
STATE OF GEORGIA)
)
COUNTY OF CHATHAM)

TEMPORARY CONSTRUCTION AND ACCESS EASEMENT AGREEMENT

THIS CONSTRUCTION AND ACCESS EASEMENT AGREEMENT (“Agreement”), is made and entered into this ____ day of _____, 2019 (the “Effective Date”) by and between **THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH**, a municipal corporation organized under the laws the State of Georgia (“Grantor”), **Johnson Matthey Process Technologies, Inc.**, a foreign profit corporation (“Grantee”).

WITNESSETH:

WHEREAS, Grantor is the owner of certain real property in Savannah, Chatham County, Georgia described on Exhibit “A” attached hereto and by this reference incorporated herein (hereinafter the “Temporary Easement Area”); and

WHEREAS, Grantee is the owner of real property located at 115 Eli Whitney Boulevard, Savannah, Georgia, and plans to undertake a construction project thereon (the “Grantee’s Work”). To facilitate its completion of the Grantee’s Work, Grantee has requested, and Grantor is willing to provide, a temporary construction and access easement over the Temporary Easement Area, to the extent and pursuant to the terms set forth in this Agreement; and

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid at and before the execution and delivery of these presents, the above-mentioned recitals, the mutual covenants and conditions contained herein, and in other documents referenced herein, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the undersigned parties do agree as follows:

1. Access and Construction Easement. Grantor hereby grants, bargains, sells and conveys unto Grantee a non-exclusive, perpetual easement on, across, through, over and upon the Temporary Easement Area to (i) provide pedestrian and vehicular access to the Grantee's Property, and (ii) store construction equipment, supplies, and materials pertaining to the Grantee's Work.

2. Term of Easement: The term of the Temporary Easement shall commence upon approval by the City of Savannah Council and execution of this Agreement by all parties, and shall terminate upon the earlier of: 1) Grantee's completion of Grantee's Work as evidenced by issuance of a Certificate of Occupancy by the City of Savannah and the fulfillment of the restoration obligations as set forth in this Agreement, or 2) two (2) years from the effective date of this Agreement.

3. Plan to Protect City Trees and Utilities located in Temporary Easement Area. The Temporary Easement Area will be cleared during use and then re-established with permanent grassing once all temporary roads and facilities are removed in accordance with sheets C-001, C-101, C-201, C-501A thru C-503 of the attached plans (Exhibit B). Briefly, those plans require the following:

- i. All existing utilities will be field located using the latest detection methods including ground penetrating radar, sonic wave and metallic detection. These utilities were located in November 2018 and are shown on C-101 of the attached plan set.
- ii. There will be very minimal grading in the R/W as shown on Sheet C-201. There will be some fine grading for the access roads and creation of required sedimentation traps. The earth cover on the existing utilities will remain. Shallow utilities (fiber, electrical, etc) will be protected with and layer of geotextile design for minimizing stress on conduits below grade. See Sheet C-101 for locations.
- iii. Sheet C-101 shows the trees 6" DBH and greater that are to be removed, but those that are near existing utilities are to be cut or ground even with the existing ground and root systems will be left in place (see Note 9 on Sheet C-101). If the root systems are removed the utility can be damaged.
- iv. The City's gravity sanitary sewer system is mostly outside of the limits of disturbance and will not be disturbed.
- v. Note 4 on Sheet C-101 requires any damage to existing utilities to be repaired by the Contractor at no additional cost to the Owner.

4. Grantor's Rights: Grantor shall retain all other customary incidents and rights of ownership with respect to the Temporary Easement Area, specifically including, but not limited to, the right to use the Temporary Easement Area in any manner not conflicting with or impairing the easement rights granted hereunder.

5. Duty to Repair, Replace, and Restore. At the end of the Term, Grantee covenants and agrees that Grantee will, at Grantee's sole cost and expense, promptly remove Grantee's or its agent's construction equipment, supplies and materials from the Temporary Easement Area and will repair, replace, and restore the Temporary Easement Area reasonably to the condition of the Temporary Easement Area prior to Grantee's use thereof (the "Restoration Obligations").

