanta, GA 30328
Attention: Eric Snell
Email: esnell@gapublicweb.net

c/o Georgia Public Web, Inc.
120 N. Louise Avenue
Calhoun, GA 30701
Attention: Brad Carrick
Email: bcarrick@calnet-ga.net

with a copy to:

Friend, Hudak & Harris, LLP
Three Ravinia Drive, Suite 1700
Atlanta, GA 30346
Attention: Scott K. Harris; Charles Hudak
Email: sharris@fh2.com; chudak@fh2.com

If to the Purchaser:

c/o Macquarie Capital
125 West 55th Street
New York NY 10019
Attention: John Spirtos; Andrew Ancone
Email: john.spirtos@macquarie.com; andrew.ancone@macquarie.com

with a copy to:

c/o Macquarie Capital
125 West 55th Street
New York NY 10019
Attention: Melissa Toomey; Andrew Underwood
Email: melissa.toomey@macquarie.com;
andrew.underwood@macquarie.com

and

Goodwin Procter LLP
620 8th Avenue
New York, NY
Attention: Ilan S. Nissan; Michael R. Patrone
Email: inissan@goodwinlaw.com; mpatrone@goodwinlaw.com

Any party hereto may change its address, email, or facsimile number for the purposes of this Section 11.7 by giving notice as provided herein.

11.8 Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to principles of conflicts of law.

11.9 Counterparts. This Agreement may be executed in one or more counterparts (including facsimile or other electronically transmitted counterparts), each of which will be deemed an original, but all of which together will constitute one and the same instrument.

11.10 Jurisdiction. Except for the matters to be decided by the Arbitration Firm pursuant to Section 3.2, the parties hereto hereby submit to the exclusive jurisdiction of the state courts in and for the state of Delaware or, if jurisdiction is unavailable in such courts, the courts of the United States located in the District of Delaware, in each case, in respect of the interpretation and enforcement of the provisions of this Agreement and any dispute or controversy related to the transactions contemplated hereby and hereby waive, and agree not to assert, any defense in any action, suit, or proceeding for the interpretation or enforcement of this Agreement or any dispute or controversy related to the transactions contemplated hereby, that they are not subject thereto or that such action, suit, or proceeding may not be brought or is not maintainable in such courts or that this Agreement may not be enforced in or by such courts or that their property is exempt or immune from execution, that the suit, action, or proceeding is brought in an inconvenient forum, or that the venue of the suit, action, or proceeding is improper. Service of process with respect thereto may be made upon any party hereto by mailing a copy thereof by registered or certified mail, postage prepaid, to such party at its address as provided in Section 11.7.

11.11 Expenses. Except as provided above or as otherwise expressly provided herein, each party shall pay its own fees, costs, and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement, including the fees, costs, and expenses of its financial advisors, accountants, and counsel.

11.12 Waiver of Jury Trial. Each party hereto acknowledges and agrees that any controversy that may arise under this Agreement, including any exhibits, schedules, attachments and appendices attached to this Agreement, is likely to involve complicated and difficult issues and, therefore, each such party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement, including any exhibits, schedules, attachments and appendices attached to this Agreement, or the transactions contemplated hereby. Each party hereto certifies and acknowledges that (a) no representative of the other party has represented, expressly or otherwise, that such other party would not seek to enforce the foregoing waiver in the event of a legal action, (b) such party has considered the implications of this waiver, (c) such party makes this waiver voluntarily, and (d) such party has been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this Section 11.12.

