

## BOARD OF COUNTY COMMISSIONERS

Randy Ognio, Chairman  
Charles W. Oddo, Vice Chairman  
Edward Gibbons  
Eric K. Maxwell  
Charles D. Rousseau



## FAYETTE COUNTY, GEORGIA

Steve Rapson, County Administrator  
Dennis A. Davenport, County Attorney  
Tameca P. White, County Clerk  
Marlena Edwards, Deputy County Clerk

140 Stonewall Avenue West  
Public Meeting Room  
Fayetteville, GA 30214

## AGENDA

April 21, 2020

6:30 p.m.

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Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2<sup>nd</sup> and 4<sup>th</sup> Thursday of each month at 6:30 p.m.

Call to Order  
Invocation and Pledge of Allegiance by Commissioner Edward Gibbons  
Acceptance of Agenda

### PROCLAMATION/RECOGNITION:

### PUBLIC HEARING:

### PUBLIC COMMENT:

*Speakers will be given a five (5) minute maximum time limit to speak before the Board of Commissioners about various topics, issues, and concerns. Speakers must direct comments to the Board. Responses are reserved at the discretion of the Board.*

### CONSENT AGENDA:

1. Approval of the March 31, 2020 Special Called Meeting Minutes. (pages 3-4)
2. Approval of the April 9, 2020 Board of Commissioners Meeting Minutes. (pages 5-8)

### OLD BUSINESS:

### NEW BUSINESS:

3. Consideration of staff's recommendation to accept the 2017 Transportation Improvement Program (TIP) grant award for SPLOST projects 19TAF; \$2,896,312 and 19TAG; \$3,113,444: Fayette County Resurfacing Program - FY2019 and Fayette County Resurfacing Program - FY2020, and authorization for staff to seek additional federal funds. (page 9)
4. Consideration of draft Road Resurfacing Agreement with Fayetteville, Peachtree City and Tyrone for federal-aid SPLOST projects 19TAF and 19TAG: Fayette County Resurfacing Program - FY2019 and Fayette County Resurfacing Program - FY2020. (pages 10-23)

5. Consideration of staff's recommendation to award Bid #1795-B: 2017 SPLOST; Stormwater Category II; Kenwood Road and Mercedes Trail Culvert Replacements, and Category III; Creekwood Court Culvert Replacement to the lowest bidder, Pine Valley Concrete, Inc., in the amount of \$953,787.63 and authorization for the County Administrator to execute the contract and related documents. (pages 24-28)
6. Consideration of Resolution 2020-04 of the Fayette County Board of Commissioners authorizing and approving changes to the 401(a) Employee Retirement Plan and the Georgia Section 457(b) Deferred Compensation Plan for the Coronavirus Aid, Relief and Economic Security Act. (pages 29-75)
7. Consideration of the County Attorney's recommendation to approve a disposition of tax refund, as requested by Charles McQueen, for tax years 2017, 2018 and 2019 in the aggregated amount of \$812.84. (pages 76-79)

**ADMINISTRATOR'S REPORTS:**

- A. Contract #1744-B: Fuel Management System Upgrade (pages 80-83)

**ATTORNEY'S REPORTS:**

**COMMISSIONERS' REPORTS:**

**EXECUTIVE SESSION:**

**ADJOURNMENT:**

**BOARD OF COUNTY COMMISSIONERS**

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**FAYETTE COUNTY, GEORGIA**

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140 Stonewall Avenue West  
 Public Meeting Room  
 Fayetteville, GA 30214

## MINUTES Special Called

March 31, 2020  
 4:00 p.m.

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Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2<sup>nd</sup> and 4<sup>th</sup> Thursday of each month at 6:30 p.m.

**Call to Order**

Chairman Randy Ognio called the March 31, 2020 Board of Commissioners Special Called meeting to order at 4:00 p.m. A quorum of the Board was present.

**Invocation and Pledge of Allegiance by Commissioner Gibbons**

Commissioner Edwards Gibbons offered the Invocation and led the Board and audience in the Pledge of Allegiance.

**Acceptance of Agenda**

Vice Chairman Charles Oddo moved to accept the agenda as written. Commissioner Charles Rousseau seconded. The motion passed 5-0

**OFFICIAL SESSION:**

**1. Consideration of Declaration of a Public Health Emergency and a voluntary Shelter-at-Home Ordinance due to the Coronavirus (COVID-19).**

County Administrator Steve Rapson stated that in the abundance of caution, the County was making a Declaration of a Public Health Emergency. Mr. Rapson stated that the County had implemented social-distancing efforts which included a limitation on gathering of 10 people or less, all county owned and maintained property was closed to the general public, and restaurants were restricted to only serving takeout orders. Mr. Rapson stated that the County would also implement a voluntary Shelter-at-Home Ordinance, which requested all persons within Fayette County to consider voluntarily Sheltering-at-Home and not leave their homes unless an individual was seeking an essential service, leaving for or returning from a place of employment, traveling through the county, seeking food, medication, and/or medical care or supplies, and engaging in specified exercise (e.g. walking or jogging) while still maintaining the social-distancing protocol of six feet.

Vice-Chairman Oddo moved to approve a Declaration of a Public Health Emergency and a voluntary Shelter-at-Home Ordinance due to the Coronavirus (COVID-19). Commissioner Rousseau seconded. The motion passed 5-0.

**ADJOURNMENT:**

Vice-Chairman Oddo moved to adjourn the March 31, 2020 Special Called Meeting. Commissioner Gibbons seconded. The motion passed 5-0.

The March 31, 2020 Special Called Board of Commissioners Meeting adjourned at 4:06 p.m.

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Marlena Edwards, Deputy County Clerk

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Randy C. Ognio, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 21<sup>th</sup> day of April 2020. Referenced attachments are available upon request at the County Clerk's Office.

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Marlena Edwards, Deputy County Clerk

**BOARD OF COUNTY COMMISSIONERS**

Randy Ognio, Chairman  
Charles W. Oddo, Vice Chairman  
Edward Gibbons  
Eric K. Maxwell  
Charles D. Rousseau

**FAYETTE COUNTY, GEORGIA**

Steve Rapson, County Administrator  
Dennis A. Davenport, County Attorney  
Tameca P. White, County Clerk  
Marlena Edwards, Deputy County Clerk



140 Stonewall Avenue West  
Public Meeting Room  
Fayetteville, GA 30214

**MINUTES**

April 9, 2020  
6:30 p.m.

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Welcome to the meeting of your Fayette County Board of Commissioners. Your participation in County government is appreciated. All regularly scheduled Board meetings are open to the public and are held on the 2<sup>nd</sup> and 4<sup>th</sup> Thursday of each month at 6:30 p.m.

**Call to Order**

Chairman Randy Ognio called the April 9, 2020 Board of Commissioners meeting to order at 6:30 p.m. A quorum of the Board was present.

**Invocation and Pledge of Allegiance by Commissioner Charles Rousseau**

Commissioner Charles Rousseau offered the Invocation and led the Board and audience in the Pledge of Allegiance.

**Acceptance of Agenda**

Vice-Chairman Charles Oddo moved to accept the agenda as written. Commissioner Edward Gibbons seconded. The motion passed 5-0.

**PROCLAMATION/RECOGNITION:**

**1. Proclamation to recognize April as Safe Digging Month in Fayette County.**

Public Works Director Phil Mallon, on behalf of the Board, presented a Safe Digging Month proclamation. Mr. Mallon recognized April as Safe Digging Month in Fayette County encouraging citizens to call 811 before digging.

**PUBLIC HEARING:**

**PUBLIC COMMENT:**

Mr. Dean Breest, on behalf of Pastor Tim Mullins with Hopeful Primitive Baptist Church, advised the Board of the initiative, "Fayette Strong", the church along with others was sponsoring. Mr. Breest stated that the purpose of this initiative was for individuals and businesses to ban together as a community to raise money for first responders and those in need in the area as a result of the Coronavirus. He stated that the "Fayette Strong" yard signs had been designed and would be available for purchase with all proceeds being donated to first responders and those in need in the local area.

**CONSENT AGENDA:**

Vice-Chairman Oddo moved to accept the Consent Agenda as written. Commissioner Gibbons seconded. The motion passed 5-0.

2. **Approval of staff's recommendation to add Longboat II subdivision to Fayette County's Street Light Program.**
3. **Approval of staff's recommendation for the Board of Commissioners to enter into an agreement between Fayette County and the Town of Brooks allowing Fayette County to act on behalf of the Town of Brooks to maintain compliance with the Metropolitan North Georgia Watershed Planning District Water Management Plan.**
4. **Approval of a request from the Griffin Judicial Circuit Adult Felony Drug Court to accept a supplemental grant award for FY 2020 from the Criminal Justice Coordinating Council (CJCC) of \$13,856.**
5. **Approval of the March 12, 2020 Board of Commissioners Meeting Minutes.**
6. **Approval of the March 16, 2020 Emergency Called Meeting Minutes.**

**OLD BUSINESS:**

**NEW BUSINESS:**

7. **Consideration of the County Attorney's recommendation to approve a disposition of tax refund, as requested by Richard Anwyl, for tax years 2017, 2018 and 2019 in the aggregate amount of \$2,659.82.**

County Attorney Dennis Davenport stated that this tax refund request was received from Mr. Richard Anwyl. He stated that the request was initiated as a result of a deletion of the property owners' homestead exception status. Mr. Davenport stated that Mr. Anwyl's homestead exception took effect in 2014 and due to a discrepancy in the mailing address and the address listed on the form, the exception status was deleted. Mr. Anwyl took measures to have the exception reapplied in 2015 and had his address updated in the records; however, the exception still was not reapplied in 2015. As a result, Mr. Anwyl was erroneously assessed taxes because the homestead exception was not applied and he was due a refund. Mr. Davenport stated that the recommendation was to approve the tax refund request.

Vice-Chairman Oddo moved to approve County Attorney's recommendation to approve a disposition of tax refund, as requested by Richard Anwyl, for tax years 2017, 2018 and 2019 in the aggregate amount of \$2,659.82. Commissioner Gibbons seconded. The motion passed 5-0.

8. **Consideration of the County Attorney's recommendation to approve a disposition of tax refund, as requested by Wesley O. Saunders, for tax year 2018 in the amount of \$236.63.**

County Attorney Dennis Davenport stated that the tax refund was requested by Wesley O. Saunders, for tax year 2018, and involved a tax freeze. He stated that an appeal for property taxes went into effect in 2017, as a result, Mr. Saunders property value was lowered. When a property value is lowered, as a result of an appeal, the applicant reaps the benefit of a three-year freeze on that value. The freeze was inadvertently not put in place in 2018 for Mr. Saunders but has since been corrected for 2019. Mr. Davenport stated that the recommendation was to approve the tax refund request.

Mr. Saunders thanked the Board for their assistance, he had not realized the error.

Commissioner Gibbons moved to approve County Attorney's recommendation to approve a disposition of tax refund, as requested by Wesley O. Saunders, for tax year 2018 in the amount of \$236.63. Vice-Chairman Oddo seconded. The motion passed 5-0.

9. **Consideration of the County Attorney's recommendation to approve a disposition of tax refund, as requested by KH Peachtree LLLP, for tax year 2018 in the amount of \$8,010.11.**

County Attorney Dennis Davenport stated that this tax refund request was submitted by KH Peachtree LLLP, for tax year 2018 and involved twelve parcels of properties. The three-year freeze had inadvertently not been placed on the properties values for 2018 following the 2017 appeal. Mr. Davenport stated that the recommendation was to approve the tax refund request.

Vice-Chairman Oddo moved to approve County Attorney's recommendation to approve a disposition of tax refund, as requested by KH Peachtree LLLP, for tax year 2018 in the amount of \$8,010.11. Commissioner Gibbons seconded. The motion passed 5-0.

**10. Consideration of the County Attorney's recommendation to approve a disposition of tax refund, as requested by Chad and Noreen Perret, for tax years 2017, 2018 and 2019 in the aggregated amount of \$10,213.29.**

County Attorney Dennis Davenport stated that tax refund was requested by Chad and Noreen Perret, for tax years 2017, 2018 and 2019. The square footage measurements of their property were recorded incorrectly. During the investigation of this request, it was discovered that the square footage measurement was off due to the layout of the property. The sketch was erroneously reviewed by the Tax Assessors as having a much smaller garage which resulted in more heated square footage along with the property being recorded as 1 ½ stories as opposed to 1 ¼ stories. Mr. Davenport stated that these combined factors contributed to the incorrect square footage being assessed. He stated that the recommendation was to approve the tax refund request.

Mrs. Perret stated that she and her husband had not realized there was an issue with the square footage because they had not received a copy of their assessment because it was sent to the wrong address. Mrs. Perrett stated that at the end of 2019 she called the Tax Assessors Office to inquire about her property record and discovered the error in the square footage measurements. Mrs. Perret stated that she asked for a new assessment. Mrs. Perrett thanked the Board for their assistance in getting the issue resolved.

