



Agenda

Greenville City Council

March 14, 2016
6:00 PM
City Council Chambers
200 West Fifth Street

Assistive listening devices are available upon request for meetings held in the Council Chambers. If an interpreter is needed for deaf or hearing impaired citizens, please call 252-329-4422 (voice) or 252-329-4060 (TDD) no later than two business days prior to the meeting.

I. Call Meeting To Order

II. Invocation - Mayor Pro-Tem Smith

III. Pledge of Allegiance

IV. Roll Call

V. Approval of Agenda

- **Public Comment Period**

The Public Comment Period is a period reserved for comments by the public. Items that were or are scheduled to be the subject of public hearings conducted at the same meeting or another meeting during the same week shall not be discussed. A total of 30 minutes is allocated with each individual being allowed no more than 3 minutes. Individuals who registered with the City Clerk to speak will speak in the order registered until the allocated 30 minutes expires. If time remains after all persons who registered have spoken, individuals who did not register will have an opportunity to speak until the allocated 30 minutes expires.

VI. Consent Agenda

1. Minutes from the June 11, 2015 City Council meeting
2. Resolution Approving an Exchange of Property with Taft-Ward Investments, LLC
3. Resolution and deed of release to abandon a portion of a sanitary sewer easement and a portion of a water easement at Fire Tower Commercial Village, Lot 4
4. Resolution declaring three vehicles to be surplus and authorizing disposition by public auction

5. Resolution declaring Police canine Patton as surplus and authorizing his disposition to Officer Chad Bowen
6. Report on Bids and Contracts Awarded

VII. Old Business

7. Amendment to Council-Staff Communications Guidelines

VIII. New Business

8. Presentations by Boards and Commissions
 - a. Affordable Housing Loan Committee
 - b. Community Appearance Commission
9. Authorization and funding of the “Greenville Youth@Work” summer program
10. Supplemental Municipal Agreement with the North Carolina Department of Transportation for Design and Construction of the South Tar River Greenway Phase 3 – Pitt Street to Moye Boulevard
11. Authorization for the Fire/Rescue Department to submit a grant application to the Department of Homeland Security
12. Lease agreement with Zimmer Development Company, LLC to establish the South Zone Police Substation
13. Presentation by the Police Department regarding implementation of a Red Light Camera Enforcement Program
14. 2016 State Legislative Initiatives
15. Discussion of directing staff to draft a proposed amendment to one of the options which qualifies a bidder to be an Eligible Local Bidder in the Local Preference Policy

IX. Review of March 17, 2016, City Council Agenda

X. City Manager's Report

XI. Comments from Mayor and City Council

XII. Adjournment



City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

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- Title of Item:** Minutes from the June 11, 2015 City Council meeting
- Explanation:** Proposed minutes from the City Council meeting held on June 11, 2015 are presented for review and approval.
- Fiscal Note:** There is no direct cost to the City.
- Recommendation:** Review and approve proposed minutes from the City Council meeting held on June 11, 2015
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[Proposed_Minutes_of_the_June_11_2015_City_Council_Meeting_1009059](#)

PROPOSED MINUTES
MEETING OF THE CITY COUNCIL
CITY OF GREENVILLE, NORTH CAROLINA
THURSDAY, JUNE 11, 2015



A regular meeting of the Greenville City Council was held on Thursday, June 11, 2015 in the Council Chambers, located on the third floor at City Hall, with Mayor Allen M. Thomas presiding. Mayor Thomas called the meeting to order at 7:00 pm. Council Member Croskery gave the invocation, followed by the Pledge of Allegiance.

Those Present:

Mayor Allen M. Thomas, Mayor Pro-Tem Calvin R. Mercer, Council Member Kandie Smith, Council Member Marion Blackburn, Council Member Rick Smiley and Council Member Richard Croskery

Those Absent:

Council Member Rose H. Glover

Also Present:

City Manager Barbara Lipscomb, City Attorney David A. Holec, City Clerk Carol L. Barwick and Deputy City Clerk Polly W. Jones

APPROVAL OF THE AGENDA

City Manager Barbara Lipscomb reminded the City Council of their vote at Monday's meeting to continue the rezoning request by Ward Holdings, LLC and the item adding schools as an allowed use in the IU (Inoffensive Industry) zoning district.

Upon motion by Council Member Croskery and second by Council Member Blackburn, the City Council voted unanimously to adopt the agenda with the noted changes.

SPECIAL RECOGNITION

MAXTON FAIRCLOTH, PUBLIC WORKS DEPARTMENT RETIREE

City Manager Barbara Lipscomb expressed the City's appreciation to Maxton Faircloth, who was hired as a part-time Transit Driver in August 2006, then promoted to full-time two years later. She congratulated him on the occasion of his retirement as of May 1st with six years and



10 months service to the City of Greenville. Mayor Thomas also extended his congratulations and presented Mr. Faircloth with a plaque commemorating his service.

SIXTH ANNUAL FAIR HOUSING POSTER CONTEST WINNERS

Community Relations Officer Cassandra Daniels stated that Fair Housing Month serves as a reminder and celebration of the Federal and State Fair Housing Act. The purpose of all activities is to create awareness and educate the community and school-aged children on the importance of providing equal housing opportunities to all people. The theme for the 2015 poster contest was, "Welcome Home: Will You Be My Neighbor?"

Ms. Daniels acknowledged the City's partners, noting the ways in which their generosity assisted in making the 2015 Fair Housing events a success:

- Lunch for the property managers seminar was provided by the City's Community Development Department and the Greenville Area Property Managers Association
- Apple products and gift bags for the winners are provided by the Greenville Area Property Managers Association
- The Greenville Area Property Managers Association and Uptown Art Supply and Gallery at U.B.E. provided \$150 gift cards to the teacher of the winners

Ms. Daniels then announced the following winners of the 6th Annual Fair Housing Poster Contest, who were presented with gift bags by Ms. Franchine Philpot Peña and were congratulated by the mayor:

- Grades K-5, 1st Place: Will Malpass and Meredith Philyaw
- Grades K-5, 2nd Place: Kaleb McNeil and Matthew Piner
- Grades K-5, 3rd Place: Rebecca Butler and Jose Maldonado
- Grades 6-8, 1st Place: Landon House

Ms. Daniels noted that Landon House is a student at Greenville Christian Academy, while the other winners are all from Chicod Elementary School and their teacher is Ms. Kathy Bello.

APPOINTMENTS

APPOINTMENTS TO BOARDS AND COMMISSIONS

Affordable Housing Loan Committee

Council Member Blackburn continued all appointments.



Board of Adjustment

Council Member Kandie Smith made a motion to reappoint Hershel Watts to a first three-year appointment that will expire June 2018. Council Member Croskery seconded the motion and it carried unanimously.

Council Member Croskery made a motion to reappoint Thomas Taft to a second three-year term that will expire June 2018. Council Member Smiley seconded the motion and it carried unanimously.

Council Member Kandie Smith made a motion to reappoint Kevin Faison to a second three-year term that will expire June 2018. Council Member Smiley seconded the motion and it carried unanimously.

Mayor Thomas made a recommendation to reappoint Richard Winkler to a first three-year term that will expire June 2018. A motion was made to that effect by Council Member Smith, seconded by Council Member Blackburn and unanimously carried.

Community Appearance Commission

Council Member Smiley made a motion to appoint Sharon Gray to a first three-year term that will expire July 2018 in replacement of Brenda Diggs, who was no longer eligible to serve. Council Member Blackburn seconded the motion and it carried unanimously.

Council Member Smiley continued all remaining appointments.

Environmental Advisory Commission

Council Member Blackburn continued all appointments.

Firefighters Relief Fund Committee

Appointments were continued.

Greenville Utilities Commission

Council Member Croskery made a motion to accept the County's nomination of Parker Overton to replace Virginia Hardy for a first three-year appointment that will expire June 2018. Council Member Smiley seconded the motion and it carried unanimously.

Council Member Croskery made a motion to reappoint Chip Little to a second three-year term that will expire June 2018. Council Member Smith seconded the motion and it carried unanimously.

Housing Authority

Council Member Blackburn made a motion to accept the Housing Authority's nomination of Jumail Blount to serve as the Resident Commission for first five-year term that will expire May 2020. Council Member Smith seconded the motion and it carried unanimously.



Human Relations Council

All appointments were continued.

Pitt-Greenville Airport Authority

Mayor Thomas made a recommendation to reappoint Julia Carlson to a second four-year term that will expire June 2019. A motion was made to that effect by Council Member Smith, seconded by Council Member Croskery and unanimously carried.

Pitt-Greenville Convention & Visitors Authority

All appointments were continued.

Planning & Zoning Commission

Mayor Pro-Tem Mercer made a motion to appoint Betsy Leech to the Alternate 2 seat to a first three-year term that will expire May 2018 in replacement of Torico Griffin. Council Member Croskery seconded the motion and it carried unanimously.

Council Member Smith made a motion to reappoint Margaret Reid to a first three-year term that will expire May 2018. Council Member Croskery seconded the motion and it carried unanimously.

Council Member Smiley made a motion to appoint Dustin Mills to the Alternate 2 seat to fill an unexpired term that will expire May 2017 in replacement of Jerry Weitz, who had resigned. Council Member Blackburn seconded the motion and it carried unanimously.

With the appointment of Betsy Leech and Dustin Mills to the board, the following elevations were enacted by the Order of Elevations process outlined in the City's Boards and Commission Policy: Margaret Reid elevated to a regular member, Patrick Connelly elevated to a regular member and Betsy Leech elevated to the Alternate 1 seat.

Public Transportation and Parking Commission

Council Member Croskery made a motion to appoint Warren Daniels to fill an unexpired term that will expire January 2018 in replacement of Marsha Wyly, who was no longer eligible to serve. Council Member Smith seconded the motion and it carried unanimously.

Recreation & Parks Commission

Council Member Smith made a motion to reappoint Audrey Nealy to a second three-year term that will expire May 31, 2018. Council Member Blackburn seconded the motion and it carried unanimously.

Youth Council

Mayor Pro-Tem Mercer made a motion to appoint Tatiana Staton to an unexpired term that will expire September 2015. Council Member Blackburn seconded the motion and it carried unanimously.



NEW BUSINESS

PUBLIC HEARINGS

ORDINANCE REQUESTED BY WARD HOLDINGS, LLC TO REZONE 2.0361 ACRES LOCATED ALONG THE SOUTHERN RIGHT-OF-WAY OF EAST 10TH STREET AND 270+ FEET WEST OF ELM STREET FROM R9 (RESIDENTIAL [MEDIUM DENSITY MULTI-FAMILY]) TO R6 (RESIDENTIAL [HIGH DENSITY MULTI-FAMILY]) – Continued to August 13, 2015

ORDINANCE REQUESTED BY ROBERT D. PARROTT TO REZONE 43.3084 ACRES LOCATED EAST OF COREY ROAD AND NORTH OF ROSEWOOD AND TULLS COVE SUBDIVISIONS FROM RR (RURAL RESIDENTIAL – PITT COUNTY'S JURISDICTION) TO R9S (RESIDENTIAL-SINGLE-FAMILY [MEDIUM DENSITY]) – (Ordinance No. 15-028)

Planner Chantae Gooby stated Robert D. Parrott has requested to rezone 43.3084 acres located east of Corey Road and north of Rosewood and Tulls Cove Subdivisions from RR (Rural Residential – Pitt County's Jurisdiction) to R9S (Residential-Single-Family [Medium Density]). The subject area is located in Vision Area D.

According to Ms. Gooby, the Comprehensive plan recommends that development north and south of Fire Tower Road be restricted to residential uses outside the focus area. It discourages leapfrog development and encourages infill development and development adjacent to the existing city limits. Other than at its intersections with Fire Tower Road and Worthington Road, the Future Land Use Plan Map recommends medium-density residential (MDR) along Corey Road. Corey Road is designated as a residential corridor. Along residential corridors, office, service and retail activities should be specifically restricted to the associated focus area, and linear expansion outside of the focus area should be prohibited.

Based on possible uses permitted by the requested rezoning, Ms. Gooby stated the proposed rezoning classification could generate 1,148 trips to and from the site on Corey Road, which is a net increase of 526 additional trips per day. During the review process, measures to mitigate the traffic will be determined.

This property is currently located in Pitt County's Jurisdiction and zoned RR (Rural Residential). There is a voluntary annexation request associated with this rezoning to incorporate this property into the City of Greenville's Jurisdiction and apply City zoning. There are no known historical designations on the site, nor are there any known environmental conditions/constraints.



Surrounding land uses and zoning are as follows:

North: RA20 - First Assembly Church of God, Farrington Subdivision, and Farmland

South: R6S - Tulls Cove Subdivision; RR - Rosewood Subdivision

East: RR - Wooded/farmland

West: RA20 - Corey Ridge Subdivision

Ms. Gooby stated under the current zoning (RR), the site could accommodate 60-65 single-family lots. Under the proposed zoning (R9S), the site could accommodate 100-120 single-family lots. The anticipated build-out time is within 2-5 years.

Ms. Gooby stated that "In compliance with the comprehensive plan" should be construed as meaning the requested zoning is (i) either specifically recommended in the text of the Horizons Plan (or addendum to the plan) or is predominantly or completely surrounded by the same or compatible and desirable zoning and (ii) promotes the desired urban form. The requested district is considered desirable and in the public interest, and staff recommends approval of the requested rezoning.

Ms. Gooby stated the Planning and Zoning Commission voted to recommend approval of the request at its May 19, 2015 meeting.

Mayor Thomas declared the public hearing for the proposed rezoning open at 7:19 pm and invited anyone wishing to speak in favor to come forward.

Ken Watts – No Address Given

Mr. Watts indicated he was present on behalf of the applicant and would be happy to answer any questions that might arise.

Hearing no one else wishing to comment in favor of the application to rezone, Mayor Thomas invited comment in opposition. Hearing none, Mayor Thomas closed the public hearing at 7:20 pm.

Council Member Blackburn moved to adopt the ordinance to rezone 43.3084 acres located east of Corey Road and north of Rosewood and Tulls Cove Subdivisions from RR (Rural Residential – Pitt County's Jurisdiction) to R9S (Residential-Single-Family [Medium Density]). Council Member Croskery seconded the motion, which passed by unanimous vote.

ORDINANCE TO ANNEX BLACKWOOD RIDGE SUBDIVISION, INVOLVING 43.3084 ACRES LOCATED ALONG THE EASTERN RIGHT-OF-WAY OF COREY ROAD AND NORTH OF ROSEWOOD AND TULLS COVE SUBDIVISION – (Ordinance No. 15-029)

Planner Chantae Gooby showed a map depicting the proposed annexation area, which is located within Winterville Township in voting district #5. The property is currently vacant



with no population. A population of 141 people is estimated at full development. Current zoning is R9S (Residential-Single-Family [Medium Density]), with the proposed use being 64 single-family lots. Present tax value is \$561,549, with tax value at full development estimated at \$13,364,788. The property is located within Vision Area D.

Mayor Thomas declared the public hearing for the proposed annexation open at 7:21 pm and invited anyone wishing to speak in favor to come forward. Hearing no one, he then invited comment in opposition. Also hearing no one, Mayor Thomas closed the public hearing at 7:22 pm.

Council Member Blackburn moved to adopt the ordinance to annex Blackwood Ridge Subdivision, involving 43.3084 acres located along the eastern right-of-way of Corey Road and north of Rosewood and Tulls Cove Subdivision. Council Member Croskery seconded the motion, which passed by unanimous vote.

ORDINANCE TO ANNEX 3810 CHARLES, LLC INVOLVING 1.6729 ACRES LOCATED ALONG THE WESTERN RIGHT-OF-WAY OF CHARLES BOULEVARD AND 156+/- FEET SOUTH OF THE CENTERLINE OF BELLS FORK ROAD - (Ordinance No. 15-030)

Planner Chantae Gooby showed a map depicting the proposed annexation area, which is located within Winterville Township in voting district #5. The property is currently contains a car dealership with a 2,000 square foot building. There is no population, and no population is anticipated at full development. Current zoning is CH (Heavy Commercial), with the proposed use being a car dealership. Present tax value is \$450,373, with tax value at full development estimated at \$640,602. The property is located within Vision Area D.

Mayor Thomas declared the public hearing for the proposed annexation open at 7:23 pm and invited anyone wishing to speak in favor to come forward. Hearing no one, he then invited comment in opposition. Also hearing no one, Mayor Thomas closed the public hearing at 7:24 pm.

Council Member Blackburn moved to adopt the ordinance to annex 3810 Charles, LLC involving 1.6729 acres located along the western right-of-way of Charles Boulevard and 156+/- feet south of the centerline of Bells Fork Road. Council Member Croskery seconded the motion, which passed by unanimous vote.

ORDINANCE TO ANNEX COVENGTON DOWNE, LOT 6, BLOCK F INVOLVING 4.147 ACRES LOCATED ALONG THE SOUTHERN RIGHT-OF-WAY OF EAST FIRE TOWER ROAD AND 550+/- FEET WEST OF COUNTY HOME ROAD - (Ordinance No. 15-031)

Planner Chantae Gooby showed a map depicting the proposed annexation area, which is located within Winterville Township in voting district #5. The property is currently vacant with no population, and no population is anticipated at full development. Current zoning is



CG (General Commercial), with the proposed use being 36,200± square feet of commercial space. Present tax value is \$724,788, with tax value at full development estimated at \$4,344,788. The property is located within Vision Area D.

Mayor Thomas declared the public hearing for the proposed annexation open at 7:25 pm and invited anyone wishing to speak in favor to come forward. Hearing no one, he then invited comment in opposition. Also hearing no one, Mayor Thomas closed the public hearing at 7:26 pm.

Council Member Blackburn moved to adopt the ordinance to annex Covington Downe, Lot 6, Block F involving 4.147 acres located along the southern right-of-way of East Fire Tower Road and 550+/- feet west of County Home Road. Council Member Croskery seconded the motion, which passed by unanimous vote.

ORDINANCE REQUESTED BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO AMEND THE FUTURE LAND USE PLAN MAP FROM AN OFFICE/INSTITUTIONAL/MULTI-FAMILY (OIMF) CATEGORY TO A COMMERCIAL (C) CATEGORY CONTAINING 22 ACRES AND TO AMEND THE HORIZONS: GREENVILLE'S COMMUNITY PLAN FOCUS AREA (OR COMMERCIAL NODE) MAP DESIGNATION FOR THE PROPERTY LOCATED AT THE INTERSECTION OF NORTH MEMORIAL DRIVE AND WEST BELVOIR ROAD FROM A "NEIGHBORHOOD FOCUS AREA" TO A "REGIONAL FOCUS AREA"

Planner Chantae Gooby stated the current Future Land Use Plan Map was adopted on February 12, 2004. She then identified the property for which a change in designation has been requested and provided a brief history of said property. In 1969, the property was zoned IU (Unoffensive Industry). In 1979, as part of the Belvoir Highway Study, the property was rezoned to OR. In the late 1990's/2000, a section of Belvoir Highway was abandoned and was incorporated into the airport property. This resulted in the current terminus of Belvoir Highway at Haw Drive.

Ms. Gooby stated the subject area is located in Vision Area A. The property is impacted by the 500-year flood plain associated with the Tar River. Surrounding land uses and zoning are as follows:

North: CH and R6 - Vacant

South: OR - Pitt-Greenville Airport (runway) and NC Department of Corrections

East: RA20 - NCDOT facility

West: OR - Vacant (under common ownership by the applicant)

Based on the analysis comparing the existing land use (1,862 daily trips) and requested land use, the proposed land use classification could generate 916 trips to and from the site



on Memorial Drive, which is a net decrease of 946 less trips per day. Since the traffic analysis for the requested land use indicates that the proposal would generate less traffic than the existing land use, a traffic volume report was not generated.

Ms. Gooby stated that staff's opinion is that the request is compatible with the comprehensive plan. She reported that the Planning and Zoning Commission voted to approve the request at its May 19, 2015 meeting.

Council Member Smith asked if DOT had discussed their request with residents in the area. Ms. Gooby responded that she did not know.

Mayor Thomas opened the public hearing at 7:33 pm, inviting comment in favor of the proposed amendment.

Dan Withers – No Address Given

Mr. Withers stated he is Project Manager for Rivers and Associates and the Engineer of Record for the civil site design portion of this project. He is here on behalf of DOT. He said he feels City staff explained their request well, but he would be happy to answer any further questions.

Council Member Smith asked if DOT had met with the local community about their request.

Mr. Withers stated he was not aware of any community outreach, but it was possible there had been some.

Council Member Blackburn stated she is well aware that the Council's decision must be about the zoning, but said there seems to be missing information. She wonders why the request is for 22 acres and why for regional focus.

Mr. Withers stated the request is only for 22 acres because the scope of the project at present only encompasses that portion of the property.

Council Member Blackburn asked if a commercial project is going on the site.

Mr. Withers stated it will be an NCDOT equipment storage yard and shop, and noted that the property is adjacent to both industrial and commercial property.

Hearing no further comment in favor of the proposed amendment, Mayor Thomas invited comment in opposition.



Bobby Pettus – No Address Given

Mr. Pettus stated he owns property on Hop Tyson Road that his son lives on. He stated that as a property owner, he had received a map in connection with this request and asked for an explanation of low density residential.

Ms. Gooby explained that low density residential is RA20 zoning. This includes 10,000 square foot lots and property that is residential and/or agricultural in nature. She noted that low density residential is the current zoning and does not represent a change.

Mr. Pettus expressed concern about how the proposed change might impact his property.

Ms. Gooby explained that the current request does not include the property directly adjacent to the area his property is located within. Mayor Thomas added that any proposed change in addition to the one currently requested would have to come before the City Council for further discussion and decision.

Mr. Pettus then asked for an explanation of “Conservation and Open Space” as the area on the map labeled for that designation is directly adjacent to his property.

Ms. Gooby explained that it is a conservation overlay over the property, which basically means that the property remains in its natural vegetative state.

Wanchese Roundtree – No Address Given

Mr. Roundtree stated he lives on the property referenced by the previous speaker. He recommended extending the Conservation and Open Space designation across the portion of DOT property not included in the current request, all the way out to Highway 33.

Hearing no one further who wished to speak in opposition to the proposed amendment, Mayor Thomas closed the public hearing at 7:55 pm.

Council Member Blackburn stated she has concerns about this request. A priority of the City Council has been to increase the quality of life for Greenville residents and this request does not serve that goal. It appears to be a fairly concentrated industrial use right in the middle of neighborhoods.

Council Member Smith stated she has the same concerns. She said she has received numerous calls from area residents, many of whom attended the Planning and Zoning meeting. If the plan is to create a buffer for neighborhoods, but no one has talked to area residents about the plan, it is still a concern. This would not have happened in any other neighborhood, and she sees that as a sign of complete disrespect.

Mayor Thomas noted that the City Council has the option to pass this item, table it or vote it down.



City Attorney Holec stated if it is the desire of the City Council that DOT meet with area residents to discuss the plan, the best approach would be to continue the matter to August.

Council Member Blackburn stated she has not fully made up her mind, but she looks at the neighborhood and the City's goals and feels this request does not fully serve them.

Mayor Pro-Tem Mercer moved to continue the matter to the August 13, 2015 City Council meeting. Council Member Smith seconded the motion, which passed by unanimous vote.

ORDINANCE AMENDING THE ZONING ORDINANCE BY ADDING SCHOOLS AS AN ALLOWED USE WITHIN THE IU (UNOFFENSIVE INDUSTRY) ZONING DISTRICT, SUBJECT TO AN APPROVED SPECIAL USE PERMIT AND ESTABLISHING SPECIFIC CRITERIA – (Continued to August 13, 2015)

RESOLUTION TO ADOPT THE NEUSE RIVER BASIN REGIONAL HAZARD MITIGATION PLAN – (Resolution No. 032-15)

Chief Planner Tom Weitnauer noted that Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan and update it every five years in order to receive future Hazard Mitigation Grant Program funds. Hazard mitigation is the practice of reducing risks to people and property from natural disasters.

The Federal Emergency Management Agency (FEMA) prefers that local governments have a regional approach as opposed to previous years when stand-alone plans were required. The State of North Carolina now requires that these plans be updated, maintained and adopted on a regional basis. The Regional HMP will replace the City of Greenville – Hazard Mitigation Plan, dated 4/01/2011. These plans allow cities and counties to be eligible for disaster recovery funds in the event of a nationally declared disaster. The plan encompasses the counties of Pitt, Lenoir, Greene, Jones and Wayne, along with 26 municipalities including Greenville. Pitt County served as the lead agency for the planning effort and secured grant funds for the plan development.

Mr. Weitnauer stated that Holland Consulting Planners prepared the Plan. Staff members of the City of Greenville Community Development and Public Works Departments participated in the planning process of the Regional HMP by serving on the Pitt County Mitigation Advisory Committee.

On June 16, 2014, Pitt County held a public input meeting on the plan in the Pitt County Administration Building. In November 2014, City of Greenville Community Development staff transmitted a memo to Planning and Zoning Commission members encouraging Commissioners to review a draft Regional HMP in order to provide ample review time of



the large document. FEMA has given preliminary approval of the Regional HMP stating that all jurisdictions should proceed with adoption. Plan certification for all participating jurisdictions must be completed by July 2015. On April 19, 2015, the Planning and Zoning Commission received a presentation of the Regional HMP from James Rhodes, AICP, Planning Director of the Pitt County Planning and Development Department. Following the presentation, the Planning and Zoning Commission recommended adoption of the Regional HMP.

Mayor Thomas declared the public hearing for the proposed annexation open at 8:13 pm and invited anyone wishing to speak in favor to come forward. Hearing no one, he then invited comment in opposition. Also hearing no one, Mayor Thomas closed the public hearing at 8:14 pm.

Council Member Croskery moved to adopt the resolution to adopt the Neuse River Basin Regional Hazard Mitigation Plan. Council Member Blackburn seconded the motion, which passed by unanimous vote.

PUBLIC COMMENT PERIOD

Mayor Thomas opened the public comment period at 8:15 pm, explaining procedures which should be followed by all speakers.

