

AGENDA
CITY COUNCIL SPECIAL CALLED MEETING
G.L. Gilleland Council Chambers on 2nd Floor
Wednesday, July 9, 2025
5:00 P.M.

1. Call to Order
 2. Roll Call
 3. Invocation and Pledge
 4. Approval of the Agenda
 5. Public Input
 6. Consideration of Land Purchase Agreement
 7. Ratify Approval of Change to Authorized Signers on Bank Accounts
 8. Resolution No. R2025-04: Support of Amicus Brief in Chang v. Milton
 9. Executive Session: Pending or Potential Litigation, Real Estate Acquisition and/or Personnel
- Reserved for Potential Action of Executive Session Items; If Needed
- Adjournment

The next regularly scheduled meeting will be held on Monday, July 21, 2025.

Those persons with disabilities who require reasonable accommodations in order to allow them to observe and/or participate in this meeting or who have questions regarding the accessibility of the meeting should contact the Clerk at Dawsonville City Hall at 706-265-3256 at least two (2) business days prior to the meeting.



DAWSONVILLE CITY COUNCIL
EXECUTIVE SUMMARY FOR
AGENDA ITEM # 6

SUBJECT: **CONSIDERATION OF LAND PURCHASE AGREEMENT**

CITY COUNCIL MEETING DATE: **07/09/2025**

BUDGET INFORMATION: GL ACCOUNT # _____

☐ Funds Available from: _____ Annual Budget _____ Capital Budget Other _____

☐ Budget Amendment Request from Reserve: _____ Enterprise Fund _____ General Fund

PURPOSE FOR REQUEST:

TO REQUEST APPROVAL OF THE REAL ESTATE CONTRACT TO PURCHASE UP TO EIGHT (8) ACRES OF PROPERTY AT \$28,500 PER ACRE FOR THE PURPOSE OF WELL/SPRING DEVELOPMENT TO BE PAID OUT OF THE FY 2026 ENTERPRISE FUND

HISTORY/ FACTS / ISSUES:

OPTIONS:

RECOMMENDED SAMPLE MOTION:

APPROVE AS PRESENTED

REQUESTED BY: Jacob Barr, Utilities Director and/or Kevin Tallant, City Attorney

REAL ESTATE CONTRACT

THIS IS A CONTRACT for the purchase and sale of certain real estate, by and between **E. Elliott Family Partnership, LLLP** (herein referred to as "Seller") and the **City of Dawsonville, a Georgia municipal corporation** (herein referred to as "Purchaser").

1. Purchase and Sale: Seller agrees to sell and Purchaser agrees to buy all that tract or parcel of land lying, in land lots 159 and 160, of the 4th District, 1st Section, Dawson County Georgia, being a portion of Tax Map Parcel No. 069 006 001, of **Dawson** County, Georgia, and **being up to 8.00 acres in size**, as shown on Exhibit "A" attached hereto and made a part hereof (herein referred to as the "Property").

2. Consideration:

(A) The consideration provided by Purchaser to Seller for the Property shall be the sum total the actual amount of land purchased based upon the attached Exhibit A, multiplied by the per acre price of \$28,500.00, which is the appraised fair market per-acre value for the Property.

3. Earnest Money: Purchaser has delivered a check, in the amount of **Five Thousand and No/100 Dollars (\$5,000.00)** (herein referred to as "Earnest Money") to TALLANT HOWELL, ATTORNEYS AT LAW, (herein referred to as "Escrow Agent") to be held and disbursed in accordance with this Contract. The Earnest Money will be applied to the Purchase Price of the Property at the closing of the sale under this Contract (herein referred to as the "Closing").

4. Payment: The Purchase Price shall be paid by Purchaser to Seller in cash, certified funds, attorney's escrow check, wired funds transfer, or other such cash equivalent at the Closing.

