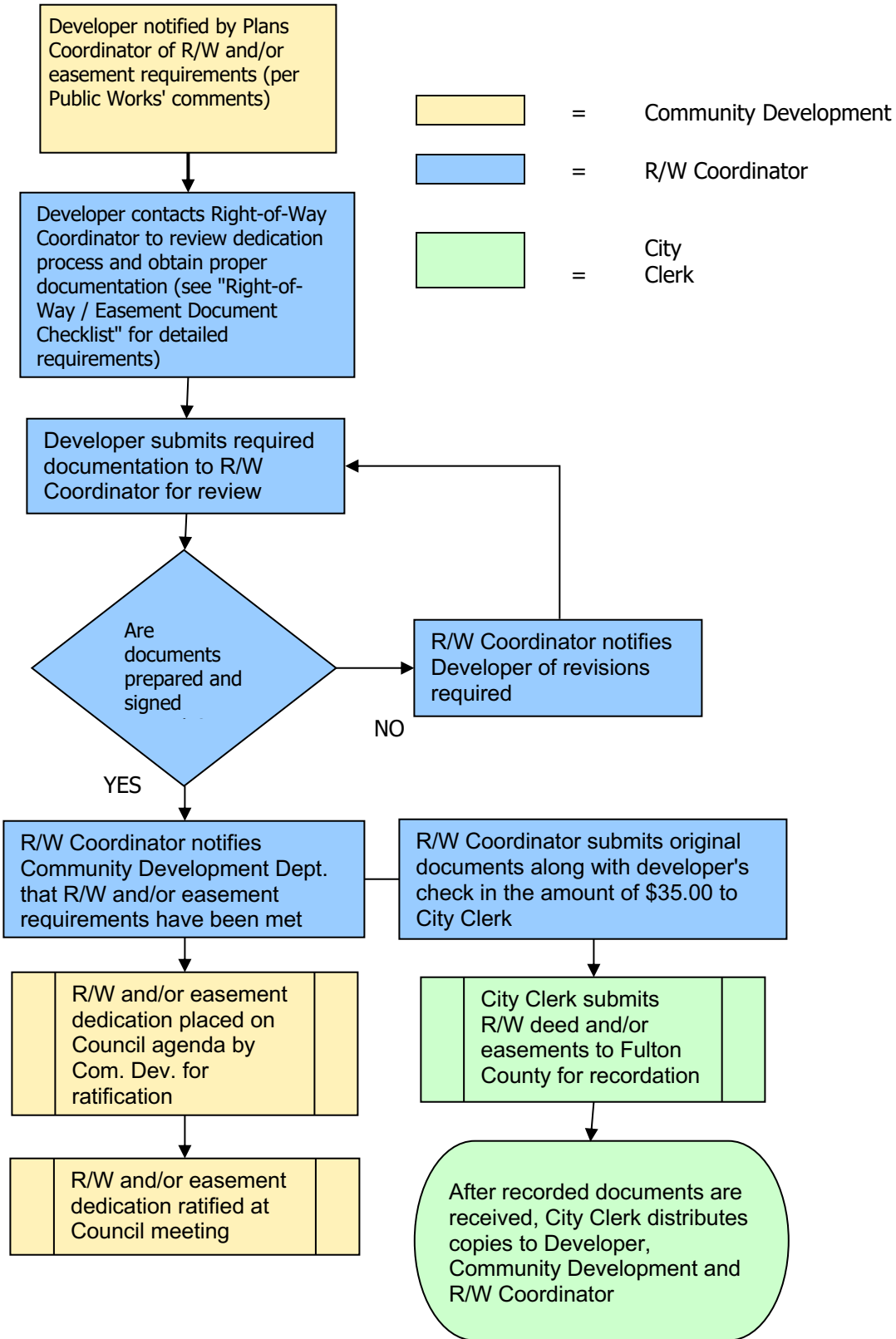


Right-of-Way/Easement Dedication Flow Chart



RIGHT-OF-WAY / EASEMENT DEDICATION DOCUMENT CHECKLIST

Legal Documents

The following items must be submitted to the Right-of-Way Coordinator for proper processing:

- Fully executed deed or easement (note there is a corporate and individual form) signed in accordance with signature requirements included in the document entitled “Requirements for Conveying Title to Land”. Print names below signature and provide title if applicable
- Executed “Owner’s Affidavit Form” (note there is a corporate and individual form)
- Copy of title report showing current ownership to the property OR copy of most recent recorded deed to property showing current ownership
- Proof of authorization to sign for corporation, LLC, partnership, etc.
- For commercial developments only - Metes and bounds legal description of area to be dedicated (to be attached as “Exhibit A” to the right-of-way deed/easement documents)
- Plat map (to be attached as “Exhibit B” to the right-of-way deed/easement documents) – Final plat will be used as the “Exhibit B” attachment for subdivisions
- Check in the amount of \$35.00 payable to the City of Johns Creek to cover recording fees and courier fees