Keith Cooper – PO Box 30101, Greenville

Mr. Cooper said he has previously stated his concerns to the City Council, but has only had response from Council Members Smith and Glover. He asked if the Council realized the voters get tired of their lack of responsiveness. The Council recently discussed lengthening their terms, but to do that, the voters expect more. Mr. Cooper then discussed his perception of waste in the Recreation and Parks Department in terms of positions he felt were unnecessary or that overlapped with other positions and made recommendations for eliminating some positions and reducing the salary of others. He stated he also feels there is an immediate need to address morale issues, otherwise quality employees will leave.

Jim Decker – 214 King George Blvd, Greenville

Mr. Decker stated he has been a resident of Greenville since 1990 and is a member of Friends of Bradford Creek Golf Course. His son, Andrew, participated in the Junior Golf League for 8 years, played golf for J. H. Rose High School and was awarded an athletic scholarship to North Carolina State University. He will graduate in December. Since 1999, Mike Cato and his staff have helped Andrew through many ups and downs, including falling grades. They are always “there” for him when he has asked for help. There are nearly 300 youths involved in the Junior Golf program at Bradford Creek and he thanked the City Council for making that possible.



Linwood Stroud – No Address Given

Mr. Stroud stated he wanted to address the sanitary sewer connection request from Bill Clark Homes, Ivan Dixon and Jeffrey Grabowski. He said he has been in discussion with various staff and GUC, and all agree this is a natural growth area for the City and GUC and is located across from a regional pumping station. The City Council has a choice to vote for this development to occur in a manner which will allow it to be annexed at the appropriate time. He urged the City Council to support the request. The owners have already signed petitions of voluntary annexation and the developer has agreed to develop with appropriate standards.

There being no one else present who wished to address the City Council, Mayor Thomas closed the public comment period at 8:25 pm.

OTHER ITEMS OF BUSINESS

ORDINANCES ADOPTING BUDGETS FOR THE 2015-2016 FISCAL YEAR: (A) CITY OF GREENVILLE INCLUDING SHEPPARD MEMORIAL LIBRARY AND PITT-GREENVILLE CONVENTION & VISITORS AUTHORITY AND (B) GREENVILLE UTILITIES COMMISSION – (Ordinance Nos. 15-032 and 15-033)

Financial Services Director Bernita Demery stated that several meetings had been held leading up to adoption of the annual budget, including the public hearing which was held the previous Monday night. She briefly reviewed features of and changes to the budget, including a property tax rate decrease from 54¢ to 53¢, elimination of privilege license fees, pay plan implementation, the 3% vacancy factor, departmental operational cuts, various carry-over items and rate increases for stormwater and sanitation. What that yields for the City is a General Fund of \$78 million and total funds overall of \$125 million.

Director Demery stated that other budgets included in the City's budget are Sheppard Memorial Library at \$2.3 million, the Convention and Visitors Authority at \$1 million and Greenville Utilities at \$290 million.

Council Member Smith noted she had made comments at Monday's meeting about the Vehicle Replacement Fund and it seemed as if no one understood what she was asking. She stated she found her information in the May 2014 budget presentation, and asked if she was correct in saying that the City used about \$1 million from the Vehicle Replacement Fund last year to balance the budget.

Director Demery stated she was, adding that the City decreased the rental fund.



Council Member Smith stated this year the City is looking at the Health Savings Fund and asked if that is a good long term practice to have.

Director Demery stated it is not, because it is replacing revenues that were at one time recurring.

Council Member Smith stated it puzzles her to have no one question anything. She feels it is her job to be sure she is paying attention to what is happening. The Council has voted on things without really paying attention. They have increased taxes, lowered them, increased them again and are now lowering them again. She stated she feels the City should return to how budgets have been done in the past so that Council Members can look more closely at what is being voted on.

Mayor Pro-Tem Mercer stated he voted against the process of having a budget committee in the past. It consisted of three elected officials. It did not include all of City Council, although all Council Members were free to attend. His schedule only allowed him to attend one meeting because the schedule was set without consulting the entire City Council. He stated he still would not support that kind of process.

Mayor Thomas stated everyone, including the public, attended the Budget Committee meetings and the results of that process are evident. No votes were held in those meetings, but it was a platform in which citizens could be engaged.

Council Member Smith asked if using money from the Health Savings Program was discussed with the consultant to insure there would be no premium increase for City staff.

City Manager Lipscomb stated City staff spoke with them extensively and the City has adopted a robust wellness program and well as doing some cost-shifting. There were considerable savings last year, and adopting the health savings account option for this year will further shift costs. Claims have not been as high as in the past, but City Manager Lipscomb cautioned that she cannot guarantee they will never go up again.

Council Member Smith stated the City is using one-time money from different funds to balance its budget. She would like to see what can be done to stop that practice.

Council Member Smiley stated these one-time funds represent a savings and he hopes those types of savings continue to occur annually.

Mayor Pro-Tem Mercer stated the annual budget is one of the most important votes by the City Council. He has not really asked many questions on this budget, but he does not want that interpreted as him not following the process closely. He has done so carefully and has asked many questions in previous years. He even voted against a budget because it included a pay raise for elected officials with no public input. His lack of questions this year



merely implies that he is comfortable with the budget as presented. It is a very tight budget, and it is hoped that economic growth will offer room for improvement, but this budget does include many things the City has worked hard to include – Other Post-Employment Benefits, the Vehicle Replacement Fund and the Facilities Maintenance Fund. He stated he appreciates the questions of others, but feels there are structurally wise components to this budget. Although it is yet unknown how the bond referendum will turn out, he feels the City has made a start on a sustainable street repair program. He stated he would support a motion to pass the annual budget.

Following a general discussion of various aspects of the proposed budget, Council Member Blackburn made a motion to approve the Fiscal Year 2015-2016 Budget for the City of Greenville, Sheppard Memorial Library and the Convention and Visitors Authority. Council Member Croskery seconded the motion, which passed by a vote of 5 to 1 with Council Member Smith casting the dissenting vote.

Council Member Croskery then moved to adopt the Fiscal Year 2015-2016 Budget for the Greenville Utilities Commission. Council Member Blackburn seconded the motion, which passed by unanimous vote.

INTRODUCTION OF ORDER AUTHORIZING \$15,850,000 STREET AND PEDESTRIAN TRANSPORTATION BONDS; RESOLUTION DESIGNATING THE DIRECTOR OF FINANCIAL SERVICES TO FILE THE SWORN STATEMENT OF DEBT AND ESTIMATED INTEREST AMOUNT; AND RESOLUTION CALLING A PUBLIC HEARING UPON AN ORDER AUTHORIZING AN AMOUNT NOT EXCEEDING \$15,850,000 STREET AND PEDESTRIAN TRANSPORTATION BONDS OF THE CITY OF GREENVILLE, NORTH CAROLINA - (Resolution Nos. 033-15 and 034-15)

Financial Services Director Bernita Demery reviewed recent bond activities and stated she was speaking tonight to introduce the bond order, to file certain statements with the City Clerk and to request approval of a resolution introducing the bond order and setting the date of the public hearing. She stated the proposed referendum has a 20-year assumption for payback and uses the current market plus 100 basis points for the interest rate. The bond amount is \$15.85 million with annual debt service just over \$1.1 million. The first major step will be for voters to approve the bond order.

The purpose of the bond order is to provide financing for street and pedestrian transportation improvements. Taxes will be levied, if needed, to cover debt service. The sworn Statement of Debt and Interest will be filed with the City Clerk if the City Council approves the Bond Order tonight and the Bond Order will be effective when approved by voters on November 3, 2015. She asked the City Council first to consider the first resolution which designates the Director of Financial Services to file the sworn Statement of Debt and Estimated Interest Amount with the City Clerk.



City Attorney Dave Holec stated the Bond Order is entitled "An Order Authorizing \$15,850,000 Street and Pedestrian Transportation Bonds." The order is in the agenda packet along with information on the bond and containing the statement that taxes will be levied in a sufficient amount to pay the principle and interest on the bonds and that a sworn Statement of Debt will be filed with the City Clerk and that it will take effect upon approval by the voters.

Council Member Blackburn moved to approve the resolution which designates the Director of Financial Services to file the sworn Statement of Debt and Estimated Interest Amount with the City Clerk. Council Member Croskery seconded the motion, which passed by unanimous vote.

Council Member Smiley stated the order says taxes will be levied if needed. He asked to clarify that the bond does not automatically raise taxes.

Ms. Demery stated the bond does not automatically increase taxes. It would be the responsibility of the City Council to do so if needed.

Council Member Croskery said much has been said about the City not having raised taxes for previous bonds. He asked if this language was part of those bonds as well.

Ms. Demery stated that it was included in previous bonds. Mr. Holec added that this is a General Obligation Bond, which pledges the full faith and credit of the City, so that language is required.

Council Member Smith clearly stated that she is not willing to raise taxes for the bond.

Ms. Demery formally filed the sworn Statement of Debt and Estimated Interest Amount with the City Clerk. She then asked the City Council to consider approval of a resolution calling a Public Hearing upon an Order Authorizing an amount not exceeding \$15,850,000 Street and Pedestrian Transportation Bonds in the City of Greenville, North Carolina.

Mayor Thomas asked why a public hearing would be conducted after the fact if the City has already committed to a significant monetary amount and the structure of the bond.

Mr. Holec reviewed the statutory process, stating that the City Council will actually adopt the bond order in August after the public hearing. After the public hearing, the City Council could not increase the amount of the bond or substantially change its purpose. There are some language refinements that could be made, and the amount of the bond could be reduced.

Upon motion of Council Member Blackburn and second by Council Member Croskery, the above referenced resolution entitled title "Resolution calling a Public Hearing upon an



Order Authorizing an amount not exceeding \$15,850,000 Street and Pedestrian Transportation Bonds in the City of Greenville, North Carolina” passed by unanimous vote.

REIMBURSEMENT RESOLUTION FOR FINANCING GREENVILLE UTILITIES COMMISSION’S CAPITAL PROJECTS – (Resolution No. 035-15)

City Manager Lipscomb noted that the GUC is seeking establishment of a reimbursement resolution for its capital projects to obtain financing at a later date.

Upon motion by Council Member Blackburn and second by Council Member Croskery, the City Council voted unanimously to adopt the reimbursement resolution for financing GUC’s capital projects.

SANITARY SEWER CONNECTION REQUEST FROM BILL CLARK HOMES OF GREENVILLE, LLC, IVAN V. DIXON, AND JEFFREY GRABOWSKI

Community Development Director Merrill Flood stated that Ivan V. Dixon and Jeffrey Grabowski own properties near the intersection of Highway 43 and Ivy Road that are directly across the street from the Greenville Utilities Indian Wells Pump Station. This pump station was constructed by GUC as a regional pump station to serve the surrounding area. Bill Clark Homes of Greenville, LLC has contracts to purchase the entire tract of Parcel #02247 (24.43 acres - owned by Mr. Dixon) and a portion of Parcel #28083 (11.08 acres - owned by Mr. Grabowski). The remaining portion of Parcel #28083 (5.96 acres) will remain in the ownership of Mr. Grabowski, but is included in this annexation request. The total combined acreage for the annexation request is 41.47 acres. Bill Clark Homes of Greenville, LLC proposes to develop the property under contract as a single-family subdivision.

Director Flood stated the current tax land value of the combined parcels is \$234,295. The properties are located 2.5+/- miles from the city limits. The Greenville Utilities Commission Charter, as amended in 1991, requires prior approval by the Greenville City Council for sanitary sewer extensions and connections to properties that are outside of the City of Greenville’s Extraterritorial Jurisdiction (ETJ). The petitioner is also required to submit a voluntary annexation petition. This condition for consideration gives the City Council time for careful evaluation of the reasons for such extensions in connection with adopted land use policies on a case-by-case basis, thus allowing the City Council to make decisions that are in the best interest of the City’s future growth.

In the past, the City of Greenville has extended sanitary sewer services to four (4) Pitt County schools (Belvoir Elementary School, Stokes Elementary School, D.H. Conley High School, and Chicod School), which are all outside of the ETJ, and the Towns of Bethel and Grimesland through interlocal agreements. The City Council has also authorized extension of sanitary sewer to individual homeowners within the ETJ with failing septic systems. In



recent years and in these situations, the homeowner has been required to submit a voluntary delayed annexation agreement.

To date the City Council has NOT provided sanitary sewer services to an individual development project located outside of the ETJ and that would not be annexed into Greenville. The provision of sanitary sewer is the primary means by which the City of Greenville grows and increases tax base. Those receiving sanitary sewer are required to voluntarily annex into the city and then receive municipal services. Connection to sanitary sewer benefits a property owner or developer by allowing them to develop their properties at greater densities.

Unlike the most recent request, this proposal is within close proximity of the Greenville City Limits (2.5 miles) and within a natural growth extension area of the city and Greenville Utilities Commission. City staff and Greenville Utilities staff have met to discuss the growth into areas immediately surrounding the city, and this area has been discussed. In addition, this area will be studied for preferred land use development with the Comprehensive Plan update.

Although there may be some level of service concerns, there is increased development interest in this area. This is within the authorized three-mile statutory limits for the City of Greenville for annexation, and Director Flood stated that staff recommends authorizing connection to sanitary sewer with the submission of a voluntary annexation petition by the petitioner and submission of a rezoning request for zoning of the site and development of the site under the development standards of the City of Greenville.

Council Member Blackburn stated she has misgivings about approving this request because of the distance from the City limits/ETJ, but it does put City standards in place, so she will reluctantly support the request.

Upon motion by Council Member Croskery and second by Mayor Pro-Tem Mercer, the City Council voted unanimously to authorizing connection to sanitary sewer with the submission of a voluntary annexation petition by the petitioner and submission of a rezoning request for zoning of the site and development of the site under the development standards of the City of Greenville.

OPERATIONAL UPDATES ON THE BRADFORD CREEK PUBLIC GOLF COURSE AND THE AQUATICS AND FITNESS CENTER

Recreation and Parks Director Gary Fenton stated that he and members of his staff would like to present a follow-up to operational reports provided as part of the agenda packet. He introduced Kathleen Shank, Manager of the Greenville Aquatics and Fitness Center; Mike Cato, PGA Professional and Pro at the Bradford Creek Public Golf Course and Dean Foy, Interim Parks Superintendent.



Director Fenton stated both the fitness center and the golf course represent recreational programs that are targeted to recover a significant portion of their operational expenses through user fees – 72% for the fitness center and 80% for the golf course. If the revenue target for either program cannot be attained, staff attempts to reduce expenditures associated with the program so that the subsidy from the General Fund isn't larger than planned. If the revenue reduction for the program cannot make up the revenue shortfall, then staff tries to utilize either a revenue excess from another program or to reduce expenditures in other programs to offset the shortfall. Subsidies help keep recreational programs from having user fees that are cost prohibitive for citizens to participate.

The Greenville Aquatics and Fitness Center (GAFC) was leased to the City 30 years ago from East Carolina Vocational Center (ECVC) for public aquatic and fitness purposes. About 10 years ago, deteriorating conditions at the center, particularly with the pool and its aging filter system, were becoming in issue. Various options were considered, but the one selected was to seek a \$500,000 grant for renovation and improvement funding from the North Carolina Parks and Recreation Trust Fund (PARTF), using the structure and the property donated to the City from ECVC as the match for the \$500,000 grant. Renovations were completed in 2008. Today, the facility includes a free weight room, cardiovascular equipment, resistance equipment, locker rooms, gymnasium, indoor pool, aerobics room, multi-purpose room, a stage, offices, child care room and a reception area. The GAFC operates on an \$804,000 annual budget, with targeted revenue of \$578,000 for a 72% recovery. The center currently has just over 3,500 members, some of which are City or GUC employees, and they enjoy a wide variety of services and uses available through GAFC.

Director Fenton then addressed a variety of maintenance needs, including replacement of roofing, resurfacing of the pool, resurfacing of the parking lot and replacement of the weight room floor. He anticipates these needs to be addressed over the next two years through the Facilities Improvement Program.

Bradford Creek Public Golf Course has been operating since early this century with the initial hope that it could be operated as an enterprise fund. Many maintenance needs were deferred during a time of economic decline in an effort to keep revenues more in line with expenditures, but a few years ago, the decision was made to move Bradford Creek into the General Fund so that at least some of its maintenance needs could be addressed like those of other Recreation and Parks facilities. Operating costs of \$919,000 are anticipated, with a target revenue of at least \$734,000 to meet the 80% recovery goal. A part-time marketing person has been hired to help with revenue generation and some course fees have been increased. Other steps have been taken to reduce expenditures, such as a reduction in lawn maintenance.

Director Fenton noted that Foot Golf has been added to the course, contributing about \$10,000 to the revenue stream, and he mentioned the current grant initiative to obtain an



accessible golf cart which would be available to patrons with disabilities at no extra charge. This golf cart would also be used by specialized Recreation staff to bring the golf experience to some of their numerous clients. He concluded by stating that Bradford Creek will be home to the First Tee Program, which uses golf to teach young people the core values of honesty, integrity, sportsmanship, respect, confidence, perseverance, courtesy and judgement.

Mayor Thomas stated it is great to see the special needs component being addressed with the accessible golf cart. He asked if any other courses in Pitt County have that component. Director Fenton stated he did not think so.

Mayor Thomas asked if the City is doing golf cart rentals. Mike Cato stated there were 65 carts available.

Council Member Smith stated she has been watching what's happening with both GAFC and Bradford Creek. There was a three-year plan with Bradford Creek to achieve the 80% goal, but she acknowledged there have been challenges and Director Fenton has stated adjustments are being made. One thing she has been asked about is why the City continues to put so much money into Bradford Creek when it doesn't show the diversity that it should. The new Marketing Director made a presentation on marketing strategies at the Recreation and Parks Commission meeting, but Council Member Smith feels the strategy still lacks in diversity. She wants African American churches and organizations like the National Pan-Hellenic Council to be made more aware of what the facility offers. Council Member Smith stated she wants to be sure the Bradford Creek Public Golf Course is for everyone, and suggested that perhaps a more non-traditional marketing strategy is warranted.

START TIME OF THURSDAY CITY COUNCIL MEETINGS

Council Member Croskery recommended changing the start time of City Council meetings held on Thursdays to 6:00 pm. In addition to consistency, he said he feels this should be done out of consideration for City staff who have already been at work for long hours prior to the start of a City Council meeting. This would also show consideration for the public who attend City Council meetings as starting an hour earlier would likely result in those meetings ending an hour earlier and, with the present schedule, some meetings have lasted past midnight. Council Member Croskery then moved to direct the City Attorney to draft an ordinance to begin all regular City Council meetings at 6:00 pm, seconded by Council Member Smiley.

Following a general discussion about the pros and cons of such a change, with particular concern noted by Council Member Blackburn about the ability of citizens to go home after work, have dinner and spend time with their families before coming to a meeting, the City



Council voted 5 to 1 in favor of the motion, with Council Member Blackburn casting the dissenting vote.

COMMENTS FROM THE MAYOR AND CITY COUNCIL

The Mayor and City Council made comments about past and future events.

CITY MANAGER'S REPORT

City Manager Lipscomb recommended cancelling the June 22, 2015 City Council meeting as no items are currently scheduled.

Upon motion by Mayor Pro-Tem Mercer and second by Council Member Smith, the City Council voted unanimously to cancel the regular June 22, 2015 meeting.

City Manager Lipscomb recommended scheduling a workshop meeting in August to discuss personnel policy revisions.

Upon motion by Council Member Croskery and second by Council Member Smith, the City Council voted unanimously to schedule the referenced workshop for 6:00 pm on August 13, 2015 in Conference Room 337.

City Attorney Dave Holec reported, for inclusion in the City's official minutes, that the lawsuit entitled "Greenville Professional Fire Fighters Association and Lisa Davis-Christ v. City of Greenville" has been settled. He stated that the terms of the settlement include payment by the City to Ms. Davis-Christ in the amount of \$7,000, the City agreeing to certain acts and the Association and Ms. Davis-Christ releasing the City and its officials from any and all claims which could have been made prior to the date of the settlement agreement.

The settlement is a settlement and compromise of disputed claims. The City does not admit that it is liable in any way and specifically denies that any action taken violated the rights of the Association and Ms. Davis-Christ. The settlement is agreed to in order to avoid any further controversy, time, expense and inconvenience.



ADJOURNMENT

Council Member Croskery moved to adjourn the meeting, seconded by Council Member Blackburn. There being no further discussion, the motion passed by unanimous vote and Mayor Thomas adjourned the meeting at 10:35 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Carol L. Barwick".

Carol L. Barwick, CMC
City Clerk



City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Resolution Approving an Exchange of Property with Taft-Ward Investments, LLC

Explanation: **Abstract:** An exchange of property is proposed in which the City will receive an approximately 0.07 acre tract located on the southside of West Fifth Street between Shepard Street and 14th Street/Tyson Street and the City will convey an approximately 0.04 acre tract located on the south side of Eighth Street between Evans Street and Forbes Street. The exchange is with Taft-Ward Investments, LLC. The City will also receive a payment of \$11,710.

Explanation: An exchange of property is proposed in which the City will receive an approximately 0.07 acre tract located on the southside of West Fifth Street between Shepard Street and 14th Street/Tyson Street (Tax Parcel # 08989) and the City will convey an approximately 0.04 acre tract located on the south side of Eighth Street between Evans Street and Forbes Street (Tax Parcel # 25192). The exchange is with Taft-Ward Investments, LLC. The City will also receive a payment of \$11,710.

Attached is the Pitt County Information Sheet on each parcel involved in the exchange.

The City's interest in the West Fifth Street parcel is that it is located between two parcels of land owned by the City. If acquired, the City would have 3 lots totaling 0.33 acres. The potential use would be as a future commercial or office development.

The deed from the City to Taft-Ward will include restrictive covenants establishing (a) a buffering requirement and (b) a prohibition on outdoor lighting, if the property is vacant or being used for an outdoor active or passive recreational or open space use. The buffering requirement would terminate if Taft-Ward acquired the property to the east between this property and Forbes Street (Tax Parcel # 10225).

The exchange procedure involves Council adopting a resolution authorizing the exchange upon 10 days' public notice. The notice was published on February 29, 2016. No public hearing is required.

Fiscal Note:

In addition to acquisition of the property, the City will receive a payment of \$11,710.

Recommendation:

It is recommended that City Council adopt the attached Resolution authorizing the exchange of property with Taft-Ward Investments, LLC.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

[📄 Maps of Properties](#)

[📄 Resolution Approving Exchange of Property 8th Street 5th Street COG Taft Ward Investments 1022297](#)

RESOLUTION NO. - 16
RESOLUTION APPROVING AN EXCHANGE OF PROPERTY WITH
TAFT-WARD INVESTMENTS, LLC

WHEREAS, public notice of the intent of the City Council to authorize an exchange of real property at a regular meeting was published as required by law;

WHEREAS, the City Council has determined that the City of Greenville will receive a full and fair consideration for its property in the exchange; and

WHEREAS, North Carolina General Statute 160A-271 authorizes the exchange of real property by the City of Greenville;


NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that the exchange of property by and between the City of Greenville and Taft-Ward Investments, LLC be and is hereby approved, said exchange involving the City conveying property consisting of a 0.04 acre parcel (Tax Parcel # 25192) located on the south side of Eighth Street between Evans Street and Forbes Street having a value of approximately \$14,400 in exchange for a 0.07 acre parcel (Tax Parcel Number 08989) on the south side of West Fifth Street between Shepard Street and 14th Street/Tyson Street with a value of approximately \$3,290 owned by Taft-Ward Investments, LLC and with the payment to the City of \$11,710 and with restrictive covenants that will be included in the deed conveying the property from the City establishing (a) a buffering requirement and (b) a prohibition on outdoor lighting, if the property is vacant or being used for an outdoor active or passive recreational or open space use.

This the 14th day of March, 2016.