Commissioner Gibbons moved to approve County Attorney's recommendation to approve a disposition of tax refund, as requested by Chad and Noreen Perret, for tax years 2017, 2018 and 2019 in the aggregated amount of \$10,213.29. Vice-Chairman Oddo seconded. The motion passed 5-0.

**ADMINISTRATOR'S REPORTS:**

County Administrator Steve Rapson advised that an updated "Hot Projects" listing was sent out via email to the Board to keep them abreast of the status of various projects throughout the county. Mr. Rapson stated that the update included details regarding the Stars Mill project, the intersection at SR 92 project, the East Fayetteville bypass project, the Dogwood Trail project, and the Morning Dove Drive culvert replacement project. As an update for county residents, there was two Governor issued Executive Orders in place that the County was adhering to. He stated that the first was a Shelter-at-Home order which would be in effect through April 30, 2020 and the second was the Emergency Declaration order which would be in place through May 13, 2020. Mr. Rapson stated that he had extended the County position of being closed to the public through May 13, 2020 to ensure the County was in line with the Executive Orders. He continued that although closed to the public, the County was fully functional; with the exception of the Library and Parks being closed, walking trails are open.

Mr. Rapson stated that the Election was postponed until June 9, 2020.

Mr. Rapson provided a Coronavirus status update for Georgia, which included 89 cases in Fayette County and 3 deaths. He advised the Board that there were 210 county employees actively teleworking on various assignments. Mr. Rapson stated that he had the opportunity to visit several departments and saw the engagement and interaction of the office and teleworking staff; he witnessed several Microsoft TEAMS meetings.

Mr. Rapson provided the State of Georgia COVID-19 hotline: 1-844-442-2681. He also provided the Georgia emotional support hotline: 1-866-399-8938. He stated that recently Homeland Security and the National Guard had been activated to clean nursing homes and assisted living facilities. He continued that the County was contacted by the Georgia Emergency Management Agency to assist in coordinating those efforts if requested by the facilities within the County.

**ATTORNEY'S REPORTS:**

**Notice of Executive Session:** County Attorney Dennis Davenport stated that there were eight items for Executive Session. Four (4) items of Real Estate Acquisition, two (2) items of Threaten Litigation, One (1) item Pending Litigation, and the review of the Executive Session Minutes for February 27, 2020.

**COMMISSIONERS' REPORTS:**

Chairman Ognio thanked staff for all their hard work and dedication, despite the various challenges and continued uncertainty surrounding us. He stated that staff was surpassing expectations. He also encouraged citizens to continue social-distancing and if possible, to continue to patronize local eateries and restaurants.

**EXECUTIVE SESSION:**

**Four (4) items of Real Estate Acquisition, two (2) items of Threaten Litigation, One (1) item Pending Litigation, and the review of the Executive Session Minutes for February 27, 2020.**

Vice Chairman Oddo moved to go into Executive Session. Commissioner Gibbons seconded. The motion passed 5-0.

The Board recessed into Executive Session at 6:52 p.m. and returned to Official Session at 7:35 p.m.

**Return to Official Session and Approval to Sign the Executive Session Affidavit:** Chairman Ognio moved to return to Official Session and for the Chairman to sign the Executive Session Affidavit. Vice Chairman Oddo seconded the motion. The motion passed 5-0.

**ADJOURNMENT:**

Chairman Ognio moved to adjourn the April 9, 2020 Board of Commissioners Meeting. Vice Chairman Oddo seconded. The motion passed 5-0.

The April 9, 2020 Board of Commissioners Meeting adjourned at 7:37 p.m.

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Marlena Edwards, Deputy County Clerk

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Randy C. Ognio, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Commissioners of Fayette County, Georgia, held on the 21<sup>th</sup> day of April 2020. Referenced attachments are available upon request at the County Clerk's Office.

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Marlena Edwards, Deputy County Clerk

# COUNTY AGENDA REQUEST

Department:

Presenter(s):

Meeting Date:

Type of Request:

**Wording for the Agenda:**

Consideration of staff's recommendation to accept the 2017 Transportation Improvement Program (TIP) grant award for SPLOST projects 19TAF; \$2,896,312 and 19TAG; \$3,113,444: Fayette County Resurfacing Program - FY2019 and Fayette County Resurfacing Program - FY2020, and authorization for staff to seek additional federal funds.

**Background/History/Details:**

On May 11, 2017 the Board approved staff to submit an application to the Atlanta Regional Commission in response to their open solicitation for Transportation Improvement Program (TIP) projects. In a follow-up action on July 13, 2017, the Board approved Resolution No. 2017-12, which committed the County's required local match (a minimum of 20%) to the project. The application was for a multi-jurisdictional resurfacing project for roads in unincorporated Fayette County, Peachtree City, Fayetteville and Tyrone. ARC awarded Surface Transportation Block Grant (STBG) Program money to the project but split allocation across fiscal years 2019 and 2020.

19TAF (GDOT PI 0016058 / ARC FA-100A)	19TAG (GDOT PI 0016083 / ARC FA-100B)
Federal: \$2,896,312	Federal: \$3,113,444
Local CST: \$724,078	Local CST: \$778,361
PE/CEI/GDOT: \$321,280	PE/CEI/GDOT: \$234,820
Total: \$3,941,670	Total: \$4,126,625

Fayette County and the municipalities are 100% responsible for project costs above the estimated totals.

**What action are you seeking from the Board of Commissioners?**

Approval of staff's request to accept the TIP grant awards in the amount of \$2,896,312 for 19TAF and \$3,113,444 for 19TAG, and authorization for staff to seek additional federal funds for these projects, if they become available.

**If this item requires funding, please describe:**

Funding for the project is available from the 2017 SPLOST - Transportation Contingency (TRANS) and 17TAE (Sandy Creek Road). Reimbursement from the municipalities will be governed by a proposed intergovernmental agreement.

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?\*

Backup Provided with Request?

**\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

**Staff Notes:**

# COUNTY AGENDA REQUEST

Department:

Presenter(s):

Meeting Date:

Type of Request:

**Wording for the Agenda:**

Consideration of draft Road Resurfacing Agreement with Fayetteville, Peachtree City and Tyrone for federal-aid SPLOST projects 19TAF and 19TAG: Fayette County Resurfacing Program - FY2019 and Fayette County Resurfacing Program - FY2020.

**Background/History/Details:**

These two resurfacing projects are a result of a joint application submitted to the Atlanta Regional Commission in 2017 on behalf of Fayette County, Fayetteville, Peachtree City and Tyrone. The original application was for 25 miles of roads and had a cost estimate of \$9,613,707. ARC approved 18.9 miles of resurfacing and split the award into two projects: FA-100A and FA-100B.

Fayette County is the sponsor of the project and was the lead in hiring a Consultant and managing the projects through GDOT's Plan Development Process. Each city/town, however, was responsible for defining the scope and preparing cost estimates for the roads in their jurisdiction. The Agreement defines the responsibilities of each party, including pro-rated payment of project costs.

The costs provided in Exhibit A are estimates. Final costs to each government will be a function of actual labor, equipment and material costs for construction and construction engineering and inspection, less additional federal aid if awarded by the Atlanta Regional Commission (ARC).

**What action are you seeking from the Board of Commissioners?**

Approval of the Road Resurfacing Agreement with Fayetteville, Peachtree City and Tyrone for federal-aid SPLOST projects 19TAF and 19TAG: Fayette County Resurfacing Program - FY2019 and Fayette County Resurfacing Program - FY2020.

**If this item requires funding, please describe:**

Funding for the project is available from the 2017 SPLOST - Transportation Contingency (TRANS) and 17TAE (Sandy Creek Road). Reimbursement from the municipalities will be governed by the Agreement.

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?\*

Backup Provided with Request?

**\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

**Staff Notes:**

**STATE OF GEORGIA****COUNTY OF FAYETTE****ROAD RESURFACING AGREEMENT**

This Agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ between the Town of Tyrone, the City of Peachtree City and the City of Fayetteville municipal corporations lying wholly within Fayette County, Georgia, acting by and through their Mayors and Councils, and hereinafter referred to as the “City/Cities”, and FAYETTE COUNTY, GEORGIA, a political subdivision of the State of Georgia, acting by and through its Board of Commissioners, hereinafter referred to as “the County” to provide for certain road resurfacing within the corporate limits of the Cities, hereinafter referred to as the “Agreement.”

**W I T N E S S E T H:**

WHEREAS, local roads are an essential part of a community’s infrastructure system providing access to both local properties and regional thoroughfares; and

WHEREAS, the cost to maintain local roads is a significant burden to local governments; and

WHEREAS, State and Federal grant programs for infrastructure maintenance are available and are more successfully obtained by those localities wherein cooperation among local governments and agencies can be found; and

WHEREAS, Fayette County has applied for, and has been awarded funding for two resurfacing projects through the Surface Transportation Block Grant Program (STBG) by the Atlanta Regional Commission (ARC) and the Georgia Department of Transportation (GDOT) for 18.9 centerline miles of roads within Fayette County and its Cities; and

WHEREAS, Fayette County, the City of Fayetteville, the City of Peachtree City, and the Town of Tyrone have each selected roads to include in the grant projects, based on GDOT

Functional Classifications and pavement evaluations; and

WHEREAS, construction funding for the projects through the STBG is split between fiscal years 2019 and 2020, commencing on July 1, 2018 running through June 30, 2020; and

WHEREAS, the estimated construction cost for the projects is \$3,620,389 million for FY 2019 and \$3,891,805 million for FY 2020; and

WHEREAS, each City and the County has established the scope of work and associated construction cost estimates for the roads within its jurisdiction; and

WHEREAS, a competitive selection process was used by Fayette County to identify and contract with Croy Engineering, LLC. for design, permitting, management, letting and provision of construction engineering and inspection services for the projects, in accordance with GDOT's Plan Development Process; and

WHEREAS, no right-of-way acquisition nor utility relocation is required for the projects; and

WHEREAS, all costs for preconstruction engineering (PE) shall be paid by the Cities and the County; and

WHEREAS, all costs for construction engineering and inspection (CEI) shall be paid by the Cities and the County; and

WHEREAS, construction costs shall be paid using Federal Aid and local money using an 80/20 ratio for all costs up to the approved Federal Aid amount; and

WHEREAS, the Cities and County shall pay one hundred percent (100 %) of all construction costs above the approved Federal Aid amount; and

WHEREAS, Fayette County is the sponsor for the projects and the projects shall be locally let by Fayette County for construction.

NOW THEREFORE, for and in consideration of the premises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Cities and the County, the Cities and the County do hereby agree as follows:

1.

DISTRIBUTION OF COSTS

A. PRECONSTRUCTION ENGINEERING SERVICES.

Fayette County shall not seek federal aid for work associated with preconstruction engineering (PE). The estimated costs for PE services are provided in Exhibit A, attached hereto and hereby incorporated herein. The actual costs for PE services that are common to all roads that are to be addressed under the terms of this agreement, hereinafter referred to as Project Roads as named in Exhibit A, shall be determined by allocating the pro-rata share of these costs to each City and the County based upon the number of centerline miles of Project Road located within the City and/or County. If additional work is required for a particular Project Road then those fees shall be one hundred percent (100%) paid by the City and/or County in which that Project Road is located.

B. CONSTRUCTION ENGINEERING AND INSPECTION SERVICES.

Fayette County shall seek federal aid for construction engineering and inspection (CEI) services, if it becomes eligible. Currently CEI costs are programmed to be fully funded through City and/or County funds. The estimated costs for CEI services are provided in Exhibit A. The actual costs for CEI services will be tracked and invoiced on a per-Project Road basis. Each City or County shall be one hundred percent (100%) responsible (less federal aid, if awarded) for fees expended for a Project Road within its jurisdictional limits.

C. STATE OVERSIGHT SERVICES.

The Georgia Department of Transportation (GDOT) may require reimbursement for the costs associated with State oversight during construction. These estimated costs are shown in Exhibit A

(see “GDOT Ovst” column). Should such reimbursement be necessary, the actual fees expended by each City and/or the County to cover these costs shall be determined by allocating the pro-rata share of these costs to each City and the County based upon the number of centerline miles of Project Road that City and/or County has within its jurisdictional limits.

D. CONSTRUCTION COSTS.

- i. Federal aid shall be used to fund up to eighty percent (80%) of the cost of construction of the Project Roads. For Fiscal Year 2019 the Federal Aid expenditure on Project Roads shall not exceed \$2,896,311. For Fiscal Year 2020 the Federal Aid expenditure on Project Roads shall not exceed \$3,113,444. The remaining twenty percent (20%) of the cost of Project Roads plus one hundred percent (100%) of any costs in excess of the maximum federal aid expenditure described in this paragraph, shall be paid by the City/County in which the Project Road lies. All federal aid shall be distributed for Project Roads among the Cities and/or County according to the cost estimates listed in Exhibit A attached hereto.
- ii. City and/or County construction costs, including but not limited to those required for the twenty percent (20%) match, plus any construction costs above the approved federal-aid match, shall be one hundred percent (100%) paid by the City or County having the Project Road within its jurisdictional limits.
- iii. All construction costs shall be tracked and invoiced based upon the Project Road.

2.

