



4800 Ashford Dunwoody Road
Dunwoody, Georgia 30338
dunwoodyga.gov | 678.382.6700

MEMORANDUM

To: Mayor and City Council

From: Michael Smith, Public Works Director

Date: October 8, 2018

Subject: **FIRST READ: ORDINANCE AUTHORIZING THE GRANTING OF A TEMPORARY EASEMENT TO TWELVE24 OFFICE, LLC FOR A CRANE SWING EASEMENT (ORDINANCE 2018-XX-XX) (MICHAEL SMITH)**

ITEM DESCRIPTION

Discussion of an aerial easement for Twelve24 Office, LLC to allow for the swing of the tower crane above the right of way of Hammond Drive during the construction of the office building at 1224 Hammond Drive.

BACKGROUND

The contractor for the office building under construction at 1224 Hammond Drive requires the use of a tower crane which will periodically swing over public right of way on Hammond Drive. The project developer, Twelve24 Office, LLC has requested a temporary easement from the city to allow for the swing of the crane during construction. The areas of aerial right of way encroachment are indicated on the attached exhibit. The agreement expires at the completion of construction or December 31, 2019, whichever occurs first.

RECOMMENDED ACTION

Staff recommends approval of the ordinance to grant a temporary right of way easement to Twelve24 Office, LLC.

**STATE OF GEORGIA
CITY OF DUNWOODY**

ORDINANCE 2018-10-XX

**AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO
TWELVE24 OFFICE, LLC FOR THE PURPOSE OF USE AND SWING OF A CRANE
OVER THE RIGHT OF WAY OF HAMMOND DRIVE**

WHEREAS, Twelve24 Office, LLC owns that piece of property located at Hammond Drive, described specifically in Exhibit B of the Temporary Crane Swing Easement Agreement attached hereto and incorporated herein by reference; and

WHEREAS, as part of its development of its Property, Twelve24 Office, for the purpose of construction of the structures on said property, is in need of employing the use of a construction crane operating on the Property; and

WHEREAS, said construction crane's booms and associated tackles would need to swing over the right-of-way of Hammond Drive, which street is owned by the City of Dunwoody; and

WHEREAS, in order to utilize said construction cranes over the City's rights-of-way, Twelve24 Office necessitates a temporary easement to be effective during the time the cranes will be utilized for construction in order to secure air rights over the City's right-of-way delineated here, through the execution of the Temporary Crane Swing Easement Agreement attached hereto.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council for the City of Dunwoody, that the Mayor, City Manager, and City Attorney are hereby authorized to execute all necessary documents, including the Temporary Crane Swing Easement Agreement attached hereto and incorporated herein, to affect the granting of the Temporary Crane Swing Easement as described herein.

SO RESOLVED AND EFFECTIVE, this ____ day of _____, 2018.

Approved:

Denis L. Shortal, Mayor

Attest:

Approved as to Form and Content

Sharon Lowery, City Clerk

City Attorney

(Seal)

UPON RECORDING RETURN TO:

Brasfield & Gorrie, LLC
 1224 Hammond Drive
 Dunwoody, Georgia 30346
 Attention: Tyler Yarbrough

TEMPORARY CRANE SWING EASEMENT AGREEMENT

(Phase II / City of Dunwoody, Georgia)

THIS TEMPORARY CRANE SWING EASEMENT AGREEMENT (this "Agreement") made and entered into this __18th__ day of _____September____, 2018, by and between CITY OF DUNWOODY, GEORGIA, a municipality of the State of Georgia ("Grantor"), and TWELVE24 OFFICE, L.L.C., a Delaware limited liability company ("Grantee"). (Grantor and Grantee sometimes are collectively referred to as the "Parties".)

RECITALS:

A. Grantor is the owner of the real property described on **Exhibit A**, attached hereto and incorporated herein (the "Grantor Property").

B. Grantee is the owner of the real property described on **Exhibit B**, attached hereto and incorporated herein (the "Grantee Property"), on which Grantee anticipates constructing certain improvements.

C. Grantor is willing to grant Grantee the easements and rights more particularly described herein.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars and for other good and valuable considerations, the receipt, adequacy and sufficiency are hereby acknowledged, the parties do hereby covenant and agree as follows:

1. Temporary Crane Swing Easement.

(a) Grantor grants to Grantee, for the use by Grantee and its successors, assigns, agents and contractors, a temporary easement over the Grantor Property for the booms and associated tackle of one (1) construction crane located on and operating from the Grantee Property to enter and encroach into, onto, and/or through the air space located above the Grantor Property and above the

improvements located thereon. The tentative travel paths of such construction crane arms are generally depicted on Exhibit C attached hereto and made a part hereof (the "Crane Swing Easement Area"). Grantee shall have the right to make non-material modifications to the Crane Swing Easement Area and any such non-material modifications shall automatically amend the location of the Crane Swing Easement Area without any further action on the part of any Parties.

(b) The foregoing easement will terminate with respect to the applicable construction crane(s) without further action by the Parties on the earlier to occur of (i) the date upon which Grantee removes the construction crane(s) from the Grantee Property and confirms in writing to Grantor that Grantee no longer requires the use of the construction crane(s), or (ii) December 31, 2019.

2. Indemnification. Grantee hereby agrees to indemnify Grantor and hold Grantor harmless from any and all actual damages which Grantor may suffer and from any and all direct and actual liability, costs, and expenses arising out of the exercise of the easements and rights granted in this Agreement (including cost of defense, settlement, and reasonable attorneys' fees) which Grantor may hereafter incur, become responsible for, or pay out as a result of the death or bodily injuries to any person, destruction or damage to any property, or any violations of governmental laws, regulations or orders caused solely by the negligent act, negligent omissions or willful misconduct of Grantee, its employees or subcontractors in the performance of this Agreement.

