

**INDEMNIFICATION, MAINTENANCE AND LAND USE AGREEMENT FOR
PRIVATE IMPROVEMENT**

THIS AGREEMENT, made this _____ day of _____, 2022, between CITY OF SANDY SPRINGS a political subdivision of the State of Georgia within Fulton County, Georgia, its successors, affiliates and assigns, as Indemnitor (hereinafter, as "City"), and FULTON COUNTY, a political subdivision of the State of Georgia (hereinafter, "the County").

For good and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. Fulton County grants City, "the License" to enter within a portion of its sanitary sewer easements as referenced in and recorded at Deed Book 6035; Page 392 and Deed Book 61650; Pages 18-22 of Fulton County, Georgia records, as more fully described in Exhibit "A" which is attached hereto and incorporated herein, to construct, repair and replace, from time to time as may be needed certain improvements ("Trail Improvements") at its sole cost and responsibility as same is more fully described in Exhibit "A".
2. With respect to this License, City shall install and construct the Trail Improvements in a manner which complies with all state, local, and Fulton County laws and regulations, including but not limited to, all current state, local and Fulton County laws and regulations governing soil erosion and sedimentation control. City will at all times adhere to best management practice procedures to protect the environment in connection with the construction, repair and/or maintenance of the Trail Improvements.
3. This License shall commence on the date of execution hereof and shall continue in full force and effect unless and until it is terminated at the will of the County. The County shall provide at least thirty (30) days' written notice prior to terminating this License.
4. City may terminate this License and Agreement by written notice to the County and shall remove the Trail Improvement at its sole costs and return the area to its natural vegetative state.
5. City shall perform all work on the Trail Improvements in a good and workmanlike manner and in compliance with all applicable governmental, laws, ordinances, and regulations.
6. Fulton County personnel and /or agents shall have free access to and across the Trail Improvements to perform routine maintenance and any emergency repairs to the existing public improvements when needed to protect the health, safety and general welfare of the public.
7. City shall be solely responsible for the maintenance, repair and replacement of the Trail Improvements and the County grants City a right of access in order to carry out these obligations.
8. Notwithstanding any other provisions, in the case of an emergency, Fulton County may immediately suspend or revoke the License without notice in order to protect the health, safety, and welfare of the public. In non-emergency situations, after providing at least ten (10) days' notice to City, Fulton County may suspend or revoke the License in order to carry out any necessary governmental function. In the event of the suspension or revocation of the License, City must cure all defects specified by the County in its notice, such defects being reasonably determined to exist by the County, and within the time reasonably specified by the County.

Failure on the part of City to cure any defects within the allotted time will be grounds for the County to terminate the License. Alternately, after ten (10) _ days' notice the County may, but shall not be required to, cure any such defect at the sole cost and expense of City. The County may, after thirty (30) days' notice, elect to terminate the License at will and remove the Trail Improvements without liability for loss or damage for such removal. Fulton County shall remove the Trail Improvements so as not to damage other portions of City's property and is granted a right of entry by City on the other portions of City's property to effectuate the repair, if necessary.

9. To the fullest extent allowable by law, City hereby agrees to indemnify Fulton County and hold Fulton County harmless from any and all damages which Fulton County may suffer and from any and all liability, claims, penalties, forfeitures, suits, and costs and expenses incident to the granting of the License and this Agreement (including cost of defense, settlement, and reasonable attorney's fees), which it may hereafter incur, become responsible for, or pay out as a result of the death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violations of governmental laws, regulations, or orders caused solely by the negligent act, negligent omission or willful misconduct of City, its employees, subcontractors, or assigns in the performance of this License or Agreement. City, further warrants that it possesses the right to implement the Trail Improvements from the full and true owner who has clear title to the property in which the Trail Improvements will be made, as is defined in Exhibit "A", attached hereto and incorporated herein by reference.
10. City agrees to repair or replace in a manner acceptable to the County and/or the owner thereof any public utilities damaged by its employees or subcontractors during performance of this License and Agreement or resulting from the failure of the Trail Improvements. After 10 days' notice, at its election the County may repair or replace the damaged utility and assess all costs against City.
11. This License and Agreement shall be binding upon City, its assigns, affiliates, and successors and to the extent allowed by law, upon Fulton County. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia. If any provisions of this agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.
12. This License and Agreement shall constitute a covenant running with the land and shall be recorded in the real property records of Fulton County, Georgia and shall be binding upon all subsequent transferees of said property.
13. All notices, consents, request, demands or other communications to or upon the respective party shall be in writing and shall be effective for all purposes upon receipt, including, but not limited to, in the case of (I) personal delivery; (ii) delivery by messenger, express or air courier or similar courier; or (iii) delivery by United States first class certified or registered mail, postage prepaid and addressed as follows:

