

November 5, 2007

AN ORDINANCE



BY: COUNCILMEMBER KWANZA HALL

AN ORDINANCE TO AMEND ORDINANCE NO. 07-O-0982, AS CORRECTED, WAIVING CERTAIN PROVISIONS OF THE CODE OF ORDINANCES AND AUTHORIZING FOR DUE CONSIDERATION THE ABANDONEMENT OF A PORTION OF JOHN WESLEY DOBBS AVENUE, NE LOCATED BETWEEN JACKSON STREET AND THE DEAD END OF JOHN WESLEY DOBBS AVENUE, CONSISTING OF 11,881 SQUARE FEET, MORE OR LESS, SPECIFICALLY DESCRIBED IN EXHIBIT "A" LYING AND BEING IN LAND LOT 46 OF THE 14<sup>TH</sup> DISTRICT, FULTON COUNTY, GEORGIA AND FOR OTHER PURPOSES

WHEREAS, on June 4, 2007, the Council adopted Ordinance No. 07-O-0982, an ordinance authorizing the abandonment by the City of Atlanta of a portion of John Wesley Dobbs Avenue, NE located between Jackson Street and the dead end of John Wesley Dobbs Avenue, and directing the appraisal of the fair market value of the right-of-way area in fee simple, to be paid as consideration for the issuance of a quitclaim deed; and

WHEREAS, on November 4, 2007, the Council adopted an amendment to Ordinance No. 07-O-0982 to correct the legal description; and

WHEREAS, the developer and now owner of the property abutting the right-of-way to be abandoned, Trammel Crow Residential ("TCR"), had an appraisal performed by a third party and based on the appraisal determined the fair market value of the right-of-way to be abandoned to be \$191,000.00; and

WHEREAS, upon learning that the value of the right-of-way to be abandoned had been appraised by the City at \$515,000.00, TCR requested a third party appraisal to review the City's appraisal and the appraisal performed independently by TCR's appraiser; and

WHEREAS, the third party appraiser determined the fair market value of the right-of-way to be abandoned to be \$415,000.00; and

WHEREAS, the redevelopment of the property abutting the right-of-way to be abandoned will benefit the City of Atlanta due to the increase in tax base generated by replacement of below market rate apartments with a market rate apartment development; and

WHEREAS, the abandonment of the right-of-way does not increase the density permitted on the site because the property is zoned RG-4 and the entire right-of-way is included in the residential density calculation based on gross lot area;

WHEREAS, TCR proposes to replace the right-of-way to be abandoned with an ungated, private drive that extends further into the property than the existing right-of-way of John Wesley Dobbs Avenue; and

WHEREAS, the proposed ungated, private drive will provide better vehicular connection than the current dead end of John Wesley Dobbs Avenue because the private drive will have a connection to both Jackson Street and Irwin Street; and

WHEREAS, upon abandonment, the City of Atlanta will no longer bear the burden of maintaining the right-of-way, however, TCR will be required to provide the vehicular connection between Jackson Street and Irwin Street pursuant to the Notice of Decision issued by the Georgia Regional Transportation Authority and attached hereto as Exhibit "B"; and

WHEREAS, the appraisals do not address the intangible benefits to the City of the redevelopment of the site and the requirement that vehicular access be maintained; and

WHEREAS, in consideration of the increase in tax base, the absence of any density benefits for TCR and the requirement that a vehicular connection be privately maintained by TCR in place of the existing dead end right-of-way of John Wesley Dobbs, the City now wishes to accept \$300,000.00 for the abandonment of the right-of-way; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, as follows:

**Section 1.** That the abandonment of the portion of the portion of John Wesley Dobbs Avenue, NE as described on Exhibit "A" is hereby authorized in consideration of \$300,000.00, the increase in tax base, the absence of a density increase and the requirement that a vehicular connection from Jackson Street to Irwin Street be maintained through the abutting properties.

**Section 2.** That the Council hereby accepts the \$300,000.00 and the benefits described in Section 1 as full and complete considerations for the abandonment of the above described portion of John Wesley Dobbs Avenue.

**Section 3.** That all ordinances and parts of ordinances, in particular Section 2-1578 of the Code of Ordinances, are hereby waived to the extent of any conflict with this ordinance.