Allen M. Thomas, Mayor


ATTEST:

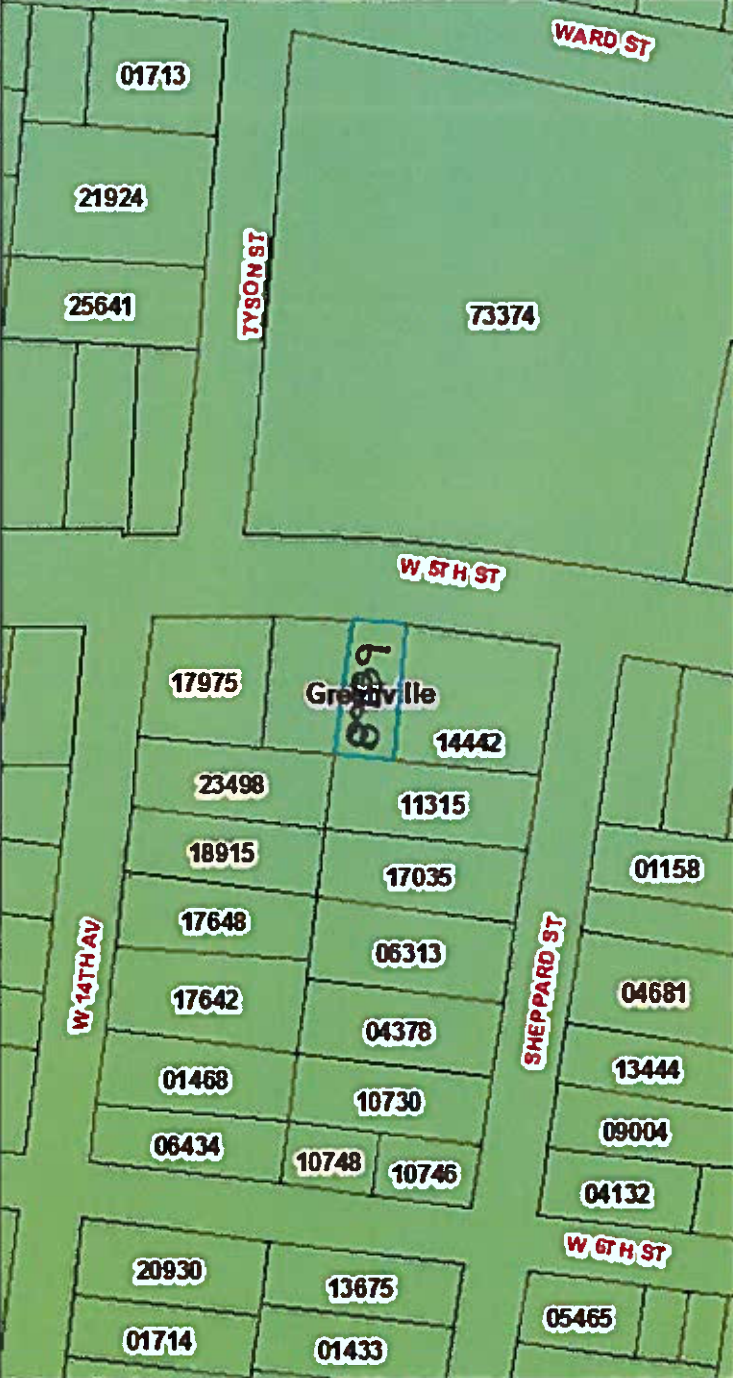
Carol L. Barwick, City Clerk



Pitt County Government
Greenville, North Carolina
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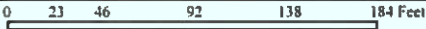




Parcel	08989
Physical Address	1125 W FIFTH ST
Owner Name	TAFT WARD INVESTMENTS LLC
OwnerAddress1	PO BOX 566
OwnerAddress2	
OwnerAddress3	
City / State / Zip	GREENVILLE NC 27835
NC PIN	4678914787
Subdivision / Section / Phase	
Prior Legal Description	LILLY CHERRY LAND
Block / Lot	A 4
Tract	
Building Number / Unit	
Acres	0.07
Current Owner Deed/Document	003332 00490
Map Book	-
Deed / Document Date	06/2015
Deed / Document Sales Price	\$3,500
Building Type / Use	RESIDENTIAL(Single Family Residential)
Number of Buildings	0
Year Built	
Total Living Area	
Building Value	
Extra Features Value	\$0
Land Value	\$3,290
Total Current Market Value	\$3,290
Total 2015 Market Value	\$3,290
Revaluation Year	2016
Municipality	GREENVILLE
Township	GREENVILLE
Fire Service District	INSIDE MUNICIPALITY
Census Tract	7.01
Neighborhood	004135
Elementary School	ELMHURST ES
Middle School	C M EPPES MS
High School	J H ROSE HS


Disclaimer: This tax record is prepared for the inventory of real property within Pitt County and is compiled from recorded deeds, plats, tax maps, surveys, and other public records. Users of this data are hereby notified that the aforementioned public primary information sources should be consulted for verification. Pitt County assumes no legal responsibility for the information contained herein.

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PLEASE NOTE:

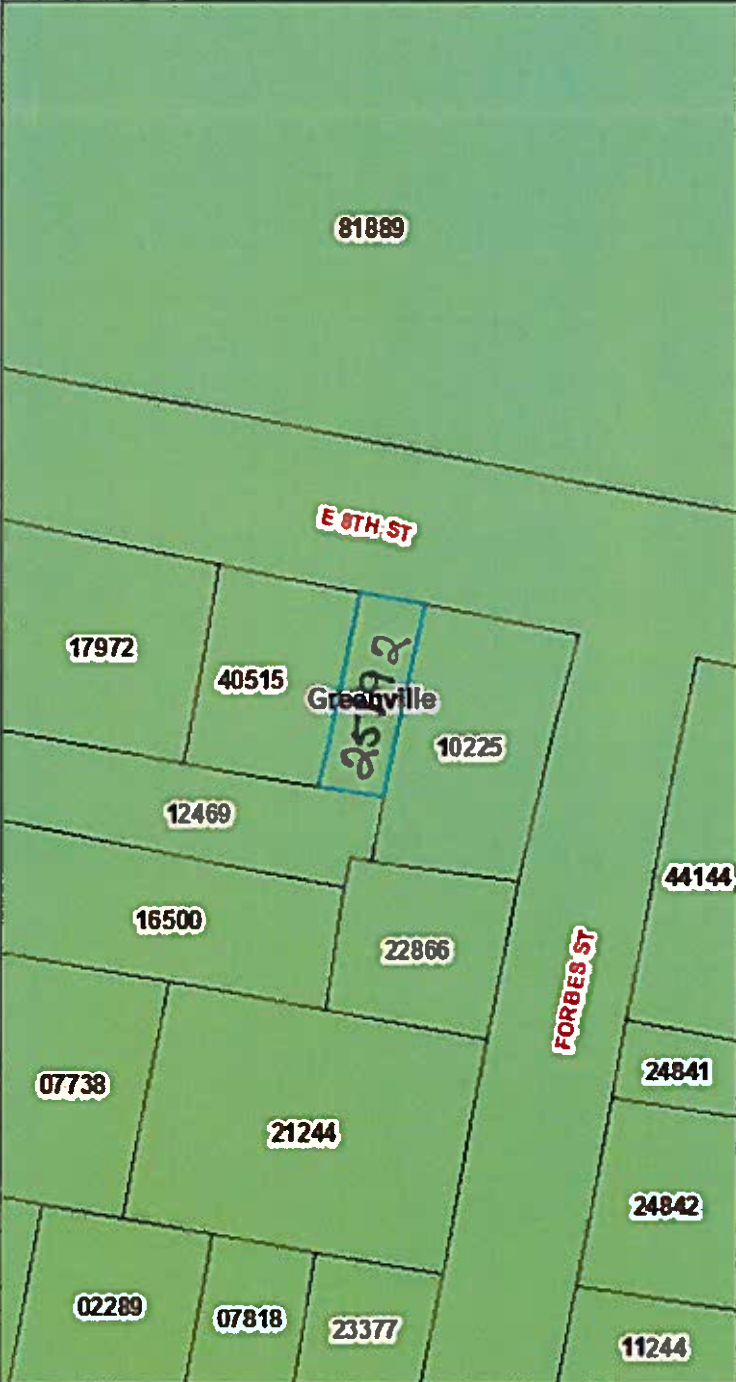
Parcel ownership information updated nightly.
Map printed 2/25/2016.



Pitt County Government
Greenville, North Carolina
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Parcel	25192
Physical Address	0 E EIGHTH ST
Owner Name	GREENVILLE CITY OF
OwnerAddress1	PO BOX 7207
OwnerAddress2	
OwnerAddress3	
City / State / Zip	GREENVILLE NC 27835
NC PIN	4688304072
Subdivision / Section / Phase	
Prior Legal Description	E. 8TH
Block / Lot	
Tract	
Building Number / Unit	
Acres	0.04
Current Owner	SEE FILE
Deed/Document	
Map Book	-
Deed / Document Date	05/2007
Deed / Document Sales Price	\$0
Building Type / Use	RESIDENTIAL(Single Family Residential)
Number of Buildings	0
Year Built	
Total Living Area	
Building Value	
Extra Features Value	\$0
Land Value	\$6,968
Total Current Market Value	\$6,968
Total 2015 Market Value	\$6,968
Revaluation Year	2016
Municipality	GREENVILLE
Township	GREENVILLE
Fire Service District	INSIDE MUNICIPALITY
Census Tract	1
Neighborhood	004055
Elementary School	ELMHURST ES
Middle School	C M EPPES MS
High School	J H ROSE HS

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PLEASE NOTE:

Parcel ownership information updated nightly.
Map printed 2/25/2016.



City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Resolution and deed of release to abandon a portion of a sanitary sewer easement and a portion of a water easement at Fire Tower Commercial Village, Lot 4

Explanation: **Abstract:** Greenville Utilities Commission seeks to abandon portions of a sanitary sewer easement and a water easement located at Fire Tower Commercial Village, Lot 4 that are no longer needed by the Commission.

Explanation: Greenville Utilities Commission (GUC) seeks to abandon a portion of a thirty foot (30') wide sanitary sewer easement and a portion of a ten foot (10') wide water easement across Parcel No. 41734 previously granted to the City of Greenville for the use and benefit of Greenville Utilities Commission. Said portions of such thirty foot (30') wide sanitary sewer easement and ten foot (10') wide water easement are no longer needed by the Commission.

At its February 18, 2016 regular meeting, the GUC Board of Commissioners authorized the execution of a resolution requesting the City Council to abandon a portion of such thirty foot (30') wide sanitary sewer easement and a portion of such ten foot (10') wide water easement and to execute of a deed of release in favor of the current owners.

Fiscal Note: No costs to the City.

Recommendation: Authorize the execution of the attached resolution and deed of release

Attachments / click to download

 [Resolution](#)

 [Deed of Release with attachments](#)

 [Map](#)

RESOLUTION _____

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF GREENVILLE, NORTH CAROLINA,
ABANDONING A PORTION ONLY OF A THIRTY FOOT (30') WIDE
SANITARY SEWER EASEMENT AND A TEN FOOT (10') WIDE WATER EASEMENT
ACROSS TAX PARCEL NUMBER 41734 ACCORDING TO THE RECORDS
IN THE OFFICE OF THE TAX ADMINISTRATION OF PITT COUNTY, NORTH CAROLINA,
AND AUTHORIZING EXECUTION OF DEED OF RELEASE

Attachment number 1
Page 1 of 5

WHEREAS, Greenville Utilities Commission of the City of Greenville, North Carolina (hereinafter referred to as "Commission"), heretofore obtained a thirty foot (30') wide Sanitary Sewer Easement as shown on Map Book 73 at Page 34, Pitt County Public Registry, and a ten foot (10') wide Water Easement as shown on Map Book 74 at Page 53, Pitt County Public Registry, across property commonly known as Tax Parcel No. 41734 according to the records in the Office of the Tax Administration of Pitt County, North Carolina; and

WHEREAS, a portion only of each such easement is no longer needed by Commission and should be abandoned, all as shown on the plat which is marked Exhibit "A" and is attached hereto and made a part hereof entitled "EASEMENT ABANDONMENT MAP FOR GREENVILLE UTILITIES COMMISSION FIRE TOWER COMMERCIAL VILLAGE – LOT 4 WINTERVILLE TOWNSHIP PITT COUNTY NORTH CAROLINA" denominated Project No. P-826, Drawing No. P826ESMT_LOT4-ABANDONMENT.DGN dated January 21, 2016, prepared by Malpass & Associates, 1645 East Arlington Boulevard, Suite D, Greenville, NC 27858, telephone no. (252) 756-1780, to which reference is hereby made for a more particular and accurate description of the portions of such Sanitary Sewer Easement and Water Easement to be abandoned; and

WHEREAS, the portion of the thirty foot (30') wide Sanitary Sewer Easement to be abandoned contains 1,145 square feet, more or less, and the portion of the ten foot (10') wide Water Easement to be abandoned contains 545 square feet, more or less, all as shown on such plat marked Exhibit "A;" and

WHEREAS, Commission anticipates no use or need now or in the future for such portion of such easements to be abandoned; and

WHEREAS, Commission therefore desires to abandon such portion of such easements previously granted; and

WHEREAS, the current owners of such property, Craig F. Goess and Craig M. Goess, 3615 South Memorial Drive, Greenville, NC 27858, telephone no. (252) 321-3000, have requested the City of Greenville, North Carolina, and Greenville Utilities Commission to

abandon such portions of such Sanitary Sewer Easement and such Water Easement and request that the City of Greenville, for the use and benefit of Greenville Utilities Commission, acknowledge such abandonments and releases; and

WHEREAS, Commission deems such abandonments to be reasonable and in the best interests of the Commission and all parties and therefore requests that the City of Greenville, North Carolina, acknowledge such abandonments and releases of a portion only of such ^{Attachment number 1} thirty foot (30') wide Sanitary Sewer Easement and a portion only of such ten foot (10') wide Water Easement which are to be abandoned.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville, North Carolina, in Regular Session held in the Council Chambers of City Hall of the City of Greenville, North Carolina, on the ____ day of _____, 2016, as follows:

1. That the City Council of the City of Greenville does hereby abandon such portion of such thirty foot (30') wide Sanitary Sewer Easement containing 1,145 square feet, more or less, previously granted to the City of Greenville, for the use and benefit of Greenville Utilities Commission, as shown on Map Book 73 at Page 34, Pitt County Public Registry, and more particularly shown in the crosshatched and shaded portion of such easement across Tax Parcel No. 41734 as shown on Exhibit "A." Furthermore, the Commission has no need or desire to use that portion of such ten foot (10') wide Water Easement containing 545 square feet, more or less, previously granted to the City of Greenville, for the use and benefit of Greenville Utilities Commission, as shown on Map Book 74 at Page 53, Pitt County Public Registry, and more particularly shown in the crosshatched and shaded portion of such easement across Tax Parcel No. 41734 as shown on Exhibit "A;" and

2. That the appropriate City Officials be and are hereby empowered to make, execute and deliver to Craig F. Goess and Craig M. Goess, or the current owner(s) of such property encumbered by such portion of such thirty foot (30') wide Sanitary Sewer Easement and the portion of such ten foot (10') wide Water Easement to be abandoned, an instrument in a form suitable for recording to release whatever interests the City of Greenville, North Carolina, for the use and benefit of Greenville Utilities Commission, might have in and to such portion of such thirty foot (30') wide Sanitary Sewer Easement and the portion of such ten foot (10') wide Water Easement to be abandoned, as hereinabove described.

Adopted this the ____ day of _____, 2016.

CITY OF GREENVILLE

By _____
ALLEN M. THOMAS, Mayor

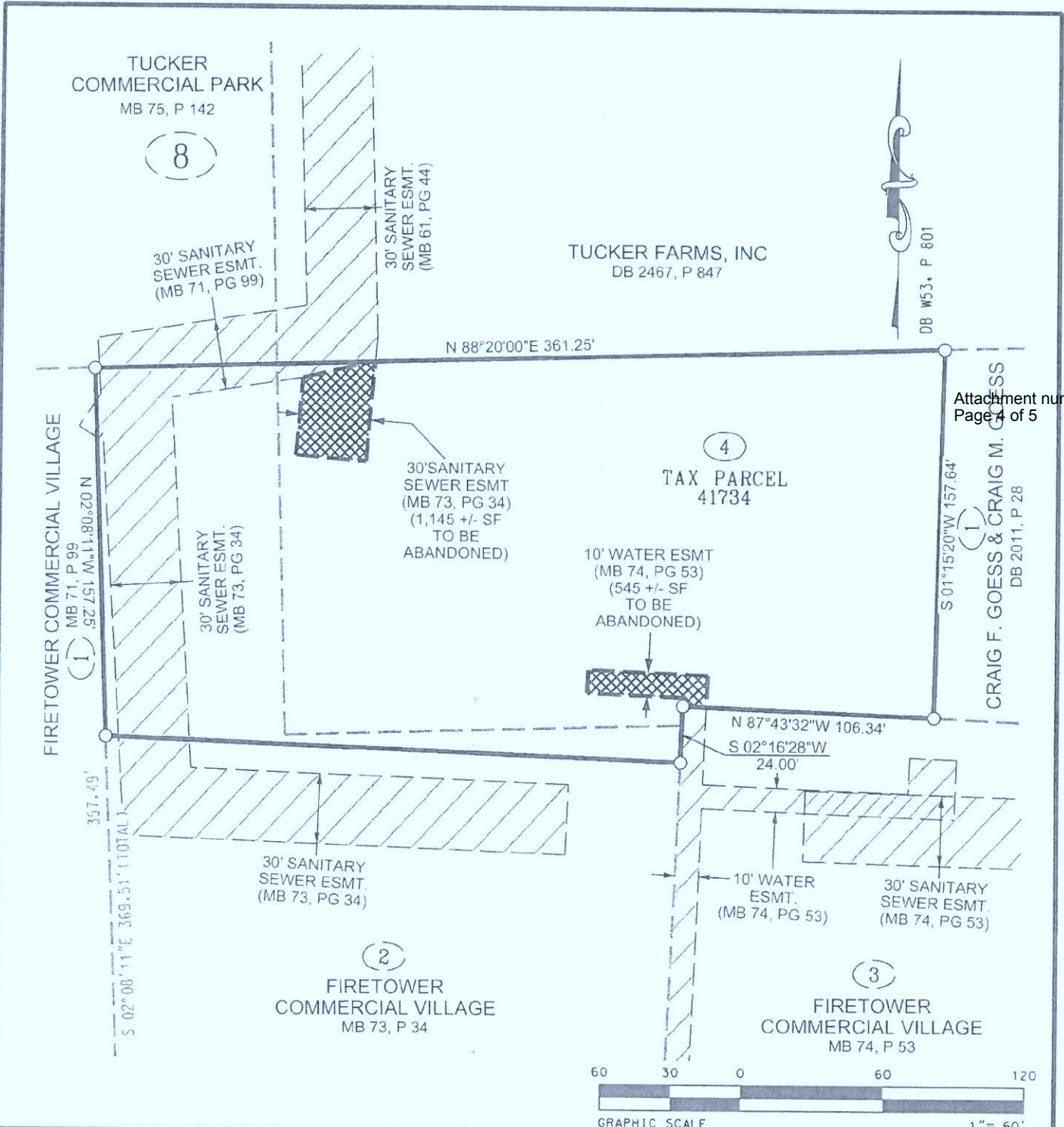
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Page 3 of 5

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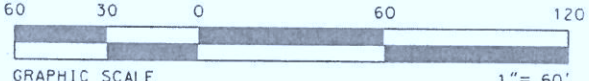
ATTEST:

CAROL L. BARWICK, Clerk

N:\LEGAL\Resolutions\City Council Resolutions\Resolution City Council (PN 41734).docx



Attachment number 1
Page 4 of 5



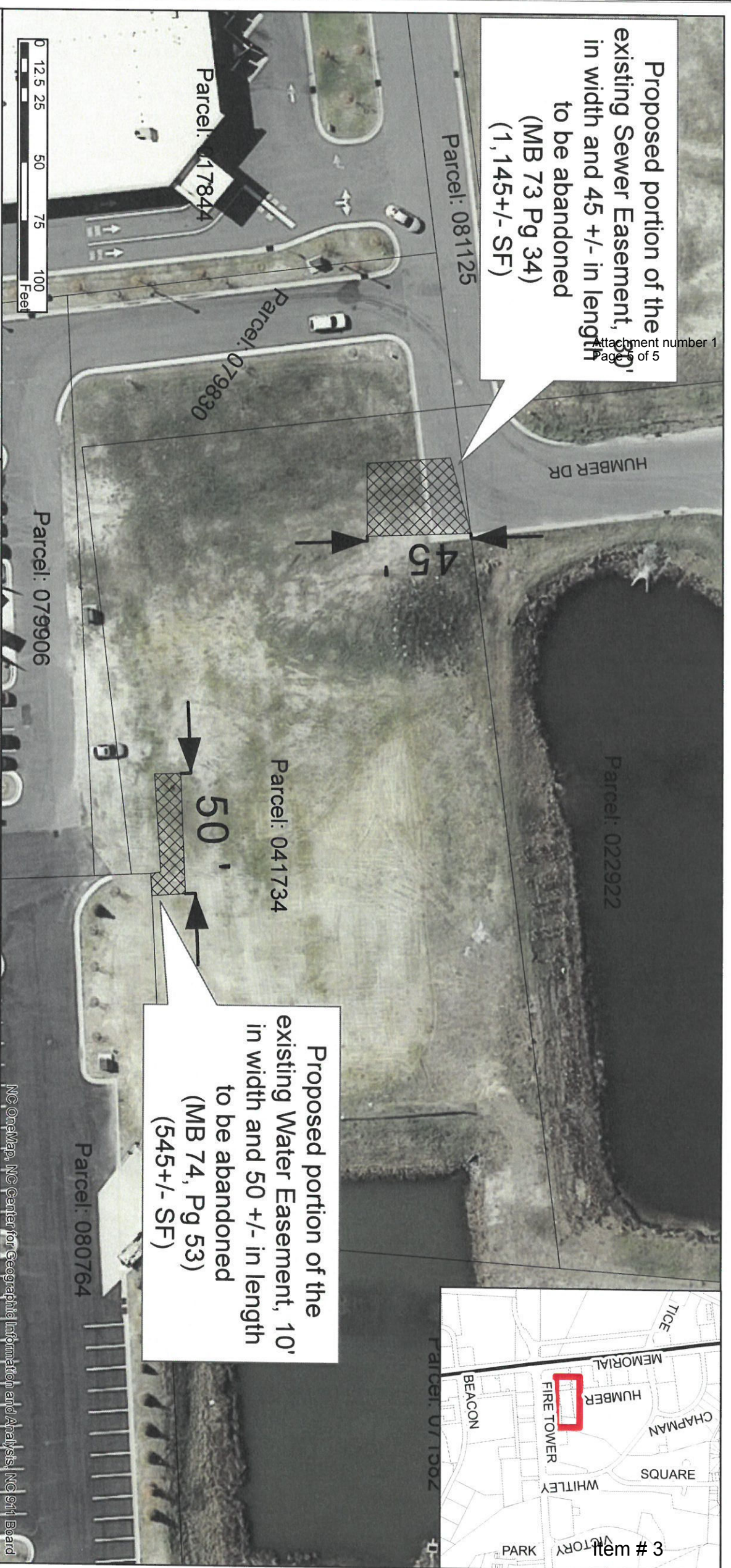
EASEMENT ABANDONMENT MAP FOR GREENVILLE UTILITIES COMMISSION		SURVEYED: JDG	DATE: 01/21/16
FIRE TOWER COMMERCIAL VILLAGE - LOT 4		APPROVED: CEP	SCALE: 1" = 60'
WINTERVILLE TOWNSHIP	PITT COUNTY	NORTH CAROLINA	DRAWN: WCO
OWNER: CRAIG F. GOESS & CRAIG M. GOESS ADDRESS: 3615 S. MEMORIAL DRIVE GREENVILLE, NC 27858 PHONE: (252) 321-3000		MALPASS & ASSOCIATES 1645 EAST ARLINGTON BLVD., SUITE D GREENVILLE, NC 27858 (252) 756-1780	

PROJECT NO. P-826, DRAWING NO. P826ESMT_LOT4-ABANDONMENT.DGN

EXHIBIT "A"

Proposed portion of the existing Sewer Easement, 50' in width and 45 +/- in length to be abandoned
(MB 73 Pg 34)
(1,145 +/- SF)

Proposed portion of the existing Water Easement, 10' in width and 50 +/- in length to be abandoned
(MB 74, Pg 53)
(545 +/- SF)



Disclaimer:
Easements depicted on this map are for illustrative purposes only and may not be relied upon as an accurate representation for spatial reference. This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations. The source data is referenced from Pitt County Planning Department, the City of Greenville and GUC.

Craig F. Goess & Craig M. Goess
Winterville TWP, Pitt Co., NC

Date Created: 2/1/2016
Created by: GDS
Requested by: Cliff Cahoon



Greenville Utilities
P.O. Box 1847
Greenville, NC 27835
(252) 752-7166
Fax (252) 329-2172

NC OneMap, NC Center for Geographic Information and Analysis, NC 911 Board

Prepared by: Phillip R. Dixon, Attorney
File: Greenville Utilities
Post Office Box 1847
Greenville, NC 27835

Attachment number 2
Page 1 of 8

NORTH CAROLINA

DEED OF RELEASE

PITT COUNTY

THIS DEED OF RELEASE, made and entered into this the ____ day of _____, 2016, by and between the City of Greenville, North Carolina, a municipal corporation in Pitt County, North Carolina, party of the first part (hereinafter called GRANTOR), and Craig F. Goess and Craig M. Goess, 3615 South Memorial Drive, Greenville, North Carolina 27858, party of the second part (hereinafter called GRANTEE).

WITNESSETH

THAT WHEREAS, the GRANTOR for the use and benefit of Greenville Utilities Commission previously received a thirty foot (30') wide Sanitary Sewer Easement under Map Book 73 at Page 34, Pitt County Public Registry, and a ten foot (10') wide Water Easement under Map Book 74 at Page 53, Pitt County Public Registry; and

WHEREAS, a portion of such thirty foot (30') wide Sanitary Sewer Easement containing 1,145 square feet, more or less, is no longer needed by the Commission, and a portion of such ten foot (10') wide Water Easement containing 545 square feet, more or less, is no longer needed by the Commission; and

WHEREAS, such portions of such Sanitary Sewer Easement and such Water Easement to be abandoned are shown on the crosshatched and shaded portion of that plat of Tax Parcel No. 41734 according to the records in the Office of the Tax Administration of Pitt County, North Carolina, all as is more particularly shown on that certain plat entitled "EASEMENT ABANDONMENT MAP FOR GREENVILLE UTILITIES COMMISSION FIRE TOWER COMMERCIAL VILLAGE – LOT 4 WINTERVILLE TOWNSHIP PITT COUNTY NORTH CAROLINA" denominated Project No. P-826, Drawing No. P826ESMT_LOT4-

ABANDONMENT.DGN dated January 21, 2016, prepared by Malpass & Associates, 1645 East Arlington Boulevard, Suite D, Greenville, NC 27858, telephone no. (252) 756-1780, which is marked Exhibit "A" and is attached hereto and made a part hereof; and

WHEREAS, the current owners of the underlying fee interest in such property, Craig F. Goess and Craig M. Goess, have requested abandonment of such portions of such easements to be abandoned; and

Attachment number 2
Page 2 of 8

WHEREAS, Greenville Utilities Commission has requested GRANTOR to indicate formally that it has no plans or interest in such property encumbered by such portions of such easements to be abandoned; and

WHEREAS, Greenville Utilities Commission has therefore requested GRANTOR to execute a Deed of Release to GRANTEE, or the current owner(s) of such property, to indicate its abandonment and release of such a portion of such thirty foot (30') wide Sanitary Sewer Easement to be abandoned containing 1,145 square feet, more or less, and a portion of such ten foot (10') wide Water Easement to be abandoned containing 545 square feet, more or less, as described and shown on Exhibit "A" which is attached hereto and made a part hereof; and

WHEREAS, the City Council of the GRANTOR, acting on the recommendation of Greenville Utilities Commission, has duly adopted the Resolution abandoning to GRANTEE, such portions of such thirty foot (30') wide Sanitary Sewer Easement and ten foot (10') wide Water Easement, shown on Exhibit "A" as to be abandoned, and a copy of which said Resolution is attached hereto as Exhibit "B" and made a part hereof.