5. Marketability of Title:

(A) Seller shall furnish and convey to Purchaser a good, marketable, and insurable fee simple title, free of all liens and encumbrances, except any exceptions to title specifically listed on Exhibit "B" attached hereto and made a part hereof, which exceptions are herein referred to as "Permitted Title Exceptions." An updated title search shall be completed prior to closing, and any acceptable title exceptions shall be added to Exhibit B for use in the closing of the transaction. Seller shall provide copies of these Permitted Title Exceptions to Purchaser, and these shall be provided before the Closing Date. "Good, marketable, and insurable fee simple title" shall be such title as is acceptable to a reasonable purchaser, as determined under Georgia law and as supplemented by the State Bar of Georgia "Title Standards," as published by the State Bar of Georgia as the criteria to the marketability of the title required hereby, and as is insurable by a national title insurance company on a standard American Land Title Association form, subject only to the above exceptions;

(B) Purchaser shall have forty-five (45) days after the date of final execution of this Contract to examine title and in which to furnish Seller with a written statement of title defects affecting the marketability of said title. Seller shall have a reasonable time after the receipt of said statement of title defects in which to satisfy all such defects. In the event that any such defects can be cured by payment of a stated sum of money (such as deeds to secure debt, security agreements, past due ad valorem taxes and assessments constituting liens against the Property, mechanic's and materialmen's liens, and judgments which have attached to and become liens against the Property, etc.), and Seller has not caused such cure before the Closing Date, the cost of curing all such title defects shall be paid from Seller's funds at closing. All title defects which first affect or encumber the title to the Property, after the effective record title date referenced in Purchaser's written statement of title defects, delivered pursuant to this section, shall be satisfied or cured by Seller prior to the Closing Date.

6. Representations and Warranties of Seller: Seller hereby makes the following representations, warranties, and agreements to Purchaser, each of which shall be deemed material, as follows:

(A) Seller warrants and represents to Purchaser that Seller has the full and complete right, power, and authority to enter into this Contract and to perform its obligations hereunder, that Seller and all persons or entities having a beneficial interest in the Property are "United States persons" and are not "foreign persons," as such terms are defined under the Internal Revenue Code of 1986, as amended (herein referred to as the "Code"), that the purchase of the Property by Purchaser, as contemplated herein, will not be subject to the withholding requirements of Section 1445(a) of the Code or of the requirements of 48-7-128 of the Official Code of Georgia Annotated (the "Georgia Code") dealing with Non-residents of the State of Georgia;

(B) Seller has entered into no agreement, oral or written, not referred to herein, with reference to the Property, and neither Seller nor the Property are subject to any suit, unfiled lien, proceeding, or litigation, of any kind, pending or outstanding or threatened or likely to be made or instituted, which would, in any way, be binding upon Purchaser or its successors or assigns or affect or limit Purchaser's or its successors' or assigns' full use and enjoyment of the Property or which would limit or restrict Seller's right or ability to enter into this Contract and consummate the sale and purchase contemplated hereby;

(C) Seller has not and shall not, while this Contract is in full force and effect, enter into any other option or contract of sale of the Property (or any portion thereof), unless such contract or option is expressly made subject to this Contract, or execute any deeds, restrictive covenants, easements, or right-of-way agreements or apply for or consent to any zoning change affecting the Property or take any other action that would adversely affect the Property or Purchaser's rights under this Contract;

(D) Seller warrants that all required tax returns have been filed for the current tax year; Seller further agrees to reimburse Purchaser for the full amount of any penalties incurred for the current tax year caused by Seller's failure to file a proper and timely tax return. There are no taxes, charges, or assessments, of any nature or description, arising out of the conduct of Seller's business or the operation of the Property, which would constitute a lien against the Property that will be unpaid or unbonded on the Closing Date, except for the lien of the applicable year's ad valorem property taxes;

(E) Seller has no knowledge of any pending application for changes in the zoning affecting the Property. In the event that Seller obtains knowledge of any application for changes in the present zoning of the Property, Seller shall immediately notify Purchaser and, upon such notification, Purchaser, in its sole discretion, shall have the option of terminating this Contract, and the Earnest Money shall be immediately refunded to Purchaser;