**EXHIBIT A**

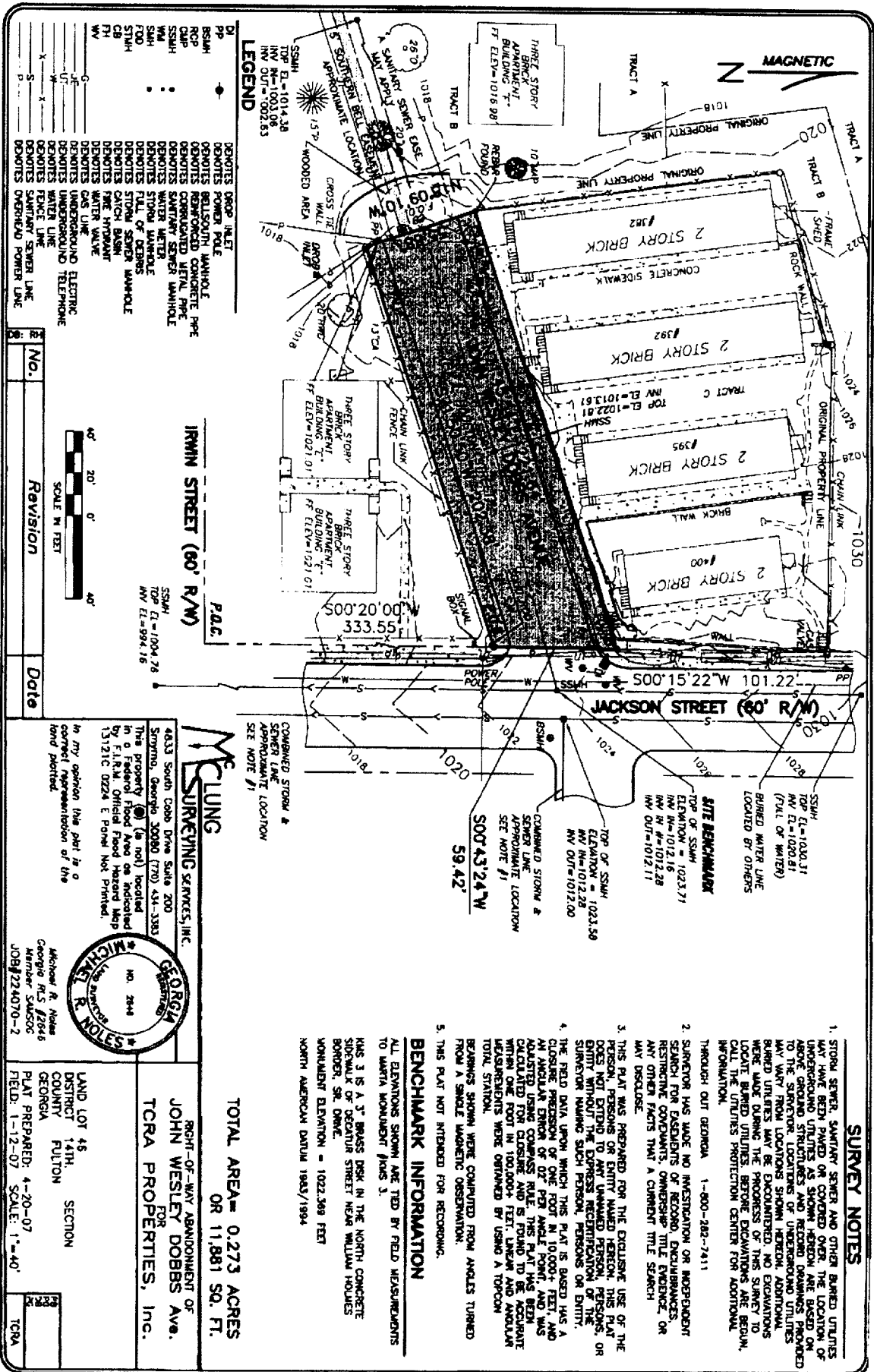
**Legal Description**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 46 OF THE 14th DISTRICT OF FULTON COUNTY, GEORGIA AND BEING SHOWN AS A SECTION OF RIGHT-OF-WAY DESIGNATED AS JOHN WESLEY DOBBS AVENUE ON A PLAT OF RIGHT-OF-WAY ABANDONMENT OF JOHN WESLEY DOBBS AVENUE FOR TCRA PROPERTIES, INC. BY McCLUNG SURVEYING SERVICES, INC. DATED 4-20-07 AND BEING MORE FULLY DESCRIBED AS FOLLOWS;