Plat Map Requirements (for commercial developments only)

- Plat map shall be signed, stamped and dated by a professional engineer (P.E.) or a registered land surveyor
- Plat map shall be no smaller than 8 ½ by 11 inches and no larger than 11 x 17 inches
- Plat map shall provide enough information to easily identify dedicated right-of-way/easement area in the field.
- Name of project shall be shown on the map
- Parcel identification number and name of property owner(s) of each impacted property shall be included
- Map shall have a north arrow
- Scale of plat map shown (minimum scale 1” = 20’; maximum scale 1” = 100’)
- Describe right-of-way / easement area by bearing and distances
- Right-of-way / easement shall be tied back to the point of beginning
- Point of beginning shall be tied to a Fulton County GIS monument
- Indicate subdivision name (if known)

Other Notes

- Please do not make any changes to the wording of the document without prior approval from the Right-of-Way Coordinator.
- Any changes made to the document should be crossed out and initialed by those signing the document.
- Projects often require the acquisition of property rights from neighboring property owners. In these situations, the petitioner must negotiate with the neighboring property owner in an attempt to acquire the necessary right-of-way and/or easements.

REQUIREMENTS FOR CONVEYING TITLE TO LAND

REQUIRED DOCUMENTATION

ITEM #1

The City of Johns Creek must be assured that it is receiving right-of-way and/or easements from the proper entity. As such, we require **one** of the following:

- Copy of title report showing current ownership to the property
- Copy of most recently recorded deed to property showing current ownership

ITEM #2

In Georgia, it is incumbent upon the Grantee (in this case the City of Johns Creek) to also assure itself that signatory is authorized to sign a document on the behalf of a corporation, LLC, partnership, etc. As a result we are also requiring a copy of the following documentation as proof of authorization to sign:

Ownership Entity

Corporation

Limited Liability Corporation (LLC)

Partnership

Church

Required Documentation

Corporation By-Laws & Delegated Officers by the Secretary

LLC's Articles of Organization or Board Resolution/Minutes

Partnership Agreement

Church By-Laws, Articles of Incorporation, or Church Resolution

NOTE: We understand that some of this documentation may be lengthy. As a result, it will be acceptable to provide the cover page, the signature page(s) and the section of the document specific to authorized signatories. The submitted information should also include a listing of the current officers/members of the organization.

SIGNATURE REQUIREMENTS

For any deed to be recorded, one must have the deed witnessed and notarized. For specific persons or entities, particular requirements detailed below must be met for a deed to be recordable.

Individuals (OCGA 44-5-30)

A deed to convey an interest in land must be:

- in writing,
- signed by the grantor(s)
- attested by at least two witnesses. (one should be an unofficial witness with the other being a notary public with the notary's seal affixed)
- delivered to the land purchaser or his representative
- made on a good or valuable consideration. (i.e., the land should be purchased; the land should not be a gift)

Corporations (OCGA 14-5-7)

Instruments executed by a corporation conveying an interest in land should:

- be signed by the president or vice-president
- be attested or countersigned by the secretary or an assistant secretary or the cashier or assistant cashier of the corporation
- have a corporate seal
- be witnessed and notarized

OR

- be signed by the president or vice-president

- be attested or countersigned by an officer who has the authority to execute instruments by a corporate resolution or in accordance with its bylaws
- have a corporate seal
- be witnessed and notarized

LLCs, or Limited Liability Companies (OCGA 14-11-301 and OCGA 14-11-302)

Instruments executed by a Limited Liability Companies conveying an interest in land should be signed by a manager or member of the LLC, unless the manager or member does not have authority to sign for the LLC through the LLC’s articles of organization. The document should also be witnessed and notarized.

Partnerships (OCGA 14-8-10)

Instruments executed by a partnership conveying an interest in land should be signed under the following guidelines:

1. Where title to land is in the partnership name, the instrument should be signed by at least one partner, but we prefer to have the signatures of all of the partners.
2. Where title to land is in the name of one or more but not all the partners, the instrument should be signed by the partners in whose name the title stands
3. Where title to land is in the name of one or more or all the partners, all partners must sign the instrument

The document should be witnessed and notarized.

Limited Partnerships (OCGA 14-9-106)

Instruments conveying an interest in land should be signed by a general partner (unless there are limitations on the authority of the general partner to sign these instruments in the certificate of limited partnership). The document should be witnessed and notarized.