(F) Seller represents and warrants that, during Seller's ownership of the Property and prior to Seller's ownership of the Property, the Property has never been used as a landfill to receive solid waste, whether or not hazardous, and has never been used for the disposal, storage, or treatment of any waste, trash, garbage, industrial by-products, chemical, or hazardous substance of any nature, including, without limitation, radioactive materials, PCB's, asbestos, pesticides, herbicides, pesticide or herbicide containers, untreated sewage, industrial process sludge, or any hazardous substance. Further, during Seller's ownership of the Property and prior to Seller's ownership of the Property, Seller represents and warrants that neither Seller nor any third party has used, generated, manufactured, stored, or disposed of on, under, or about the Property or transported to or from the Property any flammable explosives, radioactive materials, toxic substances, or related materials or hazardous waste. Seller further represents and warrants that, during the period of its ownership of the Property, there has been no litigation brought or threatened against Seller nor any settlements reached by or with any party or parties alleging the presence, disposal, or release or threatened release of any hazardous wastes or hazardous substances on, from, or under any of the Property, except as disclosed herein;

Seller has no knowledge of the existence in, on, or under the Property of any asbestos, PCB emissions, hazardous wastes, or other hazardous substances or of the occurrence of any actual or alleged discharge, dispersal, release, storage, treatment, generation, disposal, or escape of pollutants or other toxic or hazardous substances, including any solid, liquid, gaseous, or thermal irritant or contaminant, from or onto the Property, and Seller has received no notice from any federal, state, county, or municipal authority as to the existence of any such material at the Property or as to any other environmental problem or hazardous material issues in any way related to the Property;

For a period of one year after the date of closing, Seller hereby agrees to indemnify Purchaser and its agents, successors, directors, officers, employees, assignees, and all persons claiming through them and agrees to hold harmless Purchaser and its agents, successors, directors, officers, employees, councilmen, assignees, and all other persons claiming through it from and against any and all losses, claims, damages, penalties, liabilities, costs, and expenses (including all out-of-pocket litigation costs and expenses and the reasonable fees and expenses of counsel) arising out of any law suit brought or threatened, settlement reached, or governmental order related to the presence or use, generation, storage, containment, release, threatened release, or disposal of any hazardous wastes, hazardous materials, or hazardous substances on, from, or under the Property, where such hazardous materials, hazardous waste, or hazardous substances were present or were used, generated, stored, contained, released, threatened to have been released, or disposed of on the Property. This indemnification and hold harmless clause shall apply to liability for all consequential damages, foreseeable and unforeseeable, including, without limitation, the cost of any required or necessary repair, clean up, or detoxification and the preparation of any closure or other required plan, whether such actions are required or necessary prior to or following the transfer of title to the Property, and arising, directly or indirectly, out of the presence or use, generation, storage, containment, release, threatened release, or disposal

of hazardous wastes, hazardous materials, or hazardous substances in connection with the Property. Seller hereby agrees to submit to personal Jurisdiction and venue of the Superior Court of Dawson County, Georgia for any action brought to enforce this indemnity;

For purposes of this paragraph, the terms "disposal," "release," "hazardous substances," and "hazardous wastes" shall have the definitions assigned thereto by the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C., Sec. 9601 et. seq., Hazardous Materials Transportation Act, 49 U.S.C., Sec. 1802, and The Resource Conservation and Recovery Act, 42 U.S.C., Sec. 6901 et. seq;

(G) Seller acknowledges that all representations, warranties, and agreements of Seller contained in this Contract are true and correct as of the date hereof and will be true and correct as of the Closing Date.

7. Contingencies to Closing: This Contract is specifically contingent on the following condition being achieved within forty-five (45) days from the final execution of this Contract:

Purchaser's determination that the Property meets all regulatory, environmental and engineering requirements to serve as a proper well site for Purchaser's intended use.