SCOPE OF AGREEMENT

A. The limits and scope of the work anticipated by the terms of this agreement shall not be increased or expanded.

B. Fayette County shall advertise for bids, award construction contract to the contractor, and administer the contracts for the implementation of the road resurfacing project. The projects shall be administered and delivered following the GDOT Plan Development Process.

C. Each City and the County shall be individually responsible for the following activities for and within the limits of its own jurisdiction:

- i. Execution of contracts, agreements and related documents required for the Road Projects;
- ii. Preparation of road logs;
- iii. Providing Right-of-Way certification;
- iv. Providing Materials Quality Assurance Forms;
- v. Providing ADA compliance letters;
- vi. Designating areas and quantities for patching and milling;
- vii. Providing notification to their citizens;
- viii. Serving as “Owner” for work within their jurisdiction; and
- ix. Performing the final inspection and acceptance of the work.

D. All parties agree that the selected Contractor shall be responsible for all construction activities, including but not limited to the following:

- i. Traffic Control;
- ii. Patching and/or Full Depth Reclamation (FDR);
- iii. Single surface treatment;
- iv. Milling - variable depth;
- v. Tack (bituminous);
- vi. Paving (9.5 mm Type 2 or other);
- vii. Hauling;
- viii. Temporary Striping;
- ix. Thermoplastic Striping & Reflective Pavement Markings (RPMs);
- x. Grading (shoulder filling); and
- xi. Permanent Stabilization (grassing, fertilization, matting, mulch, etc.).

E. Fayette County’s project manager shall work in conjunction with Croy Engineering to ensure

all preconstruction engineering (PE) requirements are identified and completed in a timely manner. This may include written and verbal communication with the City of Fayetteville, Peachtree City, the Town of Tyrone; GDOT; ARC and any other necessary party.

3.

#### DISTRIBUTION OF EXCESS FUNDS

Each City and/or the County shall be responsible for a minimum of twenty percent (20%) of the cost of construction of the Project Roads. within its jurisdictional limits, regardless of the actual construction costs. Should extra federal funds become available from one or more Project Roads, they may be reallocated to Project Roads where actual costs are running above previously estimated costs. If required, the allocation shall be equitable among the Cities and/or County impacted by the unanticipated cost increase.

4.

#### CONSULTING FEES

Consulting fees will be charged on a time and material basis. These fees will be invoiced in accordance with the provisions of Paragraph 7 and may include, but are not limited to:

- A. Completion of Preconstruction Engineering (PE) activities;
- B. Development of Bid Package and Specifications;
- C. Bidding assistance;
- D. Construction management; and
- E. Construction Engineering and Inspection (CEI) services.

5.

#### COST ESTIMATES

The fees shown in Exhibit A are estimates of the project costs. Actual costs/fees may be more or less than shown therein. Fayette County shall notify each City before costs are incurred that exceed

the estimated values set forth in Exhibit A.

6.

#### TITLE

A. The Cities and the County agree that the roads or road segments identified in Exhibit "A" are part of the road systems of the listed City or County and, as such, shall be completely and solely within the jurisdiction and control of the City/County listed on Exhibit A. The resurfacing of the roads within any City/County is at the direction of the City/County listed in Exhibit A. No City/County assumes any interest in the title of any portion of the Project Road outside of that listed in Exhibit A. Under no circumstance shall any portion of any Project Road within a City be deemed a County road. Unless otherwise agreed, the maintenance and repair of the portion of the Project Road(s) within any City, other than the roadwork contemplated herein, shall be the sole responsibility of the City/County listed in Exhibit A.

B. The Cities and County warrant that they own or have rights to resurface the portion of the Project Road(s) within the limits of the Cities/County and further warrant that the performance of work on the portions of the Project Road(s) within the Cities/County will not violate any restrictions, covenants, local or state law.

7.

#### INVOICING

Upon completion of the road work, the County will invoice the appropriate City for its share of the costs as set forth above and in accordance with Exhibit A and Paragraph 1 of this agreement. Each City shall submit the payment due within thirty (30) days of receipt of the invoice from the County.

8.

## INDEMNIFICATION

To the fullest extent permitted by law, the Cities agree to and hereby do defend, hold harmless and indemnify the County and its officers, directors, employees, agents and representatives from and against any and all claims, damages, demands, actions, judgments, losses, costs, penalties, liabilities, assessments and expenses including, but not limited to, attorney's fees incurred or suffered by the County that arise out of, or result from, the work associated with the Project Roads set forth in Exhibit A, and which are not incurred or suffered due to the negligence of the County.

To the fullest extent permitted by law, the County agrees to and hereby does defend, hold harmless and indemnify the Cities and their officers, directors, employees, agents and representatives from and against any and all claims, damages, demands, actions, judgments, losses, costs, penalties, liabilities, assessments and expenses including, but not limited to, attorney's fees incurred or suffered by the City that arise out of, or result from, the work associated with the Project Roads set forth in Exhibit A, and which are not incurred or suffered due to the negligence of the City.

9.

## CONFLICT BETWEEN TERMS

Any additional terms and conditions which may exist between the parties may be found in Exhibit "A." To the extent that there may exist a conflict between the terms and conditions in this Agreement and the terms and conditions in Exhibit "A," the parties agree that any terms and conditions in Exhibit "A" supersede any terms and and conditions within this Agreement.

10.

## ENTIRE AGREEMENT

This Agreement is a full and complete statement of the agreement of the parties as to the subject matter hereof and has been authorized by proper action of the respective parties.

11.

**SEVERABILITY**

Should any provision of this Agreement or application thereof to any person or circumstance be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to any person or circumstance, other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the full extent permitted by law.

12.

**CHOICE OF LAWS**

This agreement shall be construed, controlled and enforced in accordance with the laws of the State of Georgia. Any and all disputes arising out of or in any way related to this Agreement shall be submitted to the State or Superior Court of Fayette County Georgia and the parties expressly consent to the venue and jurisdiction therein.

(SIGNATURES TO FOLLOW ON NEXT PAGE)

IN WITNESS WHEREOF, the parties herein have set their hands and seals on the date first above written.

BOARD OF COMMISSIONERS OF  
FAYETTE COUNTY, GEORGIA

(SEAL)

By: \_\_\_\_\_  
Randy Ognio, Chairman

Attest:

\_\_\_\_\_  
Tameca P. White, County Clerk

Approved as to form:

\_\_\_\_\_  
County Attorney

TOWN OF TYRONE

(SEAL)

By: \_\_\_\_\_  
Eric Dial, Mayor

Attest:

\_\_\_\_\_  
Dee Baker, Town Clerk

Approved as to form:

\_\_\_\_\_  
Town Attorney

CITY OF PEACHTREE CITY

(SEAL)

By: \_\_\_\_\_  
Vanessa Fleisch, Mayor

Attest:

\_\_\_\_\_  
Betsy Tyler, City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

CITY OF FAYETTEVILLE

(SEAL)

By: \_\_\_\_\_  
Edward J. Johnson, Jr., Mayor

Attest:

\_\_\_\_\_  
Anne Barksdale, City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

## Fayette County Resurfacing Program FY 2019 (GDOT PI 0016058) (2017 SPLOST 19TAF)

Street	Length (Miles)	Local PE <sup>1</sup>	Local CEI <sup>1</sup>	Local CST <sup>2</sup>	Local GDOT Ovst <sup>3</sup>	Local Total	Federal Aid CST	CST Total	Project Total
<b>Fayetteville Roads</b>									
Grady Avenue from SR 85 to SR 54	0.93	\$6,111	\$22,365	\$45,678	\$930	\$75,083	\$182,710	\$228,388	\$257,794
<i>Fayetteville Totals</i>	<i>0.93</i>	<i>\$6,111</i>	<i>\$22,365</i>	<i>\$45,678</i>	<i>\$930</i>	<i>\$75,083</i>	<i>\$182,710</i>	<i>\$228,388</i>	<i>\$257,794</i>
<b>Fayette County Roads</b>									
Sandy Creek Road from SR 74 to City limit	4.24	\$27,860	\$79,450	\$187,653	\$4,240	\$299,203	\$750,613	\$938,266	\$1,049,816
Peachtree Pkwy from Redwine to City limit	0.35	\$2,300	\$13,180	\$34,462	\$350	\$50,291	\$137,847	\$172,308	\$188,138
Hampton Rd from SR 92 to County line	0.93	\$6,111	\$23,485	\$54,825	\$930	\$85,351	\$219,299	\$274,124	\$304,650
<i>Fayette County Totals</i>	<i>5.52</i>	<i>\$36,270</i>	<i>\$116,115</i>	<i>\$276,940</i>	<i>\$5,520</i>	<i>\$434,845</i>	<i>\$1,107,759</i>	<i>\$1,384,699</i>	<i>\$1,542,604</i>
<b>Peachtree City Roads</b>									
Robinson Road from SR 54 to City limit	5.00	\$32,854	\$96,115	\$401,461	\$5,000	\$535,429	\$1,605,842	\$2,007,303	\$2,141,272
<i>Peachtree City Totals</i>	<i>5.00</i>	<i>\$32,854</i>	<i>\$96,115</i>	<i>\$401,461</i>	<i>\$5,000</i>	<i>\$535,429</i>	<i>\$1,605,842</i>	<i>\$2,007,303</i>	<i>\$2,141,272</i>
<b>FY 2019 Totals</b>	<b>11.45</b>	<b>\$75,235</b>	<b>\$234,595</b>	<b>\$724,078</b>	<b>\$11,450</b>	<b>\$1,045,358</b>	<b>\$2,896,312</b>	<b>\$3,620,390</b>	<b>\$3,941,670</b>

PE = Preconstruction Engineering; CEI = Construction Engineering & Inspection; CST = Construction; Ovst = Construction Oversight

1 - Costs are NTE based on written quote; 2 - estimates, actual cost to be based on quote; 3- estimate, actual cost based on GDOT charge

## Fayette County Resurfacing Program FY 2020 (GDOT PI 0016083) (SPLOST 19TAG)

Street	Length (Miles)	Local PE <sup>1</sup>	Local CEI <sup>1</sup>	Local CST <sup>2</sup>	Local GDOT Ovst <sup>3</sup>	Local Total	Federal Aid CST	Total CST	Project Total
<b>Fayetteville Roads</b>									
Beauregard/Redwine Roads from SR 85 to City limit	2.24	\$20,413	\$43,520	\$119,376	\$2,240	\$185,548	\$477,503	\$596,879	\$663,052
<i>Fayetteville Totals</i>	<i>2.24</i>	<i>\$20,413</i>	<i>\$43,520</i>	<i>\$119,376</i>	<i>\$2,240</i>	<b><i>\$185,548</i></b>	<i>\$477,503</i>	<i>\$596,879</i>	<i>\$663,052</i>
<b>Peachtree City Roads</b>									
Peachtree Pkwy South from SR 54 to City limit	4.40	\$40,096	\$87,390	\$573,985	\$4,400	\$705,871	\$2,295,941	\$2,869,926	\$3,001,812
<i>Peachtree City Totals</i>	<i>4.40</i>	<i>\$40,096</i>	<i>\$87,390</i>	<i>\$573,985</i>	<i>\$4,400</i>	<b><i>\$705,871</i></b>	<i>\$2,295,941</i>	<i>\$2,869,926</i>	<i>\$3,001,812</i>
<b>Tyrone Roads</b>									
Tyrone Road from Anthony to Handley Rd	0.81	\$7,381	\$28,570	\$85,000	\$810	\$121,761	\$340,000	\$425,000	\$461,761
<i>Tyrone Totals</i>	<i>0.81</i>	<i>\$7,381</i>	<i>\$28,570</i>	<i>\$85,000</i>	<i>\$810</i>	<b><i>\$121,761</i></b>	<i>\$340,000</i>	<i>\$425,000</i>	<i>\$461,761</i>
<b>FY 2020 Totals</b>	<b>7.45</b>	<b>\$67,890</b>	<b>\$159,480</b>	<b>\$778,361</b>	<b>\$7,450</b>	<b>\$1,013,181</b>	<b>\$3,113,444</b>	<b>\$3,891,805</b>	<b>\$4,126,625</b>

PE = Preconstruction Engineering; CEI = Construction Engineering & Inspection; CST = Construction; Ovst = Construction Oversight

1 - Costs are NTE based on written quote; 2 - estimates, actual cost to be based on quote; 3- estimate, actual cost based on GDOT charge

# COUNTY AGENDA REQUEST

Department:

Presenter(s):

Meeting Date:

Type of Request:

**Wording for the Agenda:**

Consideration of staff's recommendation to award Bid #1795-B: 2017 SPLOST; Stormwater Category II; Kenwood Road and Mercedes Trail Culvert Replacements, and Category III; Creekwood Court Culvert Replacement to the lowest bidder, Pine Valley Concrete, Inc., in the amount of \$953,787.63 and authorization for the County Administrator to execute the contract and related documents.