NOW THEREFORE, pursuant to and in accordance with said Resolution, GRANTOR does hereby remise, release, discharge and forever quitclaim unto GRANTEE, Craig F. Goess and Craig M. Goess, as the current owners of the subject property, their heirs and assigns, all the GRANTOR's rights, title and interest in and to such 1,145 square feet, more or less, of the thirty foot (30') wide Sanitary Sewer Easement previously granted to the City of Greenville, for the use and benefit of Greenville Utilities Commission, under Map Book 73 at Page 34, Pitt County Public Registry, and 545 square feet, more or less, of the ten foot (10') wide Water Easement previously granted to the City of Greenville, for the use and benefit of Greenville Utilities Commission, under Map Book 74 at Page 53, Pitt County Public Registry, all as is shown as to be abandoned on Exhibit "A" which is attached hereto and made a part hereof, and therein marked as the crosshatched and shaded portion of such Sanitary Sewer Easement and Water Easement across Tax Parcel No. 41734, according to the records in the Office of the Tax Administration of Pitt County, North Carolina.

IN TESTIMONY WHEREOF, GRANTOR has caused this Deed of Release to be executed in its name by its Mayor, attested by the City Clerk, and its official seal hereto affixed, all by Resolution duly entered by the City Council of GRANTOR, on the day and year first above written.

CITY OF GREENVILLE, NORTH CAROLINA

Attachment number 2
Page 3 of 8

By: _____
ALLEN M. THOMAS, Mayor

[SEAL]

Attest:

CAROL L. BARWICK, City Clerk

NORTH CAROLINA

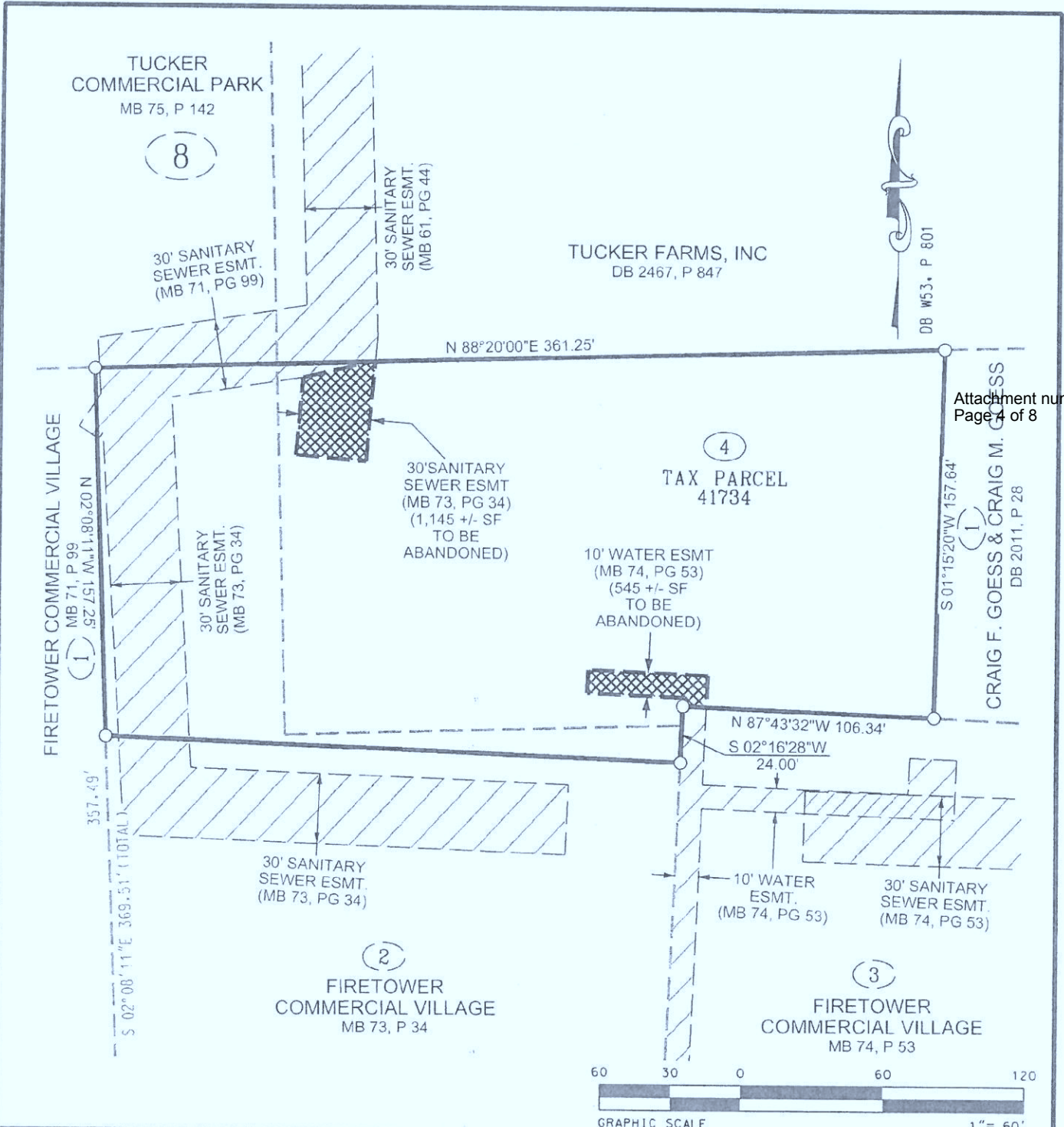
PITT COUNTY

I, _____, a Notary Public of the aforesaid County and State, certify that CAROL L. BARWICK personally came before me this day and acknowledged that she is City Clerk of the City of Greenville, North Carolina, and that by authority duly given and as the act of the City of Greenville, North Carolina, the foregoing instrument was signed in its name by its Mayor, sealed with its official seal and attested by her as its City Clerk.

WITNESS my hand and official stamp or seal, this the _____ day of _____, 2016.

NOTARY PUBLIC

My Commission Expires: _____



Attachment number 2
Page 4 of 8

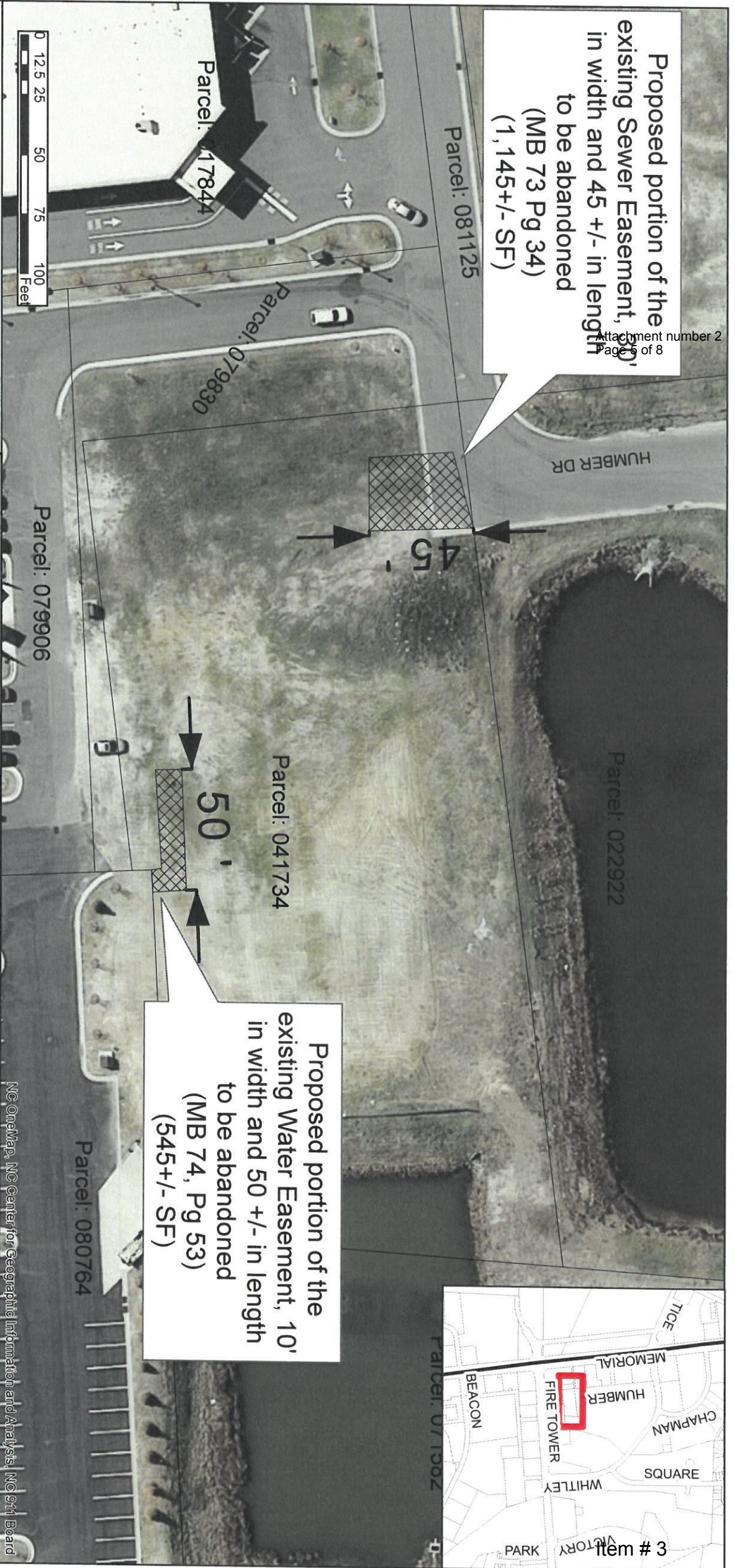
EASEMENT ABANDONMENT MAP FOR GREENVILLE UTILITIES COMMISSION		SURVEYED: JDG	DATE: 01/21/16
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OWNER: CRAIG F. GOESS & CRAIG M. GOESS ADDRESS: 3615 S. MEMORIAL DRIVE GREENVILLE, NC 27858 PHONE: (252) 321-3000		MALPASS & ASSOCIATES 1645 EAST ARLINGTON BLVD., SUITE D GREENVILLE, NC 27858 (252) 756-1780	

PROJECT NO. P-826 , DRAWING NO. P826ESMT_LOT4-ABANDONMENT.DGN

EXHIBIT "A"

Attachment number 2
Page 6 of 8

Proposed portion of the
existing Sewer Easement, 50'
in width and 45 +/- in length
to be abandoned
(MB 73 Pg 34)
(1,145 +/- SF)



Proposed portion of the
existing Water Easement, 10'
in width and 50 +/- in length
to be abandoned
(MB 74, Pg 53)
(545 +/- SF)

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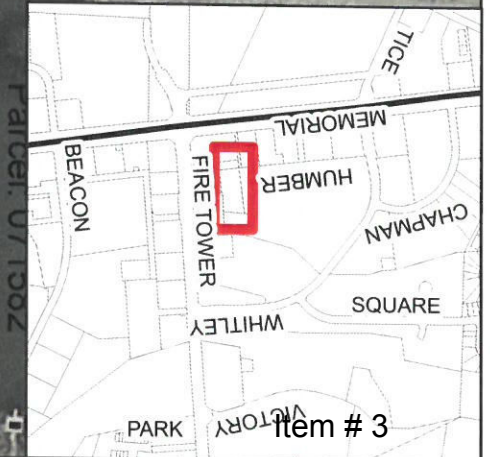


Craig F. Goess & Craig M. Goess
Winterville TWP, Pitt Co., NC

Date Created: 2/1/2016
Created by: GDS
Requested by: Cliff Cahoon

Greenville Utilities
P.O. Box 1847
Greenville, NC 27835
(252) 752-7166
Fax (252) 329-2172

NC OneMap, NC Center for Geographic Information and Analysis, NC 911 Board



Item # 3

RESOLUTION _____

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF GREENVILLE, NORTH CAROLINA,
ABANDONING A PORTION ONLY OF A THIRTY FOOT (30') WIDE
SANITARY SEWER EASEMENT AND A TEN FOOT (10') WIDE WATER EASEMENT
ACROSS TAX PARCEL NUMBER 41734 ACCORDING TO THE RECORDS
IN THE OFFICE OF THE TAX ADMINISTRATION OF PITT COUNTY, NORTH CAROLINA,
AND AUTHORIZING EXECUTION OF DEED OF RELEASE

Attachment number 2
Page 6 of 8

WHEREAS, Greenville Utilities Commission of the City of Greenville, North Carolina (hereinafter referred to as "Commission"), heretofore obtained a thirty foot (30') wide Sanitary Sewer Easement as shown on Map Book 73 at Page 34, Pitt County Public Registry, and a ten foot (10') wide Water Easement as shown on Map Book 74 at Page 53, Pitt County Public Registry, across property commonly known as Tax Parcel No. 41734 according to the records in the Office of the Tax Administration of Pitt County, North Carolina; and

WHEREAS, a portion only of each such easement is no longer needed by Commission and should be abandoned, all as shown on the plat which is marked Exhibit "A" and is attached hereto and made a part hereof entitled "EASEMENT ABANDONMENT MAP FOR GREENVILLE UTILITIES COMMISSION FIRE TOWER COMMERCIAL VILLAGE – LOT 4 WINTERVILLE TOWNSHIP PITT COUNTY NORTH CAROLINA" denominated Project No. P-826, Drawing No. P826ESMT_LOT4-ABANDONMENT.DGN dated January 21, 2016, prepared by Malpass & Associates, 1645 East Arlington Boulevard, Suite D, Greenville, NC 27858, telephone no. (252) 756-1780, to which reference is hereby made for a more particular and accurate description of the portions of such Sanitary Sewer Easement and Water Easement to be abandoned; and

WHEREAS, the portion of the thirty foot (30') wide Sanitary Sewer Easement to be abandoned contains 1,145 square feet, more or less, and the portion of the ten foot (10') wide Water Easement to be abandoned contains 545 square feet, more or less, all as shown on such plat marked Exhibit "A;" and

WHEREAS, Commission anticipates no use or need now or in the future for such portion of such easements to be abandoned; and

WHEREAS, Commission therefore desires to abandon such portion of such easements previously granted; and

WHEREAS, the current owners of such property, Craig F. Goess and Craig M. Goess, 3615 South Memorial Drive, Greenville, NC 27858, telephone no. (252) 321-3000, have requested the City of Greenville, North Carolina, and Greenville Utilities Commission to

EXHIBIT "B"

abandon such portions of such Sanitary Sewer Easement and such Water Easement and request that the City of Greenville, for the use and benefit of Greenville Utilities Commission, acknowledge such abandonments and releases; and

WHEREAS, Commission deems such abandonments to be reasonable and in the best interests of the Commission and all parties and therefore requests that the City of Greenville, North Carolina, acknowledge such abandonments and releases of a portion only of such thirty foot (30') wide Sanitary Sewer Easement and a portion only of such ten foot (10') wide Water Easement which are to be abandoned.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville, North Carolina, in Regular Session held in the Council Chambers of City Hall of the City of Greenville, North Carolina, on the ____ day of _____, 2016, as follows:

1. That the City Council of the City of Greenville does hereby abandon such portion of such thirty foot (30') wide Sanitary Sewer Easement containing 1,145 square feet, more or less, previously granted to the City of Greenville, for the use and benefit of Greenville Utilities Commission, as shown on Map Book 73 at Page 34, Pitt County Public Registry, and more particularly shown in the crosshatched and shaded portion of such easement across Tax Parcel No. 41734 as shown on Exhibit "A." Furthermore, the Commission has no need or desire to use that portion of such ten foot (10') wide Water Easement containing 545 square feet, more or less, previously granted to the City of Greenville, for the use and benefit of Greenville Utilities Commission, as shown on Map Book 74 at Page 53, Pitt County Public Registry, and more particularly shown in the crosshatched and shaded portion of such easement across Tax Parcel No. 41734 as shown on Exhibit "A;" and

2. That the appropriate City Officials be and are hereby empowered to make, execute and deliver to Craig F. Goess and Craig M. Goess, or the current owner(s) of such property encumbered by such portion of such thirty foot (30') wide Sanitary Sewer Easement and the portion of such ten foot (10') wide Water Easement to be abandoned, an instrument in a form suitable for recording to release whatever interests the City of Greenville, North Carolina, for the use and benefit of Greenville Utilities Commission, might have in and to such portion of such thirty foot (30') wide Sanitary Sewer Easement and the portion of such ten foot (10') wide Water Easement to be abandoned, as hereinabove described.

Adopted this the ____ day of _____, 2016.

CITY OF GREENVILLE

By _____
ALLEN M. THOMAS, Mayor

Attachment number 2
Page 8 of 8

(SEAL)

ATTEST:

CAROL L. BARWICK, Clerk

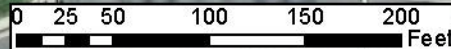
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Proposed portion of the existing Sewer Easement, 30' in width and 45 +/- in length to be abandoned (MB 73 Pg 34) (1,145+/- SF)

Parcel: 041734

50' 15'

Proposed portion of the existing Water Easement, 10' in width and 50 +/- in length to be abandoned (MB 74, Pg 53) (545+/- SF)



NC OneMap, NC Center for Geographic Information and Analysis, NC 911 Board

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Craig F. Goess & Craig M. Goess
Winterville TWP, Pitt Co., NC

Date Created: 2/16/2016

Created by: GDS

Requested by: Cliff Cahoon



Greenville Utilities
P.O. Box 1847
Greenville, NC 27835
(252) 752-7166
Fax (252) 329-2172



City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Resolution declaring three vehicles to be surplus and authorizing disposition by public auction

Explanation: **Abstract:** The City of Greenville has replaced the three vehicles listed below per the Vehicle Replacement Plan and has determined that these used vehicles are now surplus to the City's needs and are therefore ready to be sold by public auction.

Explanation: The City has replaced the three vehicles listed below per the Vehicle Replacement Plan and has determined that these used vehicles are now surplus to the City's needs and are therefore ready to be sold by public auction.

Asset#	Year	Make	Model	Type	VIN#
78-4454	2000	Dodge	Ram 1500	Pick up Truck	1B7HC13Y11J214170
6679	2007	Ford	Ranger	Pick up Truck	1FTYR10U27PA79884
6848	2008	Isuzu	Johnston 605-JT	Street Sweeper	4GTM7F1B98F700137

On November 10, 2014, the City Council approved an agreement with Greenville Auto Auction, a local auction dealer, to sell its surplus vehicles via public auction. These three vehicles will be sold at a public auction to be held at Greenville Auto Auction, located at 4330 Dickinson Avenue, Greenville, NC on Thursday, March 24, 2016 at 10:30 a.m. The public is welcome to attend and bid on these vehicles. Anyone desiring more information regarding the process for registering and bidding may contact the Purchasing Division at 252-329-4664 or view this information on the City's website.

Fiscal Note: Proceeds from the sale of these vehicles will be returned to the City, net of the 7.5% auction fee.

Recommendation: Approval of the resolution declaring the three vehicles as surplus and authorizing their disposal via public auction by Greenville Auto Auction on March 24, 2016.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

 [Resolution for Surplus Vehicles for March 2016_1023099](#)

RESOLUTION NO. _____
RESOLUTION DECLARING CERTAIN PROPERTY TO BE SURPLUS
AND AUTHORIZING ITS DISPOSITION BY PUBLIC AUCTION

WHEREAS, the City of Greenville has surplus property as listed below:

Asset#	Year	Make	Model	Type	VIN#
78-4454	2000	Dodge	Ram 1500 V8 Magnum	Pick up Truck	1B7HC13Y11J214170
6679	2007	Ford	Ranger	Pick up Truck	1FTYR10U27PA79884
6848	2008	Isuzu	Johnston 605-JT	Street Sweeper	4GTM7F1B98F700137

WHEREAS, it is the desire of the City Council of the City of Greenville to sell by public auction to the highest bidder the above-listed property; and,

WHEREAS, North Carolina General Statutes 160A-270 provides for the sale of such City property by public auction;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that the above-listed property is hereby declared as surplus and the Purchasing Manager is hereby authorized and directed to utilize the services of Greenville Auto Auction, Inc., to sell the surplus vehicles listed via public auction to the highest bidder. The public auction will be held on **March 24, 2016, at 10:30 a.m.** at Greenville Auto Auction located at 4330 Dickinson Avenue, Greenville, NC.

BE IT FURTHER RESOLVED that the property listed above will be sold in accordance with the terms and conditions contained in the Contract for Services between the City of Greenville and Greenville Auto Auction, Inc., and such terms are incorporated into this resolution as if fully set forth herein. The above-mentioned surplus property shall be sold on an "as is, where is" basis with all sales being final and the right to reject any and all bids being reserved.

BE IT FURTHER RESOLVED that a notice summarizing the contents of this resolution may be published solely by electronic means and that the auction shall occur no sooner than ten (10) days after its publication.

This 14th day of March, 2016.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk



City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Resolution declaring Police canine Patton as surplus and authorizing his disposition to Officer Chad Bowen

Explanation: **Abstract:** The Police Department recently retired K-9 Patton. His handler, Officer Chad Bowen, desires to keep and care for Patton for the remainder of his life. Staff seeks City Council approval to declare Patton as surplus property and authorize his disposition to Officer Bowen.

Explanation: Officer Chad Bowen and K-9 Patton have been partners since April 2007. Patton was recently retired by the Police Department, and Officer Bowen has expressed an interest in caring for Patton for the remainder of his life. It has been the practice for many years to allow the handler to purchase the assigned K-9 upon retirement if the handler wishes to do so. Approval of the attached resolution declaring Patton as surplus and authorizing his disposition to Officer Bowen will allow the purchase in accordance with North Carolina General Statutes relating to surplus government property.

Fiscal Note: To meet the requirements of North Carolina General Statutes, Officer Bowen will be charged \$1.00 to retain Patton.

Recommendation: Staff recommends approval of this resolution and transfer of Patton to Officer Bowen for the remainder of his life.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

RESOLUTION NO. _____-16
RESOLUTION DECLARING A POLICE CANINE AS SURPLUS
AND AUTHORIZING HIS DISPOSITION TO OFFICER CHAD BOWEN

WHEREAS, K-9 Patton, a police canine for the Greenville Police Department, has retired;

WHEREAS, Officer Chad Bowen has been K-9 Patton's handler for eight years and eleven months and has requested that Patton be released to his care for the remainder of Patton's life; and

WHEREAS, North Carolina General Statute 160A-267 permits City Council to authorize the disposition of property valued at less than thirty thousand dollars (\$30,000) by private sale;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that K-9 Patton be and is hereby declared surplus to the needs of the City and is authorized to be conveyed to Officer Chad Bowen for one dollar (\$1.00).

This the 14th day of March, 2016.

Allen M. Thomas, Mayor

ATTEST:

Carrol Barwick, City Clerk



City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Report on Bids and Contracts Awarded

Explanation: **Abstract:** The Director of Financial Services reports monthly the bids and/or contracts awarded over a certain dollar threshold by the Purchasing Manager and City Manager.

Explanation: The Director of Financial Services reports that the following bid was awarded during the month of February 2016.

Date Awarded	Description	Vendor PO#	Amount	MWBE Vendor?	Does Local Preference Apply?
2/12/2016	170 ea. Avon C-50 Gas Masks Assembly & Accessories	Lawmen Distribution, LLC PO#16000419	\$75,680.50	No	No

Fiscal Note: Funds for this purchase were included in the 2016 General Fund budget for the Police Department.

Recommendation: That the award information be reflected in the City Council minutes.

Attachments / click to download

 [Bid Tabulation-Avon Gas Mask Assembly](#)



Find yourself in good company

Request for Verbal/Written Quotations

City of Greenville
Financial Services/Purchasing
P.O. Box 7207
1500 Beatty Street
Greenville, NC 27835
Telephone: 252-329-4664
Fax: 252-329-4464

Item # 6

Requestor		Vendor 1		Vendor 2		Vendor 3	
Department: Police	Requestor: T. Basden	Local <input type="checkbox"/>	MWBE <input type="checkbox"/>	Local <input type="checkbox"/>	MWBE <input type="checkbox"/>	Local <input type="checkbox"/>	MWBE <input type="checkbox"/>
		Lawmen's		Gall's		TSSI	
Date: 02/08/16							

No.	Description	Quantity	Unit of Measure	Unit Cost	Extension	Unit Cost	Extension	Unit Cost	Extension
1	Avon C50 Gas Mask Assembly	170	Each	330.65	56,210.50	410.00	69,700.00		
2	Avon CBRNCF50 Filter	170	Each	53.75	9,137.50	60.00	10,200.00		
3	Avon CTCF50 Filter (4-pack)	50	Each	134.85	6,742.50	220.00	11,000.00		
4	Gas Mask Pouch	170	Each	20.00	3,400.00	25.00	4,250.00		
5	Shipping	1	Each	190.00	190.00	300.00	300.00		

Subtotal	75,680.50	93,610.00	0.00
Tax	5,297.64	6,552.70	
Total	80,978.14	100,162.70	

Note: All pricing shall include all discounts and freight. Additionally, all pricing should be FOB Destination to the City of Greenville. A copy of this Request for Verbal Quotes Form shall be forwarded to the Purchasing Division as an attachment to the purchase order requisition and will be filed with applicable purchase order for proper documentation of award and compliance with all City policies and procedures.



City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Amendment to Council-Staff Communications Guidelines

Explanation: **Abstract:** City Council discussed the Council-adopted policy on Council-Staff Communications at its February 11, 2016, meeting. Council directed that amendments to this policy be prepared for consideration.

Explanation: At its February 11, 2016, meeting, City Council discussed the Council-adopted policy on Council-Staff Communications. During this discussion, several areas for updating or revision of the policy were noted. Council directed that an amendment to this policy be prepared for its consideration.