In the event that the above condition is not satisfied within forty-five (45) days from the final execution of this Contract, Purchaser shall have the option to cancel this Contract and to receive a full refund of the Earnest Money, and this Contract shall be null and void.

8. Purchaser's Pre-Closing Rights and Privileges: Purchaser and its authorized agents and employees, as well as others authorized by Purchaser, shall, at Purchaser's expense and before Closing, have the privilege of going on the Property to make such surveying, architectural, engineering, topographical, geological, soil, environmental, and other tests, borings, and measurements as Purchaser deems necessary or advisable in connection with Purchaser's proposed use of said Property. Purchaser agrees to indemnify and to hold Seller harmless, to the extent allowed under Georgia law, against any claims against or damages to the Property that might result from such activities on the Property, and, if any lien claims are filed as a result of Purchaser's activities, then Purchaser agrees to cause such lien claims to be removed within fifteen (15) days of the date of notice from Seller.

9. Closing:

(A) Subject to the provisions of this Contract, Purchaser and Seller shall consummate and close the sale contemplated by this Contract on or before the date (herein referred to as the "Closing Date") which is sixty (60) days following the date of the final execution of this Contract, at the office of **Purchaser's** attorney or at the Purchaser's offices in Dawsonville, Georgia. Purchaser shall give Seller no less than one (1) week's notice of the exact day and time for such closing. Possession of the Property shall be given at closing;

(B) Seller agrees to convey title to the Property by a limited warranty deed. Title to personal property, if any, which is located upon the Property and is to be a part of and included in this Contract shall be conveyed with the title in said Property. The legal description of the Property contained in the limited warranty deed shall be the legal description as shown by the survey attached hereto as Exhibit A.

(C) Seller agrees to furnish Purchaser with an Owner's Affidavit showing that all debts, if any, for labor and materials used in improving the Property have been paid in full and that there are no outstanding claims, suits, debts, liens, or judgments against the Property. Such Owner's Affidavit shall be in such a form as is required by the title insurance company utilized by Purchaser in order for it to issue its title insurance policy, free of any exceptions from coverage for such matters;

(D) All state transfer taxes due and payable in connection with the recording of the deed of conveyance from Seller to Purchaser, if any, will be paid by Seller;

(E) Recording costs shall be borne by Purchaser;

(F) All other expenses incurred by Seller or Purchaser with respect to the Closing, including but not limited to attorneys' fees of Seller and Purchaser, shall be borne and paid exclusively by the party incurring the same, without reimbursement, except to the extent otherwise specifically provided for in this Contract;

(G) Seller will execute an affidavit stating Seller's U.S. taxpayer identification number, that Seller and all persons holding a beneficial interest in the Property are "United States persons" and are not "foreign persons," as defined in the Code, and that the purchase of the Property by Purchaser pursuant to this

Contract is not subject to the withholding requirements of Section 1445(a) of the Code or of applicable provisions of the Georgia Code;

(H) Seller and Purchaser agree that such papers as may be legally necessary or appropriate to carry out the terms of this Contract shall be executed and delivered by each party at the time of the Closing.

10. Condemnation: If, after the date hereof and prior to the Closing, all or any part of Property is: (i) subjected to a bona fide threat of condemnation; (ii) condemned or taken by a body having the power of eminent domain or condemnation; or (iii) sold or transferred in lieu of condemnation, then Purchaser shall be promptly notified thereof at the address set forth herein and, within ten (10) days after receipt of written notice to Purchaser, Purchaser may, by written notice to Seller, elect to cancel this Contract or to extend the Closing Date. In the event that Purchaser elects to cancel this Contract in accordance with the provisions of this paragraph, all parties shall be relieved and released of and from any further duties, obligations, rights, or liabilities hereunder, except that Purchaser shall be refunded all Earnest Money paid under this Contract, and thereupon this Contract shall become null and void and of no further force and effect. If no such election is made by Purchaser to cancel this Contract, then this Contract shall remain in full force and effect, and the purchase contemplated herein, less any interest taken by condemnation or eminent domain, shall be effected with no further adjustments, and, upon the Closing, Seller shall assign, transfer, and set over to Purchaser all of the right, title, and interest of Seller in and to any awards that have been or that may thereafter be made for any such taking or takings.