TO REACH THE POINT OF BEGINNING, START AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY OF IRWIN STREET (60' R/W) AND THE WEST RIGHT-OF-WAY OF JACKSON STREET (60' R/W). THENCE RUNNING N00°20'00"E ALONG THE SAID WEST RIGHT-OF-WAY OF SAID JACKSON STREET A DISTANCE OF 333.55 FEET TO A POINT LOCATED AT THE INTERSECTION OF THE SAID WEST RIGHT-OF-WAY OF SAID JACKSON STREET AND THE SOUTHEAST RIGHT-OF-WAY OF JOHN WESLEY DOBBS AVENUE (F.K.A. HOUSTON STREET) AND THE POINT OF BEGINNING. THENCE FROM THE POINT OF BEGINNING AND RUNNING S71°50'50"W ALONG THE SAID SOUTHEAST RIGHT-OF-WAY OF SAID JOHN WESLEY DOBBS AVENUE A DISTANCE OF 202.38 FEET TO A POINT LOCATED AT THE SOUTHWEST CORNER OF SAID RIGHT-OF-WAY. THENCE LEAVING THE SAID SOUTHEAST RIGHT-OF-WAY AND RUNNING N18°09'10"W ALONG THE SOUTHWEST RIGHT-OF-WAY OF SAID JOHN WESLEY DOBBS AVENUE A DISTANCE OF 55.88 FEET TO A REBAR FOUND LOCATED AT THE NORTHWEST CORNER OF SAID RIGHT-OF-WAY. THENCE RUNNING N71°45'54"E ALONG THE NORTHWEST RIGHT-OF-WAY OF SAID JOHN WESLEY DOBBS AVENUE A DISTANCE OF 221.64 FEET TO A NAIL FOUND LOCATED AT THE INTERSECTION OF THE SAID NORTHWEST RIGHT-OF-WAY OF SAID JOHN WESLEY DOBBS AVENUE AND THE WEST RIGHT-OF-WAY OF SAID JACKSON STREET. THENCE LEAVING THE SAID NORTHWEST RIGHT-OF-WAY OF SAID JOHN WESLEY DOBBS AVENUE RUNNING S00°43'24"W ACROSS SAID JOHN WESLEY DOBBS AVENUE A DISTANCE OF 59.42 FEET TO SAID SOUTHEAST RIGHT-OF-WAY OF SAID JOHN WESLEY DOBBS AVENUE AND THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINING 0.273 ACRES OR 11,881 SQUARE FEET.

# EXHIBIT A



## SURVEY NOTES

- STORM SEWER, SANITARY SEWER AND OTHER BURIED UTILITIES HAVE BEEN FOUND ON SCHEDULED OVER THE LOCATION OF UNDERGROUND UTILITIES AND RECORD DRAWINGS. THE LOCATION OF ABOVE GROUND STRUCTURES AND RECORD DRAWINGS SHOWN ON THIS SURVEY, LOCATIONS OF UNDERGROUND UTILITIES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES BEFORE EXCAVATIONS ARE BEGUN. CALL THE UTILITIES PROTECTION CENTER FOR ADDITIONAL INFORMATION.
- THROUGH OUT GEORGIA 1-800-282-7411
- SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EVIDENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT A CURRENT TITLE SEARCH MAY DISCLOSE.
- THIS PLAN WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED PERSON, PERSONS, OR ENTITY WITHOUT THE EXPRESS RECIPIENTSHIP OF THE SURVEYOR MAKING SUCH PERSON, PERSONS OR ENTITY.
- THE FIELD DATA UPON WHICH THIS PLAN IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000+ FEET, AND AN ANGULAR ERROR OF ONE FOOT ANGLE POINT, AND WAS OBTAINED BY THE CLOSURE AND IS SHOWN TO BE BEHIND CALCULATED THE CLOSURE AND IS SHOWN TO BE BEHIND WITHIN ONE FOOT IN 100,000+ FEET LINEAR AND ANGULAR MEASUREMENTS WERE OBTAINED BY USING A TOPCON TOTAL STATION.
- BEARINGS SHOWN WERE COMPUTED FROM ANGLES TURNED FROM A SINGLE MAGNETIC OBSERVATION.
- THIS PLAN NOT INTENDED FOR RECORDING.

## BENCHMARK INFORMATION

ALL ELEVATIONS SHOWN ARE TIED BY FIELD MEASUREMENTS TO MARTA MONUMENT (PINS 1).

THIS IS A 3" BRASS DISK IN THE NORTH CONCRETE SIDEWALK OF OCEANVIEW STREET NEAR WILLIAM HOUSES BORDEN, SR. DRIVE.