6. Indemnification. Grantee hereby agree to indemnify and hold Grantor harmless from and against any and all penalties, claims, demands and liability of whatsoever kind or nature including attorney's fees that may be made or sought against Grantor or the Premises arising out of or in any way connected with Grantee's occupancy, use, maintenance or operation of the Premises and Grantee shall defend Grantor from and against each and every such claim.

7. Insurance. The coverages shall include the City as an additional insured. Such a provision shall apply only in proportion to and to the extent of the negligent acts or omissions of Grantee, its officers, employees, and agents.

i. Grantee at their own expense, shall insure their activities in connection with this Agreement and obtain, keep in force and maintain insurance as follows:

A. Comprehensive General Liability minimum limits as follows:

- | | |
|--------------------------------------|--------------|
| 1. Each Occurrence | \$ 1,000,000 |
| 2. Damage to Rented Premises | \$ 3,000 |
| 3. Personal & Adv Injury | \$ 1,000,000 |
| 4. General Aggregate | \$ 2,000,000 |
| 5. Products-Completed Ops. Aggregate | \$ 2,000,000 |

ii. Commercial Automobile Liability. Grantee must carry an automobile policy that includes coverage for owned, non-owned and hired automobiles for a minimum of:

A. \$1,000,000 per occurrence

iii. Workers Compensation. Grantee shall carry a workers compensation policy that includes all statutory coverage required by Georgia state law for the minimum employer's liability limits as follows:

- A. \$500,000 each accident
- B. \$500,000 each employee (disease)
- C. \$500,000 policy limit (disease)

iv. Umbrella/Excess Liability. Grantee shall carry an umbrella/excess liability policy which must follow form over underlying policies: general liability, auto liability and employer's liability for minimum limits as follows:

- A. \$1,000,000 per occurrence
- B. \$5,000,000 aggregate

v. Certificate of Insurance and Notice of Cancellation. Grantee, upon the execution of this Agreement, shall furnish the City with certificates of insurance evidencing compliance with all requirements. Grantee shall provide for a thirty (30) day notice of cancellation in favor of the City which must be endorsed to the policy and attached to the certificate. The Certificate Holder Should Read:

The Mayor and Alderman of the City of Savannah
P.O. Box 1027
Savannah, Georgia 31402

vi. Waiver of Subrogation. Grantee agrees to waive rights of subrogation which any insurer of Grantee may acquire from Grantee by virtue of any loss. Grantee agrees to obtain the waiver of subrogation endorsement to the policy in favor of the City which shall also be provided and attached to the Certificate of Insurance.

8. Entire Agreement: This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matters hereof. This Agreement may be modified or amended only by a writing executed by the parties hereto.

9. Controlling Law: This Agreement shall be construed and enforced in accordance with the laws of the State of Georgia.

10. Notices. All, notices, requests, and demands or other communications required or permitted to be given hereunder shall be in writing and shall be addressed and delivered (a) by certified mail, return receipt requested, (b) by Federal Express or other recognized, reputable overnight courier, or (c) by hand delivery by a recognized, reputable courier, to the appropriate party(ies) at the address(es) set forth below:

(a) If to Grantor: Mayor and Aldermen of the City of Savannah
P.O. Box 1027
Savannah, Ga. 31402
Attention: City Manager

With copy to: Director of Real Estate Services
City of Savannah
P.O. Box 1027
Savannah, GA 31402

(b) If to Grantee: Johnson Matthey Process Technologies, Inc
ADDRESS
CITY, STATE ZIP CODE
Attention: Bruce Keener, Operations Director

11. Time: Time is of the essence in the performance of this Agreement by each party hereto.

12. Counterparts: This Agreement may be signed in any number of counterparts, each of which shall, for all purposes constitute one and the same agreement.

[SIGNATURES FOUND ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, the undersigned parties have caused this Agreement to be executed under seal as of the day and year above written.

“Grantor”

Signed, sealed and delivered in the presence of:

THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH, a municipal corporation organized under the laws of the State of Georgia

Witness

By: _____

Name Patrick Monahan

Title: City Manager

Notary Public

My Commission Expires:

Attest: _____

Name: Mark Massey

Title: Clerk of Council

[NOTARY SEAL]

(SIGNATURES CONTINUED ON FOLLOWING PAGE)

“Grantee”

JOHNSON MATTHEY PROCESS
TECHNOLOGIES, INC.