**Background/History/Details:**

On March 21, 2017, the citizens of Fayette County voted to enact a Special Purpose Local Option Sales Tax (SPLOST) to replace failing infrastructure throughout the unincorporated area of Fayette County. Kenwood Road Culvert Replacement is listed as a SPLOST Category II, Tier II project, Mercedes Trail Culvert Replacement is listed as a Category II, Tier I project, and Creekwood Court is listed as a Category III project.

The Kenwood Road portion of the project replaces a failing 72" corrugated metal pipe culvert under Kenwood Road including the relocation of an 8" County waterline and replacement of a 24" corrugated metal pipe system and catch basins near Creekwood Court at Kenwood Road. The Mercedes Trail portion of the project replaces two 48" corrugated metal pipe culverts under Mercedes Trail including a headwall on a nearby pipe system and the relocation of an 8" County waterline.

The contract states that the contractor must complete the project in its entirety (Kenwood Road, Mercedes Trail, and Creekwood Ct.) within 185 calendar days from the date when the contract times commence to run. There is a contract clause stating road closures for Kenwood Road shall not be permitted after the start of the 2020 school year on August 2, 2020. Periodic lane closures beyond this date may be permitted with prior County approval.

**What action are you seeking from the Board of Commissioners?**

Approval to award Bid #1657-B: 2017 SPLOST; Stormwater Category II; Kenwood Road and Mercedes Trail Culvert Replacement and Stormwater Category III; Creekwood Court to the lowest bidder, Pine Valley Concrete, Inc. in the total Lump Sum amount of \$953,787.63 and authorization for the County Administrator to execute the contract and related documents.

**If this item requires funding, please describe:**

Available funding in 2017 SPLOST; Stormwater Category II; Kenwood Road is \$158,880.14 and Mercedes Trail is \$163,412.90, and Stormwater Category III; Creekwood Court is \$17,448. Funds for reallocation are available in the General Stormwater Contingency.

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?\*

Backup Provided with Request?

**\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

**Staff Notes:**

The contractor evaluation from the previous project does contain unsatisfactory remarks, however County staff plans to address any foreseeable concerns during the pre-construction meeting, have county staff on-site on a more frequent schedule, hold more on-site meetings, and be in constant communication in order to avoid re-occurrence. County staff are proceeding optimistically to ensure that Fayette County experiences a successful project and receives an acceptable quality product.



**Purchasing Department**  
 140 Stonewall Avenue West, Ste 204  
 Fayetteville, GA 30214  
 Phone: 770-305-5420  
[www.fayettecountyga.gov](http://www.fayettecountyga.gov)

To: Steve Rapson

From: Ted L. Burgess

Date: April 21, 2020

**Subject: Invitation to Bid #1795-B: Kenwood Road & Mercedes Trail Culvert Replacements**

The 2017 Special Purpose Local Option Sales Tax (SPLOST) includes a Category II, Tier I (in need of immediate attention) culvert replacement at 120 Mercedes Trail, and a Category II, Tier II (need replacement soon) at 547 Kenwood Road.

The Purchasing Department issued Invitation to Bid #1795-B for a general contractor for the project. Emails were sent to 29 contractors who are registered on the county's bidders' list or have bid previously. Another 378 were contacted through the web-based Georgia Procurement Registry, using commodity code 91339 (Construction, Pipe Culvert). Notification was provided via the Greater Georgia Black Chamber of Commerce and the Georgia Local Government Access Marketplace ([www.glga.org](http://www.glga.org)).

Through Addendum #1, replacement of a Category III (damage may affect drainage capacity or overall function) culvert at Creekwood Court was added to the Kenwood Road culvert project.

Six companies submitted bids (Attachment 1). The Environmental Management Division recommends award of the contract to the low bidder, Pine Valley Concrete Co., Inc., in the amount of \$953,787.63. To fully fund the projects, Environmental Management recommends transfers of \$614,046.59 from the Stormwater Contingency Fund.

A Contractor Performance Evaluation for Pine Valley Concrete is provided with the Agenda Request. Specifics of the proposed contract are as follows:

<b>Contract Name</b>	1795-B: Kenwood Road & Mercedes Trail Culvert Replacements	
<b>Contractor</b>	Pine Valley Concrete Co., Inc.	
<b>Contract Amount</b>	\$953,787.63	
<b>Budget:</b>		
Fund	322	2017 SPLOST
Organization Code	32240320	Stormwater SPLOST
Object Code	541210	Other Improvements
Available Budget:		
Project 17SAV	\$158,880.14	Kenwood Road Project
Project 17SAI	163,412.90	Mercedes Trail Project
Project 20SAG	17,448.00	Creekwood Court Project
From Contingency	<u>614,046.59</u>	Out of \$1,973,902.41 Available
Net Available	\$953,787.63	Upon Approval of transfers

**#1795-B Tally Sheet**

<b>Company Name</b>	<b>Total Base Bid Kenwood Road / Creekwood Court</b>	<b>Total Base Bid Mercedes Trail</b>	<b>Total Lump Sum Base Bid</b>
Site Engineering, Inc.	\$ 1,034,000.00	\$ 807,000.00	\$ 1,841,000.00
Piedmont Paving, Inc.	\$ 813,216.71	\$ 551,596.11	\$ 1,364,812.82
Helix Group, Inc.	\$ 842,705.00	\$ 466,309.38	\$ 1,309,014.38
McCoy Grading, Inc.	\$ 739,400.00	\$ 551,740.00	\$ 1,291,140.00
Georgia Bridge & Concrete, LLC	\$ 581,472.00	\$ 498,448.00	\$ 1,079,920.00
Pine Valley Concrete, Inc.	\$ 542,937.63	\$ 410,850.00	\$ 953,787.63

## FAYETTE COUNTY, GEORGIA CONTRACTOR PERFORMANCE EVALUATION

Page 1

1. Use this form to record contractor performance for any contract of \$50,000 or above.
2. The person who serves as project manager or account manager is the designated party to complete the evaluation.
3. This form is to be completed and forwarded to the Purchasing Department not later than 30 days after completion or expiration of a contract. Past performance is considered on future contracts.

VENDOR INFORMATION	COMPLETE ALL APPLICABLE INFORMATION
Company Name: Pine Valley Concrete Co., Inc.	Contract Number: 1489-B SPLOST 6509D
Mailing Address: 15047-B Highway 109 P.O. Box 238	Contract Description or Title: Antebellum Way Culvert Replacement
City, St, Zip Code: Meansville, GA 30256	Contract Term (Dates) From: 7/12/2018 To: 6/7/2019
Phone Number: 770-567-9861	Task Order Number: N/A
Cell Number: N/A	Other Reference: N/A
E-Mail Address: N/A	

### DEFINITIONS

**OUTSTANDING** – Vendor considerably exceeded minimum contractual requirements or performance expectations of the products/services; The vendor demonstrated the highest level of quality workmanship/professionalism in execution of contract.

**EXCELLENT (Exc)** - Vendor exceeded minimum contractual requirements or performance expectations of the products/services.

**SATISFACTORY (Sat)** - Vendor met minimum contractual requirements or performance expectations of the products/services.

**UNSATISFACTORY (UnSat)** - Vendor did not meet the minimum contractual requirements or performance expectations of the products and/or services; Performed below minimum requirements

### EVALUATIONS (Place "X" in appropriate box for each criterion.)

Criteria (includes change orders / amendments)	Out-standing	Exc	Sat	Un-Sat	Not Apply
1. Work or other deliverables performed on schedule				X	
2. Condition of delivered products			X		
3. Quality of work			X		
4. Adherence to specifications or scope of work				X	
5. Timely, appropriate, & satisfactory problem or complaint resolution				X	
6. Timeliness and accuracy of invoicing			X		
7. Working relationship / interfacing with county staff and citizens				X	
8. Service Call (On-Call) response time				X	
9. Adherence to contract budget and schedule			X		
10. Other (specify):					X
11. Overall evaluation of contractor performance			X		

### EVALUATED BY

Signature: <i>Courtney Hassenzahl</i>	Date of Evaluation: 4/13/2020
Print Name: Courtney Hassenzahl	Department/Division: Environmental Management
Title: Project Manager	Telephone No: 770-305-5229



# COUNTY AGENDA REQUEST

Department: Retirement/Pension Committee

Presenter(s): Vice Chairman Charles Oddo

Meeting Date: Tuesday, April 21, 2020

Type of Request: New Business #6

**Wording for the Agenda:**

Consideration of Resolution 2020-04 of the Fayette County Board of Commissioners authorizing and approving changes to the 401(a) Employee Retirement Plan and the Georgia Section 457(b) Deferred Compensation Plan for the Coronavirus Aid, Relief and Economic Security Act.

**Background/History/Details:**

The Fayette County Retirement Committee met in special called session on Thursday, April 16, 2020, for the purpose of considering provisions of the Coronavirus Aid, Relief and Economic Security Act (CARES) act which pertain to the County's defined contribution retirement plan. The CARES Act allows qualified individuals who are participants in the 401(a) and 457(b), County sponsored defined contribution retirement plans, to make withdrawals before December 31, 2020, for up to \$100,000 with the 10% early withdrawal penalty waived.

To qualify employees must be directly affected by the SARS-CoV-2 or COVID-19 virus or adversely affected financially due to circumstances stemming from COVID-19. Employees who feel they qualify will contact the Human Resource Department, who will refer them to Atlanta Retirement Partners, the County's defined contribution broker, for a conversation about the consequences of making the withdrawal.

The CARES act provides for loan repayments due from March 27, 2020 to December 31, 2020 to be suspended. The maximum loan amount is increased under the CARES Act to 100% of the employee's vested balance or \$100,000, reduced by the employee's highest outstanding balance in the last 12 months. Required minimum distributions (RMD's) which the IRS requires of plan participants age 70 1/2 or older are not required in 2020 as a part of the act. The Retirement Committee approved the withdrawal and loan provisions along with allowing employees to have a second loan while the CARES Act is in effect.

**What action are you seeking from the Board of Commissioners?**

Approval of Resolution 2020-04 of the Fayette County Board of Commissioners authorizing and approving changes to the 401(a) Employee Retirement Plan and the Georgia Section 457(b) Deferred Compensation Plan for the Coronavirus Aid, Relief and Economic Security Act.

**If this item requires funding, please describe:**

Has this request been considered within the past two years?  No

If so, when?

Is Audio-Visual Equipment Required for this Request?\*  No

Backup Provided with Request?  Yes

**\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

**Staff Notes:**

Retirement Committee members attendance: Committee Chairman Charles Oddo; County Administrator Steve Rapson; HR Director Lewis Patterson; HR Benefits Manager Lori Smith; Fire Chief David Scarbrough; Water System Director Vanessa Tigert; CFO Sheryl Weinmann; Major Michelle Walker; LPL Financial Director David Griffin; LPL Financial Relationship Manager Alice Davis; Morris Manning & Martin LLP Partner Ed Emerson; MassMutual Client Engagement Mgr. Carolina LaMonica; and ACCG (GebCorp) Kale Hodges.



## Webinar: The CARES Act 2020 – What plan sponsors need to know

FOR FINANCIAL PROFESSIONAL AND EMPLOYER USE ONLY.

**The information provided is not written or intended as specific tax or legal advice. MassMutual, its subsidiaries, employees, and representatives are not authorized to give tax or legal advice. Individuals are encouraged to seek advice from their own tax or legal counsel.**

# The CARES Act 2020 – What plan sponsors need to know



**Host: Michele Baldassarre**

Head of Workplace Mid /  
Institutional Relationship  
Management

## Featured speakers:



**Eric Levenson**

Lead Regulatory  
Consultant



**Jason Bowen**

Head of Client Engagement,  
Emerging Markets

## Today's Agenda

- The CARES Act – its impact and what plan sponsor need to know
- Supporting your plan and your participants
- Q&A

# The CARES Act 2020 – What plan sponsors need to know

The CARES Act – its impact and what plan sponsor need to know



**Eric Levenson**  
Lead Regulatory  
Consultant

# Discussion Guide

- 1 Furlough vs. Laid Off vs. Terminated  
.....
- 2 Update on participant relief provided under the Coronavirus Aid, Relief and Economic Security Act ("CARES Act")  
.....
- 3 Timely remitting amounts withheld from employee pay  
.....
- 4 Making employer contributions – or not  
.....
- 5 Fiduciary duties  
.....