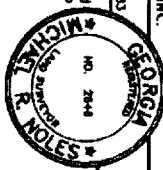
MONUMENT ELEVATION = 1022.268 FEET

NORTH AMERICAN DATUM 1983/1994

**TOTAL AREA = 0.273 ACRES**  
OR 11,881 SQ. FT.

RIGHT-OF-WAY ABANDONMENT OF  
**JOHN WESLEY DOBBS AVE.**  
FOR  
**TCRA PROPERTIES, Inc.**

LAND LOT 46  
DISTRICT 14TH SECTION  
COUNTY FULTON  
GEORGIA  
PLAT PREPARED: 4-20-07  
FIELD: 1-12-07 SCALE: 1" = 40'



**WEISLING**  
SURVEYING SERVICES, INC.  
4833 South Cobb Drive, Suite 200  
Smyrna, Georgia 30080 (770) 431-3383

This property (P) is not located in a Federal Flood Area as indicated by F.I.N.I.A. Official Flood Hazard Map (1312C 0224 E Power Not Printed).

In my opinion the plat is a correct representation of the land plotted.

Michael R. Niles  
Georgia RLS #2846  
Member SACSOC  
JOB#224070-2



EXHIBIT B

**NOTICE OF DECISION**

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**To:** Chick Krautler, ARC  
**(via electronic mail)** Sonny Deriso, GRTA  
Kessel Stelling, GRTA  
Brandon Beach, GRTA  
Ken Bernard, GRTA  
Jerry Bowman, GRTA  
John Sibley, GRTA  
Jeanie Thomas, GRTA  
Bob Voyles, GRTA

**To:** Mayor Shirley Franklin, City of Atlanta  
**(via electronic mail and certified mail)** Jeff Warsaw, Trammell Crow

**From:** Steven L. Stancil, GRTA Executive Director

**Copy:** Kirk Fjelstul, GRTA  
**(via electronic mail)** Laura Beall, GRTA  
Stuart Dorfman, DCA  
Haley Fleming, ARC  
Steve Walker, GDOT  
Harry Graham, GDOT  
Shelley Peart, City of Atlanta  
Nursef Kadir, City of Atlanta  
Jessica Hill, Powell Goldstein, LLP  
Kelly Rosenberger, KHA  
Parker Ellen, KHA

**Date:** April 23, 2007

**Re:** Notice of Decision Regarding DRI 1318 Alexan 360 aka Alexan Cityscapes

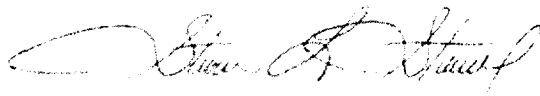
**Notice of Decision for  
Request for Non-Expedited Review of  
DRI 1318 Alexan 360 aka Alexan Cityscapes**

The purpose of this notice is to inform Trammel Crow Residential (the Applicant), City of Atlanta (the local government), the GRTA Land Development Committee, the Georgia Department of Community Affairs (DCA), the Georgia Department of Transportation (GDOT), and the Atlanta Regional Commission (ARC) of GRTA's decision regarding DRI 1318 Alexan 360 aka Alexan Cityscapes (the DRI Plan of Development). GRTA has completed a non-expedited review for the DRI Plan of Development pursuant to sections 3-101 and 3-103.A of the *Procedures and Principles for GRTA Development of Regional Impact Review* and has determined that the DRI Plan of Development meets the GRTA review criteria set forth in Sections 3-101 and 3-103.A. The DRI Plan of Development as proposed is **approved subject to conditions**, as provided in Attachment A and subject to the limitations placed on allowable modifications to the DRI Plan of Development, as described in Attachment B.

Subject to the conditions set forth in Attachment A and Attachment B, GRTA will approve the expenditure of state and/or federal funds for providing the Land Transportation Services and Access improvements listed in Section 2 of Attachment C. The need for said approval shall terminate and be of no further force and effect after ten (10) years from the date of this Notice of Decision, unless the local government has issued a permit for the construction of any part of the proposed DRI Plan of Development prior to the end of the ten-year period.

The notice of decision is based upon review of the applicant's DRI Review Package. The Review Package includes the site development plan dated March 14, 2007 and received by GRTA on March 19, 2007, prepared by Kimley-Horn and Associates, Inc., titled "Alexan Cityscapes" (Site Plan) and the analysis prepared by Kimley-Horn and Associates, Inc., dated March 2007 and received by GRTA on March 14, 2007 (together the Review Package).

Pursuant to Section 2-501 of the *Procedures and Principles for GRTA Development of Regional Impact Review*, the Applicant, the GRTA Land Development Committee and the local government have a right to appeal this decision within five (5) working days of the date on this letter by filing a Notice of Appeal with the GRTA Land Development Committee. A Notice of Appeal must specify the grounds for the appeal and present any argument or analysis in support of the appeal. For further information regarding the right to appeal, consult Part 5 of the *Procedures and Principles for GRTA Development of Regional Impact Review*, available from GRTA or on the Worldwide Web at <<http://www.grta.org/dri/home.htm>>. If GRTA staff receives an appeal, you will receive another notice from GRTA and the Land Development Committee will hear the appeal at its June 13, 2007 meeting.