By: _____

Its: _____

Signed, sealed and delivered in the
presence of:

Witness

Notary Public

My Commission Expires:

[NOTARIAL SEAL]

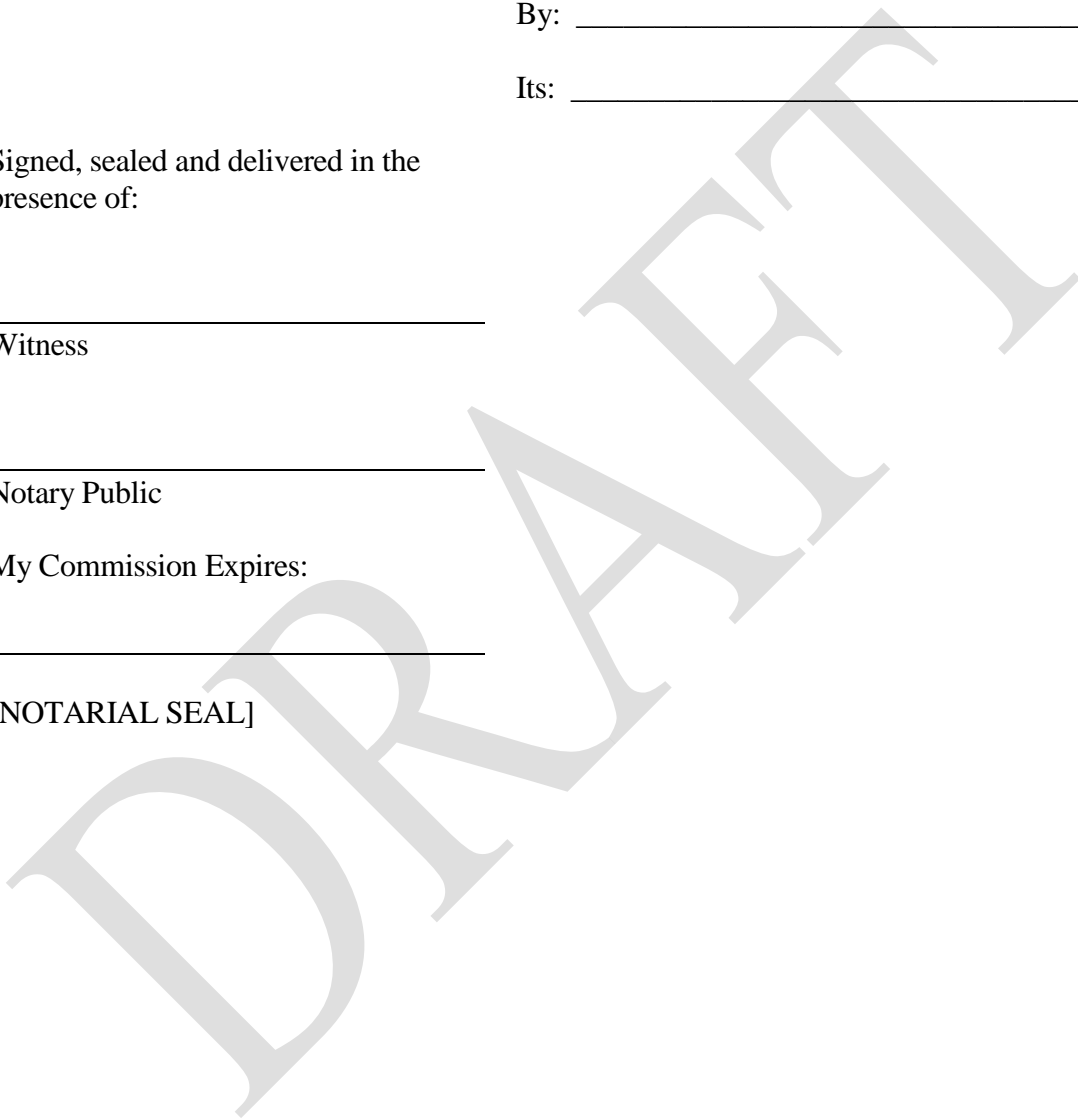


EXHIBIT "A"