# Furloughed vs. Laid Off vs. Terminated

- Furloughed and Laid Off mean different things to different people
- Furloughed and Laid Off are intended to be temporary
- Terminated is intended to be permanent
- Look at your past practices for guidance and talk with counsel as needed
- Termination is a distributable event. Furloughed and Laid Off are not
- CARES Act gives us other means to make payments from accounts to folks still employed



# Coronavirus Aid, Relief and Economic Security Act ("CARES Act")

- Signed into law March 27, 2020 ("Enactment Date")
- Provides significant relief to individuals, businesses and other organizations in response to the Coronavirus - COVID-19
- Specific retirement provisions
  - Allows tax-favored withdrawals from retirement plans: 401 (k), 403(b), governmental 457(b)
  - Provides option to suspend participant loan repayments
  - Increases maximum amount a participant can take as a loan
  - Eliminates minimum distribution requirements in 2020
  - Permits plans to operate with these provisions now and amend later



## Qualified Individuals



- Governs who may receive the new distributions or take advantage of participant loan relief
- Defined as an individual
  - Diagnosed with SARS-CoV-2 or COVID-19 by a test approved by the Centers for Disease Control and Prevention; OR
  - Whose spouse or dependent is so diagnosed by such a test; OR
  - Who experiences adverse financial consequences as a result of
    - Being quarantined; OR
    - Being laid off or furloughed or having work hours reduced due to the virus; OR
    - Being unable to work due to lack of child care due to the virus; OR
    - Closing or reducing hours of a business owned or operated by the individual due to the virus; OR
    - Other factors as determined by the Secretary of the Treasury

# Taking a Coronavirus-related Distribution ("CRD")

- Distribution only allowed to Qualified Individual
- Distribution made on or after January 1, 2020 and before December 31, 2020
- Capped at \$100,000 per individual
- Plan administrator can rely on participant's self-certification that he or she qualifies

Optional provision - can be elected by plan sponsor



# CRD caution



- CRD meets the distribution requirements for certain assets:
  - 401(k)
  - 403(b)
  - Governmental 457(b)
  - Profit sharing
- Not permitted from Money Purchase Pension assets or DB plans
- Spousal consent requirements not waived
  - Many DC plans don't require spousal consent,
  - But if yours does, you have to obtain it
  - The question is "how"
  - With no clear answer

# CRD taxation and details

- Exempt from 10% penalty tax
- "402(f) Tax Notice" is not required in advance
- Not subject to 20% mandatory federal withholding
- Still subject to federal income tax (if taken from taxable source)
  - Participant can choose to spread tax impact over 3 years in equal amounts
- Participant has option to repay distribution within 3 years

# Suspending loan repayments

- Only allowed for Qualified Individual
- Applies to payments due:
  - From date of enactment (March 27, 2020)
  - Through December 31, 2020
- Repayments may be suspended for one year
- When payments resume loan must be reamortized
- Interest continues to accrue during suspension period
- Upon resuming payments, loan does **not** need to be paid off within five years of original loan date

Optional provision - can be elected by plan sponsor

# Loan suspension caution

- Participant loans usually must be repaid in full at termination
- CARES provides no exception to that
- So, a Qualified Individual must be employed to be allowed a suspension
- If loan **when taken** didn't require payoff at termination, suspension may be allowed



## Increases maximum loan amount

- Increases maximum loan amount
- The lesser of:
  - 100% of the participant's vested balance or
  - \$100,000 reduced by the participant's highest outstanding balance in the last 12 months

Optional provision - can be elected by plan sponsor



# No required distributions in 2020

- Required minimum distributions not required in 2020
- Applies to
  - First time payments
  - Subsequent payments
- Participants can still take a distribution if plan allows

Sponsor election not required

# Extended deadline for certain amendments

- Extension applies only to the provisions just discussed
- Plan can operate with those provisions and amend after the fact
  - Sponsor's choice to include optional provisions
- Amendment deadline:
  - Most plans: Last day of first plan year beginning on or after January 1, 2022
  - Governmental plans: Last day of first plan year beginning on or after January 1, 2024
- Other sponsor-initiated amendments must be executed by the normal deadline
  - Generally, by the last day of the plan year in which the change is effective
  - Some amendments must be made in advance

## Other possible participant relief

- Other possible loan suspensions
  - Authorized leave of absence
    - Suspend for period of LOA - only up to one year
    - Interest continues to accrue
    - When payments resume, loan must be paid off within five years of loan date
  - Military leave
    - Suspend for period of service - only up to five years
    - Interest continues to accrue
    - When payments resume, loan does not need to be paid off within five years of loan date
- Hardship withdrawals
  - More stringent criteria than Coronavirus-related distributions
- Review your plan document for options



# Employee contributions

- Deferral elections remain in effect until cancelled by the participant
- Amounts withheld from paychecks must be remitted according to normal guidelines
  - Large plan filers - "as soon as practical" after being withheld but never later than the 15<sup>th</sup> business day of the following month
  - Small plan filers - deemed compliance if made within seven business days
- Failing to remit on time is a fiduciary breach and several prohibited transactions subject to financial penalties
- Intentional failure to remit is a potential criminal act in addition to fiduciary breach and prohibited transactions



# Suspending matching contributions



- Options depend on your plan document
  - Discretionary contributions generally can be stopped
    - Notifying participants is wise
  - "Fixed" or "required" contributions may be not
    - Review reason for them (collective bargaining, contracts, etc.)
- Safe Harbor contributions typically can only be stopped
  - If specific language was included in the participant notice
    - Participants must get 30 days advance notice
    - Contributions must be made through date 30 days after participant notice
  - If employer is operating at an "economic loss" as defined in the Internal Revenue Code
    - Contact your tax and/or legal advisor to see if you qualify

# Suspending other employer contributions

- Options again depend on your plan document
  - Discretionary contributions generally can be stopped
  - "Fixed" or "required" contributions maybe not
    - Review the reason for them (collective bargaining agreements, contracts, etc.)
  - Safe Harbor contributions - as discussed previously
  - Prevailing Wage contributions - talk with your legal advisor
  - Money purchase pension contributions - must provide participants with 30 days "204(h) notice" and fund contributions through that period

# Fiduciary obligations



- No relief from fiduciary duties
- Fiduciaries should continue to function as such
- Committees should continue to meet (conference calls, electronic connections)
- Follow your documentation
  - Committee charter
  - Investment policy statement
  - Other written documents
- Continue to document your actions, deliberations and conclusions

# The CARES Act 2020 – You can rely on us.

## We are ready to administer the new provisions:

Providing updates through multiple channels and making information readily available across all audiences (advisor, sponsor, participant)

## Enacting the CARES Act provisions:

- Our “Opt-in” approach allows sponsors to choose which of the CARES Act provisions they would like incorporated in their plans --- enabling sponsors and TPAs to retain flexibility and control through these unprecedented challenges
- As of April 1st fees associated with the coronavirus-related distributions allowed under the CARES Act will be WAIVED (until further notice):
  - In-service withdrawals under the CARES Act
  - Loan initiation fees
  - Hardship withdrawals

## Key communications:

- Request for Change to Plan Operations (RCPO) was sent to Advisors on **APRIL 2<sup>nd</sup>**
- TPA communication and sponsor communication will be sent on **APRIL 6<sup>th</sup>**

# The CARES Act 2020 – What plan sponsors need to know

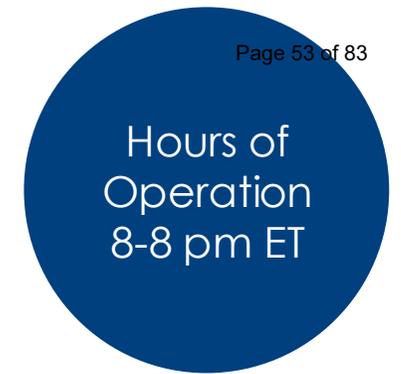
Supporting your plan and your participants



**Jason Bowen**  
Head of Client  
Engagement, Emerging  
Markets

# Response to Market Volatility/COVID-19

Call Center trends



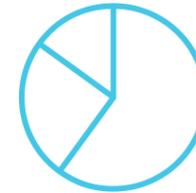
Call center from 19 to **260 virtual** within 1 week

**1268% increase!**



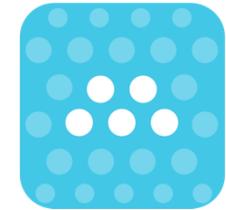
Average # of daily calls = **8,096**

**29% increase from 2019**



Since March 16, **25%** of call volume relates to investments

**733% increase from 2019**



In March, **30%** increases in daily App users with spikes up to **60%**

<1500 people a day making changes to investments or contributions. If continued through month end it would be less than 2% of our population

# Delivering value during this new normal

## Virtual Education



### Virtual delivery benefits

- Can help drive **better outcomes** for your retirement plan participants.
- Ability to join from **any** web-enabled **device**
- Meet the needs of **any time zone**, with meeting hours available from 8 a.m. — 8 p.m. ET.
- **Choose the topics** that best meet the specific educational needs of your participants

### 2019 Results

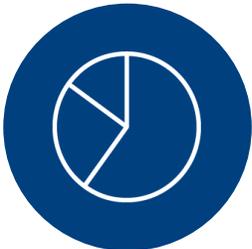
#### Content



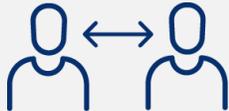
Market volatility



Budgeting



Asset allocation and investing

<p><b>ONSITE</b></p>  <p>Action Rate = 46%</p>	<p>⋮</p>	<p><b>VIRTUAL</b></p>  <p>Action Rate = <b>47%</b></p>
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# Q&A



**Host: Michele Baldassarre**

Head of Workplace Mid /  
Institutional Relationship  
Management

## Featured speakers:



**Eric Levenson**

Lead Regulatory  
Consultant



**Jason Bowen**

Head of Client Engagement,  
Emerging Markets

# The CARES Act 2020 – What plan sponsors need to know

**Thank you for your time today!**

**Visit us at [MassMutual.com](https://www.MassMutual.com)**





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## Your Retirement Plan and the Coronavirus

The COVID-19 pandemic has affected hundreds of millions of people across the globe. Here in the United States, participants and plan sponsors alike may face tough financial times in the short-term or possibly longer. This article attempts to answer some common questions relating to retirement plans from the standpoint of both plan sponsors and participants.

These answers are current as of the date of publication, March 27, 2020, and are subject to change due to legislative updates. MassMutual will update or replace this article as often as circumstances warrant.



### What should a plan sponsor (or a participating employer) do with contributions and loan repayments deducted from participants' paychecks?

Any contributions or loan repayments that were withheld according to a contribution election or loan repayment schedule must be remitted to the plan according to the normal time frames. For the small plan filers (typically those with 100 or fewer participants as of the first day of the plan year), remission must be made within seven business days. For all other plan sponsors, the contributions should be remitted to the plan according to the employer's normal practice. A slight delay of a day or two might be explained by a change in the employer's circumstances, such as having payroll staff working from home or using different workflows.

It's critically important to meet these timing obligations. Failing to do so may constitute a fiduciary breach and result in several prohibited transactions which bring the likelihood of financial sanctions levied by the regulators. Additionally, intentionally failing to meet these rules or diverting withheld amounts to satisfy other purposes (such as using employee 401(k) deferrals to pay the employer's bills) can result in criminal charges against the plan fiduciaries as well.



## Does the employer have to keep making the matching contribution?

That depends on what your plan document says and any other written agreements (such as collective bargaining agreements) that govern those contributions.

**If your plan document says that the match is “discretionary,”** you likely have the option to temporarily stop making those contributions without amending your plan. You’ll want to notify the participants that you’re suspending the match to help them understand what’s going on.

Without trying to get too technical here, you also should consider the definition of “compensation” in your plan document that is used to compute the match.

If the plan document says the match is based on compensation for the full plan year while you make the match each pay period, “skipping” the match for several pay periods may require you to make a “true-up” matching contribution at the end of the plan year. You’d be used to doing that even under normal business conditions. In that case, you may want to amend your plan to indicate that the match is based on compensation each pay period.

If your plan already states you’ll calculate the match based on compensation for each pay period; or if you make the match annually, you don’t have to worry about the potential of a forced “true-up” later.

**If your plan document says that the match is “fixed” or “required,”** you’ll need to explore the reasons for that treatment. If the match is “fixed” only because you thought it was the right

thing to do, realize that you likely can amend your plan to either make the match discretionary, or to suspend the match temporarily. You may need to make the matching contribution through the date of the amendment. Talk to your MassMutual service team if you need to initiate an amendment.

If the match is “required” due to collective bargaining agreements, you should contact the applicable collective bargaining unit(s)\* to evaluate how to proceed.

**If you use a matching contribution to satisfy an ADP or ACP Safe Harbor,** you may be more restricted in what you can do.

Generally speaking, a “safe harbor match” only may be suspended or reduced under limited circumstances. If the employer is operating at an economic loss as defined in Internal Revenue Code Section 412(c)(2)(A); they may suspend a safe harbor match. Consult with your tax advisor or legal counsel to determine whether you meet these criteria. Alternately, it may be possible to suspend or reduce the safe harbor match mid-year if the sponsor included certain non-standard language in the notice that was provided to participants before the start of the plan year.

Please refer to MassMutual’s publication entitled “Reducing or Suspending a Safe Harbor Contribution Mid-Year” for more technical details; this publication is available through the plan sponsor and advisor internet portals.

\* You should ensure any contact with a collective bargaining unit is made according to your organization’s collective bargaining process.



## Does the employer have to keep making non-matching contributions?

Once again, the answer depends on your circumstances. Realize that many contributions that have already accrued (such as a required contribution attributable to a prior plan year) **must** be made since the participants already have a right to that contribution.

Additionally, certain types of plans or contributions may bring potential complications.

**If the contribution is “discretionary,”** you can likely suspend or reduce the contribution without amending the plan. For example, if your profit-sharing contribution is discretionary, you may be able to choose not to make a contribution even if it’s for a prior plan year, such as 2019. Simply, you can use your “discretion” to decline contributing for that year.