11. Risk of Loss and Damage to Property: Should the Property or any part thereof be substantially damaged or destroyed prior to Closing, at the election of Purchaser: (i) Purchaser shall have the right to rescind this Contract and to receive a full refund of the Earnest Money; (ii) Purchaser may extend and consummate this Contract and receive such insurance applicable to the same as is paid on the claim of loss, if any; or (iii) Purchaser may proceed with the Closing, with Seller retaining any insurance proceeds, and the Purchase Price shall be reduced by the amount of damage, as determined by an appraisal by an appraiser mutually agreed upon by the parties or, in the event that they fail to agree, by such appraiser as may be mutually agreed upon between counsel for each party. In the event that neither the parties nor their counsel agree as to any appraiser, each party shall appoint an appraiser of its own choice, and the average between the two appraisals shall finally and conclusively determine the damages by which the Purchase Price shall be reduced. Seller shall immediately notify Purchaser of such destruction or damage and whether or not there is any insurance covering the loss, and Purchaser shall exercise his election hereinabove provided for within ten (10) days after receipt of written notice from Seller of the amount of insurance payable or, in the event that Seller has notified Purchaser that there is no insurance coverage, within ten (10) days after receipt of the notice of the destruction or damages.

12. Real Estate Commission: Seller and Purchaser each warrant to the other that no real estate agent or broker has been involved in negotiating this transaction. In the event that any claims for real estate commission arise in connection with this Contract, the party on whose behalf the agent was working shall pay such commission, and each party hereby agrees to hold harmless and to indemnify the other against any and all claims for real estate sales commissions by any person or entity employed by such party.

13. Default - Rights of Parties: If the sale contemplated by this Contract is not consummated due to default of Seller, then the Earnest Money shall be promptly refunded to Purchaser, and Purchaser shall be entitled to all such rights and remedies as are provided by law. If said sale is not consummated because of Purchaser's default, then Seller shall be entitled to receive the Earnest Money, to be applied against Seller's damages for such default of Purchaser as full liquidated damages. Seller has the right to recover liquidated damages as provided herein under the authority of the Georgia Code. The parties agree that Seller's actual damages would be difficult, if not impossible, to ascertain and that the amount specified above is intended as liquidated damages and not as penalties and constitutes a good faith estimate of Seller's damages and shall be deemed to provide Seller full compensation for all costs, losses, or damages (including consequential damages) caused by Purchaser's default.

14. Seller's Cooperation and Assistance: As part of the consideration for Purchaser's performance of this Contract, Seller shall provide, with good faith and due diligence, from time to time, cooperation and assistance in obtaining: any site plan approval or dedications of rights-of-way from all appropriate governmental, quasi-governmental and private entities or agencies having jurisdiction over the Property; offsite easements, utility connections, and taps, as required for the proper development of the Property, and the

curb cuts for the Property. In complying with this provision, Seller shall have no obligation to incur any expenses.

15. Covenant Not to Commit Waste or Remove Trees: Seller agrees not to commit or to permit waste upon the Property, and Seller represents that the Property shall remain in the same condition as it is now, and Seller will not cause or permit any trees to be removed from the Property without the prior written consent of Purchaser.