11.13 Risk of Loss. The risk of any loss or damage to the Purchased Assets resulting from fire, theft, or any other casualty (except reasonable wear and tear) will be borne by the Seller at all times prior to the Closing. In the event that any such loss or damage is sufficiently substantial so as to create a Material Adverse Effect, the Seller will immediately notify the Purchaser and, at any time within thirty (30) days after its receipt of such notice, the Purchaser may by written notice to the Seller elect to either (a) waive such defect and proceed toward consummation of the transactions in accordance with the terms of this Agreement or (b) terminate this Agreement. If the Purchaser does not elect to terminate this Agreement notwithstanding such loss or damage, (i) all insurance proceeds payable as a result of the occurrence of the event resulting in such loss or damage will be delivered by the Seller to the Purchaser, or the rights thereto will be assigned by the Seller to the Purchaser, if not yet paid over to the Seller, and the Seller will pay to the Purchaser the amount of the deductibles with respect to the relevant insurance policies and (ii) the Purchase Price will be reduced by the amount of the replacement cost of the Purchased Assets that were lost, damaged, or destroyed less the amount of any proceeds of insurance payable as a result of the occurrence.

[Signature Pages Follow]

In witness whereof, the parties have executed this Agreement as of the day and year first above written.

The Purchaser:
[Macquarie Newco, LLC]

By: ______________________________________
Name:
Title:

By: ______________________________________
Name:
Title:

The Seller:
Georgia Public Web, Inc.

By: ______________________________________
Name: Eric Snell
Title: CEO & President

City of Norcross

Legislation Details (With Details)

File #:	21-6361	**Version:**	
Type #:	Agenda Item	**Status:**	Agenda Ready
On Agenda:	12/20/2021 6:30 PM	**In Control:**	Policy Work Session
Title:	Johnson Dean Park Contractor Agreement, Phase 2		

Sponsors:

Code Sections:

Attachments:

1. Agenda Report- Johnson Dean Park
2. Contractor Agreement - Johnson Dean Park Phase 2

Title
Johnson Dean Park Contractor Agreement, Phase 2

Drafter
Mary Beth Bender

65 Lawrenceville ST., NORCROSS, GEORGIA 30071
(770) 448-2122 **FAX** (770) 242-0824
http://www.norcrossga.net

MAYOR **CRAIG NEWTON** · MAYOR PRO TEM **JOSH BARE** · COUNCILMEMBER **ANDREW HIXSON** · COUNCILMEMBER **MATT MYERS** · COUNCILMEMBER **BRUCE GAYNOR** · COUNCILMEMBER **ARLENE BECKLES** · CITY MANAGER **ERIC JOHNSON** · CITY CLERK **MONIQUE LANG**

Agenda Report

To: Mayor and Council

From: **Mary Beth Bender**

Agenda: December 20, 2021 – Policy Work Session

Agenda #: 21-6361

Item: **Johnson Dean Park Improvement**

CC: Eric Johnson

Recommendation
Proceed with a contractor agreement for design and construction documents for Johnson Dean Park with Root Design Studio.

Background
Mayor and Council approved issuing an RFP for Johnson Dean Park Improvements, Phase 2. Three bids were received with Root Design Studio being the lowest responsive bidder.

Bidder	Bid Amount
Atlas	$ 22,750.00
Robert & Company	$ 86,518.70
Root Design Studio	$ 16,670.00

Financial Impact
$16,670.00 – Approved Capital Item

Consistent with Comprehensive Plan?
This item reinforces Goal 2 of the Community Vision outlined in the 2040 Norcross Comprehensive Plan: Continue to strength Norcross as a livable, inclusive, and safe Environment.

65 LAWRENCEVILLE STREET, NORCROSS, GEORGIA 30071
(678) 421-2027 **UPSTAIRS CITY HALL** (770) 242-0824 **FAX** (770) 448-2111 **POLICE DEPARTMENT**
http://www.norcrossga.net

Next Steps
Execute contractor agreement with Root Design Studio.

Attachments
Contractor Agreement

Update
The scope of services are to include the demolition of existing and design of the new driveway, 5 parking spaces, a small pavilion, restroom along with all necessary utilities (Water, Sewer, Electric, etc..)

The Tree Board and the Parks, Greenspace & Trails Commission have both reviewed the RFP and the proposal by Root Design.