Steven L. Stancil  
Executive Director  
Georgia Regional Transportation Authority

## **Attachment A – General Conditions**

### **Conditions to GRTA Notice of Decision:**

#### Road Connectivity

- Drive #2 shall be a shared access drive with the adjacent Middle School
  - In lieu of the above condition, Driveway#2 shall be right-in right-out only.
- Drive #1 shall align with John Wesley Dobbs Avenue as shown on the site plan.
- Provide a maximum of one access point onto Jackson Street as shown on the site plan.
- Provide a maximum of one access point onto Irwin Street as shown on the site plan.
- Provide an internal vehicular connection between Irwin Street and Jackson Street similar to as shown on the site plan.

#### Pedestrian and Bicycle Facilities

- Preserve a minimum 20 foot wide permanent easement along the northern property line for the future construction of a multi-use PATH.
  - Provide a marked crosswalk from the existing PATH termination across Jackson Street to this 20 foot easement.
- Provide sidewalks along property frontage abutting Irwin Street and Jackson Street.
- Provide sidewalks on both sides of Road 2.
- Provide sidewalks on at least one side of Road 1.
- Provide bicycle racks in each of the parking decks.

### **Roadway Improvements as Conditions to GRTA Notice of Decision:**

#### JW Dobbs Avenue @ Jackson Street

- Re-stripe the pavement markings on the westbound approach to one shared left-through lane and an exclusive right-turn lane.
- Provide pedestrian crosswalks and full pedestrian functionality on all four approaches.

#### Irwin Street @ Site Driveway #2

- This driveway shall be a shared driveway with the Middle School.
  - In lieu of the above condition, this driveway shall be right-in right-out only.

## **Attachment B – Required Elements of the DRI Plan of Development**

### **Conditions Related to Altering Site Plan after GRTA Notice of Decision:**

The on-site development will be constructed materially (substantially) in accordance with the Site Plan. Changes to the Site Plan will not be considered material or substantial so long as the following conditions are included as part of any changes:

- All of the “Conditions to GRTA Notice of Decision” set forth in Attachment A are satisfied.
- All of the “Roadway Improvements as Conditions to GRTA Notice of Decision” set forth in Attachment A are satisfied.

## Attachment C – Required Improvements to Serve the DRI

Pursuant to Section 1-201.R. of the *Procedures and Principles for GRTA Development of Regional Impact Review*, a “Required Improvement means a land transportation service [def. in Section 1-201.N] or access [def. in Section 1-201.A.] improvement which is necessary in order to provide a safe and efficient level of service to residents, employees and visitors of a proposed DRI.”

The Required Improvements in the study network were identified in the Review Package as necessary to bring the level of service up to an applicable standard before the build-out of the proposed project. These requirements are identified in Sections 1 and 2 of this Attachment. Section 1 contains improvements that do not require GRTA approval at this time because they are to be constructed prior to the completion of the DRI Plan of Development. However, GRTA approval shall be required in the event state and/or federal funds are proposed at a later date to be used for any portion of the improvements described in Section 1. Section 2 contains improvements that require GRTA approval prior to the expenditure of state and/or federal funding. Subject to the conditions set forth in Attachment A and Attachment B, GRTA approves the expenditure of state/and or federal funding for the improvements contained in Section 2.

### Section 1.

#### JW Dobbs Avenue/ Site Driveway #1 @ Jackson Street

- Re-stripe the pavement markings on the westbound approach to one shared left-through lane and an exclusive right-turn lane.
- Provide pedestrian crosswalks and full pedestrian functionality on all four approaches.

#### Irwin Street @ Site Driveway #2

- This driveway shall be a shared driveway with the Middle School.
  - In lieu of the above condition, this driveway shall be right-in right-out only.

### Section 2.

#### I-75/85 at Edgewood Avenue

- Capacity improvements at interchange AT-AR-213 2025

#### Freedom Parkway at Boulevard

- Install a third westbound through lane to create two through lanes and a shared through/right-turn lane;
- Install a fourth westbound receiving lane on Freedom Parkway west of Boulevard and modify the southbound right-turn movement to be free-flow with its own lane.
- Modify offsets and green timing for this intersection and for the intersection of JW Dobbs Avenue @ Boulevard, which is included in the coordinated system.