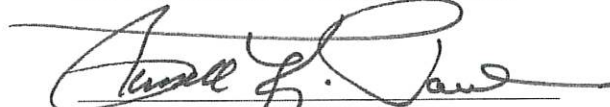
COUNTY: Fulton County
Director of Public Works
141 Pryor Street, SW, 6th. Floor
Atlanta, GA. 30303

with a copy to: County Attorney
Office of the County Attorney
141 Pryor Street, SW, Suite 4038
Atlanta, GA. 30303

CITY: City of Sandy Springs
Kerry E. Missel, Land Administration Manager
1 Galambos Way
Sandy Springs, GA 30328

IN WITNESS WHEREOF, the parties have executed this Agreement at
Atlanta, Georgia, as of the day and year first above written.


CITY OF SANDY SPRINGS, GEORGIA


Russell K. Paul, Mayor

Attest:


Raquel D. Gonzalez, City Clerk
(Seal)


Attest:


Dan Lee, City Attorney

FULTON COUNTY, GEORGIA

By: _____

Chairman, Board of Commissioners

Clerk of the Commission

APPROVED AS TO CONTENT:

David E. Clark, P.E., Director
Department of Public Works

APPROVED AS TO FORM:

County Attorney

DATE	11-04-2021	ISSUE FOR PERMIT
PROJECT #	060225021	DESIGN FOR AND REVIEW
PROJECT NAME	MORGAN FALLS CONNECTOR PHASE 2A EDGEWATER APARTMENTS	DATE
PROJECT ADDRESS	SANDY SPRINGS, GA	ISSUE FOR MD
DATE	12-01-2021	ISSUE FOR MD

SCALE 1" = 20' HOR

DATE DECEMBER 10, 2021

34" ELEV

DATE 11-04-2021

11-04-2021

0 20 40 60 80 100 Feet

FULTON COUNTY

ENCRANCHMENT EXHIBIT

FCOE-02

[illegible]

KAIZENCOLLABORATIVE

1000 Peachtree Street, N.E. Atlanta, GA 30309
 Phone: 404.525.8800 Fax: 404.525.8801
 Email: info@kaizencol.com Website: www.kaizencol.com

PROJECT # 2025-209
 PROJECT MANAGER CMA

**MORGAN FALLS
 CONNECTOR PHASE 2A
 EDGEWATER APARTMENTS**

SANDY SPRINGS, GA

IPATH
 FOUNDATION, INC.

1000 Peachtree Street, N.E. Atlanta, GA 30309
 Phone: 404.525.8800 Fax: 404.525.8801
 Email: info@ipath.com Website: www.ipath.com

**FULTON COUNTY
 ENCROACHMENT EXHIBIT**

SCALE 1" = 25' 0"