Attached is the following:

- (1) A red-lined version of the policy with the proposed changes from the current policy being shown in red; and
- (2) A clean version of the policy as amended by the proposed changes.

Proposed changes include:

- (1) Adding a statement in the introduction which notes that interaction between elected officials and City staff can benefit City operations provided that the interaction conforms to general guidelines.
- (2) Updating the reference to Assistant City Manager to reflect that there are now two Assistant City Managers.
- (3) Updating the reference to an available option to make routine requests to the City Compass rather than the Citizen Action Line and noting that the request may be for information or service.

(4) Including a provision relating to a request for information requiring immediate response.

(5) Including a provision providing that City staff will reply as soon as reasonably feasible to a communication contact made by a Council Member in accordance with the provisions of the policy.

(6) Making a reference to the Policy on Mayor and Council Members Adding an Item to the Agenda and deleting the paragraphs which quote directly from that policy.

(7) Including a provision relating to when a City staff member contacts a Council Member directly about an issue involving his employment with the City.

(8) Clarifying that this policy also applies to the Mayor.

Fiscal Note: Amendment of the policy will not have a fiscal impact.

Recommendation: City Council may approve the amendments by motion.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

 [DAH__Revision_to_Policy_on_Council_Staff_Communications_1022806](#)

 [Clean_Version__Revision_to_Policy_on_Council_Staff_Communications_1023292](#)

Council-Staff Communications Guidelines

Governance of a City relies on the cooperative efforts of elected officials, who set policy (goals and priorities), and City staff, who analyze problems and issues, make recommendations, and implement and administer the Council's policies (means and methods). **Interaction between elected officials and City staff can benefit City operations provided that the interaction conforms to general guidelines which ensure that the interaction does not interfere with the accomplishment of the City's mission and that planned expenditures of time and money are not disrupted.** The following are general guidelines ~~for your consideration~~ to help facilitate effective communications between the City Council and City staff.

- **The City Council sets the direction and policy – City staff is responsible for administrative functions and City operations.**

The role of the Council is the legislative body. The Council is responsible for approving the budget, setting policy goals, and adopting strategic plans. The primary functions of staff are to execute Council policy and actions taken by the Council and to keep the Council informed. Employees of the City (staff) take guidance and direction only from the City Manager and/or Department Directors through the chain of command.

- **Channel communications through the appropriate City staff.**

1. The City Manager is the primary information liaison between the Council and City staff. Council Members will direct questions of City staff to the City Manager, Assistant City Managers, or City Manager's Office administrative staff. Council Members' requests for reports should be directed to the City Manager.

If fulfilling a request reaches a certain degree in terms of either workload, policy, or funding/financial resources, it may be more appropriate to make the assignment through the direction of the full City Council. If this should occur, the City Manager will notify the Council Member(s) informing ~~them~~ **the Council Member** of such situation. It would be the individual Council Member's prerogative to discuss the request at an upcoming Council meeting and to seek approval by the full Council. This procedure helps to ensure that staff resources are allocated in accordance with overall Council goals and priorities, and if deviations occur, the Council is aware.

2. Department Directors are available to answer Council Member questions about existing policies, operations, programs, and projects. Requests for information that is already in a prepared format may be directed to Department Directors. The Department Director shall inform the City Manager so that the City Manager is aware of Council Member's requests and needs.
3. Routine requests for **information or** service (i.e. reporting a Code violation) can be made to the Department Director responsible for that service, or via the ~~Citizen Action Line~~ **City Compass** (as described below).

4. In the event a request for information requires immediate response, the Council Member may contact a City staff member directly notifying the staff member of the situation but shall not order or direct the staff member to take any action. The staff member shall, as soon as reasonably feasible, report the contact to his immediate supervisor and Department Head for further guidance and direction prior to taking any action.
5. City staff will reply to a communication contact made by a Council Member in accordance with the provisions of this policy as soon as reasonably feasible.

- **All Council Members shall have the same information with which to make decisions.**

When one Council Member has an information request, the response will be shared with all members of the Council so that each member may be equally informed.

- **Depend on the staff to respond to citizen concerns and complaints as fully and as expeditiously as practical.**

A key value in the City's organizational culture is providing quality customer service. As a first response to solving customer problems, the ~~Citizen Action Line~~ City Compass is available 24 hours a day on the City's website – www.greenvillenc.gov (~~look for the 24/7 Help graphic~~). This service can also be accessed by downloading the City Compass App on a mobile device. During regular business hours Monday through Friday, citizens (and Council Members) can also call (252) 329-CITY (2489) to have a staff member put the information into the system. All Council Members are encouraged to use this system to help solve a citizen's problem or to encourage the citizen to use this system directly. This system enables everyone to see details of the issue and what steps have been taken to resolve it. It also enables the City Manager and Department Directors to monitor requests to ensure fulfillment as well as evaluate the frequency of said requests to determine if further management action is warranted.

- **In order to provide the Council with timely information, ~~please strive to~~ submit questions on Council agenda items ahead of the meeting, if possible.**

Council Members are encouraged to submit their questions on agenda items to the City Manager as far in advance of the meeting as possible, and no less than 24 hours prior to the meeting, so that staff can be prepared to respond at the Council meeting. Having a practice of "no surprises" between the Council and City staff and vice versa fosters a productive working relationship.

Council Member requests to place an item on the agenda of a City Council meeting shall comply with the Policy on Mayor and Council Members Adding an Item to the Agenda which has been adopted by City Council.

~~In accordance with the Council policy adopted on March 3, 2011, requests from Council Members to place an item on the Council agenda are to be made in writing to the City Manager no later than noon on the Friday prior to the Wednesday when agenda material is scheduled to be distributed to the Mayor and Council Members for the meeting which the item is to be on the agenda. The written request, which may be in the form of an email sent to the City Manager, will contain sufficient information to ensure that the request is accurately reflected in the agenda material.~~

~~An item will also be added to an agenda of a City Council meeting at the request of the Mayor or a City Council Member when City Council votes at a City Council meeting to have the item added to the agenda. Unless the item requires action prior to the date of the next scheduled meeting, the item will be added to an agenda for a future meeting rather than the same meeting at which the request to have the item added to the agenda is made. A majority vote of the members present and not excused from voting shall be required to add the item to the agenda for a future meeting. A two-thirds vote of the members present and not excused from voting shall be required to add the item to the agenda at the same meeting.~~

- **Respect the will of the City Council as a governing body.**

City staff will make every effort to respond in a timely and professional manner to requests for information or assistance made by individual Council Members. However, the focus of the work program will conform to those initiatives approved by the majority vote of the Council.

- **Depend on the staff to make independent and objective recommendations.**

Staff is expected to provide its best professional recommendations on issues, providing information about alternatives to staff recommendations as appropriate, as well as pros and cons for recommendations and alternatives. Sometimes staff may make recommendations that may be unpopular with the public and Council Members. Staff respects the role of Council as policy makers for the City and understands that Council must consider a variety of opinions and community values in their decision-making in addition to staff recommendations.

- **The City Manager and staff are supporters and advocates for adopted Council policy.**

Regardless of whether it was staff's preferred recommendation or not, staff will strongly support and advocate the adopted Council policy and direction. Such support will include promotion of Council initiatives via written and broadcast media and other means to advance Council policy.

- **Personnel issues**

As the head of the City's administrative staff, the City Manager hires professionals who know and understand the complexities of employment policies and law. Council Members

should not be involved with any personnel matters other than those which deal with the employees that Council appoints (City Attorney, City Clerk, and City Manager).

Council Members shall refrain from publicly criticizing an individual employee. Criticism is differentiated from questioning facts or the opinion of staff. All critical comments about staff performance shall be made only to the City Manager through private correspondence or conversation. Further, Council Members shall refrain from becoming involved in matters of employee discipline or grievances. Such involvement may give the employee(s) a false “sense of protection”, and in some cases, could lead to adverse consideration should legal action or appeals to other agencies occur. The City has specific policies and procedures that govern disciplinary actions and practices as well as appeals processes that provide “due process” for matters of discipline.

If a City staff member contacts a Council Member directly about an issue involving his employment with the City, the Council Member may listen to the staff member’s comments about the issue. The Council Member shall advise the staff member that he should discuss the issue with his immediate supervisor, his department head, the Human Resources Director or the City Manager. The Council Member shall inform the City Manager of the issue.

If a Council Member desires to meet with a staff member, the Council Member shall schedule that meeting through the City Manager’s Office. Any significant operational information discussed shall be reported by staff to all members of the City Council via the City Manager.

- Whenever this policy refers to a Council Member, the reference also includes the Mayor.

This policy was approved by City Council on October 8, 2012, and amended on March 14, 2016.

Council-Staff Communications Guidelines

Governance of a City relies on the cooperative efforts of elected officials, who set policy (goals and priorities), and City staff, who analyze problems and issues, make recommendations, and implement and administer the Council's policies (means and methods). Interaction between elected officials and City staff can benefit City operations provided that the interaction conforms to general guidelines which ensure that the interaction does not interfere with the accomplishment of the City's mission and that planned expenditures of time and money are not disrupted. The following are general guidelines to help facilitate effective communications between the City Council and City staff.

- **The City Council sets the direction and policy – City staff is responsible for administrative functions and City operations.**

The role of the Council is the legislative body. The Council is responsible for approving the budget, setting policy goals, and adopting strategic plans. The primary functions of staff are to execute Council policy and actions taken by the Council and to keep the Council informed. Employees of the City (staff) take guidance and direction only from the City Manager and/or Department Directors through the chain of command.

- **Channel communications through the appropriate City staff.**

1. The City Manager is the primary information liaison between the Council and City staff. Council Members will direct questions of City staff to the City Manager, Assistant City Managers, or City Manager's Office administrative staff. Council Members' requests for reports should be directed to the City Manager.

If fulfilling a request reaches a certain degree in terms of either workload, policy, or funding/financial resources, it may be more appropriate to make the assignment through the direction of the full City Council. If this should occur, the City Manager will notify the Council Member informing the Council Member of such situation. It would be the individual Council Member's prerogative to discuss the request at an upcoming Council meeting and to seek approval by the full Council. This procedure helps to ensure that staff resources are allocated in accordance with overall Council goals and priorities, and if deviations occur, the Council is aware.

2. Department Directors are available to answer Council Member questions about existing policies, operations, programs, and projects. Requests for information that is already in a prepared format may be directed to Department Directors. The Department Director shall inform the City Manager so that the City Manager is aware of Council Member's requests and needs.
3. Routine requests for information or service (i.e. reporting a Code violation) can be made to the Department Director responsible for that service, or via the City Compass (as described below).

4. In the event a request for information requires immediate response, the Council Member may contact a City staff member directly notifying the staff member of the situation but shall not order or direct the staff member to take any action. The staff member shall, as soon as reasonably feasible, report the contact to his immediate supervisor and Department Head for further guidance and direction prior to taking any action.
5. City staff will reply to a communication contact made by a Council Member in accordance with the provisions of this policy as soon as reasonably feasible.

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City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Presentations by Boards and Commissions

- a. Affordable Housing Loan Committee
- b. Community Appearance Commission

Explanation: The Affordable Housing Loan Committee and the Community Appearance Commission are scheduled to make their annual presentations to City Council at the March 14, 2016, meeting.

Fiscal Note: No direct cost for the presentation.

Recommendation: Hear the presentations from the Affordable Housing Loan Committee and the Community Appearance Commission.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download



City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Authorization and funding of the “Greenville Youth@Work” summer program

Explanation: **Abstract:** The City proposes to partner with the Region Q Youth@Work program to provide meaningful work experiences to eligible youth who reside within the city limits of Greenville.

Explanation: The City recognizes the importance of summer employment opportunities for youth, particularly for youth who face barriers to employment. This summer, the City is proposing to partner with the Region Q Youth@Work program to provide meaningful work experiences to eligible low-income youth.

As a result of this proposed partnership, 25 youth will have the opportunity to work up to 25 hours per week for approximately seven weeks this summer, earning up to \$1,269. Youth@Work will fund up to five youth at various City locations, and the City will provide funding to Youth@Work to employ an additional 20 youth in various City departments. The 20 youth funded by the City must meet the same eligibility requirements (i.e., low income, face barriers to employment) as well as reside within the city limits of Greenville.

The youth will work as office staff, light laborers, and staff assistants, depending on the needs of the various City departments. In addition to benefiting the youth and their families financially, the program will help the youth develop their skills and provide life skills training. Youth in the program will attend workshops provided by Pitt Community College’s Continuing Education and Community Development Department. Workshop topics will include employment readiness (resume development, mock interviews, dress for success, etc.), communication skills, computer skills, and other life skills.

Fiscal Note: The cost to operate the program this summer will be approximately \$27,400. Lapsed salaries from various City departments are available in the current fiscal year budget and are proposed to be used to cover the program. Therefore, no formal budget amendment is required. Funding will need to be included in

future year budgets to sustain the program moving forward past the current fiscal year.

Recommendation: Authorize and approve funding of the “Greenville Youth@Work” summer program.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download



City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Supplemental Municipal Agreement with the North Carolina Department of Transportation for Design and Construction of the South Tar River Greenway Phase 3 – Pitt Street to Moye Boulevard

Explanation: **Abstract:** The construction cost estimate prepared by the design consultant for 90% complete plans shows the South Tar River Greenway Phase 3 project, as currently scoped, is over budget for available construction funds. As a result, it is necessary to reduce the project scope to bring the project within available funds. The attached Supplemental Municipal Agreement with the North Carolina Department of Transportation (NCDOT) reduces the scope of the project and allows the City to proceed with the construction of the greenway between Pitt Street and Nash Street and allow this portion of the total project to be constructed with available funds. The agreement will also reflect adjustments to the schedule as a result of the more complex design as well as property acquisition.

Explanation: Design plans for the South Tar River Greenway Phase 3 from Pitt Street to Moye Boulevard are 90% complete. The construction cost estimate prepared by the consultant in conjunction with 90% plans shows the project, as currently scoped, would exceed the available construction funds by approximately \$1.5 million. Compared to the 60% plans and estimate, additional subsurface geotechnical information as well as plans review comments received from environmental agencies and CSXT Railroad required costly additions to the project design plans. These additions included extensive retaining walls, long boardwalk sections, and a pile supported slab foundation. Consequently, the addition of these items caused the project to exceed the available funds.

To bring the project back within budget, City staff has worked with NCDOT to reduce the scope of the project and split the project into two phases, Phase 3A and 3B. The limits for Phase 3A will be Pitt Street to Nash Street east of Memorial Drive as depicted on the attached map.

Phase 3B will continue from where South Tar River Phase 3A will currently terminate, just east of NC11/Memorial Drive by Nash Street, and continue

westward, underneath the bridge where NC 11 crosses the Tar River, and continue westward along the Tar River and then Schoolhouse Branch terminating at a point adjacent to the VA hospital on Moye Boulevard.

Right-of-way acquisition for both phases has been completed, and the City is seeking additional construction funding for Phase 3B. Phase 3B is estimated to cost about \$2.2M. The City is seeking funding for this project via placement on NCDOT's Statewide Transportation Improvement Program (STIP).

Greenville has submitted this project, via the MPO, to NCDOT for their funding consideration, and the project summary is attached. Now that it has been entered into the system, the next step is for the NCDOT to calculate a quantitative score for the project which will ultimately determine its funding potential. The results of this process will become available around December 2016 when NCDOT releases a draft STIP indicating which projects have been selected for programming/funding.

Due to the fact that the project was designed and right-of-way acquired for both phases of this project, Phase 3B will be "shovel ready" should it be funded by NCDOT.

Prior to the project's selection (spring/summer 2016), NCDOT is expected to ask the City for letters of commitment for their 20% of the greenway projects submitted.

The attached Supplemental Agreement provides for the construction of the first section of the South Tar River Greenway Phase 3 between Pitt and Nash Streets with the available funding already committed to the project. The project completion date has been extended to December 31, 2017, to account for the more complex design requirements and acquisition.

Fiscal Note:

This Supplemental Agreement will require no additional funding. However, should the City receive funding to construct Phase 3B of this project, the City will be required to commit 20% towards the construction funding.

Recommendation:

Approve the attached Supplemental Municipal Agreement with NCDOT to reduce the scope of the South Tar River Greenway Phase 3 project and extend the completion date to December 31, 2017.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / [click to download](#)

[STRG Ph 3 Supplemental Agreement](#)

[South Tar River Greenway Map](#)

[STR Greenway Project Summary](#)

NORTH CAROLINA
PITT COUNTY

SUPPLEMENTAL AGREEMENT

DATE: 12/28/2015

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: EB-5539

AND

WBS ELEMENTS: PE 45529.1.1

ROW 45529.2.1

CITY OF GREENVILLE

CON 45529.3.1

OTHER FUNDING:

FEDERAL-AID #:

CFDA #: 20.205

TOTAL SUPPLEMENTAL FUNDS [NCDOT PARTICIPATION] \$0

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department", and the City of Greenville, hereinafter referred to as the "Municipality."

WITNESSETH:

WHEREAS, the Department and the Municipality on 2/7/2012, entered into a certain Project Agreement for the original scope: preliminary engineering, right-of-way, and construction of a 10-ft wide asphalt paved multi-use trail with 2-ft wide granite screenings shoulders from the western terminus of the existing South Tar River Greenway at Pitt Street to Moye Boulevard, programmed under Project EB-5539; and,

WHEREAS, on 4/17/14 the Department and the Municipality agreed to extend the Scope, increase the Funding, and update the Time Frame for the Project; and

WHEREAS, the Municipality has requested to reduce the Project scope; extend the PS&E package delivery date; and extend the Project completion date;

NOW THEREFORE, the parties wish to supplement the aforementioned Agreement whereby the following provisions are amended:

SCOPE

The Project consists of the construction of the South Tar River Greenway, Phase 3, from Pitt Street to Nash Street east of US 13/NC11/Memorial Drive.

TIMEFRAME

The Municipality, and/or its agent, shall complete pre-construction activities, to include Environmental Document, Right of Way Certification and final PS&E package, by May 30, 2016 in order to authorize construction funds prior to the end of the Federal Fiscal Year (September 30, 2016).

The Municipality, and/or its agent, shall complete all work outlined in the Agreement within (3) three years of authorization of Federal Construction funds. Completion for this Agreement is defined as completion of all construction activities or implementation activities, acceptance of the project, and submission of a final reimbursement package to the Department.

The Department has agreed to extend the project completion date to 12/31/2017, in lieu of 1/1/2016. The Department and/or FHWA reserves the right to revoke the funds awarded if the Municipality is unable to meet milestone dates included herein.

Except as hereinabove provided, the Agreement heretofore executed by the Department and the Municipality on 2/7/2012, is ratified and affirmed as therein provided.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

CITY OF GREENVILLE

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by _____ (Governing Board) of the City of Greenville as attested to by the signature of _____, Clerk of the

_____ (Governing Board) on _____ (Date)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

City of Greenville

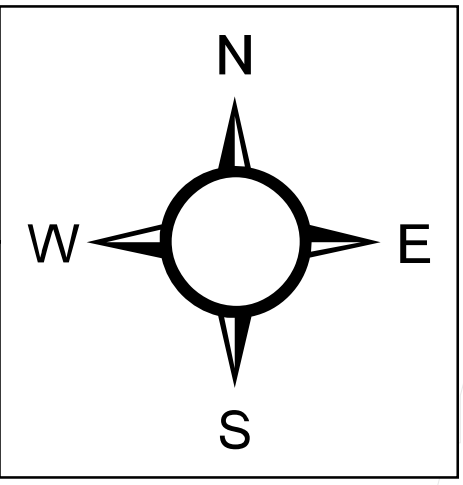
DEPARTMENT OF TRANSPORTATION

BY: _____

(CHIEF ENGINEER)

DATE: _____



APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (Date)



Attachment number 2
Page 1 of 1

Legend

South Tar River Greenway

-  Phase 3A
-  Phase 3B





NCDOT Prioritization 3.0 Project Summary

SPOT ID: B150334

Mode: Bicycle & Pedestrian

Status: Draft

South Tar River Greenway, Phase 3B

From/Cross Street: Terminus of Phase3A near Nash St

Specific Improvement Type: 1. Off-Road/Separated Linear Bicycle Facility (Bicycle)

To: Moye Blvd/ Veteran's Administration bldg

Project Category: Division Needs

Length: 0.86504534

TIP#:

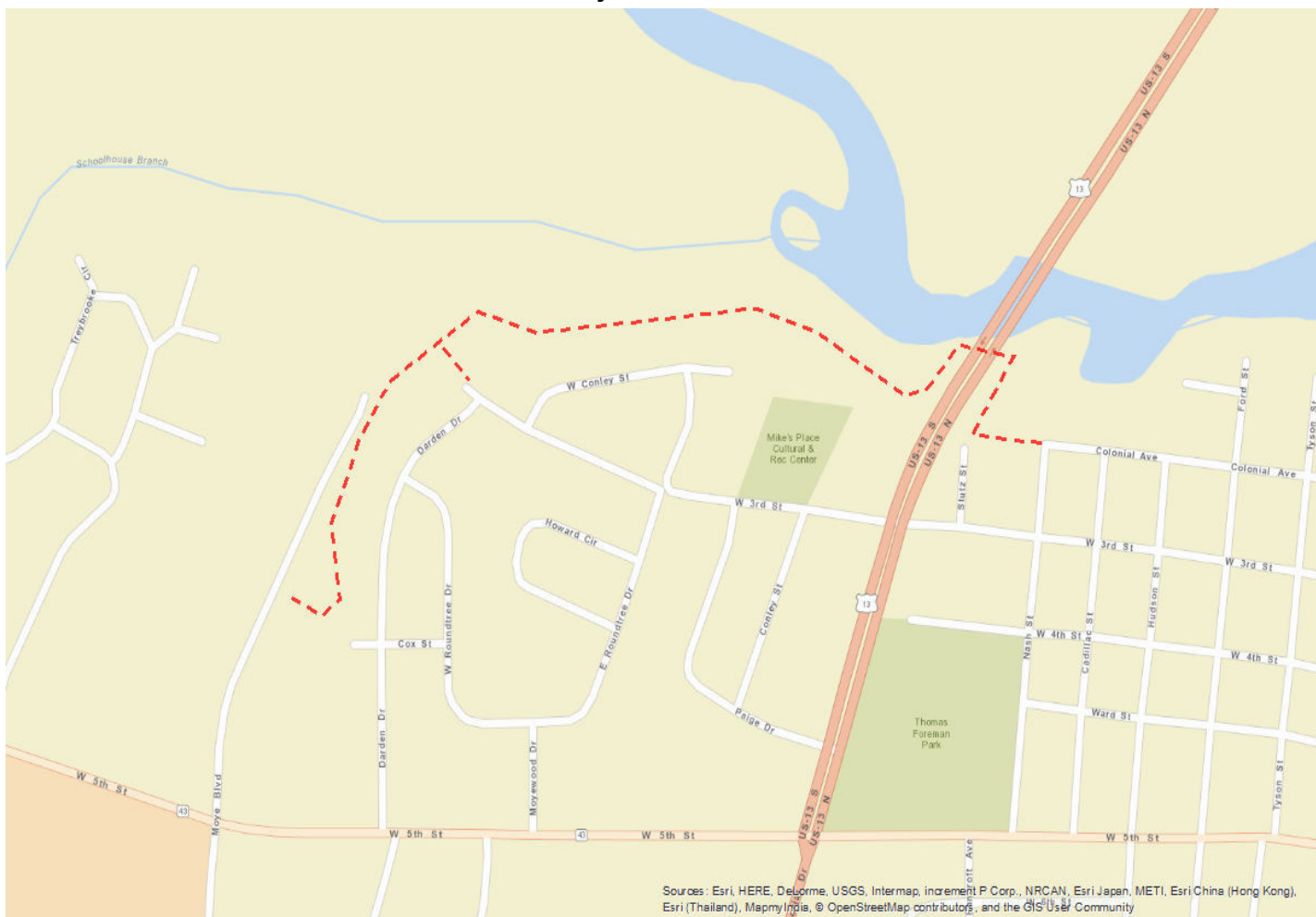
Fully Funded in Draft STIP? No

Cost to NCDOT: \$1,760,000

Description:

Construct greenway from terminus of phase 3A near Nash St to Moye Blvd. adjacent to Veteran's Administration clinic.

Project Location



Statewide Mobility Total Score

Quantitative Score	Division Engineer Local Input Points	MPO/RPO Local Input Points
N/A		

Regional Impact Total Score

Quantitative Score	Division Engineer Local Input Points	MPO/RPO Local Input Points
N/A		

Division Needs Total Score: 0

Quantitative Score	Division Engineer Local Inputs Points	MPO/RPO Local Input Points
Safety (15%) In Progress Access (10%) In Progress Demand/Density (10%) In Progress Connectivity (10%) In Progress Cost Effectiveness (5%) In Progress	Percent: 25% Points:	Percent: 25% Points:
Totals: Weight: 50% Weighted Score: 0		

Project Data

Data:

Name of Adopted Plan:	Greenway Master Plan, 2014-2040 MTP, and Bike/Ped Master Plan
Discussed with Division:	1
Within 2 mi. of K-8 School?	1
Municipality:	City of Greenville
Distance to Primary Destination:	0
# Major Centers:	3
# Secondary Centers:	2
Right-of-Way % Acquired:	100
PE / Design % Completed:	100
Environmental Doc. Type:	Categorical Exclusion Type I/II
Bicycle Crashes:	0
Pedestrian Crashes:	0
Existing Speed Limit:	
Persons per Square Mile:	1542.67
Employees per Square Mile:	2397.83

Project Cost:

Construction Cost:	\$2,200,000
Right-of-Way Cost:	\$0
Remaining PE/Design Cost:	\$0
Total Project Cost:	\$2,200,000
Other Funding:	\$440,000
Other Funding Source:	
Cost to NCDOT:	\$1,760,000

Project Ownership:

First Division:	Division 2
First Division %:	100
Second Division:	
Second Division %:	0
Third Division:	
Third Division %:	0
First MPO/RPO:	Greenville Urban Area MPO
First MPO/RPO %:	100
Second MPO/RPO:	
Second MPO/RPO %:	0
Third MPO/RPO:	
Third MPO/RPO %:	0



City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Authorization for the Fire/Rescue Department to submit a grant application to the Department of Homeland Security

Explanation: **Abstract:** The Fire/Rescue Department is exploring a grant opportunity to create four new positions that would staff a peak-time emergency response unit in the southeast section of the City. Until a permanent station is built, Fire/Rescue is exploring several temporary housing and deployment options in this area

Explanation: During a comprehensive analysis of the Fire/Rescue Department, the International City/County Management Association made several recommendations to improve fire/rescue response capabilities in the southern section of the city. The City currently owns land on Ashcroft Drive, near the intersection with Fire Tower Road, that is intended for a fire/rescue station. The Staffing for Adequate Fire and Emergency Response (SAFER) grant application, if approved, will provide funding for 4 fire/rescue personnel to assist with peak emergency response coverage in the future Station 7 coverage/service area.