Contractor Agreement

AGREEMENT BETWEEN ROOT DESIGN STUDIO

AND THE CITY OF NORCROSS

PROJECT: PWUP 21-03, JOHNSON DEAN PARK IMPROVEMENTS

Project Description

The scope for Johnson Dean Park improvements includes the below design elements as listed in RFP PWUP 21-03.

1. Field Run Survey:

a. A boundary survey and a topographic survey at 1-foot intervals showing the property lines including Right-of-way, meets and bounds, total acreage, all existing features (Existing structures, limits of pavement, concrete, utilities (underground and above ground) with associated recorded easements.
b. If applicable survey existing natural features including streams centerline and wrested vegetation, floodplain, wetlands.
c. Survey to set flags at property corner and any missing pins.
d. Tree survey to include tree location, tree species, size, and caliper (diameter at breast height)

2. Site Design:

The preparation of the construction plans of the improvements including the driveway widening, the addition of parking spaces (a minimum of 5 parking spaces) and a 10' x 15 open sided pavilion, a single restroom and an entrance monument sign.

a. Show Demolition limits of existing brick wall, necessary notes.
b. Detailed site plan illustrating the location of all proposed improvements with dimensions to property lines. Width of proposed driveway, limits of pavements and dimensions of parking spaces, location and dimensions of restroom facility, the pavilion, and the monument entrance sign.
c. The grading and drainage plan for the above-mentioned additions/improvements, with labeled slopes, flow arrows to indicate positive conveyance of runoff away from all existing and proposed structures.

d. *Conveyance structures (Swales, underground pipes) to be sized with all necessary data (Bottom of ditch, slopes, grade, capacity, pipe sizes, slopes, inverts, etc.)*

e. *In the city's effort to promote green infrastructure and Low Impact Development BMPs parking spaces are to utilize Permeable pavers, all construction specifications and details are to be included*

f. *Erosion and Sedimentation Control plans showing the location of all BMPs.*

g. *Utility improvements (Water, Sewer and Electrical) including all profiles where necessary.*

h. *Construction site details and Construction Notes*

i. *Supplementary Landscaping, irrigation and grassing for all disturbed areas.*

j. *Land disturbance permitting will be handled through the City of Norcross. The consultant will be required to submit design plans for municipal plan review where necessary, including Gwinnett County Fire Marshall's office, Gwinnett County Department of Water Resources. All revisions for permitting approval shall be included in the fee.*

k. *Consultant shall provide an Hourly NTE Fee for bidding and construction administration to include response to bid questions (City will prepare the addendum) submittal review, RFIs, punch list inspection and punch list development and 6 discretionary site visits at the request of the City.*

This AGREEMENT is made this _____________ day of _______________in the year two thousand twenty-one (2021) between **The City of Norcross**, hereinafter the "owner", and Root Design Studio, (hereinafter the "Contractor") for the following Project.

The contractor and owner for the consideration named herein agree as follows:

A. SCOPE OF WORK:

Root Design Studio shall be expected to meet with Public Works staff prior to the start of construction. This meeting shall serve as an opportunity for both parties to review the specifications and visit the project site.

Project to be completed in accordance with PWUP 21-03; the project should begin within ten (10) working days after notification of contract award.

Other Provisions

All work shall be completed in a workmanship like manner and in compliance with all building codes and other applicable laws.

To the extent required by law, all work shall be performed by individuals duly licensed and authorized by law to perform said work.

Contractor may at its discretion, engage subcontractors to perform work hereunder, provided contractor shall fully pay said subcontractor and in all instances remain responsible for the proper completion of this contract.

All change orders shall be in writing and must be signed by the owner and contractor.

Contractor warrants it is adequately insured for injury to its employees and other incurring loss or injury as a result of the acts of the contractor or its employees and subcontractors. Contractor shall supply current declaration pages for such insurances at the execution of this agreement.

Contractor shall at its own expense obtain all permits necessary for the work to be performed.