16. Notices: Whenever any notice, demand, or request is required or permitted hereunder, such notice, demand, or request shall be: (i) hand delivered in person; or (ii) delivered United States Mail, certified and return receipt requested, postage prepaid, to the addresses set forth below:

As to Seller:

E Elliott Family Partnership, LLLP
P O BOX 476
Dawsonville, GA 30534

As to Purchaser:

City of Dawsonville
Attn: City Manager
415 Hwy. 53 E.
Dawsonville, GA 30534

With a Copy to:

Kevin Tallant
Tallant Howell, Attorneys at Law
202 Tribble Gap Road, Suite 302
Cumming, Georgia 30040

Any notice, demand, or request given hereunder upon any of the parties in the manner aforesaid shall be deemed sufficiently given for all purposes hereunder: (1) at the time in which such notices, demands, or requests are hand delivered in person; or (2) on the third business day after the mailing of such notices, demands, or requests in accordance with the preceding portion of this paragraph.

17. Miscellaneous Provisions:

(A) Time of Essence: Time is of the essence in this Contract;

(B) Entire Agreement: This Contract supersedes all prior discussions and agreements between Seller and Purchaser with respect to the conveyance of the Property and all other matters contained herein and constitutes the sole and entire agreement between Seller and Purchaser with respect thereto;

(C) Amendment: No amendment to this Contract shall be binding on any of the parties to this Contract unless such amendment is in writing and executed by all parties with the same formality as this Contract is executed;

(D) Georgia Law: This Contract shall be construed and interpreted under the laws of the State of Georgia;

(E) Severability: If any of the terms, covenants, or conditions of this Contract or application thereof to any person or circumstance shall be invalid or unenforceable, then the remainder of this Contract or the application of such terms, covenants, and conditions to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each of the terms, covenants, or conditions of this Contract shall be valid and be enforced to the fullest extent permitted by law;

(F) No Waiver: No failure of either party to exercise any power given to either party hereunder or to insist upon strict compliance by either party with its obligations hereunder and no custom or practices of the parties at variance with the terms hereof shall constitute a waiver of either party's rights to demand compliance with the terms hereof;

(G) Remedies Cumulative: All rights, powers, and privileges conferred hereunder upon the parties, unless otherwise provided, shall be cumulative and are not restricted to those given by law;

(H) Binding Effect: The provisions of this Contract shall be binding and inure to the benefit of Purchaser, Seller, and their respective successors in interest;

(I) Assignment: It is agreed by Purchaser and Seller that Purchaser shall not have the right to assign Purchaser's interest herein without the prior written approval of Seller;

(J) Terminology: The terms "Seller" and "Purchaser" shall be construed in the plural, and the appropriate gender will be read into all pronouns used herein in reference to any of said parties whenever the sense of the Contract so requires;

(K) Survival: All agreements, representations, and warranties made herein shall be deemed to be made and reaffirmed on the Closing Date, as of the Closing Date, shall survive the Closing, shall not be merged with the deed of conveyance, and shall not be impaired by any investigation or other act of Purchaser or Seller, except where specifically provided herein;

(L) Attorneys' Fees: In the event that suit is brought to enforce or interpret all or any portion of this Contract or if suit is brought for liquidated damages or for any other relief permitted hereunder, then the party, if any, awarded costs in such suit shall be entitled to recover, as an element of such costs and not as damages, reasonable attorneys' fees incurred in connection with such suit. Without limiting the generality of the foregoing, attorneys' fees shall be determined at the normal hourly rates charged by the person doing the work, regardless of whether said fees bear a reasonable relationship to the relief obtained. A party which is not entitled to recover costs in any such suit shall not be entitled to recover its attorneys' fees;

(M) Performance Deadlines: Notwithstanding anything herein to the contrary, in the event that the final date of performance by either party to this Contract of any condition or obligation hereunder falls upon a non-business day (i.e., Saturday, Sunday, any national holiday, or a local holiday recognized by major banks located in Dawsonville, Georgia), the final date for performance of such condition or obligation shall be extended automatically and without notice until the next succeeding business day;