Public Schools (OCGA 20-2-520)

An instrument conveying title to Public School land should:

- be Sold in the name of the county board
- be signed by the president or secretary of the county board,
- have an order from the county board authorizing the sale of land.
- have the Seal of the school if one exists
- be witnessed and notarized

Churches (OCGA 14-5-47)

1. An instrument conveying title to Church land should comply with the requirements set forth in the church bylaws, Church Articles of Incorporation, or other written documentation such as a Church Resolution. Often, these Church bylaws state that a trustee of church property has the power to convey land or that the congregation must authorize the sale of land. Thus, one must ask to see copies of the Church bylaws or Articles of Incorporation before going through with a sale.

2. Either Individual requirements (above) and Corporation requirements (above) may apply to pass title. Thus, to be safe, one should also require that the instrument passing title:

- Have the Church Seal and
- Be witnessed and notarized

Deeds Executed Out of State (OCGA § 44-2-21)

In order to record a deed to Georgia realty executed outside the state, the deed must:

- be attested by or acknowledged before
 - A consul or vice-consul of the United States, whose certificate under his official seal shall be evidence of the fact; or
 - A judge of a court of record in the state or county where executed, with a certificate of the clerk under the seal of such court of the genuineness of the signature of such judge; or
 - A clerk of a court of record under the seal of the court; or
 - A notary public or justice of the peace of the county or city of the state or the state and the county, city, or country where executed, with his seal of office attached; if such notary public or justice of the peace has no seal, then his official character shall be certified by a clerk of any court of record in the county, city, or country of the residence of such notary or justice of the peace.
- be attested by two witnesses – one of whom may be one of the officials named above
- be in writing
- be signed by the grantor(s)

If the transfer of property involves an ESTATE, please contact the Right-of-Way Coordinator (678-512-3254) for further direction.

IF UNSURE, ALWAYS ASK FOR LEGAL ADVICE ON HOW TO PROPERLY EXECUTE A DEED

***THIS DOCUMENT MUST ONLY BE RECORDED BY THE CITY OF JOHNS CREEK CITY CLERK OR HIS/HER DESIGNEE

Return to:
City of Johns Creek
Attn: City Clerk
11360 Lakefield Drive
Johns Creek, GA 30097

Project Name:	<i>For City Use Only</i>
Road/Street Name:	Approval Date:
Tax Parcel Identification No.:	
Land Disturbance Permit No.:	Initials:
Zoning/Special Use Permit No.:	

RIGHT-OF-WAY DEDICATION DEED (Corporate)

**STATE OF GEORGIA,
COUNTY OF FULTON**

This indenture entered into this _____ day of _____, 20____, between _____, a corporation duly organized under the laws of the State of _____, party of the first part (hereinafter referred to as Grantor) and the **City of Johns Creek**, a Georgia municipal corporation, party of the second part (hereinafter referred to as Grantee).

WITNESSETH, that for and in consideration of Ten Dollars (\$10.00) and the benefits which will accrue to the undersigned property owner from laying out, constructing, and otherwise improving a public road across Grantor's property, and in consideration of the benefits which will accrue to the subject property from laying out, constructing and otherwise improving a public road across Grantor's property; and as an inducement to Grantee to do said work, Grantor(s) does (do) hereby agree to dedicate and dedicates (dedicate) to Grantee, and its duly constituted authorities, in FEE SIMPLE, all rights, title and interest which the Grantor(s) has (have) or may have in and to any portion of the property of the undersigned, included in or embraced within the limits of the right-of-way and appurtenances, spillways and embankments, described and more fully set forth in a plat thereof on file in the Johns Creek Department of Community Development, reference to which is hereby made for a more detailed description.

The Grantor hereby deeds to the City of Johns Creek sufficient land in FEE SIMPLE to establish right-of-way as indicated on the plans on file in the Department of Community Development for LDP Number _____ and on Exhibits "A" and "B". Said land is in Land Lot(s) _____ of the _____ District of Fulton County, Georgia, and more particularly

described as follows: To wit:

Project Name: _____

See Exhibits “A” and “B” attached hereto and made a part hereof

Grantor(s) hereby releases (release) the City of Johns Creek, its agents and officers from any and all liability for damages occasioned directly or indirectly by the work contemplated and provided for herein. Said Grantor hereby warrants that it has the right to sell and convey said right of way and binds itself, its successors and assigns forever to warrant and defend the right and title to the above-described right of way and easements unto the said City of Johns Creek, its successors and assigns against the claims of all persons whomever by virtue of these presents. Said Grantor hereby waives for itself, its successors and assigns all rights to any further compensation or claim to damages on account of the construction or maintenance of said roadway as herein agreed.

IN WITNESS WHEREOF, Grantor(s) has (have) hereunto set his/her (their) hand (hands) and seal (seals) this the _____ day of _____, 20 _____.