DATE DECEMBER 10, 2021

SHEET # FCEE-02A

KEY MAP

DATE DESCRIPTION

04/14/2021 ISSUE FOR PERMIT

09/02/2021 ISSUE FOR BID - REVIEW

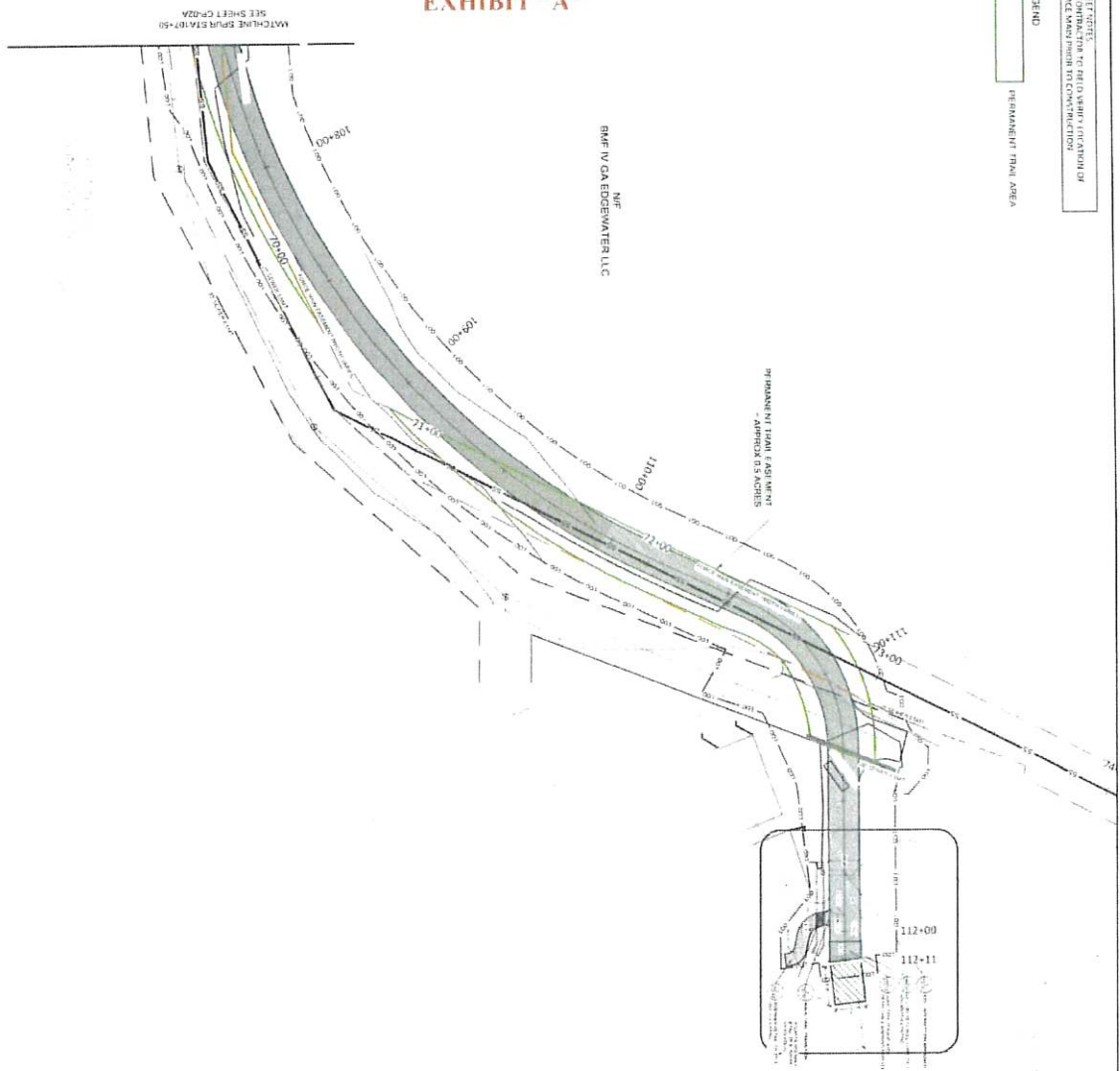
11/11/2021 1st City of Atlanta 2nd City of Atlanta

12/09/2021 ISSUE FOR BID

SHEET NOTES:
 1. CONTRACTOR TO FIELD VERIFY LOCATION OF
 EXISTING UTILITIES PRIOR TO CONSTRUCTION

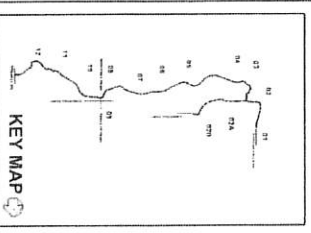
LEGEND
 PERMANENT TRAIL AREA

EXHIBIT "A"



KAIZENCOLLABORATIVE
 1001 10th St
 San Francisco, CA 94103
 415.774.8800
 www.kaizenlab.com