("TEMPORARY EASEMENT AREA")

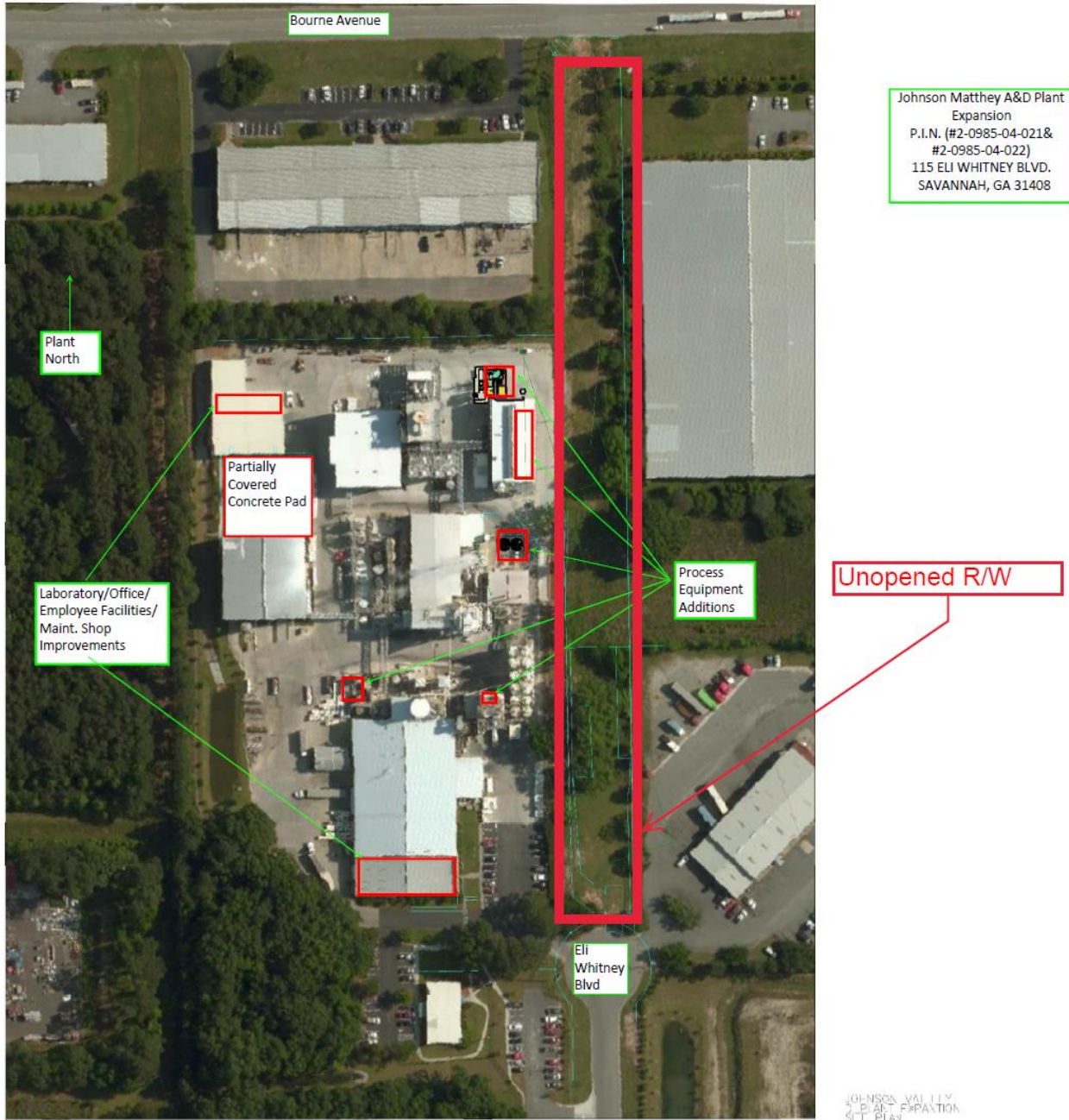


EXHIBIT B: PLANS

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