Signed, sealed and delivered this _____
day of _____, 20 _____
In the presence of:

Witness

Notary Public, State of Georgia
Commission Expires: _____
[NOTARIAL SEAL]

Grantor: _____
Corporate Name

By: _____

Print Name: _____

Title: _____

By: _____

Print Name: _____

Title: _____

STATE OF GEORGIA
COUNTY OF FULTON

AFFIDAVIT OF CORPORATE OWNER

Personally appeared before me, the undersigned attesting authority in and for said State and County, the undersigned deponent who being duly sworn, deposes and says on oath that the following described property (hereinafter "Property") is owned by _____ (hereinafter "Owner"), to wit:

See Exhibits "A" and "B" Attached Hereto And By
This Reference Incorporated Herein

That the Property is also fully described in a Right of Way Deed / Easement this date executed and delivered to the **City of Johns Creek** by Owner or under Owner's due authorization.

That deponent is _____ (title) of Owner and, as such, deponent is authorized to make this Affidavit and is personally familiar with the matters set forth herein.

That there is no outstanding indebtedness for equipment, appliances, or other fixtures attached to the Property.

That insofar as deponent is aware, all improvements on the Property are within the boundary lines of the Property and do not encroach on any other land.

That the lines and corners of the Property are clearly marked, and that there are no disputes concerning the location of the lines and corners.

That there are no pending suits, proceedings, judgments, bankruptcies, liens, or executions against Owner either in the aforesaid County or any other County in the State of Georgia, except for those items listed on *Exhibit C* attached hereto and by this reference incorporated herein.

That Owner has been in open and peaceful possession of the Property, that deponent knows of no adverse claims to Owner's claim of title, and that Owner has a perfect right to convey good, fee simple, marketable title to the Property free and clear of any liens or encumbrances.

That no improvements or repairs have been made on the Property during the ninety-five (95) days immediately preceding this date or, if there were any such improvements or repairs made, that the agreed price or reasonable value of all labor, services and materials has been paid to all contractors, subcontractors, suppliers, laborers, materialmen or other person providing such labor, services or materials; that the improvements or repairs have been fully completed in accordance with the terms of the contracts; that there are no contracts pending and not yet completed; and that there are no outstanding debts incurred for labor or materials used in making such improvements or repairs or for services of architects, surveyors, engineers or other person incurred in connection therewith. Deponent acknowledges that these representations regarding such improvements or repairs are made pursuant to the provisions of the Official Code of Georgia Annotated §44-14-361.2.

That there are no unpaid bills or liens against the Property for sewerage, water main, sidewalk or street improvements.

That there are no leases or tenancies on the Property.

That there are no retention of title contracts, bills of sale or other encumbrances of record affecting title to any personal property installed on the Property.

That Owner has received no notice of, nor is Owner aware of, any pending, threatened or contemplated action by any governmental authority or agency having the power of eminent domain, which might result in any part of the Property being taken by condemnation or conveyed in lieu thereof.

That Owner has not entered into, nor are there, any agreements or contracts relating to any development, sale or leasing of the Property except to the CITY OF JOHNS CREEK.

That Owner has received no notice (oral or written) that any municipality or other governmental or quasi-governmental authority has determined that there are any violations of zoning, health, environmental, or other statutes, ordinances or regulation affecting the Property, and Owner has no knowledge of any such violation. In the event Owner has knowledge of any such violations prior to the closing of the sale of the Property to the CITY OF JOHNS CREEK, Owner shall promptly notify the CITY OF JOHNS CREEK thereof.

That Owner has no knowledge of the Property having been previously used as a landfill, dump, or storage facility for garbage or refuse.

That Owner has received no notice (oral or written) of the existence of any areas on the Property where "hazardous substances or waste" (as hereinafter defined) have been disposed of, released, or found, and deponents have no knowledge of the existence of any such areas or of the storage or disposal of any hazardous substances or waste on the Property. For purposes of this Affidavit, the term "hazardous substances or waste" shall mean petroleum (including crude oil or any fraction thereof), petroleum products, asbestos or asbestos products and any substance identified in CERCLA, or any other federal, state or county legislation or ordinances regarding use, storage or disposal of substances which may be termed "hazardous" or "waste."

That Owner is not classed as non-resident alien for purposes of income taxation by the United States of America.

Deponent is aware that this affidavit is made to induce the CITY OF JOHNS CREEK to accept the Property from Owner. Deponent acknowledges that the matters set forth herein pertain to such state of facts as exists on the date this Affidavit is given prior to the delivery of the Right of Way Deed / Easement to the CITY OF JOHNS CREEK.

Signed, sealed and delivered this _____
day of _____, 20_____
in the presence of:

GRANTOR: _____
Corporate Name

Witness

By: _____
Print Name: _____
Title: _____

Notary Public, State of Georgia
Commission Expires: _____

By: _____
Print Name: _____
Title: _____

[NOTARIAL SEAL]