Be careful to examine your plan document to determine whether any language in it (such as saying what level of organizational profits will trigger a contribution for a plan year or a commitment to making a contribution based on a participant’s years of service) may require you to make a contribution.

**If the contribution is “fixed” or “required,”** you should determine why. If it’s “fixed” simply because the employer thought that was a good idea, you may be able to amend the plan to suspend the contribution or to recast it as discretionary.

If the contribution satisfies a commitment made in a collective bargaining agreement, you may want to contact the collective bargaining unit\* to determine how to proceed. You should contact your legal counsel with any questions.

Regardless, a “fixed” or “required” contribution typically can only be changed prospectively; employees have accrued the right to a contribution attributable to the time before the amendment, and that a contribution generally must be made.

**If you use a non-matching contribution to satisfy an ADP Safe Harbor,** you may have some limited options.

Generally speaking, this type of safe harbor contribution only may be suspended or reduced under limited circumstances. Typically, the

change is allowed only if the employer is operating at an economic loss or if specific language was contained in the notice provided to employees before the start of the plan year. Some detail is provided in the prior section relating to safe harbor matching contributions.

Also, refer to MassMutual’s publication entitled “Reducing or Suspending a Safe Harbor Contribution Mid-Year” which is available through the plan sponsor and advisor internet portals.

**If the contribution is a money purchase pension contribution to a defined contribution plan,** you may be able to suspend or reduce the contribution, but only prospectively. You’ll need to provide employees with a “204(h) Notice” notifying them of the reduction in future benefit accruals. And, you’ll need to provide the non-matching contribution through the date the plan can be amended, bearing in mind the minimum thirty-day notice requirement for the 204(h) Notice.

You’ll also want to determine whether employment contracts, collective bargaining agreements, or other agreements require these contributions and if so, work with legal counsel to determine how you want to proceed.

**If the contribution is made to meet the requirements of the Davis-Bacon Act, the Service Contract Act, or a similar law,** you’ll want to speak with legal counsel. If you use the MassMutual Volume Submitter plan document, these types of contributions will be shown as “prevailing wage contributions” in your adoption agreement.

These terms generally apply to employers with government contracts to ensure the labor for those contracts are provided with total compensation that’s typical for the labor force in that geographic region. If your plan provides for prevailing wage contributions, you’re likely already very familiar with this topic.

**If you want to stop contributions or accruals under a defined benefit plan,** contact your actuary to examine the potential ramifications.

\* You should ensure any contact with a collective bargaining unit is made according to your organization’s collective bargaining process.



## Can a participant stop repaying on a loan from the plan?

Yes, under certain circumstances. There are several ways this might be done.

### CARES Act

The CARES Act allows certain participants to suspend loan payments that were scheduled to occur between the effective date of the Act and December 31, 2020. These repayments may be suspended for one year.

In order to qualify for suspension, the participant must be a person who:

- Was diagnosed with SARS-CoV-2 or COVID-19 by a test approved by the Centers for Disease Control and Prevention.
- Whose spouse or dependent is so diagnosed by such a test.
- Who experiences adverse financial consequences as a result of
  - Being quarantined.
  - Being laid off or furloughed or having work hours reduced due to the virus.
  - Being unable to work due to lack of child care due to the virus.
  - Closing or reducing hours of a business owned or operated by the individual due to the virus.
  - Other factors as determined by the Secretary of the Treasury.

When payments resume, the loan must be re-amortized to reflect the interest that accrued during the suspension period. All subsequent loan repayments will also be “backed up” a year so that participants won’t be simultaneously paying the regularly-scheduled payment and a payment that was postponed under CARES.

A plan may start taking advantage of this provision immediately and defer amending the plan until a later date. See “Does CARES offer a delayed date for amending plans?” below.

### Authorized Leave of Absence

Existing law and MassMutual’s Volume Submitter plan document allows a participant to stop repaying on a loan when the participant is on

an authorized leave of absence **and** he or she is either paid at a rate less than the scheduled repayment amount or is unpaid. Under those circumstances, the plan sponsor can suspend the participant’s loan repayments for a period of up to twelve months or until the leave ends, whichever is earlier.

When the leave ends, repayments must resume. The existing loan must be re-amortized over its remaining period to make up for the missed payments. The re-amortized loan may extend beyond the loan’s original term as long as it is paid in full by the earlier of (1) the date five years from the date the loan was originally taken or (2) the original loan repayment deadline plus the length of the suspension period.

Generally, the participant also must pay any interest on the loan that accrued during the LOA. The re-amortization will account for that interest amount.

### Military Leave

It’s possible some of your participants will be activated to serve in the National Guard or other military organizations during this pandemic.

Realize a participant may be allowed to suspend loan repayments for any period he or she is on military leave. This suspension generally follows the rules for an LOA suspension with two important distinctions. First, suspension for military leave is allowed for up to five years instead of the twelve months allowed under an LOA suspension. Additionally, once the leave ends and the loan is re-amortized, the re-amortization doesn’t need to take into account the five-year restriction applicable to LOA suspensions.

Please realize that other rules apply to participants on military leave as well. Those rules are too lengthy to detail here so be sure to refer to your plan document or the plan sponsor internet portal or contact your MassMutual service team with additional questions.



## Is it possible for a participant to qualify for a hardship withdrawal to pay necessary expenses?

If the employer allows hardship withdrawals, a participant could qualify if he or she meets some relatively stringent criteria. Currently, those criteria have not changed from what existed before the COVID-19 outbreak.

However, we anticipate additional guidance from the regulators and possible changes or additions to these criteria. We'll update this article if and when that guidance is released.



## Can a participant receive a Coronavirus-related Distribution from the plan?

Possibly yes. The CARES Act created a new category of withdrawal called a "Coronavirus-related distribution" for 401(k), 403(b) and governmental 457(b) plans. While certain 401(a) plans (such as profit sharing plans) also may allow these distributions, the distribution restrictions for money purchase pension assets and defined benefit plans prevent these distributions from those assets and plans. These withdrawals can only be made on or after January 1, 2020, and before December 31, 2020.

To qualify, the participant must be a person who:

- Was diagnosed with SARS-CoV-2 or COVID-19 by a test approved by the Centers for Disease Control and Prevention.
- Whose spouse or dependent is so diagnosed by such a test.
- Who experiences adverse financial consequences as a result of
  - Being quarantined.
  - Being laid off or furloughed or having work hours reduced due to the virus.
  - Being unable to work due to lack of child care due to the virus.

- Closing or reducing hours of a business owned or operated by the individual due to the virus.
- Other factors as determined by the Secretary of the Treasury.

A participant may withdraw up to \$100,000 as a Coronavirus-related distribution. And, the plan sponsor may rely on the participant's representation that he or she is entitled to receive the distribution; no further documentation is necessary.

These distributions are exempt from the 10% penalty tax on premature distributions regardless of the participant's age. While the distribution is subject to ordinary income tax, the participant can choose to include one-third of the taxable amount in their income each year for three consecutive years in order to spread the tax burden over a longer period of time.

The participant has the option, but is not required, to repay the distribution within three years.

A plan may start taking advantage of this provision immediately and defer amending the plan until a later date. See "Does CARES offer a delayed date for amending plans?" below.



## Does CARES offer a delayed date for amending plans?

Yes. The plan sponsor can start operating the plan to allow the loan repayment suspensions and coronavirus-related distributions immediately upon the enactment of CARES. They can amend the plan retroactively to include these provisions in their written document at a later date. For most plans, the

plan must be amended by the last day of the first plan year beginning on or after January 1, 2022. Governmental plans have a later date; they must amend by the last day of the first plan year beginning on or after January 1, 2024.



## What is the difference between “furloughed,” “laid off,” and “terminated?”

These terms can mean different things to different people. A good general rule of thumb is that those employees who have been “furloughed” or “laid off” are intended to be recalled to work at some point, even if that’s an undetermined point in the future. “Terminated” employees are not expected to return to work and their employment is considered to be severed.

When deciding whether a “furlough” or “lay off” results in a true termination, you should consider a variety of factors, including your past practices and the likelihood the employees will be recalled. You may also wish to consider whether the employees continue to be covered by your group healthcare coverage. If the employees continue on your healthcare coverage and didn’t have to use COBRA to retain that coverage, it’s logical to conclude that they’re still employed and that termination hasn’t occurred. It’s possible that no one factor determines the outcome and that multiple factors must be considered

simultaneously when evaluating your situation. You should speak with legal counsel to help you make your decisions.

From a retirement plan perspective, the ramifications are significant. “Termination” is a distributable event while “furlough” and “layoff” are not. In other words, a true termination of employment can result in a participant having the right to receive a distribution of his or her account balance.

Outstanding loans generally become due and payable upon termination of employment. If unpaid, the outstanding balance is treated as a taxable distribution to the participant irrespective of whether he or she rolls over the rest of his or her account.

As you can see, the distinctions and potential outcomes are meaningful. You should consult with legal counsel to determine how to best proceed for your circumstances and your organization.

### FOR PLAN SPONSOR AND FINANCIAL PROFESSIONAL USE ONLY. NOT FOR USE WITH THE PUBLIC.

This article is intended to provide timely information to a large number of plan sponsors and therefore, cannot be specific to your plan and should not be regarded as legal advice. Also, please realize that CARES is a massive bill with economic benefits exceeding \$2 trillion. It contains other provisions that we could not include here in the interests of brevity.

While we’re always willing to share with you the benefit of our experience, you should be sure to direct any requests for legal guidance or opinions to your legal counsel.



## MassMutual's CARES Act Administration FAQs

As a leader in the retirement industry, MassMutual has taken important steps to help financial professionals and Plan Sponsors take advantage of relief granted by the CARES Act. Our robust business continuity plans are in place and can help your organization through these difficult times. **Most importantly, we're ready today to administer the new provisions created by the Act based on your instruction.**

The following topics and frequently asked questions (FAQs) are designed to help you administer your plan and communicate to participants effectively. These answers are current as of the date of the CARES Act publication, March 27, 2020, and are subject to change due to legislative or procedural updates.

### MassMutual's Approach to CARES Act

#### Enabling the CARES Act provisions for your Participants

MassMutual will solicit instruction from Plan Sponsors and Third-Party Administrators (TPA's) in a [Request for Change in Plan Operations \(RCPO\)](#) questionnaire as to which of the Act's provisions they want to incorporate in their plans. This "opt-in" approach allows Sponsors and TPAs to retain flexibility and control as they and their workforces face unprecedented challenges. Upon receipt, Sponsors and TPA's will complete a short electronic questionnaire to easily provide MassMutual with instructions for their plan(s). Third-party administrators will have the opportunity to make elections for their entire book of business or any individual plan. MassMutual will store responses to facilitate future plan amendments within the extended period offered by the Act. If MassMutual does not receive a response to the RCPO questionnaire, these optional provisions will not be available to the plan.

Plan Sponsors that have multiple plans with MassMutual may respond to one questionnaire for all plans, or, provide separate instruction for each individual plan. They may reference the RCPO to make these elections.

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## Optional Provisions of CARES Act

### 1. Allow Coronavirus Related Distribution (“CRD”) penalty free from Eligible Retirement Plans.

**Qualifying participants must certify they meet at least one of the following conditions:**

- Diagnosed with SARS-CoV-2 or COVID-19 by a test approved by the Centers for Disease Control and Prevention
- Spouse or dependent is diagnosed with SARS-CoV-2 or COVID-19
- Experiences adverse financial consequences as a result of being quarantined because of the virus or disease, being laid off or furloughed or having work hours reduced because of the virus or disease, being unable to work due to lack of child care because of the virus or disease, closing or reducing hours of a business owned or operated by the individual because of the virus or disease, and other factors as determined by the Secretary of the Treasury

**Note:** A participant who meets any of the requirements above is considered a “Qualified Individual”

**Administrative information regarding the CRD:**

- Plan administrator may rely on self-certification by the participant to approve the distribution
- The CRD is not considered a Hardship distribution; therefore, Hardship restrictions do not apply
- The distribution is capped at \$100,000 for any taxable year
- Coronavirus-related Distribution is a distributable event under the following Plans – 401(a), 401(k), 403(b) and Governmental 457(b) Plans
- Taxable amount may be spread equally over 3 tax years (if participant so elects)
- 10% penalty excise tax doesn’t apply to the distribution
- The distribution is not an Eligible Rollover Distribution
- The Special Tax Notice (402(f) Notice) is not required
- The mandatory tax withholding on any distribution is not required
- The voluntary 10% tax withholding will apply, unless not elected
- These specific distributions may be repaid over 3-year period starting from the date in which the distribution was made.
- Repayments are remitted to the plan as rollovers

### 2. Temporary Maximum Loan Amount Increases up to \$100,000

Loans made to a Qualified Individual during the 180-day period beginning on March 27, 2020, may be made in amounts up to the lesser of \$100,000 (reduced by the highest outstanding loan balance over the 12-month period preceding the distribution) or the participant’s fully vested account balance.