Contractor agrees to remove all debris and leave the premises in broom clean condition. The City is contracted with Waste Management; thus the contractor must use their services for waste removal.

In the event owner shall fail to pay any periodic or installment payment due hereunder, contractor may cease work without breach pending payment or resolution of any dispute.

Contractor shall not be liable for any delay due to circumstances beyond its control including strikes, casualty or general unavailability of materials. Notwithstanding anything set forth herein to the contrary, Contractor shall be liable to and pay to owner liquidated damages in the amount of $500.00 per day for every day after the completion date the project is not completed. Owner shall have the non-exclusive option of deducting the liquidated damages from the contract price through reduction in the installments and or retainage.

The Contractor shall provide to melissa.zeigler@norcrossga.net a schedule of construction activities. The schedule must be presented at least seven (7) days prior to work commencing in order to notify residents and/or businesses.

Contractor warrants all work for a period of twelve (12) months following completion.

The contractor further represents and warrants as follows:

1. Contractor at all times shall inspect and keep the work place safe for contractor's agents, employees and subcontractors and any licensee or invitee and any other third party who might otherwise come onto the work place. The work place shall be defined as that portion of the project which is, from time to time, under the control of Contractor for the purpose of performance of Contractor's work according to the agreement.

2. Contractor agrees to indemnify and hold owners harmless from any and all claims, actions, damages or litigation arising out of contractor's failure to perform under the terms and conditions within the agreement, including the payment of owner's attorney's fees. This indemnification further provides that contractor will be responsible for any cost associated with the completion of the project should such costs of completions (which includes all labor and materials) exceed the initial fee proposal and contract price.

A. ATTACHMENTS:

1. Attachment "A" City of Norcross Request for Proposal and bid specifications – Project Description

2. Attachment "B" Contractors Information

3. Attachment "C" E-Verify Contractor Affidavit

4. Attachment "D" SAVE Affidavit

5. Attachment "E" Performance & Payment Bond

B. FEE PROPOSAL:

1. The owner shall pay the contractor for the material and labor to be performed under the contract, the sum of sixteen thousand, six hundred and seventy dollars ($16,670.00), subject to change-order additions and deductions.

2. Payment Applications will be submitted by the 10th of each month. Payment will be made by the tenth of the following month.

3. Retainage will be held by the owner equal to 10 percent of each pay application, up to 50% of the contract amount. Retainage shall be paid in full upon completion of the work.

C. SCHEDULE:

1. Root Design Studio is prepared to begin work upon receipt of a signed contract.

D. PROJECT INSPECTIONS:

1. The renovation project shall be inspected by the Norcross Department of Public Works or its contract engineering staff. These inspections shall be in addition to required inspection by the Department of Community Development.

E. TERMS AND CONDITIONS:

1. This Agreement shall be administered in accordance with the Terms and Conditions listed in Attachments. This Contract together with the exhibit identified herein, shall constitute the entire agreement between the City of Norcross and Root Design Studio in respect to the project and may only be modified in writing signed by both parties. Receipt of the signed agreement will serve as a notice to proceed.

2. This Agreement entered into as of the day and year first written above.

F. INSURANCE REQUIREMENTS

The contractor shall maintain the following insurance: (a) comprehensive general liability, including blanket contractual, covering bodily injuries with limits of no less than $1,000,000.00 per occurrence, and property damage with limits of no less than $500,000.00 per occurrence; (b) statutory worker's compensation insurance, including employer's liability insurance; and (c) employee dishonesty and/or crimes coverage with respect to personnel of the contractor having access to City buildings, with limits of no less than $50,000.00 per occurrence. All insurance shall be provided by an insurer(s) acceptable to the City, and shall provide for thirty (30) days prior notice of cancellation to the City. Upon request, the contractor shall deliver to the city a certificate or policy of insurance evidencing the contractor's compliance with this policy. The contractor shall abide by all terms and conditions of the insurance and shall do nothing to impair or invalidate the coverage; (c) employee dishonesty and/or crimes coverage with respect to personnel of the contractor having access to City buildings, with limits of no less than $50,000.00 per occurrence.