During the February 11, 2016 meeting, City Council authorized the purchase of a pumper/ambulance for peak service in this area. The likely scenario being considered by the Fire/Rescue Department is to provide service and deployment in this area using the pumper/ambulance from the proposed Station 7 location. The SAFER grant (if approved) will base the 4 personnel funded by the grant in this service area. During peak service times, the personnel and pumper ambulance may be based and deployed from the proposed location for Station 7. During non-peak time hours, the unit and personnel will be based at Station 3.

An analysis of the previous two years of response time data for this area revealed that the Department's response time does not meet the recommended National Fire Protection Association (NFPA) response time benchmarks to a large percentage of the calls in the future Station 7 area. NFPA 1710-4.1.2.1.1 states: the fire department shall establish the following time objectives:

- (1) One minute (60 seconds) for turnout time
- (2) Four minutes (240 seconds) or less for the arrival of the first arriving engine company at a fire suppression incident and/or 8 minutes (480 seconds) or less for the deployment of a full first alarm assignment at a fire suppression incident
- (3) Four minutes (240 seconds) or less for the arrival of a unit with first responder or higher level capability at an emergency medical incident
- (4) Eight minutes (480 seconds) or less for the arrival of an advanced life support unit at an emergency medical incident, where this service is provided by the fire department.

This standard is based upon the 90th percentile of the response data. Analysis of 1,444 GFR incident responses in this geographical area over the past two years reveals that the Department arrived within 12 minutes and 14 seconds at the 90th percentile. The SAFER grant was created to provide funding directly to fire departments to help them increase or maintain the number of trained, "front line" firefighters available in their communities. The goal of SAFER is to enhance the local fire departments' abilities to comply with staffing, response and operational standards established by the NFPA (NFPA 1710 and/or NFPA 1720).

The grant application is due on or before March 25, 2016. In order to make the deadline for this particular opportunity, approval is needed to proceed.

Fiscal Note:

The grant is for two years and does not require matching funds, as long as the grant requirements are met. After the two-year grant period is complete, the City of Greenville will be required to fund the positions completely. This would be an increase in the total number of authorized positions in the Fire/Rescue Department. Estimated salary and benefits for the four positions in year one will be \$208,383 and year two will be \$218,802.

Recommendation:

Authorize staff to proceed with the SAFER grant application to the Department of Homeland Security.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

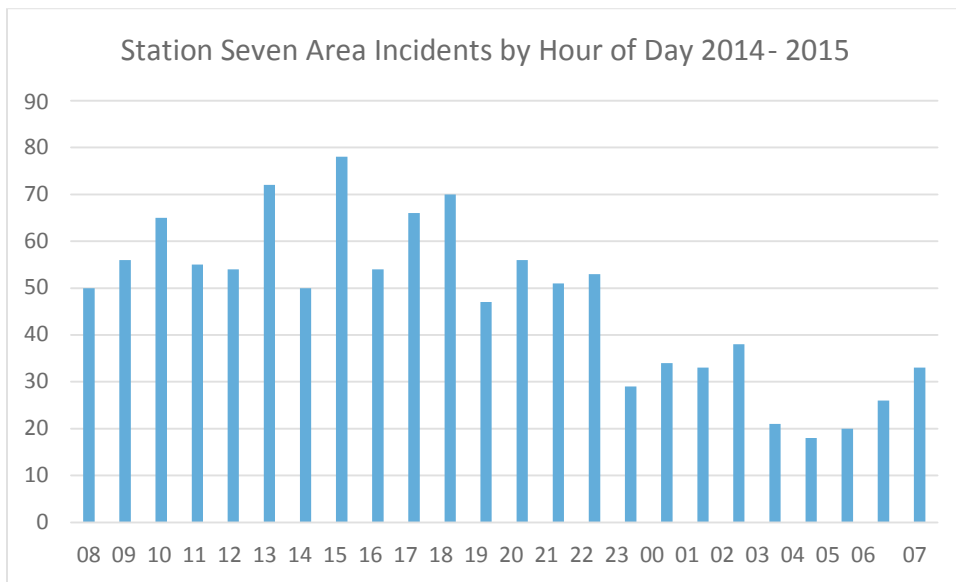
 [revised station 7 service chart](#)

Proposed Fire/Rescue Station Seven Incident Summary

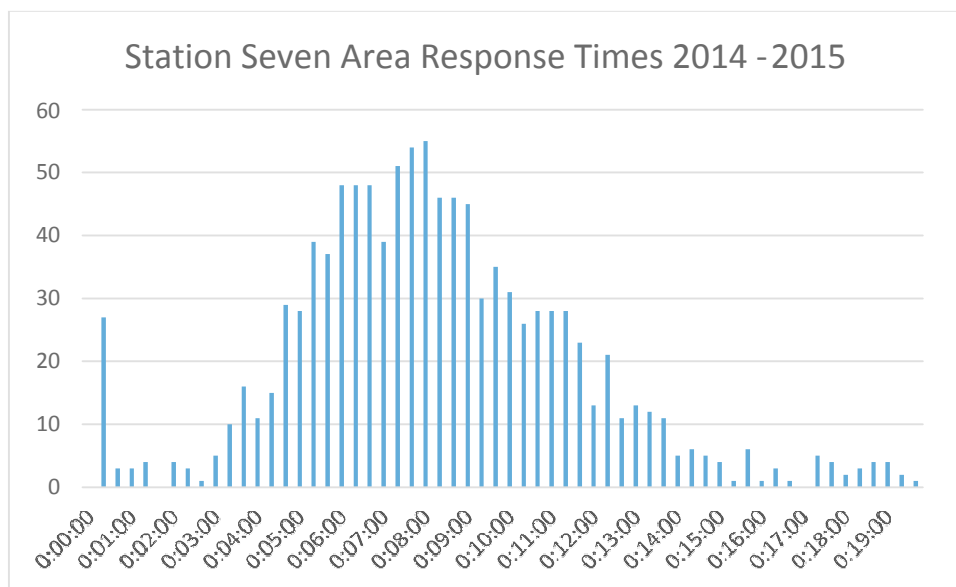
January 1, 2014 – December 31, 2015

Between January 1, 2014 and December 31, 2015 there were 1,444 calls to the area proposed for Station Seven. That is 5% of the citywide total calls of 31,511.

Calls for service include fire emergencies, medical emergencies, technical rescue, and motor vehicle collisions.



In this 2 year time frame, it took crews 12 minutes and 14 seconds to arrive at an emergency in the proposed Station Seven district 90% of the time. That is more than twice the national standard of 5 minutes and 12 seconds 90% of the time that the National Fire Protection Association (NFPA) and Commission on Fire Accreditation International (CFAI) have set.





City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Lease agreement with Zimmer Development Company, LLC to establish the South Zone Police Substation

Explanation: **Abstract:** This lease will grant the Police Department use of the property located at 728-E SW Greenville Boulevard as the full-service South Zone Police Substation for five years. This will be the third substation to open to provide improved customer service and community engagement to the citizens in the southern part of Greenville.

Explanation:

Background

West Zone - In 2007, the Greenville Police Department opened a substation at 1024 West Fifth Street. This substation was put in place to better serve the citizens of west Greenville. Currently, this substation houses the West Zone Commander and police officers assigned to the West Zone.

East Zone - In 2015, the Police Department opened the East Zone Substation at 3095 Suite-A East Tenth Street to better serve the residents of the eastern part of the city. The East Zone Substation currently houses the East Zone Commander and police officers assigned to the East Zone.

Several detectives and other staff have also recently been reassigned to the existing substations to provide more customer service to each zone. In the next several months, existing employees serving as Community Service Clerks at main Police headquarters will be reassigned to the substations to provide citizens with business hour, full-service substations. The goal is for the clerks to be able to take reports and accept payments for civil citations, false alarms, and permits.

South Zone (New) - The next logical step is for the Police Department to secure a south zone substation. Staff have negotiated a below market rate lease agreement for a location in the Greenville Grande complex. The location is central to the south zone and will provide citizens with a store-front substation

that is convenient and easily accessed along the Greenville Boulevard corridor. The negotiated lease amount is \$500 per month, which as stated above, is significantly lower than market rate. The construction cost to upfit the space and outfit it with furniture for use as a substation is not yet determined, but based on experience with the east zone substation, costs should be less than \$80,000. These funds will be taken from the current Police operations budget (FY16) and will not require additional funding.

Operating Costs

Recurring costs are always a concern when opening a substation. The existing substations have been operational long enough to analyze the recurring costs of operating them and projecting total recurring costs after adding the south zone station. See the table below:

Description	East Zone	West Zone	South Zone	Total/Month	Total/Annually
Lease	\$0/month	\$0/month	\$500/month	\$500	\$6000
Utilities	\$500/month	\$500/month	\$500/month	\$1500	\$18,000
Alarm System	\$25/month	\$25/month	\$25/month	\$75	\$900
Copier	\$99/month	\$149/month	\$149/month	\$397	\$4,764
				\$1,972	\$29,664

Based on current costs, it is projected it would cost approximately \$29,664 per year in recurring costs to operate all three substations. Again, this projection does not include construction and upfit costs; those costs, based on previous experience with the east zone substation, are estimated to be less than \$80,000.

Public Access

With the upcoming loss of the Police/Fire-Rescue Headquarters parking lot, the substations will become a vital part of the community. The substations will provide parking for police vehicles that will no longer exist when the currently utilized City-owned lot is developed. These substations will be in close proximity to neighborhoods, which will allow for better accessibility and easier parking for citizens in need of Greenville Police Department services. The substations will also foster a better relationship between officers and the communities they serve. Staff will continue to evaluate the effectiveness of the Police substations and look forward to providing better customer service through them.

North Zone (Planned) - As with any growing city, staff will continue to look for other opportunities to better serve our community. One of the next areas to consider will be the city's north side. Staff will continue to evaluate opportunities that arise in that area to expand substations to the north.

Fiscal Note:

If approved, the lease agreement will be \$500 per month for five years. These funds will be taken from the budgeted contracted services line item of the Police

Department.

Recommendation: Staff recommends approval to enter into the lease and move forward with the upfit of said location.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download


 [Lease Agreement for South Zone Sub Station](#)

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"EXHIBITS"

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EXHIBIT B	Identification and/or Outlining of Leased Premises.
EXHIBIT C	Rules and Regulations.
EXHIBIT D	Landlord's Construction Responsibility.
EXHIBIT E	Sign Criteria

(ii)

SHOPPING CENTER LEASE

THIS SHOPPING CENTER LEASE (“Lease”) is made and entered into as of the ____ day of March, 2016, by and between Landlord as hereinafter defined and Tenant as hereinafter defined.

WITNESSETH:

In consideration of the rent to be paid, the mutual covenants and agreements herein contained, and of other good and valuable considerations, the receipt and legal sufficiency of all of which are hereby acknowledged by both parties hereto, Landlord hereby demises and rents unto Tenant, and Tenant hereby leases from Landlord the premises (“Leased Premises”) now existing or to be constructed in Landlord's shopping center (“Shopping Center”) named below and described in Exhibit A attached hereto, upon the terms, covenants and conditions hereinafter contained.

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ARTICLE I
FUNDAMENTAL LEASE PROVISIONS AND EXHIBITS

Section 1.1 Fundamental Lease Provisions.

- A. SHOPPING CENTER:
*The Shoppes at Greenville Grande
Greenville Blvd. SW and Memorial Drive
Greenville, North Carolina*

Exhibit A (Site Plan of Shopping Center) and Exhibit B (Identification and/or Outlining of Leased Premises) set forth the general layout of the Shopping Center and certain proposed stores in the Shopping Center, but shall not be deemed to be a warranty, representation or agreement on the part of the Landlord that the Shopping Center or stores will be constructed exactly as indicated.

- B. LANDLORD (include mailing address):
*ZP NO. 169, LLC
c/o Zimmer Management Company Telephone: (910) 763-4669
111 Princess Street
Wilmington, North Carolina 28401*

- C. TENANT (include mailing address):
*City of Greenville Telephone: (252) 329-4333
Attn: Mark Holtzman – Chief of Police
P.O. Box 7207
Greenville, North Carolina 27835*

E-mail: ccurtis@greenvillenc.gov

- D. LEASED PREMISES: A portion of the Shopping Center identified and/or outlined in red on Exhibit B attached hereto, containing approximately 1,534 square feet, known as Space 728-109. Landlord reserves the right to relocate the Leased Premises within the Shopping Center at any time prior to delivery of possession thereof to Tenant.

- E. PERMITTED USES: *The Leased Premises shall be for the use of the Greenville Police Department as a police substation to exercise the powers invested in law enforcement officers by statute, common law and ordinances of the City of Greenville, within the corporate limits of the City of Greenville. Any use of the Leased Premises for purposes other than law enforcement purposes, including evidence and equipment storage, shall be prohibited without the prior written consent of Landlord, which approval shall not be unreasonably withheld; provided that the same shall never be used in a manner or for the purposes as to cause the same to be rated by fire insurance companies as extra-hazardous.*

F. LEASE TERM: Five (5) years and such additional time, if any, as may be necessary to have the Lease Term expire on December 31, 2021 (original term).

G. FIXED MINIMUM RENT:

(i) The sum of Six Thousand and No/100 Dollars (\$6,000.00) per year payable in equal monthly installments of \$500.00, in advance upon the first day of each calendar month commencing upon the Rent Commencement Date and ending on December 31, 2021.

(ii) The sum of _____ Dollars (\$ _____) per year payable in equal monthly installments of \$ _____, in advance upon the first day of each calendar month beginning January 1, 20__ and ending December 31, 20__.

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(iii) The sum of _____ Dollars (\$ _____) per year payable in equal monthly installments of \$ _____, in advance upon the first day of each calendar month beginning January 1, 20__ and ending December 31, 20__.

(iv) The sum of _____ Dollars (\$ _____) per year payable in equal monthly installments of \$ _____, in advance upon the first day of each calendar month beginning January 1, 20__ and ending December 31, 20__.

(v) The sum of _____ Dollars (\$ _____) per year payable in equal monthly installments of \$ _____, in advance upon the first day of each calendar month beginning January 1, 20__ and ending December 31, 20__.

H. PERCENTAGE RENT: Percentage Rent shall be calculated on a Lease Year (January 1st through December 31st) basis and may not coincide with Fixed Minimum Rent increases as set forth above. Base Gross Sales Amount for the first calendar year of the Lease Term will be prorated from the Rent Commencement Date through the first following December 31st, and for the last calendar year of the Lease Term, from January 1st through the expiration or earlier termination of the Lease.

(i) PERCENTAGE RENT RATE: _____ (_____%) percent in excess of Base Gross Sales.

(ii) BASE _____ GROSS _____ SALES _____ AMOUNT:
\$ _____.

I. TENANT'S OPERATING CHARGE: \$ _____ for the calendar year _____, payable in equal monthly installments of \$ _____. Tenant's Operating Charge shall increase five percent (5%) on January 1st of each and every calendar year after the first full Lease Year over the amount payable for the previous calendar year (prorated for a partial calendar year, if applicable) throughout the remainder of the Lease Term hereunder. Tenant's obligation to pay Tenant's Operating Charge is predetermined and not subject to adjustment except as expressly provided herein. Tenant's Operating Charge shall be included in Fixed Minimum Rent.

J. INSURANCE PAYMENT: \$ _____ per year, payable in equal monthly installments of \$ _____, adjusted annually. Tenant's Insurance Payment shall be included in Fixed Minimum Rent.

K. TAX PAYMENT: \$ _____ per year, payable in equal monthly installments of \$ _____, adjusted annually. Tenant's Tax Payment shall be included in Fixed Minimum Rent.

~~FOR FLORIDA REAL PROPERTY: Sales Tax Payment, based upon rent and other charges: \$ _____ per year, payable in equal monthly installments of \$ _____, adjusted annually.~~

L. LEASE TERM COMMENCEMENT DATE: ~~The earlier of (i) the date Tenant opens for business, or (ii) _____ (_____) days after the Turnover Date~~ April 1, 2016. Any occupancy of the Leased Premises by Tenant prior to the Lease Term Commencement Date shall be subject to all terms and conditions of this Lease other than the payment of Rent (as hereinafter defined).

M. ESTIMATED TURNOVER DATE: Landlord anticipates delivery of the Leased Premises to Tenant ~~on or about~~ upon Lease Execution. Tenant shall be required to provide the following prior to Landlord's providing Tenant with possession of the Leased Premises: (i) evidence of all insurance required under this Lease; (ii) ~~the security deposit~~ ^{Attachment number 1} ~~(if any); and (iii) the first month's Minimum Rent, Tenant's Operating Charge, Tax Payment, and Insurance Payment, and, in the case of Florida properties, Sales Tax Payment.~~

N. RENT COMMENCEMENT DATE: Rent and all other charges hereunder shall commence upon the Lease Term Commencement Date.

O. RENTAL PAYMENT PLACE: ZP NO. 169, LLC
*c/o Zimmer Management Company
Post Office Box 2628
Wilmington, North Carolina 28402*

P. PRO RATA SHARE: ~~One point eight eight (1.88%) percent, adjusted annually and in accordance with Section 17.10.~~

Q. SECURITY DEPOSIT: \$ _____ Security Deposit, by check to be made payable to Landlord.

R. RENEWAL OPTION: Provided Tenant is not in default beyond any applicable cure period under the terms and provisions of the herein Lease, Tenant shall have one (1) consecutive five (5) year renewal option Tenant shall provide written notification to Landlord of its intent to renew 120 days prior to the expiration of the Lease. Fixed Minimum Rent during the Renewal Term shall continue to include Common Area Maintenance, Insurance Payment and Tax Payment, and shall be as follows:

01/01/22 – 12/31/26: \$7,200.00 annually/ \$600.00 monthly

S. GUARANTOR (include mailing address):

T. OTHER:

(i) Condition of the Leased Premises. The Leased Premises shall be delivered by Landlord to Tenant in an "AS IS, WHERE IS" condition with no Landlord Work to be performed as shown on Exhibit D attached hereto. The entry by Tenant onto the Leased Premises shall be conclusive as an admission by Tenant that every part of the Leased Premises is accepted "as is".

(ii) Tenant's Work. Tenant shall, at its sole cost and expense, perform all of Tenant's Work necessary for Tenant to open for business in the Leased Premises, including, but not limited to, building the demised wall in the Leased Premises. Tenant's Work shall be performed in a good and workmanlike manner using only materials that are new, of good quality, free of material defect and in accordance with the terms, covenants and conditions of this Lease and the plans and specifications approved by Landlord.

- (iii) Animals. The Tenant is authorized to maintain department canines in the Leased Premises during the term of this Lease and any renewal term.
- (iv) Zoning. It is understood between the parties that Tenant intends to use the Leased Premises for law enforcement purposes. Landlord covenants and agrees that the Leased Premises are subject to no governmental zoning or other regulations which would prohibit the use by Tenant of the Premises for any of said stated or similar purposes.
- (v) Environmental Warranties. Landlord represents and warrants to Tenant that (a) to the best of Landlord's knowledge the environmental and ecological condition of the property is such that the property is not in violation of any law, ordinance, requirement, or regulation applicable thereto; (b) Landlord neither knows of, nor has been advised of, any legal or administrative proceedings, claims or violations of any laws, or regulations, relating to the environmental and ecological condition of the property; (c) to the best of Landlord's knowledge, the soil, surface water and ground water of, on, under, adjacent to or about the property are free from any hazardous or toxic waste or materials; and (d) Landlord has disclosed to Tenant, to the best of Landlord's knowledge, all industrial and commercial uses of the property, including any involved in the use of hazardous or toxic waste and materials.

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Landlord represents and warrants that neither it, nor its officers, partners, agents, or employees, have caused or permitted any hazardous material (as that term is defined in all applicable laws, rules, regulations, and ordinances now in existence) to be disposed of, placed, held, stored, located on, treated, or transported across the subject property to the best knowledge of the Landlord, has never been used as a dumpsite or storage site for hazardous materials; and that, to the best knowledge of Landlord, the property has been operated in compliance with all environmental laws.

Landlord shall indemnify and hold Tenant harmless from and against any and all liabilities and claims arising from this property resulting from or in connection with any violation of federal, state, or local law or regulation relating to the environmental or ecological condition of the property, including attorney's fees prior to the commencement date of this Lease.

Section 1.2 Significance of a Fundamental Lease Provision. Each reference in this "Lease" to any of the Fundamental Lease Provisions contained in Section 1.1 of this ARTICLE shall be deemed and construed to incorporate all of the terms thereof. The Fundamental Lease Provisions shall be construed in connection with and limited by any such reference.

Section 1.3 Enumeration of Exhibits. The exhibits enumerated in this Section and attached to this Lease are incorporated in this Lease by this reference and are to be construed as a part of this Lease.

- Exhibit A. Site Plan of Shopping Center
- Exhibit B. Identification and/or Outlining of Leased Premises
- Exhibit C. Rules and Regulations
- Exhibit D. Landlord's Construction Responsibility
- Exhibit E. Sign Criteria

ARTICLE II
SHOPPING CENTER, LEASED PREMISES AND TERM

Section 2.1 Covenants of Landlord's Authority. Landlord represents and covenants that (a) ~~prior to the Lease Term Commencement Date it will have either good title to or a valid leasehold interest in the land and building of which the Leased Premises form a part~~ it is seized and possessed of the Leased Premises and has the right without limitation or claim of any third party to enter into this Lease or any extension thereof, defend and save Tenant harmless against the claims of

all other persons in and to the Leased Premises save and except such deeds of trust in effect at the time of execution of this Lease and easements and restrictions of record, and (b) upon performing all of its obligations hereunder, and subject to the terms and conditions of this Lease, Tenant shall peacefully and quietly have, hold and enjoy the Leased Premises for the term of this Lease.

Section 2.2 Leased Premises. For the purposes of this Lease, Leased Premises shall extend to the exterior faces of all walls or to the building line where there is no wall, or to the center line of those walls separating the Leased Premises from other leased premises in the Shopping Center, together with the appurtenances specifically granted in this Lease, but reserving and excepting to Landlord the use of the exterior walls and the roof and the right to install, maintain, use, repair and replace pipes, ducts, conduits and wires leading through the Leased Premises which may serve other parts of the Shopping Center in locations which will not materially interfere with Tenant's use thereof.

~~Landlord and Tenant each reserve the right to remeasure the Leased Premises at the remeasuring party's sole cost and expense within ninety (90) days from the Turnover Date. In the event the square footage of the Leased Premises is different than as shown in ARTICLE I, Section 1.1(D) herein, all Fixed Minimum Rent, Additional Rent and other charges based upon the square footage of the Leased Premises shall be proportionately adjusted. In the event the Leased Premises are not remeasured within the said ninety (90) days period, the square footage set forth in ARTICLE I, Section 1.1(D) shall be deemed conclusively correct.~~

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Section 2.3 Term. The term of this Lease shall be for that period set forth in ARTICLE I, Section 1.1(F), and shall commence on the Lease Term Commencement Date as set forth in ARTICLE I, Section 1.1(L).

Section 2.4 Statement as to Lease Term. After the commencement and termination dates of the Lease Term shall have been determined as provided in Section 2.3, Tenant, at Landlord's request, shall from time to time execute, acknowledge and deliver written statements in recordable form: (a) ratifying this Lease; (b) specifying the commencement and termination dates of the Lease Term; (c) certifying that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writings as shall be so stated); (d) that all conditions under this Lease to be performed by Landlord have been satisfied or stating those not performed; (e) that there are no defenses or offsets against the enforcement of this Lease by Tenant or specifying any such defenses; (f) the date to which rental has been paid; (g) the actual number of square feet of floor space in the Leased Premises; and (h) that no rental has been paid in advance or specifying any such advance rental.

If Tenant fails to execute, acknowledge and deliver to Landlord or a mortgagee or prospective mortgagee of Landlord a statement in accordance with the foregoing provisions of this Section 2.4 within ten (10) business days from Landlord's request for the same, and in addition to any and all other remedies available to Landlord hereunder, such failure shall constitute a breach of this Lease as well as an acknowledgment by Tenant that this Lease is unmodified and in full force and effect and that all conditions under this Lease to be performed by Landlord have been satisfied.