### **3. One-year Extension of Loan Repayments**

Qualified Individuals may suspend loan payments that were scheduled to occur between the effective date of the Act and December 31, 2020. These repayments may be suspended for one year. Additional details are in MassMutual's article, [Your Retirement Plan and the Coronavirus](#).

## **Other Provisions of the CARES Act**

### **4. Retroactive Plan Amendments allowed**

The Plan Sponsor can start operating the plan to allow the optional provisions of the CARES Act immediately upon the enactment of CARES. They can amend the plan retroactively to include these provisions in their written document at a later date. For most plans, the plan must be amended by the last day of the first plan year beginning on or after January 1, 2022. Governmental plans have a later date; they must amend by the last day of the plan year beginning on or after January 1, 2024.

### **5. Required Minimum Distributions (RMD) suspended**

As a result of the CARES Act, RMDs are no longer required for 2020.

## **Participant Distribution FAQ's**

### **6. If the Optional Provisions are enacted, what information will Participants receive, and how quickly will the provisions be ready?**

A participant guide to the new Coronavirus temporary loan and distribution provisions will be available for Plan Sponsors to distribute to participants if the new provisions are elected.

MassMutual's systems will reflect the new provisions within 2 business days of Sponsor election. Once reflected in MassMutual's system participants may begin requesting the distributions and/or loans.

## **7. How will Participants request a Coronavirus-related distribution (CRD)?**

To initiate a “coronavirus-related distribution” in a plan that chooses to allow them, a participant has two options:

- Complete an in-service withdrawal form and note it as a CARES distribution. A specific form for CARES distributions may be created, but in lieu of this form, use an in-service withdrawal form and clearly write “CARES” on the form.
- If elected through the electronic questionnaire, sponsors can instruct us to accept verbal requests through our recorded participant lines. CRD Distributions via toll-free telephone services will use participant information currently held in our recordkeeping system, which includes but is not limited to participant status and vesting.

## **8. How are we capturing self-certification from a participant?**

When the participant completes the form indicating it's a “CARES Act” distribution, we will also capture the participant's self-certification. Similarly, when a participant contacts our phone center to request a CRD we will capture their self-certification on a recorded line.

## **9. If available, will Participants be able to use online processing for these CARES related loans and distributions?**

**No.** At this time CRDs and CARES Act related loan maximum amounts will be processed exclusively over the phone (if elected) or by paper form.

## **10. Does the CARES Act \$100k distribution max limit apply in aggregate across Retirement product types, 401(k), IRA, etc? How will MassMutual support this?**

The \$100,000 limit is a combined limit applied to all plans maintained by the employer (and any member of the controlled group that include the employer), and any Individual Retirement Accounts (“IRAs”). It is the Participant's responsibility to manage this and ensure the total withdrawn from all retirement accounts does not exceed \$100,000.

## **11. What can participants expect when calling MassMutual to process a CRD?**

MassMutual representatives will educate participants on the different distribution options available to them and inform them of the eligibility requirements for CRDs. If permitted, the representative will initiate the distribution over the phone after the participant confirms they meet one of the qualifying criteria. If phone-distributions are not elected for the Plan, the representative will provide the participant the appropriate form to complete and return to MassMutual for processing.

## 12. How will tax withholding apply to CRD's?

For a CRD, the default federal tax withholding is 10%, although participants will have the option to waive withholding completely or elect a value greater than 10%. State taxes are applicable and vary by state. The otherwise applicable early withdrawal penalty of 10% is not applicable for a CRD.

## 13. How is a distribution under CARES Act coded on the 1099R form?

It will be coded as a normal in-service withdrawal on the 1099R. When the participant files their 1040 they have to indicate that it was an in-service withdrawal under the CARES ACT.

## 14. Can a qualified participant take both a CRD and loan at the new maximum amounts?

There are no restrictions on the ability to take both a loan and distribution so long as the plan has elected to add both of these optional provisions, and the plan setup allows for loans. A qualified participant may take up to the maximum \$100,000 CRD and up to the maximum \$100,000 loan if they qualify and the account balance supports both transaction amounts.

## 15. Will MassMutual be waiving any participant transaction fees as a result of the CARES Act?

**Yes,** MassMutual will temporarily waive the following fees:

- CARES related In-service Withdrawal (CRDs) distributions
- All Loan initiation fees (loan maintenance fees still apply)
- All Hardship distribution fees (both check fee and approval fee, if applicable)
- If the plan has TPA loan or distribution fees deducted from participant accounts, MassMutual will reimburse those fees to the participant account and pay the fee to the TPA

## 16. When will the CRDs or CARES Act Loans have to be taken by?

CRD provisions apply to distributions to Qualified Individuals made on or after January 1, 2020, and no later than December 31, 2020. Loan repayments for Qualified Individuals, due between March 27, 2020, and December 31, 2020, may be delayed for one year. Qualified Individuals may, during the 180-day period beginning on March 27, 2020, take a loan from a qualified employer plan in an amount up to the lesser of \$100,000 or the participant's full vested account balance.

## Plan Administration FAQ's

### **17. How soon after a sponsor returns the RCPO will MassMutual's systems be updated?**

Once we receive a client response, we will have the information updated on our systems within 2 business days.

### **18. If I enact the optional provisions of the CARES Act by responding to the RCPO questionnaire, is there anything I need to update or change with MassMutual?**

Depending on current plan setup, there may be additional action, i.e. if the plan doesn't allow loans, but wishes to enact the new maximum loan provision. This would require a plan amendment to add a loan option and MassMutual will need loan setup criteria to establish in our systems. Otherwise no further action required with respect to updating information relative to the CARES Act. Please be aware, MassMutual will process participant distributions with the information in our record keeping systems, including but not limited to current status and vesting information unless otherwise changed by the Plan Sponsor or Third Party Administer (if applicable).

### **19. Under the CARES Act, will additional loans to a Qualified Individual be allowed if they have already met the maximum # of outstanding loans? If the loan limit expansion will not be automatic, what will the Sponsor be required to do to inform you of their intentions?**

Loan provisions or additional outstanding loans will not be automatically added. If the plan wishes to add loans or increase the number of outstanding loans permitted, they will need to amend their plan, and should work with their MassMutual representative or TPA to do so. In lieu of increasing the number of outstanding loans, and, in the event the participant has already taken a maximum number of outstanding loans, the current outstanding loan may be repaid to enable the ability to take another loan. The amount available for the loan in such case will be determined by existing loan availability calculations, with the total amount available now increasing to the lesser of \$100,000 or full vested account balance of the Qualified Individual.

### **20. If my plan only allows distributions from specific sources, what money sources will be used for processing the CRD's?**

The CRD payments will use all existing and active plan sources (exception of Money Purchase sources) and will be applied pro-rata across those sources. Example, if current in-service withdrawals can only be distributed from elective deferral, CRDs may be distributed from elective deferrals and company match sources, if applicable.

## **21. Is MassMutual charging amendment fees to enact the CARES provisions? What about other amendments?**

There will not be any fees associated with regulatory amendments specific to CARES Act. Other discretionary amendments will maintain the existing fee structure. Please discuss any related amendment fees with your TPA, if applicable.

## **22. Does a participant have to be on a leave of absence in order to suspend loan repayments under the Act?**

**No**, any Qualified Individual is eligible for a one-year suspension for loan repayments due between March 27, 2020 and December 31, 2020.

## **23. What is the difference between Terminated, Furloughed, and Laid Off Employees?**

Terminated, Furloughed, and Laid Off are different terms and can have different definitions. When deciding whether one of these terms results in a true termination of employment event, you should speak with legal counsel. Please see the [Your Retirement Plan and the Coronavirus article](#) for further information.

## **24. What is the process for suspending a participant loan under the CARES Act?**

Once determined the participant is eligible for a loan suspension, the suspension can be made through our current process. Additionally, for bulk suspensions of 20 or more participants, MassMutual will accept a file to process the bulk suspensions. Please work with your MassMutual representative or TPA. Participants will not be able to systematically suspend or request a suspension of their loan directly to MassMutual.

## **25. Is a CRD a Hardship Distribution?**

**No**, it is a new type of distribution as provided under the Act and available to both active and terminated participants who are Qualified Individuals.

## **26. Am I able to stop making employer contributions to the Plan?**

Please see MassMutual's article, [Your Retirement Plan and the Coronavirus](#) for operational questions relative to Loans, Hardship withdrawal, and Employer contributions

## [Plan Administration FAQ's for Third Party Administrators \(TPA\)](#)

### **27. Will MassMutual take direction to allow loan suspensions across the TPA's Book of Business?**

**Yes**, we will accept instruction to apply the loan suspension provision for the TPA's BoB through the RCPO questionnaire. The qualifying participant loans must be suspended through current standard process, typically the Plan Sponsor website. For bulk processing of 20 or more participants may be sent to MassMutual in a file. Please contact your MassMutual representative for more details.

### **28. Is MassMutual waiving any TPA distribution or loan fees for CARES Act distributions, or does MassMutual need instruction from the TPA to waive, and will it be possible?**

If TPA fees are deducted from the participant's account, MassMutual will reimburse the participant's account and pay the TPA directly unless the TPA has also waived those fees.

### **29. What is needed if a TPA wishes to take on 3(16) duties to help keep the plan in compliance (forms, authorization, etc.)?**

The TPA would furnish MassMutual with an authorization form from the sponsor designating the TPA as an authorized signer for the plan. If applicable, please work with your MassMutual representative for more details on this process.

**The information provided is not written or intended as specific tax or legal advice. MassMutual, its subsidiaries, employees, and representatives are not authorized to give tax or legal advice. Individuals are encouraged to seek advice from their own tax or legal counsel.**

**STATE OF GEORGIA  
COUNTY OF FAYETTE**

**RESOLUTION 2020-\_\_\_**

**RESOLUTIONS OF THE FAYETTE COUNTY BOARD OF COMMISSIONERS  
AUTHORIZING AND APPROVING CHANGES TO THE FAYETTE COUNTY BOARD OF  
COMMISSIONERS EMPLOYEE RETIREMENT PLAN AND THE FAYETTE COUNTY,  
GEORGIA SECTION 457(B) DEFERRED COMPENSATION PLAN FOR THE  
CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT**

**WHEREAS**, Fayette County (the “County”) has adopted and maintains the Fayette County Board of Commissioners Employee Retirement Plan (the “401(a) Plan”) and the Fayette County, Georgia 457(b) Deferred Compensation Plan (the “457(b) Plan”);

**WHEREAS**, the County now wishes to authorize certain changes to the 401(a) Plan and the 457(b) Plan as permitted by the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), including special provisions for certain participants who self-certify that they meet at least one of the following qualifications: (1) the participant (or his or her spouse or dependents) has been diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (“COVID-19”) by a test approved by the Centers for Disease Control and Prevention, or (2) the participant has experienced adverse financial consequences stemming from COVID-19 as a result of (A) being quarantined, furloughed, or laid off, (B) reduced work hours, (C) being unable to work due to lack of child care, (D) the closing or reduction of hours of a business owned or operated by the participant, or (E) other factors determined by the Department of Treasury (such individuals, “Qualified Individuals”);

**WHEREAS**, with respect to the 401(a) Plan, the County wishes to permit a Qualified Individual to take coronavirus-related distributions of up to \$100,000 (including any similar distributions made under the 457(b) Plan) of the Qualified Individual’s vested account balance under the 401(a) Plan through December 31, 2020 (or such later date allowed by law), subject to the limitations and rules set forth in the CARES Act and as otherwise determined by the plan administrator (such distributions, “Coronavirus-Related Distributions”);

**WHEREAS**, with respect to the 457(b) Plan, the County wishes to permit a Qualified Individual to take Coronavirus-Related Distributions of up to \$100,000 (including any similar distributions made under the 401(a) Plan) of the Qualified Individual’s vested account balance under the 457(b) Plan through December 31, 2020 (or such later date allowed by law), subject to the limitations and rules set forth in the CARES Act and as otherwise determined by the plan administrator;

**WHEREAS**, with respect to the 457(b) Plan, the County wishes to (1) increase the maximum number of loans allowed to a participant under the 457(b) Plan to two for the period of time that the CARES Act changes are effective, and (2) expand the availability and relief provided to plan loans to Qualified Individuals as permitted by the CARES Act by (a) increasing the plan loan limit to the lesser of \$100,000 or 100% of the participant’s vested account balance for plan loans made between March 27, 2020 and September 23, 2020, and (b) allowing Qualified

Individuals to suspend loan repayments due between March 27, 2020 and ending on December 31, 2020 (or such later date allowed by law) for one (1) calendar year, subject to interest continuing to accrue on such suspended payments (such changes to the 457(b) Plan, the “Loan Relief”);

**WHEREAS**, with respect to the 401(a) Plan and the 457(b) Plan, the County wishes to waive the required minimum distribution (“RMD”) requirements pursuant to the CARES Act for participants or beneficiaries who otherwise would have been required to take RMDs during the 2020 calendar year, as well as participants who turned 70½ during 2019 but who have not already taken their first RMDs, unless the participant or beneficiary specifically requests that such RMDs be paid in the 2020 calendar year (such RMD changes, along with the changes permitting Coronavirus-Related Distributions and the Loan Relief, referred to as the “CARES Act Changes”); and

**WHEREAS**, the Fayette County Retirement Pension Committee (the “Committee”) approved the CARES Act Changes at a Special Called Meeting on April 16, 2020, and recommends approval of the CARES Act Changes to the Board of Commissioners;

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioners of Fayette County hereby authorizes and approves the CARES Act Changes, effective as soon as administratively practicable or such other date as determined by the Chairman of the Committee.