Certificate Holder should read:

City of Norcross, its Elected Officials and
Employees, 65 Lawrenceville Street
Norcross, GA 30071

ROOT DESIGN STUDIO	CITY OF NORCROSS
______________________________	______________________________
(Signature)	Craig Newton, Mayor (Signature)
______________________________	______________________________
(Printed name and title)	Craig Newton, Mayor (Printed name and title)
	Attest:
	______________________________
	Monique Lang, City Clerk
______________________________	______________________________
(DATE)	(DATE)
______________________________	______________________________
(SEAL)	(SEAL)

City of Norcross

Legislation Details (With Details)

File #:	21-6362	**Version:**	
Type #:	Agenda Item	**Status:**	
On Agenda:	12/20/2021 6:30 PM	**In Control:**	Policy Work Session
Title:	City Pension Plan		
Sponsors:			
Code Sections:			

Attachments:

1. Agenda Report - December PWS - Retirement Plan
2. Pension Funded Percentage as of January 1, 2021 -- Ongoing vs. Termination

Title
City Pension Plan

Drafter
Mayor Pro Tem Josh Bare

65 Lawrenceville ST., NORCROSS, GEORGIA 30071
(770) 448-2122 **FAX** (770) 242-0824
http://www.norcrossga.net

Agenda Report

To: Mayor and Council

From: Mayor Pro Tem Josh Bare

Meeting Date: December 20, 2021 – Policy Work Session

Item No.: 21-6362

Title: Participation in retiree benefits for new employees

CC: Eric Johnson

Recommendation
Terminate participation in the City pension plan through the Georgia Municipal Association as well as participation in retiree health and dental benefits for employees hired on or after January 1, 2022. Additionally, consider whether to buy out those benefits from current City employees.

Background

Retiree Health, Prescription, and Dental Benefits – There are separate plans for those who retire prior to age 65 and those who retire at age 65 or later. The former participate in the City's Cigna health insurange plan, while those age 65 or older participate in a Medicare supplement administered by Hartford and a prescription plan administered by Rx Scripts that will transition to Humana on March 1, 2022. Retirees may also participate in the City's Cigna dental plan.

There is a lag between the date for which a valuation is made, the date it is measured, and the reporting date. The most recent actuarial report reflects measurement as of August 31, 2020 and a valuation as of July 1, 2019. As of the most recent report, the City's unfunded liability for current and future retirees was $17.6 million – reflecting 21 retirees (in 2019) and 130 expected future retirees.

Pension – Employees must work 5 years to vest in the City pension plan. As of January 1, 2021, the last date for which actuarial data is available, there were 107 employees of whom 65 were vested in the City's pension plan, 53 former employees also vested in the plan. Current participants in the plan included 30 retirees, 5 disabled retirees, and 4 dependents.

Employees who leave before vesting receive any contribution they have made and the City's contribution remains in the pension plan as part of covering the cost of those who do vest in the plan. The plan is administered by the Georgia Municipal Association.

The plan, as of that date, was fully funded on an ***ongoing*** basis – i.e., there were sufficient funds to meet calculated future benefits for current retirees and those expected to retire in the future – if accrued benefits are compared against the market value of assets. City contributions are recalculated each year and contributions to the plan are updated based on any changes.

Calculations are shown on the attachment labeled Chart 11 for current retirees, former employees who are vested in the plan, and current employees – both those who are vested and those who are not. Chart 11 is from the City's most current actuarial valuation report for January 1, 2021.

Financial Impact

Retiree Health **-** In 2021, the City paid up to $456 per month for Medicare supplement and drug coverage for each current retiree and $431 per month for each spouse (if covered) over age 65. For retirees age 55 and over but less than 65, the City paid 83%, or $67,092 of the $81,252 in costs.