Section 2.5 Tenant to Open for Business. Tenant covenants and agrees to open for business in the Leased Premises not later than one hundred twenty (120) days after delivery of the Leased Premises to Tenant, and, thereafter, to operate its business within one hundred percent (100%) of the Leased Premises in accordance with the provisions of this Lease. ~~Tenant shall not be considered open for business unless and until (a) Tenant's Work shall be completed, including all fixtures, furnishings and equipment installed as may be required for the operation of Tenant's business, (b) Tenant shall have a full supply of inventory and/or stock, and has otherwise properly merchandised the Leased Premises and the store signage is complete, (c) Tenant shall have engaged trained staff in sufficient numbers so as to operate Tenant's business as is typically found in a first class shopping center, and (d) Tenant has opened the Leased Premises to the general public.~~

Section 2.6 Election to Terminate. ~~In the event Landlord has not delivered the Leased Premises to Tenant within two (2) years following the date hereof, then in such event, this Lease may be terminated at the election of either the Landlord or the Tenant by written notice to the other, whereupon which both Landlord and Tenant will be relieved of all obligations hereunder, except that Landlord will return any security deposits which were being retained by Landlord.~~

ARTICLE III
RENTALS

Section 3.1 Fixed Minimum Rent, Percentage Rent, and Additional Rent. Tenant shall pay to Landlord, without demand and without deduction or set-off, at the Rental Payment Place, or at such other address for the Rental Payment Place as Landlord by notice in writing to Tenant may from time to time direct, rent as follows:

- (a) Fixed Minimum Rent. Fixed Minimum Rent shall be payable at the annual rate provided in ARTICLE I, Section 1.1(G), for each year of the Lease Term, in equal monthly installments in advance, on the first day of each month during the Lease Term. ^{Attachment number 1} ~~The First~~ ^{Page 46} Minimum Rent for a fractional month (if any) shall be apportioned on a per diem basis, calculated on the basis of a thirty (30) day month, and shall be payable upon the commencement of the Lease Term.
- (b) Percentage Rent. ~~In addition to the Fixed Minimum Rent, Tenant shall pay as Percentage Rent hereunder for each Lease Year (hereinafter defined in Section 3.2) an amount equal to Tenant's "Gross Sales" (as hereinafter defined in Section 3.3) in excess of the Base Gross Sales Amount set forth in ARTICLE I, Section 1.1(H)(ii) multiplied by a percentage equal to the Percentage Rent rate set forth in ARTICLE I, Section 1.1(H)(i).~~
- (c) Additional Rent. In addition to the foregoing Fixed Minimum Rent ~~and Percentage Rent~~, all other payments to be made hereunder by Tenant to Landlord, including but not limited to ~~(i) Tenant's Operating Charge, (ii) Insurance Payment, (iii) Tax Payment, and (iv) any other charges as more particularly set forth herein,~~ shall be deemed to be and shall become Additional Rent hereunder whether or not the same be designated as such; and shall, unless otherwise provided, be due and payable upon demand or together with the next succeeding installment of rent, whichever shall first occur; and Landlord shall have the same remedies for failure to pay the same as for non-payment of rent. Landlord, at its election, shall have the right to pay or do any act which requires the expenditure of any sums of money by reason of the failure or neglect of Tenant to perform any of the provisions of this Lease, and in the event Landlord shall, at its election, pay such sums or do such acts requiring the expenditure of monies, Tenant agrees to pay Landlord, upon demand, all such sums, and the sum so paid by Landlord, together with interest thereon, shall be deemed Additional Rent and be payable as such.

The term "Rent" or "rent" as used herein shall collectively mean Fixed Minimum Rent, ~~Percentage Rent~~ and Additional Rent.

Section 3.2 Definition of Lease Year. The period commencing with the Rent Commencement Date and ending on the last day of the calendar year in which said Rent Commencement Date occurs shall constitute a "Partial Lease Year." The first full "Lease Year" shall commence on the next January 1st after the occurrence of the Rent Commencement Date. Each successive full calendar year during the Lease Term shall constitute a Lease Year. The Lease Term will expire on December 31st of the last Lease Year.

Section 3.3 Definition of Gross Sales. ~~The term "Gross Sales" as used herein shall mean the total dollar amount of the actual sales price, whether for cash or on credit or partly for cash and partly on credit, of all sales of merchandise and services and of any and all other receipts of business conducted in or from the Leased Premises, including but not limited to, all gift and merchandise certificates, mail or telephone orders received or filled at or from the Leased Premises, deposits not refunded to purchasers including all sums paid on lay a way sales for merchandise and/or products which are or shall become forfeited to Tenant, orders taken in and from the Leased Premises for merchandise whether or not filled elsewhere, commissions received on vending machines or other coin operated devices, sales of merchandise or products by any sublessee, concessionaire or licensee of Tenant or~~

~~otherwise in the Leased Premises, and the retail value of any and all goods, services, food or merchandise received by employees in lieu of earnings.~~

~~Gross Sales, however, shall not include any sums collected or paid out by Tenant for any sales, use, occupation or retail excise tax imposed by any duly constituted governmental authority upon purchases from Tenant at retail and collectible by Tenant from purchasers, nor the amount of returns to shippers or manufacturers, exchanges, allowances and discounts and transfers of merchandise from the Leased Premises to other stores of Tenant.~~

~~Each sale upon installment or credit shall be regarded as a sale for the full price in the month during which the sale shall be made, irrespective of the time when Tenant shall receive payment from its customer, but lay a way sales shall not be taken into account until they shall become actual sales, except for forfeited lay a way sales as above provided. No deduction shall be allowed for uncollected or uncollectible credit accounts.~~

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~~Section 3.4 Sales Records, Reports and Examination. Tenant hereby agrees to maintain adequate records (conforming to generally accepted accounting practices) showing all of the Gross Sales at, in, from and upon the Leased Premises for each Lease Year. Percentage Rent shall be calculated on a Lease Year (January 1st through December 31st) basis and may not coincide with Fixed Minimum Rent increases as set forth above. Base Gross Sales Amount for the first calendar year of the Lease Term will be prorated from the Rent Commencement Date through the first following December 31st, and for the last calendar year of the Lease Term, from January 1st through the expiration or earlier termination of the Lease.~~

~~On or before the tenth day of each calendar month during the term hereof, and on or before the tenth day of the first calendar month following the termination hereof, Tenant shall furnish Landlord a sworn statement duly certified by Tenant, showing the sales (computed as herein provided) made by Tenant, its sublessee, concessionaires, and licensees, if any, during the preceding calendar month or portion thereof.~~

~~On or before January 20th next following the end of each Lease Year, Tenant shall furnish to Landlord a sworn statement duly certified by Tenant, showing the Gross Sales (computed as herein provided) made by Tenant, its sublessee, concessionaires, and licensees, if any, during the preceding Lease Year, and Tenant shall pay at such time the entire amount of Percentage Rent then due hereunder for such period.~~

~~If any sales report required is not received by Landlord in a timely manner, Landlord shall have the right to schedule an audit at Tenant's expense.~~

~~For the purpose of ascertaining the amount of Percentage Rent properly payable hereunder, Tenant agrees to prepare and keep on the Leased Premises or at Tenant's principal offices, for a period of not less than three (3) years following the end of each Lease Year adequate records which shall show inventories and receipts of merchandise at the Leased Premises and receipts from all sales and other transactions on the Leased Premises by Tenant and any other persons conducting any business upon the Leased Premises.~~

~~Landlord or its duly authorized representatives may, on regular business days and during reasonable office hours, inspect Tenant's records of sales made in the Leased Premises annually, either at the Leased Premises or at Tenant's principal office, provided that such inspection is made within three (3) years after a statement of sales is furnished to Landlord by Tenant and limited to the period covered by such statement. Any claim by Landlord for revision of any statement of sales or for Additional Rent must be made in writing to Tenant within three (3) years after the date such statement of sales is mailed to Landlord; otherwise it shall be deemed waived by Landlord. If Landlord's audit shall disclose a deficiency in Percentage Rental paid for any Lease Year to the extent of three (3%) percent or more, Tenant shall promptly pay to Landlord the amount of such deficiency and the cost of such audit.~~

ARTICLE IV
COMMON AREAS AND OPERATING COSTS

Section 4.1 Common Areas. Landlord shall make available within the Shopping Center such common areas, including, but not limited to, parking areas, driveways, truck ways, delivery passages, loading docks, pedestrian sidewalks and ramps, access and egress roads, open and enclosed courts and malls, landscaped and planted areas, public restrooms and other facilities, as Landlord in its sole discretion shall deem appropriate (the "Common Areas"). It is hereby expressly understood and agreed by Landlord and Tenant that Landlord shall operate, manage, equip, light, repair and maintain said Common Areas for their intended purposes in such manner as Landlord in its sole discretion shall determine, and Landlord reserves the right to change from time to time the size, location, nature and use of any Common Area, to sell or lease any portion thereof, and to make additional installations therein and to move and remove the same.

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Section 4.2 Use of Common Areas. Tenant and its ~~concessionaires~~, officers, employees, agents, customers and invitees, shall have the non-exclusive right, in common with Landlord and all others to whom Landlord has or may hereafter grant rights, to use the Common Areas as designated from time to time by Landlord subject to such reasonable rules and regulations as Landlord may from time to time impose, including the designation of specific areas in which cars owned by Tenant, its ~~concessionaires~~, officers, employees and agents must be parked. Tenant agrees to abide by such rules and regulations attached hereto and such further and additional rules and regulations after notice thereof, and to use its best efforts to ensure its ~~concessionaires~~, officers, employees, agents, customers and invitees to conform thereto. Landlord agrees such reasonable rules and regulations concerning the use of the common areas shall not interfere with, restrict or degrade the Tenant's ability to provide law enforcement services consistent with the stated purposes of this Lease. Landlord may at any time temporarily close any Common Area to make repairs or changes, to prevent the acquisition of public rights in such area or to discourage non-customer parking; and Landlord may do such other acts in and to the Common Areas as in its judgment may be desirable to improve the convenience thereof. Tenant shall upon request furnish to Landlord the license numbers of the cars operated by Tenant and its ~~concessionaires~~, officers and employees. Tenant shall not at any time interfere with the rights of Landlord and other tenants, its and their ~~concessionaires~~, officers, employees, agents, customers and invitees, to use any part of the parking areas and other Common Areas. Neither Tenant nor Tenant's employees, ~~concessionaires~~ or agents shall ~~solicit business in the parking or other Common Areas nor~~ distribute any handbills or other advertising matter in the parking areas or other Common Areas ~~such areas~~ or place any such handbills or advertising matter in or on any automobiles parked therein without Landlord's written consent.

Landlord reserves the right to grant to third persons the non-exclusive right to cross over and use in common with Landlord and all tenants of the Shopping Center the Common Areas as designated from time to time by Landlord.

Section 4.3 Operating Costs. ~~During each month of the Lease Term, Tenant shall pay, along with its monthly installments of Fixed Minimum Rent and without demand, deduction or set off, as Additional Rent to Landlord, Tenant's Operating Charge, and Tenant's proportionate share of the Insurance Payment and the Tax Payment.~~

~~The term "Tenant's Operating Charge" shall include all costs, expenses and payments incurred by Landlord, including appropriate reserves in maintaining, administering, replacing, repairing, and operating the Shopping Center including, without limitation: (a) the costs of operating, maintaining, repairing, replacing, lighting, cleaning, painting, snow and ice removal, trash removal, maintaining trash receptacles, striping, restriping and overlay of parking and other paved areas, painting of exterior surfaces of buildings and other improvements in the Shopping Center, draining, heating, ventilating, air conditioning and landscaping the Shopping Center and facilities and buildings located thereon (including, but not limited to, the matters set forth in Section 6.1 hereof, the roof of any building, sprinkler system, walls, signs, and public areas of the Shopping Center); (b) gas, electricity, water, sanitary sewer, storm sewer, fire protection lines, and any usage, service, hook up, connection, availability and/or standby fees, deposit or charges pertaining to same, and other utility charges (including surcharges) of every type and nature for services provided to the common and public areas of the Shopping Center; (c) the costs of service and~~

~~maintenance contracts; (d) management fees and personnel costs, including, but not limited to, salaries, wages, fringe benefits and other direct and indirect costs of engineers, superintendents, watchmen, porters and any other Shopping Center personnel; (e) all other maintenance and repair expenses and supplies which are deducted by Landlord in computing its Federal income tax liability; (f) depreciation / allocation of all capital expenditures made by Landlord to repair, maintain, improve, remodel, decorate, and/or upgrade the Shopping Center (excluding initial capital expenditures incurred in constructing the Shopping Center); (g) costs and expenses incurred in connection with maintaining federal, state or local government ambient air and environmental standards and the cost of all materials, supplies and services purchased or hired therefor; (h) reasonable reserves for replacements, repairs and contingencies, including, but not limited to roof and paving reserves; (i) depreciation of machinery and equipment owned by Landlord and used in connection with the operation, maintenance and repair of the common and public areas of the Shopping Center, or the rental charges for such machinery and equipment; plus (j) an administrative fee equal to fifteen (15%) percent of the foregoing costs, regardless of whether Tenant is directly benefitted by any such costs, expenses, and/or payments.~~

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~~Landlord may, but shall have no obligation to, from time to time, employ one or more persons or entities to patrol or provide security services in the Common Areas. If Landlord elects to provide such patrol or security services, the cost thereof shall be included in Tenant's Operating Charge. Notwithstanding any such activity, Tenant assumes full responsibility for the protection of the Leased Premises, Tenant, and Tenant's employees, invitees, licensees, guests and customers against the acts of any third party, and will indemnify, defend, and hold harmless Landlord from any such claims made by the above specified persons of any damages, including attorney's fees, resulting therefrom.~~

~~The term "Insurance" as used in this Lease shall include, but not be limited to, all costs, expenses and payments incurred by Landlord, including appropriate reserves for insuring the Shopping Center and facilities located therein, including liability insurance for personal injury, wrongful arrest or detainment, death and property damage; insurance and extended coverage against fire, theft, flood or other casualty; rent insurance; business interruption insurance, terrorism insurance; pollution insurance; Workers' Compensation insurance; fidelity bonds for personnel; plate glass insurance; the payment of premiums and deductible amounts; and an administrative fee equal to fifteen percent (15%) of the foregoing costs, regardless of whether Tenant is directly benefitted by any such costs, expenses, and/or payments.~~

~~The term "Tax" or "Taxes" as used in this Lease shall include, but not be limited to: (1) any form of tax or assessment, fee, license fee, license tax, business license fee, commercial rental tax, levy, charge, assessment, penalty or tax imposed by any federal, state, county or city authority having jurisdiction or any political subdivision thereof or any district, including special district for any improvements, maintenance, school, street, storm drain, sidewalk, community facility, traffic lights, parking facilities, park and ride, drainage, lighting or landscape, which are imposed on any legal or equitable interest of Landlord in the Shopping Center, (2) any tax on Landlord's right to receive, or the receipt of, Rent or income from the Shopping Center or against Landlord's business of leasing the Shopping Center and any tax based on the size of the Shopping Center, (3) any tax, bond or charge for police or fire protection, street, sidewalk and road maintenance, or other services provided to the Shopping Center by any governmental agency, (4) any tax imposed upon this transaction or based on a reassessment of the Shopping Center due to improvements to the Shopping Center, or a change in the fee ownership of the Shopping Center or the transfer of all or part of Landlord's interest in the Shopping Center, (5) any charge or fee (whether or not constituting tax receipts to a governmental agency) replacing, in whole or in part, any tax now or previously included within the definition of Taxes, including for services formerly provided without charge to property owners or occupants or to increase tax increments to governmental agencies, (6) all taxes, public charges and assessments of whatsoever nature directly or indirectly assessed or imposed upon the land, buildings, equipment and improvements constituting the Shopping Center and the rents therefrom, including, but not limited to, all personal property taxes, all real property taxes, rates, duties and assessments, local improvement taxes, import charges or levies, whether general or special, that are levied, charged or assessed against the Shopping Center by any lawful taxing authority whether federal, state, county, municipal, school or otherwise (other than income, inheritance and franchise taxes thereon), (7) Real Property Taxes, (8) all dues, fees, assessments, and charges imposed upon the land, buildings, equipment~~

~~and improvements constituting the Shopping Center and the rents therefrom by any private association formed or to be formed for, among other things, the purpose of maintaining, repairing or improving the Shopping Center or any portion thereof, plus (9) an administrative fee equal to fifteen (15%) percent of the foregoing costs, regardless of whether Tenant is directly benefitted by any such costs, expenses, and/or payments. Taxes do not, however, include Landlord's federal, state or city income, franchise, inheritance, or estate taxes. Taxes for the first and last years of the Lease Term shall be prorated and apportioned between Landlord and Tenant to coincide with the commencement and expiration of the Lease Term.~~

~~Tenant's proportionate share of the Insurance Payment and Tax Payment shall be computed in accordance with Section 17.10 of this Lease. Tenant shall pay its proportionate share of the Insurance Payment and Tax Payment in advance on the first day of each month during the Lease Term hereof, based on estimates made by Landlord from time to time but not more frequently than twice during any calendar year. Initial estimates of the Insurance Payment is set forth in ARTICLE I, Section 1.1(J) and initial estimated costs of the Tax Payment is set forth in ARTICLE I, Section 1.1(K). Within one hundred eighty (180) days after the end of each Lease Year (including the final Lease Year, whether or not the same expires on December 31) or as soon thereafter as practical, Landlord shall provide a statement to Tenant showing: (i) the amount of actual Insurance and Taxes for such Lease Year, (ii) any amount paid by Tenant towards the Insurance Payment and the Tax Payment during such Lease Year on an estimated basis, and (iii) any revised estimate of Tenant's obligations for the Insurance Payment and Tax Payment for the current Lease Year. Should Insurance and Taxes be underestimated, Tenant shall pay any deficiency along with the payment of Rent next due and thereafter pay its adjusted proportionate share of the Insurance Payment and Tax Payment in equal monthly installments as herein provided. Any excess payments shall be credited against the payments of Rent next due by Tenant, or with respect to the last Lease Year of this Lease, shall be paid to Tenant, provided Tenant is not in default of this Lease, within one hundred twenty (120) days following expiration of this Lease.~~

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~~As Tenant's obligation to pay Tenant's Operating Charge has been freely negotiated and agreed upon between the parties, is predetermined, and is not subject to dispute, challenge at law or in equity, Tenant shall have no express or implied right to examine, inspect or audit Landlord's records pertaining to Tenant's Operating Charge; and the only adjustment of Tenant's Operating Charge shall be the increase more particularly set forth in Section 1.1(I) above.~~

ARTICLE V UTILITY SERVICES

Section 5.1 Utilities. Tenant shall promptly pay for all public utilities rendered or furnished to the Leased Premises from and after the Turnover Date of the Leased Premises (irrespective of whether Tenant shall have opened for business in the Leased Premises), including, but not limited to, water, gas, electricity and sewer charges and all taxes thereon. Landlord, at its election, may install re-registering meters and collect any and all charges aforesaid from Tenant, making returns to the proper utility company or governmental unit, provided that Tenant shall not be charged more than the rates it would be charged for the same services if furnished directly to the Leased Premises by such companies or governmental units.

Section 5.2 Furnishing of Utility Services. Any utility or related service, including a privately owned sewerage disposal system, which Landlord elects to provide or cause to be provided to the Leased Premises may be furnished by any agent employed by Landlord or by an independent contractor selected by Landlord, and Tenant shall accept the same therefrom to the exclusion of all other suppliers so long as the rates charged by the Landlord or by the supplier of such utility or related service are competitive. Interruption or impairment of any such utility or related service caused by or necessitated by repairs or improvements, or by hazards beyond the reasonable control of Landlord, shall not give rise to a right or cause of action by Tenant against Landlord in damages or otherwise.

ARTICLE VI REPAIRS AND MAINTENANCE

Section 6.1 Repairs by Landlord. Landlord shall make and pay for all repairs to the exterior supporting walls of the building which the Leased Premises are a part, foundation, roof (including drains, downspouts, flashing and parapets), sidewalks, parking areas and curbs, provided that Tenant shall promptly give Landlord written notice of the necessity for such repairs, and provided that the damage thereto shall not have been caused by negligence or willful misconduct of Tenant, its concessionaires, officers, agents, employees, licensees, or invitees, in which event Tenant shall be responsible therefor. Landlord shall have no obligation to repair, maintain, alter, or perform any other acts with reference to the Leased Premises or any part thereof, or any plumbing, heating, ventilating, electrical, air conditioning, or other mechanical installations therein and/or servicing the Leased Premises.

Section 6.2 Repairs and Maintenance by Tenant. The Tenant shall, at its sole cost and expense, maintain, replace and keep in good order, condition, and repair the following: the interior of the Leased Premises, all fixtures, furnishings, lighting, doors, signs, air conditioning, ventilation, plumbing, heating and electrical installations in and/or servicing the Leased Premises, floor surfaces, exterior entrances, glass windows, glass doors, glass walls, walls, moldings, bulkheads, ceiling, partitions, equipment and appurtenances thereof. Tenant shall also maintain such items in a reasonably satisfactory condition of cleanliness including reasonably periodic painting of the interior of the Leased Premises. Tenant shall contract for, in its own name, and shall pay for a qualified service contractor to periodically inspect, adjust, clean and repair all HVAC systems serving the Leased Premises, including changing filters on a quarterly basis. Tenant shall promptly furnish a copy of each inspection and service report to the Landlord. Tenant shall also make any and all other reasonably necessary repairs in and to the Leased Premises.

If Tenant refuses or neglects to repair property as required hereunder to the reasonable satisfaction of Landlord as soon as reasonably possible after written demand, Landlord may make such repairs without liability to Tenant for any loss or damage that may occur to Tenant's merchandise, fixtures, or other property or to Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay Landlord's costs for making such repairs plus twenty (20%) percent for overhead, upon presentation therefore, as Additional Rent. Such bill shall include interest at the highest permissible non-usurious rate, or, if there is none, then at fifteen (15%) percent per annum on the cost from the date of completion of repairs by Landlord.

Within ten (10) days after the expiration or earlier termination of this Lease, Tenant shall provide Landlord with documentation satisfactory to Landlord evidencing that as of the expiration or earlier termination date, all systems and equipment to the Leased Premises, including, but not limited to, mechanical, electrical, heating, air, and plumbing, were in working order and condition as of the date of such expiration or termination. If Tenant fails to provide the required documents or fails to return all systems and equipment in the Leased Premises to Landlord in working order and condition, and Landlord incurs costs as a result thereof within six (6) months from the expiration or earlier termination of this Lease, Tenant shall reimburse Landlord for its costs within ten (10) days after Landlord sends Tenant a request for reimbursement. The provisions hereof shall survive the expiration or earlier termination of this Lease.

Section 6.3 Inspection. Landlord or its representatives shall have the right to enter the Leased Premises at reasonable hours of any business day during the Lease Term to ascertain if the Leased Premises are in proper repair and condition. Notwithstanding the foregoing, in the event of an emergency situation, Landlord shall have the right to enter the Leased Premises without any advance notice. Neither Landlord, its agents, employees, inspectors, vendors, or contractors may enter the Leased Premises without prior notice of the Tenant and the presence of at least one representative of the Tenant for any period Landlord desires to inspect the Leased Premises.

Section 6.4 Trash, Ice and Snow. Tenant agrees to use reasonable diligence to keep the sidewalks and outside areas immediately adjoining the Leased Premises free from ice and snow, and at all times to broom-clean or otherwise keep said sidewalks and outside areas free of trash, litter or obstructions of any kind.

ARTICLE VII
USE OF LEASED PREMISES

Section 7.1 Use of the Leased Premises. Tenant covenants and agrees to use the Leased Premises only for the permitted uses set forth in ARTICLE I, Section 1.1(E), and for no other purpose.

Tenant shall, at its own cost and expense: (a) comply with all governmental laws, ordinances, orders and regulations affecting the Leased Premises now in force or which hereafter may be in force, including but not limited to, the Americans with Disabilities Act *as Amended*; (b) comply with and execute all rules, requirements and regulations of the Board of Fire Underwriters, Landlord's insurance companies and other organizations establishing insurance rates; (c) not suffer, permit or commit any waste or nuisance; (d) not allow anything in or about the Leased Premises that is unlawful, immoral, obscene, pornographic, or which tends to create or maintain a nuisance or do any act tending to injure the reputation of the Shopping Center; and (e) not conduct any auction, distress, fire, bankruptcy, close-out, "loss of our lease", or going-out-of-business sale.

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Tenant hereby agrees not to handle, store or dispose of any hazardous or toxic waste or substance upon the Leased Premises which is regulated or prohibited by federal, state or local statutes, ordinances or regulations. Tenant hereby covenants to indemnify and hold Landlord, its successors and assigns, harmless from any loss, damage, claims, costs, liabilities or cleanup costs arising out of Tenant's use, handling, storage or disposal of any such hazardous or toxic wastes or substances on the Leased Premises. Tenant's covenants contained in this ARTICLE VII shall survive the expiration or earlier termination of this Lease.

Landlord may enforce this Section 7.1 by cancellation of this Lease, injunctive or other equitable relief, in addition to any other legal remedies available to Landlord and in the event of any such legal or equitable action, Landlord shall, among other things, be entitled to recover attorneys' fees and costs.

Section 7.2 Rules and Regulations. Tenant's use of the Leased Premises shall be subject, at all times during the Lease Term, to Landlord's right to adopt from time to time, modify and/or rescind reasonable rules and regulations not in conflict with any of the express provisions hereof governing the use of the Leased Premises, parking areas, malls, walks, driveways, passageways, signs, exteriors of buildings, lighting and other matters affecting other tenants in, and the general management and appearance of the Shopping Center of which the Leased Premises are a part, but no such rule and/or regulation shall discriminate against Tenant. Tenant agrees to comply with all such rules and regulations. The initial rules and regulations adopted by the Landlord are shown on Exhibit C attached hereto.

Tenant's failure to keep and observe said rules and regulations shall constitute a breach of the terms of this Lease in the manner as if the same were contained herein as covenants.

Section 7.3 Signs, Awnings and Canopies. Landlord may erect and maintain such suitable signs as it, in its sole discretion, may deem appropriate to advertise the Shopping Center. Tenant shall erect and maintain on the exterior of the Leased Premises a sign or signs which shall be of size, style and type and in such locations as Landlord may approve in writing. Tenant shall keep insured and shall maintain such signs in good condition and repair at all times. If any damage is done to Tenant's signs, Tenant shall repair same within five (5) days or Landlord shall have the right to repair such signs and bill Tenant for the cost of such repairs plus twenty (20%) percent for overhead, upon presentation therefore, as Additional Rent. Such bill shall include interest at the highest permissible non-usurious rate, or, if there is none, then at fifteen (15%) percent per annum on the cost from the date of completion of repairs by Landlord, and shall be due upon demand from Landlord.