3. Insurance. Grantee shall obtain and furnish applicable insurance certificates to Grantor for the following amounts of insurance and the insurance shall be maintained in full force and effect during life of the Agreement:

- (a) Commercial General Liability Insurance providing coverage for injuries to persons as well as damage to property in an amount not less than One Million and 00/100 dollars (\$1,000,000.00).

4. Run with the Land; Governing Law. The rights, easements and obligations established in this Agreement will run with the land and shall be binding upon and inure to the benefit of Grantee, its successors and assigns and successors-in-title, and, to the extent allowable by law, upon Grantor. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

5. Recordation; Counterparts. This Agreement shall be recorded in the real property records of DeKalb County, Georgia, and inure to all subsequent purchasers, transferees and assigns of the Grantee Property, until otherwise terminated according to the provisions set forth herein. This Agreement may be executed in multiple counterparts, each of which will constitute an original, but all of which taken together will constitute one and the same agreement.

6. Notices. All notices, consents, requests, demands or other communications to or upon the respective party shall be in writing and shall be effective for all purposes upon receipt, including, but not limited to (i) personal delivery; (ii) delivery by messenger, express or air courier or

similar courier; or (iii) delivery by United States first class certified or registered mail, postage prepaid and addressed as follows:

GRANTOR: City of Dunwoody
c/o City Manager
41 Perimeter Center East
Suite 250
Dunwoody, Georgia 30346

GRANTEE: Twelve24 Office, LLC.
c/o Trammell Crow Company
3280 Peachtree Road, Suite 1400
Atlanta, GA 30305
Attention: Drew Fredrick, Senior Vice President

WITH A COPY TO: Brasfield & Gorrie, L.L.C.
1990 Vaughan Road, Suite 100
Kennesaw, GA 30144
Attention: Tyler Yarbrough, Project Manager

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed under seal by their duly authorized representatives as of the date first set forth above.

GRANTOR:

Signed, sealed and delivered
in the presence of:

CITY OF DUNWOODY, GEORGIA

Witness

By: _____
Name: _____
Title: _____

Notary Public

My Commission Expires:

(NOTARY SEAL)

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

GRANTEE:

Signed, sealed and delivered
in the presence of:



Witness



Twelve24 Office, L.L.C.,
a Delaware limited liability company

By: Twelve24 Venture, LLC
a Delaware limited liability company, its sole
member

By: TC Twelve24 Member, LLC
a Delaware limited liability company, its
managing member

By: TC Atlanta Development, Inc.
a Delaware corporation, its sole
member

By:  (SEAL)

Name: BRANDON HORSTON

Title: Vice president

EXHIBIT A**GRANTOR PROPERTY**

Those certain tracts or parcels of land commonly known as the public rights-of-way of Hammond Drive in the City of Dunwoody, DeKalb County, Georgia.

EXHIBIT B**GRANTEE PROPERTY**

Being all that tract or parcel of land lying and being in Land Lot 348 of the 18th District, City of Dunwoody, Dekalb County, Georgia and being more particularly described as follows:

Commencing at the point of intersection of the easterly right-of-way line of Perimeter Center Parkway (having a variable width right-of-way) and the northerly right-of-way line of Hammond Drive (having a variable width right-of-way); thence, leaving the aforesaid right-of-way line of Perimeter Center Parkway and running with the said right-of-way line of Hammond Drive South 40° 23' 32" East, 12.81 feet; thence, North 47° 54' 09" East, 15.61 feet to a concrete monument found; thence, South 40° 26' 52" East, 12.96 feet; thence, South 43° 16' 03" West, 14.14 feet; thence, South 42° 28' 39" East, 33.02 feet; thence, South 67° 05' 52" East, 16.35 feet; thence, North 82° 49' 09" East, 30.20 feet; thence, North 89° 28' 25" East, 190.00 feet; thence, South 00° 31' 35" East, 5.89 feet; thence, North 89° 00' 40" East, 96.11 feet to a PK Nail Found; thence, South 89° 41' 31" East, 135.43 feet to a point; thence, South 00° 36' 11" East, 8.70 feet to a point; thence, North 89° 21' 16" East, 386.53 feet to a point; thence, leaving the aforesaid right-of-way line of Hammond Drive 14.50 feet along the arc of a curve deflecting to the left, having a radius of 33.27 feet and a chord bearing and distance of North 12° 00' 03" East, 14.39 feet to a point and the POINT OF BEGINNING.

Thence, from said POINT OF BEGINNING as thus established and running with the aforesaid right-of-way line of Hammond Drive

1. South 89° 41' 04" West, 345.90 feet to a point; thence,
2. 8.40 feet along the arc of a curve deflecting to the right, having a radius of 31.50 feet and a chord bearing and distance of North 06° 43' 28" West, 8.37 feet to a point; thence,
3. North 00° 54' 42" East, 105.50 feet to a point; thence,
4. 25.50 feet along the arc of a curve deflecting to the right, having a radius of 26.50 feet and a chord bearing and distance of North 58° 21' 23" East, 24.53 feet to a point; thence,
5. North 89° 57' 24" East, 296.36 feet to a point; thence,
6. 40.67 feet along the arc of a curve deflecting to the right, having a radius of 26.50 feet and a chord bearing and distance of South 45° 46' 55" East, 36.79 feet to a point; thence,
7. South 00° 55' 05" East, 99.34 feet to a point and the POINT OF BEGINNING, containing 43,181 square feet or 0.9913 acres of land, more or less.

EXHIBIT C

CRANE SWING EASEMENT AREA

[See attached page]