MPATH
 FOUNDATION.ORG
 PROJECT LEAD: KATHARINE CA. MATHIAS
 PROJECT MANAGER: JESSICA L. MATHIAS
 PROJECT COORDINATOR: JESSICA L. MATHIAS
 PROJECT DESIGNER: JESSICA L. MATHIAS
 PROJECT CONSTRUCTOR: JESSICA L. MATHIAS



DATE
 09/14/2021
 09/22/2021
 11/17/2021
 12/10/2021

DESCRIPTION
 ISSUE FOR PERMIT
 ISSUE FOR BID - REVIEW
 REVIEW FOR CONSTRUCTION
 ISSUE FOR BID

PROJECT #
 2020-2018

PROJECT MANAGER
 CMA

**MORGAN FALLS
 CONNECTOR PHASE 2A
 EDGEWATER APARTMENTS
 SANDY SPRINGS, GA**

**FULTON COUNTY
 ENCROACHMENT EXHIBIT**

SCALE
 1"=20' AT

DATE
 DECEMBER 10, 2021

SHEET #
 FCEE-02B

STATE OF GEORGIA
COUNTY OF FULTON

A RESOLUTION AUTHORIZING AN INDEMNIFICATION, MAINTENANCE, AND LAND USE AGREEMENT FOR PRIVATE IMPROVEMENT WITH FULTON COUNTY ON PROPERTY LYING IN LAND LOT 76 IN THE 17TH DISTRICT, FULTON COUNTY, SANDY SPRINGS, GEORGIA (TAX ID# 17-0076- LL-017-8) AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, on October 15, 2019, the City of Sandy Springs ("City") adopted a Trail Master Plan to guide future capital program priorities; and

WHEREAS, Segment 2A was identified in the Trail Master Plan as one of the segments within the 10-year Implementation Strategy; and

WHEREAS, Segment 2A will begin at Overlook Park, following along Morgan Falls Road as a greenway trail to the Chattahoochee River, crossing through Georgia Power Company and Fulton County property, heading eastward through Bridge Properties' parcel, connecting around Orkin Lake and along Cimarron Parkway, and terminating at Roswell Road; and

WHEREAS, Segment 2A will cross certain property located at 7600 Roswell Road, known as the Edgewater Apartment property, in Land Lot 76 of the 17th District, Fulton County, City of Sandy Springs, Georgia (Tax Id# 17-0076 - LL-017-8) ("Property"), and owned by BMF IV GA Edgewater LLC ("Owner"); and

WHEREAS, Segment 2A must enter into and cross over existing sanitary sewer easements that Fulton County possesses and maintains on the Property ("Easements"); and

WHEREAS, Fulton County desires to grant to the City a license to enter a portion of its Easements to construct, repair and replace, from time to time as may be needed, certain improvements for construction of the Segment on the Property, at the City's sole cost and responsibility, pursuant to the attached Indemnification, Maintenance, and Land Use Agreement for Private Improvement ("Agreement"); and

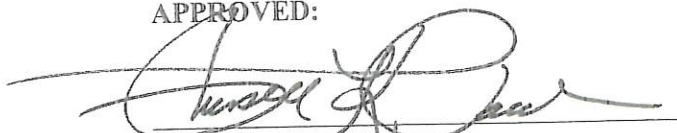
WHEREAS, the Department of Recreation and Parks, in response to the guidance provided by the City Manager, has reviewed this matter and recommends that Mayor and Council approve the Agreement with Fulton County for the license described above, and to authorize the Mayor to execute the same;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA:

1. That the Agreement is hereby approved.
2. That the Mayor is hereby authorized to execute the Agreement.
3. That the City Attorney and the City Manager are hereby authorized to make such minor revisions to the Agreement as may be deemed necessary to effectuate the intent of this resolution.
4. That the City Attorney and the City Manager are hereby authorized to take such other actions as may be deemed necessary to effectuate the intent of this resolution.

RESOLVED this 19th day of April, 2022.

APPROVED:


Russell K. Paul, Mayor

Attest:


Raquel D. Gonzalez, City Clerk