**BE IT FURTHER RESOLVED**, that the Chairman of the Committee or his designee is hereby authorized, empowered and directed to take all actions and to execute and deliver all agreements, instruments, indentures, and documents as he shall deem necessary to carry out the intent of the foregoing resolutions, including, without limitation, the execution and delivery of any amendments to the 401(a) Plan and the 457(b) Plan for the CARES Act Changes.

**BE IT FURTHER RESOLVED**, that the signature of the Chairman of the Board of Commissioners, the Chairman of the Committee, or any designee on any agreement, instrument, indenture, or document shall be conclusive evidence of his authority.

**BE IT FINALLY RESOLVED**, that this Resolution shall become effective when adopted, and that all resolutions and parts of resolutions in conflict with this Resolution are hereby repealed to the extent of the conflict.

**SO RESOLVED** this \_\_\_\_ day of April, 2020.

**BOARD OF COMMISSIONERS  
FAYETTE COUNTY, GEORGIA**

By: \_\_\_\_\_  
Randy C. Ognio, Chairman

**ATTEST:**

\_\_\_\_\_  
Tameca P. White, County Clerk

# COUNTY AGENDA REQUEST

Department:

Presenter(s):

Meeting Date:

Type of Request:

**Wording for the Agenda:**

Consideration of the County Attorney's recommendation to approve a disposition of tax refund, as requested by Charles McQueen, for tax years 2017, 2018 and 2019 in the aggregated amount of \$812.84.

**Background/History/Details:**

When a taxpayer feels that an error has occurred with respect to taxes paid to Fayette County on Real Estate and Personal Property tax bills, they have the right to request a Refund under O.C.G.A. 48-5-380. This request is given to the Tax Assessors' Office in order to be reviewed in detail by the County Attorney. Appropriate recommendation(s) are then forwarded to the Board of Commissioner's for their final approval of said requests.

A memo from the County Attorney is provided as backup with an explanation to approve this request.

**What action are you seeking from the Board of Commissioners?**

Approval of a disposition of tax refund, as requested by Charles McQueen, for tax years 2017, 2018 and 2019 in the aggregated amount of \$812.84.

**If this item requires funding, please describe:**

The funding required will be for those refund requests where the overpayment of taxes (voluntarily or involuntarily) was a direct result of property that had previously been erroneously assessed and taxes have already been collected from the taxpayer(s).

Has this request been considered within the past two years?

If so, when?

Is Audio-Visual Equipment Required for this Request?\*

Backup Provided with Request?

**\* All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.**

Approved by Finance

Reviewed by Legal

Approved by Purchasing

County Clerk's Approval

Administrator's Approval

**Staff Notes:**

Reference:

168 Ellison Road  
Tyrone, GA 30290

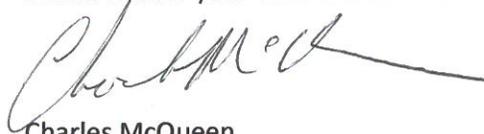
RECEIVED  
FEB 04 2020  
BY: [Signature]

RECEIVED  
FEB 3 2020  
FAYETTE COUNTY  
Board of Assessors

Dear Tax Assessor's Board,

My name is Charles McQueen and I have been the owner of above property since 1997. In 2007/2008 I added onto my property extending both 1<sup>st</sup> and 2<sup>nd</sup> floor due to an addition to my family. After my renovation my homes square footage was incorrectly recorded as approximately 4100 square feet instead of the actual 3650 square feet. That increased my assessed value and tax paid since that time. I am requesting a credit to my account for that amount overpaid, as determined by the assessor's office.

Thank You for your time and consideration,



Charles McQueen  
168 Ellison Road  
Tyrone, Ga 30290  
404-798-6119

31 Jan 2020

## MEMORANDUM

To: Fayette County Board of Commissioners  
 From: McNally, Fox, Grant & Davenport, P.C.  
 Date: April 7, 2020  
 Re: Tax Refund Request –Charles McQueen -parcel 072103012

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Mr. Charles McQueen owns a home at 168 Ellison Road in Tyrone. He is requesting a partial refund of the taxes paid on the home since 2008, based on an overestimate of the square footage of the home.

Mr. McQueen purchased this home on December 30, 1997. In 2007/2008 he built an addition to the first and second floors of the home. This addition triggered the assessors to prepare a new sketch of the home with a revised footprint. Additional square footage was added to the sketch using building plans to estimate the square footage of the addition. The new finished area of the home was estimated to be 4,121 square feet.

At the taxpayer's request, a site visit was made to the home on January 31, 2020. The home was measured at that time. The finished square footage was found to be 3,650 square feet. The actual square footage is 471 square feet smaller than estimated from the building plans.

A refund of local property taxes is recommended when taxes have been assessed and collected in error. A qualifying error is an error made in the record of assessment. In this case, the taxpayer was assessed and paid taxes on finished square footage that did not exist in his home. This error was caused by the overestimate of finished square footage triggered by the addition to his home. The overestimate led to an assessment of the home based upon a value that included too much square footage. Ultimately, this error caused an overpayment of taxes by Mr. McQueen. A partial refund is recommended for tax year 2017, 2018 and 2019, based on this error. All tax years prior to 2017 are time barred by the statute of limitations. The error has been corrected for future tax years.

Year	Amount	Recommendation
2017	\$275.82	Approval
2018	\$260.81	Approval
2019	\$276.21	Approval

TOTAL RECOMMENDED REFUND: \$812.84



April 15, 2020

Charles McQueen  
168 Ellison Road  
Tyrone, GA 30290

RE: Tax Refund Request

Dear Mr. McQueen

This letter is to notify you that your request for tax refund has been slated to appear on the Tuesday, April 21, 2020 Agenda of the regularly scheduled meeting of the Fayette County Board of Commissioners, at 6:30 P.M.

That meeting will take place in the Public Meeting Room of the Board of Commissioners located at 140 Stonewall Avenue West, Fayetteville 30214.

Your request will be discussed and a decision to grant or deny your request will be made at that meeting.

Should you desire to be heard on the matter, please be present and prepared to address the commissioners at the appropriate time.

Sincerely,

Tameca P. White, MBA, CMC  
County Clerk

Cc: Joel Benton, Chief Tax Assessor  
Kristie King, Tax Commissioner  
Ali Cox, Assistant County Attorney

## Administrator's Report: A



**Purchasing Department**  
 140 Stonewall Avenue West, Ste 204  
 Fayetteville, GA 30214  
 Phone: 770-305-5420  
 www.fayettecountyga.gov

To: Steve Rapson  
 Through: Ted L. Burgess *EB*  
 From: Ted Crumbley *TC*  
 Date: February 18, 2020  
 Subject: #1744-B: Fuel Management System Upgrade

The Purchasing Department issued an invitation to bid for the above reference project. Notices of the opportunity to quote were emailed to eleven contractors. Another ninety seven contractors were contacted through the Georgia Procurement Registry. The bid was also advertised on the Fayette County News, Channel 23, and the Georgia Local Government Access Marketplace.

A Pre-bid meeting was held on Wednesday, January 22, 2020 to allow interested contractors to view the site and ask questions. There were six companies that attended the meeting. The Purchasing Department received one bid. A survey was taken by purchasing in an effort to find out why more vendors did not respond. Two companies indicated they did not carry the Fuel Master Products. One company indicated it did not have enough specific information to respond. Another company was a sub-contractor. One company did not respond. Fleet recommends award to the low bidder, United Pump and Controls, Inc. to include 3 proximity options which will allow employees to use their ID cards instead of the key system. Two for the Fleet department and one for the Sheriff's department. A performance evaluation is attached.

A. Quotes per original specifications	
Fleet location	\$ 33,660.00
Sheriff location	\$ 13,314.00
Replace Tank Monitor at Sheriff's office	\$ <u>7,256.00</u>
Net Total	\$ 54,230.00
B. Add Proximity options	
Fleet (\$ 985.00 x 2)	\$ 1,970.00
Sheriff (1)	\$ <u>985.00</u>
Total Price	\$ 57,185.00

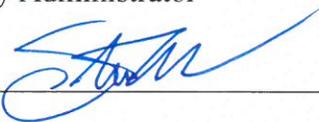
Specifics of the proposed contract are as follows:

Contract Name: #1744-B: Fuel Management System Upgrade  
Vendor: United Pump and Controls, Inc.  
Contract Amount: \$ 57,185.00

Organization Code: 37540900 (CIP Maintenance)  
Object Code: 541210 (Other Improvements)  
Project Code: 194AD (Fuel Management System)  
Available Budget: \$ 98,893.00 as of 2/18/2020

Awarding Authority: County Administrator

Approval Signature

  
Date: 3/26/2020

## FAYETTE COUNTY, GEORGIA CONTRACTOR PERFORMANCE EVALUATION

Page 1

1. Use this form to record contractor performance for any contract of \$50,000 or above.
2. The person who serves as project manager or account manager is the designated party to complete the evaluation.
3. This form is to be completed and forwarded to the Purchasing Department not later than 30 days after completion or expiration of a contract. Past performance is considered on future contracts.

VENDOR INFORMATION	COMPLETE ALL APPLICABLE INFORMATION
Company Name: United Pump & Controls, Inc.	Contract Number: N/A
Mailing Address: 305 Shawnee N Dr, Suite 300	Contract Description or Title: N/A
City, St, Zip Code: Suwanee, GA 30024	Contract Term (Dates) From: To: N/A
Phone Number: 770.662.0440 x3040	Task Order Number: N/A
Cell Number:	Other Reference: N/A
E-Mail Address: travis@unitedpump.com	

### DEFINITIONS

**OUTSTANDING** – Vendor considerably exceeded minimum contractual requirements or performance expectations of the products/services; The vendor demonstrated the highest level of quality workmanship/professionalism in execution of contract.

**EXCELLENT (Exc)** - Vendor exceeded minimum contractual requirements or performance expectations of the products/services.

**SATISFACTORY (Sat)** - Vendor met minimum contractual requirements or performance expectations of the products/services.

**UNSATISFACTORY (UnSat)** - Vendor did not meet the minimum contractual requirements or performance expectations of the products and/or services; Performed below minimum requirements

### EVALUATIONS (Place "X" in appropriate box for each criterion.)

Criteria (includes change orders / amendments)	Out-standing	Exc	Sat	Un-Sat	Not Apply
1. Work or other deliverables performed on schedule			X		
2. Condition of delivered products			X		
3. Quality of work			X		
4. Adherence to specifications or scope of work			X		
5. Timely, appropriate, & satisfactory problem or complaint resolution			X		
6. Timeliness and accuracy of invoicing			X		
7. Working relationship / interfacing with county staff and citizens			X		
8. Service Call (On-Call) response time			X		
9. Adherence to contract budget and schedule			X		
10. Other (specify):					
11. Overall evaluation of contractor performance			X		

### EVALUATED BY

Signature: <i>Bill Lackey</i>	Date of Evaluation: 02/18/2020
Print Name: <i>Bill Lackey</i>	Department/Division: <i>Fleet Maint</i>
Title: <i>Director</i>	Telephone No: <i>770.320.6014</i>

**Invitation to Bid #1744-B: Fuel Management System Upgrades**

DESCRIPTION	COMPANY
<b>SECTION A:</b>	<b>UNITED PUMP AND CONTROLS, INC. PROVIDE &amp; INSTALL SYSTEM</b>
FAYETTE COUNTY FLEET	\$33,660.00
FAYETTE COUNTY SHERIFF'S OFFICE	13,314.00
TOTAL - PROVIDE & INSTALL	46,974.00
<b>SECTION B:</b>	<b>ANNUAL MAINTENANCE / SUPPORT</b>
YEAR 1 MAINTENANCE / SUPPORT	
YEAR 2 MAINTENANCE / SUPPORT	
YEAR 3 MAINTENANCE / SUPPORT	
YEAR 4 MAINTENANCE / SUPPORT	
YEAR 5 MAINTENANCE / SUPPORT	
TOTAL - 5 YEARS' MAINTENANCE / SUPPORT	NOTE: ANNUAL MAINTENANCE / SUPPORT IS OFFERED DIRECTLY FROM THE COMPANY TO THE CUSTOMER
<b>SECTION C: TOTAL QUOTE (A+B)</b>	\$46,974.00
<b>SECTION D. ALTERNATE 1 REPLACEMENT OF TANK MONITOR FOR THE SHERIFF'S DEPARTMENT</b>	\$7,256.00
<b>TOTAL BID PRICE WITH ALTERNATE</b>	<b>\$54,230.00</b>