(N) Special Provisions: Purchaser intends to construct a wellspring site on the Property for utility purposes. The Property shall be configured such that the Property will include at a minimum a one-hundred-foot (100') radius of protected area surrounding the property, in which no septic will be allowed. Seller agrees to cooperate with Purchaser for Purchaser to record such restriction in the public records of Dawson County at the time of Closing in such a manner as it will be binding on Seller, Purchaser, their successor, administrators, heirs and assigns. Further, to the extent necessary, Seller will grant a twenty-five-foot (25') access easement over Pigeon Trail to Purchaser for Purchaser to access the Property from the nearest public road for purposes of construction related to the development of a spring for water utility purposes. This easement shall be temporary in nature and shall be for the purposes stated only, and all right to use the property for construction related purposes or for access otherwise to the Property shall expire one year after the date construction activities begin, or upon the completion of Purchaser's construction activities whichever occurs first. After the expiration of the easement, Purchaser's right to access the easement shall only be to the extent Purchaser needs to repair any and all damages incurred during the use of the easement and construction process, which agreement to repair is part of the consideration granted by Purchaser hereunder.

The date of this Contract is the last date written below upon which this Contract is fully and finally executed by all of the parties.

IN WITNESS WHEREOF the parties have set their respective hands and affixed their seals, the date and year indicated below.

SELLER:

E. Elliott Family Partnership, LLLP
Date: _____

Witness:

PURCHASER:
CITY OF DAWSONVILLE

By: _____
John Walden, Mayor
Date: _____

Attest: City Clerk



DAWSONVILLE CITY COUNCIL EXECUTIVE SUMMARY FOR AGENDA ITEM # 7

SUBJECT: **RATIFY APPROVAL OF CHANGE TO AUTHORIZED SIGNERS ON BANK ACCOUNTS**

CITY COUNCIL MEETING DATE: 07/09/2025

BUDGET INFORMATION: GL ACCOUNT # _____

☐ Funds Available from: _____ Annual Budget _____ Capital Budget Other _____

☐ Budget Amendment Request from Reserve: _____ Enterprise Fund _____ General Fund

PURPOSE FOR REQUEST:

TO RATIFY APPROVAL OF CHANGING THE AUTHORIZED SIGNERS ON THE CITY'S BANK ACCOUNTS

HISTORY/ FACTS / ISSUES:

MAYOR WALDEN HAS ALREADY SIGNED REQUESTS TO REMOVE BOB BOLZ AND ADD JACOB EVANS AS AN AUTHORIZED SIGNER . THESE REQUESTS HAVE BEEN SENT TO UCB AND GEORGIA FUND 1.

OPTIONS:

STAFF IS RECOMMENDING APPROVAL TO RATIFY THE ACTION TAKEN

RECOMMENDED SAMPLE MOTION:

REQUESTED BY: Robin Gazaway, Finance Director



**DAWSONVILLE CITY COUNCIL
EXECUTIVE SUMMARY FOR
AGENDA ITEM # 8**

SUBJECT: **RESOLUTION NO. R2025-04: SUPPORT OF AMICUS BRIEF IN CHANG V. MILTON**

CITY COUNCIL MEETING DATE: **07/09/2025**

BUDGET INFORMATION: GL ACCOUNT # _____

☐ Funds Available from: _____ Annual Budget _____ Capital Budget Other _____

☐ Budget Amendment Request from Reserve: _____ Enterprise Fund _____ General Fund

PURPOSE FOR REQUEST:

TO CONSIDER ADOPTION OF RESOLUTION NO. R2025-04 IN SUPPORT OF AUTHORIZING PARTICIPATION IN AN AMICUS BRIEF IN THE CHANG V. CITY OF MILTON APPEAL PENDING BEFORE THE GEORGIA SUPREME COURT

HISTORY/ FACTS / ISSUES:

- **ATTORNEY TALLANT TO PRESENT REQUEST**
 - **CITY COUNCIL PREVIOUSLY APPROVED RESOLUTION NO. R2024-07 ON 12/02/2024 IN SUPPORT OF THE CITY OF MILTON'S EFFORTS TO HAVE THE GEORGIA SUPREME COURT TAKE UP A CASE IN WHICH THE CITY OF MILTON WAS ISSUED JUDGEMENT AGAINST THEM FOR AN OBJECT THAT WAS IN IT'S RIGHT OF WAY**
-