The most recent actuarial report did not reflect recent City changes to reduce prescription costs and to begin phasing in higher contributions by those who retire on or after January 1, 2022.

If participation is terminated for new hires, future costs will reflect only the ongoing costs, as they may change, for existing retirees and existing employees. Future actuarial analyses would reflect the reduction in eligible future participants.

Pension - There is no cost to cancelling the pension benefit for future hires. Savings would reflect the differential between the 7% of salary currently paid by the City to the pension plan for new hires (net any savings if an employee does not vest in the plan) and any substitute benefit offered by the City *for those employees*. The City currently matches an employee 457 contribution by a contribution to a 401(a) plan of up to 3% in addition to the 7% City pension contribution for any employee hired after 2017.

Using Chart 11 as a basis for calculation:

To buy out former ("terminated") employees who are vested in the retirement system would essentially cost the difference between the $5,990,239 shown as the plan termination cost for those 53 individuals and the $1,737,680 shown as available if they remain in the plan – a difference of $4,252,559. To buy out the 65 current employees who have vested in the plan with 5 or more years of service ("active vested participants") would cost the differential between $14,991,651 and $4,975,430 – or $10,016,221. To buy out the 42 employees who have not yet vested (shown as "Nonvested benefits") would cost the differential between $889,000 and $119,346 – or $769,654. In total, buying out current and former employees who have not yet retired (and based on January 2021 calculations) would cost a total of slightly more than $15 million.

Actuarial calculations are based on a set of assumptions and the assumptions can be updated annually, so the January 1, 2022 review could show different amounts as could sequential updates to the actuarial valuation and review. A report prepared last year and presented at the City's May retreat projected that the City's required contribution to the pension plan would slowly decline as a percentage of payroll over time

Consistent with Comprehensive Plan?
There is no specific relationship to the City's Comprehensive Plan goals or policies.

Next Steps
If current retirement benefits – pension and/or health and dental – are terminated for new employees, existing plans will require notification of providers. Consideration should be given for alternate retiree benefits such as an increase in the City's defined contribution plan.

Attachments
Actuarial report Chart 11.

Update
Not applicable.

65 LAWRENCEVILLE STREET, NORCROSS, GEORGIA 30071
(678) 421-2027 **UPSTAIRS CITY HALL** (770) 242-0824 **FAX** (770) 448-2111 **POLICE DEPARTMENT**
http://www.norcrossga.net

Section 2: Actuarial Valuation Results

Summary of Funded Status

The following chart shows the number of participants and compares the present value of accrued plan benefits under both an ongoing plan basis and a plan termination basis.

Chart 11

Present Value of Accrued Plan Benefits as of Valuation Date

	Number of Participants	Ongoing Basis	Plan Termination Basis
Benefits for retired participants and beneficiaries	39	$6,346,545	$11,861,410
Terminated vested participants	53	1,737,680	5,990,239
Active vested participants	65	4,975,430	14,991,651
Total present value of vested benefits	157	$13,059,655	$32,843,300
Nonvested benefits	42	119,346	889,000
Total present value of accrued plan benefits	199	$13,179,001	$33,732,300
Market value of assets		13,608,243	13,608,243
Unfunded/(Surplus) present value of accrued plan benefits		-429,242	20,124,057
Funded percentage		103.26%	40.34%

City of Norcross

Legislation Details (With Details)

File #:	21-6363	**Version:**	
Type #:	Agenda Item	**Status:**	Agenda Ready
On Agenda:	12/20/2021 6:30 PM	**In Control:**	Policy Work Session
Title:	Appointment of Mayor Pro Tem for 2022		
Sponsors:			
Code Sections:			

Title
Appointment of Mayor Pro Tem for 2022

65 Lawrenceville ST., NORCROSS, GEORGIA 30071
(770) 448-2122 **FAX** (770) 242-0824
http://www.norcrossga.net