OPTIONS:

RECOMMENDED SAMPLE MOTION:

REQUESTED BY: Kevin Tallant, City Attorney

RESOLUTION NO. R2025-04

RESOLUTION OF THE CITY OF DAWSONVILLE, GEORGIA (the “CITY”) AUTHORIZING PARTICIPATION IN AN AMICUS BRIEF IN THE CHANG V. CITY OF MILTON APPEAL PENDING BEFORE THE GEORGIA SUPREME COURT

WHEREAS, the Chang v. Milton litigation involves a claim of liability against the City of Milton, Georgia, for personal injuries due to a 2016 vehicle collision with a fixed obstruction (a masonry planter) located on City-owned right of way where the obstruction was outside the motoring lanes of travel;

WHEREAS, the masonry planter had been at the same location since 1992 and had never been the subject of a complaint or prior accident;

WHEREAS, at the trial court, the City of Milton was found to be partially at fault and a jury awarded money damages against the City of Milton of \$35,000,000;

WHEREAS, on September 16, 2024, the Court of Appeals affirmed the findings of the trial court, City of Milton v. Chang, et. al., 373 Ga. App. 667 (2024) (Court of Appeals ruling);

WHEREAS, on June 24, 2025, the Supreme Court of Georgia granted certiorari, Supreme Court docket number S25G0476;

WHEREAS, the Georgia Supreme Court identified three issues upon which it wanted the Parties to focus in their appellate briefing:

1. Is the design and placement of objects on a shoulder of a roadway part of the ministerial duty of a municipality to keep its “streets and sidewalks in a reasonably safe condition” or is it a governmental function? Compare Mayor, Etc., of Dalton v. Wilson, 118 Ga. 100 (44 SE 830) (1903) with Town of Fort Oglethorpe v. Phillips, 224 Ga. 834 (165 SE2d 141) (1968). See generally OCGA § 36-33-1.
2. Is the placement of a planter on the shoulder of a roadway a “defect[] in the public roads of [the municipality’s] municipal street system”? See OCGA § 32-4-93 (a).
3. For municipal immunity to be waived under the circumstances of this case, must the plaintiff show that the municipality violated its ministerial duty to keep its “streets and sidewalks in a reasonably safe condition” and that the planter on the shoulder of the roadway is a “defect[] in the public roads of [the municipality’s] municipal street system”? Please address the interplay between OCGA § 36-33-1 and OCGA § 32-4-93 (a).

WHEREAS, the CITY believes that answers to the above legal questions are of significant value to its citizens and residents;

WHEREAS, the CITY believes that Supreme Court guidance on such questions may lead to the Court of Appeals ruling being overturned

WHEREAS, the CITY believes the Court of Appeals ruling is inconsistent with existing legal precedent; and,

WHEREAS, the CITY believes that it is in the best interests of the health, welfare, and safety of its citizens that the Court of Appeals ruling be reversed and that the questions presented by the Supreme Court be answered in a way that benefits Georgia’s’ cities.

NOW THEREFORE BE IT RESOLVED, that the CITY does hereby authorize participation in an amicus brief before the Georgia Supreme Court asking that the Court of Appeals ruling be reversed and that the Supreme Court’s three proffered questions be answered in a way that is legally advantageous to Georgia’s cities. An amicus brief so tendered may include the City’s name as a participating party.

This _____, day of _____, 2025.

CITY OF DAWSONVILLE

By: _____
John Walden, Mayor

Caleb Phillips, Councilmember Post

William Illg, Councilmember Post #2

Sandy Sawyer, Councilmember Post #3

Mark French, Councilmember Post #4

Attested:

Beverly A. Banister, City Clerk