Except as otherwise provided herein, Tenant will not place or suffer to be placed or maintained on any exterior door, wall or window of the Leased Premises any sign, awning or canopy, or advertising matter or other things of any kind, and will not place or maintain any decoration, lettering or advertising matter on either the interior or exterior glass of any window or door of the Leased Premises without first obtaining Landlord's written approval and consent. Tenant further

agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or other things as may be approved by Landlord in good condition and repair at all times.

Section 7.4 Noise, Obstruction and Nuisances. Tenant, at Tenant's sole expense, shall maintain the Leased Premises in a clean, sanitary and quiet manner and shall take such steps as may be necessary to do so. Tenant covenants that it will not (a) display any merchandise or maintain any stands in front of the Leased Premises or of the line of buildings in the Shopping Center; (b) erect or maintain any barricade or scaffolding which may obscure the signs, entrances or show window of any other tenant in the Shopping Center, or tend to interfere with any other tenant in the Shopping Center, or tend to interfere with any such other tenant's business; (c) create or maintain, or allow others to create or maintain, any nuisances, including without limiting the foregoing general language, disturbances, loud noises, sound effects, including music associated with Tenant's business or from the operation of an instrument, apparatus, equipment, radio, television or amplification system, offensive or noxious odors and smoke or dust in or about the Leased Premises; (d) place or maintain any signs in any parking area serving the Leased Premises; (e) or maintain or allow to be maintained any excessively bright lights, changing, flashing, flickering or lighting services or similar devices, the effect of which will be visible from the exterior of the Leased Premises. Upon Tenant's receipt of notice of any complaint of odor or noise that may be resulting from, directly or indirectly, the operation of Tenant's business outside the customary conduct of the same, Tenant, at Tenant's sole expense, shall take such steps as may be necessary to immediately remedy such odor or noise. Notwithstanding the foregoing, if Tenant fails to promptly remedy such odor or noise to Landlord's reasonable satisfaction, Landlord, in addition to Landlord's other remedies for breach of Tenant's obligations hereunder, may take such action it deems appropriate to cure such odor or noise, and the total costs incurred by the Landlord shall be deemed Additional Rent hereunder and shall be paid by Tenant to Landlord upon demand.

Section 7.5 Special Provisions.

- (a) Trash Dumpster. Tenant shall place all waste, garbage and other trash generated from Tenant's business at the Leased Premises in dumpsters as and if provided by and maintained by Landlord in the area of the Shopping Center reasonably adjacent to the Leased Premises. Landlord shall cause such dumpsters to be picked up and all refuse and trash removed therefrom on a periodic basis. Any waste or garbage, and any food or other merchandise delivered, stored or accumulated by Tenant outside of the Leased Premises (other than garbage placed in the Shopping Center trash containers) may be removed immediately by Landlord without notice to Tenant and the cost of such removal together with a \$50 per occurrence charge to cover Landlord's administrative cost in providing such service to Tenant, shall be Additional Rent payable by Tenant to Landlord upon demand. If Tenant generates trash in excess of what is customary and reasonable for similar uses in other first class shopping centers in the immediate vicinity of the Shopping Center, Tenant shall pay the additional costs associated with such excessive use, which may include the cost of (i) a larger or additional trash container(s), and (ii) additional trash pickups by the service provider for the same.
- (b) Pest Control. *Tenant shall be responsible and at its own expense during the period of the Lease term and any renewals for pest control services on such Leased Premises. Tenant is responsible that such pest control services either by Tenant's employees or by bonded professional pest control contract services use only such pesticides and other chemicals approved for such use and that such pesticides and chemicals shall not be poured or placed in any drains, wastewater or other sewerage piping.*
- ~~Tenant, at Tenant's expense, shall maintain at all times throughout the Lease Term, as it may be extended, a written service contract with licensed, bonded professional pest and sanitation control services as Landlord may direct and at such intervals as Landlord may require to perform actions and services for the purposes of keeping the Leased Premises constantly pest free and vermin free, including control for the following: cockroaches, ants, weevils, silverfish, spiders, beetles, rats, mice and rodents of all types.~~

- (c) ~~Drains and Grease Traps.~~ Tenant acknowledges that health department requirements may require that the kitchen drain from the Leased Premises to the main sewer line be enlarged as a result of the anticipated or actual use of the Leased Premises by Tenant. In such event, and without further notice to Tenant, Landlord may (but is not required to) install, at its initial expense, a grease trap in the floor drain of the kitchen of the Leased Premises if required by applicable ordinance or code, enlarge such sewer line, and install such grease trap, and charge back the costs and expenses thereof to Tenant. Tenant shall be responsible for the pro rata costs (along with other tenants who are connected to the same grease trap line) for the maintenance, repair and/or replacement of such grease trap in such manner as may be required by the health department or other governmental authorities having jurisdiction. In the event such disposal lines, drains and/or grease trap are not installed by Landlord or any replacement thereof shall be required, the same shall be performed by Tenant at its sole cost and expense after written consent shall be received from Landlord. Tenant shall be

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~~obligated to hire a service contractor to properly inspect (not less than quarterly) and maintain all disposal lines, drains, exhaust systems and/or grease traps during the Term of this Lease at its sole cost and expense.~~

- (d) ~~Health Department Notices.~~ Tenant shall comply with all health department and other governmental rules and regulations applicable to Tenant's operations in the Leased Premises and shall promptly: (i) furnish or cause to be furnished to Landlord copies of all health department and other governmental reports, notices and violations issued with respect to the Leased Premises; and (ii) cure or otherwise eliminate all violations noted by the health department and other governmental authorities and take all required actions to prevent the reoccurrence of such violations.

ARTICLE VIII TENANT'S BUSINESS OPERATIONS

Section 8.1 ~~Retail Restriction Limit.~~ During the Lease Term, Tenant shall not, directly or indirectly, engage in any business similar to or in competition with that for which the Leased Premises are let within a radius of five (5) miles of the outside boundary of the Shopping Center without Landlord's written consent. Landlord for breach of this covenant by Tenant and in addition to any other remedy otherwise available, may require that all sales made from such other store of the Tenant owned directly or indirectly, within such five (5) mile radius, be included in the computation of the Percentage Rent as though said sales had been made from the Leased Premises.

Section 8.2 Relationship of the Parties. Nothing herein contained shall be deemed or construed as creating the relationship of principal and agent or of partnership or joint venture between the parties hereto; it being understood and agreed that neither the method of computing Rent nor any other provision contained herein nor any acts of the parties hereto shall be deemed to create any relationship between the parties other than that of Landlord and Tenant.

Section 8.3 Continuous Operation By Tenant. Tenant shall open the Leased Premises for business on the Lease Term Commencement Date provided herein and will operate one hundred (100%) percent of the Leased Premises during the entire Lease Term and any renewals thereof under the name set forth in this Lease or such other name as Landlord may approve in writing, ~~with due diligence and efficiency so as to produce all of the Gross Sales which may be produced by such manner of operation.~~ Tenant shall carry at all times in said Leased Premises a stock of merchandise of such size, character and quality as shall be reasonably designed to produce the maximum return to Landlord and Tenant. Tenant shall conduct its business in the Leased Premises at least six (6) days per week, Monday through Saturday, between the hours of 10 o'clock a.m. and 9 o'clock p.m., or such other additional hours as the majority of other occupants of the Shopping Center. Tenant shall have its window displays, exterior signs, and exterior advertising displays adequately illuminated continuously during those hours and days that the Leased Premises are required to be open for business to the public. A vacation of premises or cessation of operations by any other tenant(s) in the Shopping Center shall not in any way release Tenant from Tenant's obligation under this Lease, such obligations being independent covenants of this Lease.

~~Section 8.4 Conduct of Business. Tenant shall conduct its business in a reputable and first class manner as is typically found in first class shopping centers. Storage and office space in the Leased Premises shall be limited to that necessary for, and used in conjunction with, the business conducted in the Leased Premises as permitted under this Lease. Sales and services shall be provided only on a retail basis to the general public.~~

~~Section 8.5 Trade Name. Tenant shall conduct Tenant's business only under the trade name set forth in Section 1.1(C) above.~~

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ARTICLE IX
ADDITIONS, ALTERATIONS AND TRADE FIXTURES

Section 9.1 By Landlord. Landlord hereby reserves the right at any time to make alterations or additions to the building in which the Leased Premises are contained and to build additional stores thereon. No improvements to the Leased Premises by the Landlord are contemplated under this Lease. If the Landlord makes any improvements to the Leased Premises during the course of this Lease, Tenant shall be notified in writing and shall not unreasonably withheld any acceptance or approval. Landlord also reserves the right to construct other buildings or improvements in the Shopping Center or Common Areas from time to time and to make alterations thereof or additions thereto and to build additional stories on any such building or buildings so constructed.

Section 9.2 By Tenant. Tenant shall not make any structural, electrical, storefront, exterior, major interior or mechanical alterations to the Leased Premises without obtaining the prior written consent of Landlord. Tenant shall not interfere with any work in the Shopping Center, and shall not cause the closing, interruption or impairment of any other tenant's normal conduct of business. All alterations, additions, improvements and Tenant's Work shall become, upon expiration of the Term, or the earlier termination of this Lease, the property of Landlord without any payment by Landlord. All such work by Tenant shall be at Tenant's sole cost and expense, shall be made under the supervision of a licensed architect or licensed structural engineer, and shall be in accordance with plans and specifications approved in writing by Landlord before the start of the work. ~~Tenant shall pay Landlord for review of final plans at the rate of \$0.85 per square foot of space in the Leased Premises.~~ Landlord's approval of Tenant's plans and specifications shall not create a responsibility or liability of Landlord for their accuracy, sufficiency or compliance with laws or rules and regulations. The work shall be in accordance with necessary governmental approvals and permits. Tenant shall obtain approvals and permits at its sole expense. The work shall be done in a good and workmanlike manner, in accordance with accepted building practices and so as not to weaken or impair the strength or substantially lessen the value of the building in which the Leased Premises are located, and shall be diligently prosecuted to completion.

Roof penetrations by Tenant (with requisite advance written approval of Landlord) shall be held to a minimum. Penetrations, flashing and patching of the roofing system shall be made by Landlord's roofing contractor, subject to Landlord's prior written approval, at Tenant's expense. Any structural framing or structural calculations required by Landlord's engineer because of or as a result of Tenant's roof penetrations shall be performed at Landlord's option by Landlord's contractor, at Tenant's expense. Any associated curbs, skids, etc., which can impact the roof membrane shall be designed in accordance with the membrane manufacturer's recommendations and installed by Landlord's roofing contractor, at Tenant's expense.

Section 9.3 Indemnity and Insurance. Tenant shall indemnify and hold Landlord harmless from any and all claims for damage or otherwise based upon or in any manner growing out of any alterations or construction undertaken by Tenant under the terms of this Lease, including all costs, damages, expenses, court costs and attorney's fees incurred in or resulting from claims made by other tenants of premises in the Shopping Center, their agents, employees, patrons and invitees.

consistent with any excess retention policy maintained by the Tenant and without waiving any defenses or assertions of immunity as provided by law.

Before undertaking any alterations or construction, Tenant shall obtain and pay for a public liability policy insuring Landlord and Tenant against any liability which may arise on account of such proposed alterations or construction work in limits of not less than \$1,000,000.00 for any one person, \$3,000,000.00 for more than one person in any one accident and \$1,000,000.00 for property damage and a certificate or copy of such policy shall be delivered to Landlord prior to the commencement of such proposed work. Tenant shall also maintain at all times fire insurance with extended coverage in the name of Landlord and Tenant as their interest may appear in an amount adequate to cover the cost of replacement of all alterations, decorations, additions or improvements in and to the Leased Premises, and all trade fixtures therein, in the event of fire or extended coverage loss. Tenant shall deliver to Landlord a certificate of such fire insurance policies which shall contain a clause requiring the insurer to give Landlord ten (10) days' notice of cancellation of such policies.

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Section 9.4 Mechanic's Liens. If by reason of any alteration, repair, labor performed or materials furnished to the Leased Premises for or on behalf of Tenant any mechanic's or other lien shall be filed, claimed, perfected or otherwise established as provided by law against the Leased Premises, Tenant shall discharge or remove the lien by bonding or otherwise, within thirty (30) days after notice from Landlord to Tenant of the filing of same.

Section 9.5 Trade Fixtures. Tenant may install such fixtures and equipment (including by not limited to data and telephone lines) as may be necessary for its purposes of operation in the Leased Premises without a violation of the terms hereof and, at the end of the term may remove the same. All trade fixtures and equipment installed by Tenant in the Leased Premises shall be new or completely reconditioned and shall remain the property of Tenant. Tenant shall obtain the written consent of Landlord before installing any fixtures or equipment.

~~Provided Tenant is not in default hereunder,~~ At the expiration of the Lease Term or any extension, Tenant shall have the right, at the expiration or earlier termination of this Lease, to remove any and all trade fixtures, equipment and other items of personal property not constituting a part of the freehold which it may have stored or installed in the Leased Premises, including, but not limited to, counters, shelving, show cases, chairs and movable machinery purchased by Tenant and which are susceptible to being moved without damage to the building, provided this right is exercised before the Lease is terminated or during the ten (10) day period prior to such termination and provided that Tenant shall repair any damage to the Leased Premises caused thereby. Any damage inflicted to the Leased Premises by the removal of fixtures and/or equipment shall be repaired at Tenant's sole cost and expense. Included by way of illustration and not limitation are any holes left in the walls, ceiling or floor and/or any bolts extending from the walls, ceiling or floor caused by the removal of fixtures and/or equipment. The right granted Tenant in this Section 9.5 shall not include the right to remove any plumbing or electrical fixtures or equipment, heating or air-conditioning equipment, floor coverings (including wall-to-wall carpeting) glued or fastened to the floors or any paneling, tile or other materials fastened or attached to the walls or ceilings, all of which shall be deemed to constitute a part of the freehold, and, as a matter of course, shall not include the right to remove any fixtures or machinery that were furnished or paid for by Landlord. In the event Tenant fails to perform any of the foregoing requirements and Landlord incurs any expenses in the removal, replacement or repair thereof, Tenant will be responsible for reimbursement to the Landlord for its expenses within ten (10) days of receipt of such bill or statement from Landlord. Tenant's obligations to observe or perform this covenant shall survive the expiration or earlier termination of this Lease. If Tenant shall fail to remove its trade fixtures or other property at the expiration or earlier termination of this Lease, such trade fixtures and other property not removed by Tenant shall be deemed abandoned by Tenant and, at the option of Landlord, shall become the property of Landlord.

ARTICLE X INSURANCE

Section 10.1 Tenant's Coverage. Tenant shall maintain at its sole expense during the term hereof, public liability insurance covering the Leased Premises in an amount of \$1,000,000.00 for injury and/or

death to any one person and \$3,000,000.00 for injury and/or death to any number of persons in any one accident and property damage insurance in an amount of \$1,000,000.00 in companies satisfactory to Landlord in the joint names of Landlord and Tenant. Tenant shall also keep in force rent insurance as well as fire and extended coverage insurance for the full replacement value of Tenant's improvements and Tenant's property, including, but not limited to, inventory, trade fixtures, furnishings and other personal property. Tenant will cause such insurance policies to name Landlord as an additional insured and to be written so as to provide that the insurer waives all right of recovery by way of subrogation against Landlord in connection with any loss or damage covered by the policy. In addition, Tenant shall keep in force Workers' Compensation or similar insurance to the extent required by law. Tenant shall deliver said policies or certificates thereof to Landlord at least ten (10) days prior to the Lease Term Commencement Date. Should Tenant fail to effect the insurance called for herein, Landlord may, at its sole option, procure said insurance and pay the requisite premiums, in which event, Tenant shall pay all sums so expended to Landlord, as Additional Rent following invoice. Each insurer under the policies required hereunder shall agree by endorsement on the policy issued by it or by independent instrument furnished to Landlord that it will give Landlord thirty (30) days' prior written notice before the policy or policies in question shall be altered or canceled.

Section 10.2 Increase in Fire Insurance Premium. Tenant shall not keep, use, sell or offer for sale in or upon the Leased Premises any article which may be prohibited by the standard form of fire insurance policy. In the event Tenant's occupancy in any manner whatsoever causes any increase in premium for the fire, casualty, extended coverage, liability, rent or any other insurance rates on the Leased Premises or the Shopping Center, Tenant shall pay the additional premium on the fire, casualty, extended coverage, liability, rent or any other insurance policies by reason thereof. In determining whether increased premiums are the result of Tenant's use of the Leased Premises, a schedule, issued by the organization making the insurance rate on the Leased Premises, showing the various components of such rate, shall be conclusive evidence of the several items and charges which make up the fire insurance rate on the Leased Premises. Bills for such additional premiums shall be rendered by Landlord to Tenant at such times as Landlord may elect, and shall be due from, and payable by, Tenant when rendered, and the amount thereof shall be deemed to be, and be paid as, Additional Rent.

ARTICLE XI TENANT'S PROPERTY

Section 11.1 Taxes. Tenant shall be responsible for and shall pay before delinquency all municipal, county or state taxes, levies and fees of every kind and nature, including, but not limited to, general or special assessments assessed during the Lease Term against any personal property of any kind, owned by or placed in, upon or about the Leased Premises by the Tenant and taxes assessed on the basis of Tenant's occupancy thereof, including, but not limited to, taxes measured by Rents due from Tenant hereunder.

Section 11.2 Notices by Tenant. Tenant shall give immediate telephone or telegraphic notice to Landlord in case of fire, casualty, or accidents in the Leased Premises or in the building of which the Leased Premises are a part or of defects therein or in any fixtures or equipment and shall promptly thereafter confirm such notice in writing.

ARTICLE XII DAMAGES, DESTRUCTION OR CONDEMNATION OF THE LEASED PREMISES

Section 12.1 Damage or Destruction by Fire or Other Casualty. If the Leased Premises is damaged or destroyed by fire, flood, tornado, hurricane, or through any casualty, after the Lease Term Commencement Date, this Lease shall continue in full force and effect, and Landlord at its expense shall promptly restore, repair or rebuild the Leased Premises including but not limited to the storefront, to substantially the same condition as it existed on the Turnover Date, within two hundred forty (240) days after such damage or destruction. In the event the Landlord fails to restore, repair or rebuild the Leased Premises as aforesaid, Tenant's sole remedy against Landlord shall be to terminate this Lease as of the date of such casualty. Rent shall abate in the event Tenant is unable to reasonably use the Leased Premises, from the date of such damage or destruction until the earlier of when the Landlord has restored, repaired or rebuilt the Leased Premises in the manner and in the condition provided in this Section and notified Tenant of such fact, or until Tenant reopens for business. In the event that a portion of the Leased Premises is untenable or incapable of use for the normal conduct of Tenant's business therein, and provided Landlord

receives the proceeds of any rental loss/interruption coverage obtained by Landlord for such damages, a just and proportionate part of the Rent shall be abated from the date of such damage until the earlier of when the Landlord has restored, repaired or rebuilt the Leased Premises in the manner and in the condition provided in this Section 12.1 and notified Tenant of such fact, or until Tenant reopens for business.

In the event that the Leased Premises shall be damaged in whole or in substantial part within the last twenty-four (24) months of the Lease Term, Landlord or Tenant shall have the option, exercisable within ninety (90) days following such damage, of terminating this Lease, effective as of the date of mailing notice thereof.

No damage or destruction to the Leased Premises shall allow Tenant to surrender possession of the Leased Premises nor affect Tenant's liability for the payment of Rent or any other covenant contained herein, except as may be specifically provided in this Lease. Notwithstanding Attachment number 1
Page 22 of 46 the provisions herein to the contrary, Landlord shall have no obligation to restore, repair or rebuild the Leased Premises unless the damage or destruction is a result of a casualty covered by Landlord's insurance policy.

Tenant shall give to Landlord prompt written notice of any damage to or destruction of any portion of the Leased Premises resulting from fire or other casualty.

Section 12.2 Loss or Damage to Tenant's Property. Landlord shall not be liable for any damage to property of Tenant or of others located on the Leased Premises, nor for the loss of or damage to any property of Tenant or of others by theft or otherwise. Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the Leased Premises or from the pipes, appliances or plumbing works or from any other place or by dampness or by any other cause of whatsoever nature. Landlord shall not be liable for any such damage caused by other tenants or persons in the Shopping Center, occupants of property adjacent to the Shopping Center, or the public, or for damage caused by operations in construction of any private, public or quasi-public work. Landlord shall not be liable for any latent defect in the Leased Premises or in the building of which they form a part. All property of Tenant kept or stored on the Leased Premises shall be so kept or stored at the risk of Tenant only, and Tenant shall hold Landlord harmless from any claim arising out of damage to the same, including subrogation claims by Tenant's insurance carriers, unless such damage shall be caused by the willful act or gross neglect of Landlord.

Section 12.3 Condemnation. If the whole of the Leased Premises, or so much thereof as to render the balance unusable by Tenant, shall be taken under power of eminent domain, or otherwise transferred in lieu thereof, or if any part of the Shopping Center is taken and its continued operation is not, in Landlord's sole opinion, economical, this Lease shall automatically terminate as of the date possession is taken by the condemning authority. No award for any total or partial taking shall be apportioned, and Tenant hereby unconditionally assigns to Landlord any award which may be made in such taking or condemnation. In the event of a partial taking which does not result in the termination of this Lease, Rent shall be apportioned according to the part of the Leased Premises remaining usable by Tenant.

Section 12.4 Condemnation Award. All compensation awarded or paid for any taking or acquiring under the power or threat of eminent domain, whether for the whole or a part of the Leased Premises or Shopping Center, shall be the property of Landlord, whether such damages shall be awarded as compensation for diminution in the value of the leasehold or to the fee of the Leased Premises or otherwise, and Tenant hereby assigns to Landlord all of the Tenant's right, title and interest in and to any and all such compensation; provided, however, that Landlord shall not be entitled to any award specifically made to Tenant for the taking of Tenant's trade fixtures, furniture or leasehold improvements to the extent of the cost to Tenant of said improvements (exclusive of Landlord's contribution), less depreciation computed from the date of said improvements to the expiration of the original term of this Lease.

ARTICLE XIII DEFAULT BY TENANT AND REMEDIES

Section 13.1 Default. In the event that Tenant (a) fails to pay all or any portion of any sum due from Tenant hereunder or pursuant to any exhibit hereto within ten (10) days after due date; (b) fails to cease

all conduct prohibited hereby immediately upon receipt of written notice from Landlord; (c) fails to take actions in accordance with the provisions of written notice from Landlord to remedy Tenant's failure to perform any of the terms, covenants and conditions hereof; (d) fails to conduct business in the Leased Premises as herein required; (e) vacates or abandons the Leased Premises; (f) transfers, has levied upon, or assigned to any other person, firm or corporation, whether voluntary or involuntary, except as herein permitted, its interest in this Lease; (g) commits an act in violation of this Lease which Landlord has previously notified Tenant to cease more than once in any year; (h) becomes bankrupt, insolvent or files any debtor proceeding; takes or has taken against Tenant any petition of bankruptcy; takes action or has action taken against Tenant for the appointment of a receiver for all or a portion of Tenant's assets; files a petition for a corporate reorganization; makes an assignment for the benefit of creditors, or if in any other manner Tenant's interest hereunder shall pass to another by operation of law (any or all of the occurrences in this said Section 13.1(h) shall be deemed a default on account of bankruptcy for the purposes hereof and such default on account of bankruptcy shall apply to and include any Guarantor of this Lease); (i) commits waste to the Leased Premises; or (j) is otherwise in breach of Tenant's obligations hereunder and shall not have cured same within ten (10) days following written notice from Landlord; then Tenant shall be in default hereunder. Attachment number 1
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In the event of any conflict between any of the provisions of this Lease regarding the amount of time that must elapse after notice before the same constitutes an event of default whereby Landlord may exercise its rights, the provisions establishing the least amount of time after notice shall prevail.

Section 13.2 Landlord's Rights on Default. Upon such default as herein set forth in Section 13.1, Landlord may, at its option and without further notice to Tenant, utilize any one or more of the following rights:

- (a) to cancel and terminate this Lease and all interest of the Tenant hereunder by giving notice of such cancellation and termination not less than ten (10) days prior to the effective date of such termination. Upon the expiration of said ten (10) day period, the Tenant shall have no further rights under this Lease (but such cancellation shall not serve to release or discharge the damages Tenant owes to Landlord, said damages upon termination being calculated as set forth in Section 13.2(c) herein); and/or
- (b) to make any payment required of Tenant herein or correct any condition required to be corrected by Tenant, and Landlord shall have the right to enter the Leased Premises for the purpose of correcting any such condition and to remain on the Leased Premises until the complete correction of such condition. However, no expenditure by Landlord on behalf of Tenant shall be deemed to waive or release Tenant's breach hereof and Landlord shall retain all rights to proceed against Tenant as set forth herein; and/or
- (c) ~~to reenter the Leased Premises immediately (but such reentry shall not serve to release or discharge the damages Tenant owes the Landlord) with or without order of court either by force or otherwise and without being guilty of trespass, remove the property and personnel of Tenant and store such property in a public warehouse or such other location selected by Landlord, all at the expense of Tenant. After such reentry, Landlord shall have the right to terminate this Lease by giving ten (10) days' notice of termination to Tenant, but without such notice, the reentry by Landlord shall not terminate this Lease. On termination, Landlord may recover from Tenant all damages resulting from Tenant's breach, including the cost of recovery of the Leased Premises and placing them in satisfactory condition, recovery of any broker commission paid by Landlord in connection with the procurement of this Lease, and Fixed Minimum Rent and Percentage Rent for the remainder of the Term, all of which sums shall be immediately payable to Landlord from Tenant. (The Percentage Rent for which Tenant remains prospectively liable under the provisions hereof shall be a sum equal to the greatest amount of Percentage Rent paid by Tenant for any Lease Year since the Lease Term Commencement Date multiplied by the number of years remaining in the Term at the time of such termination.) Notwithstanding such reentry by Landlord, Tenant hereby agrees to indemnify and hold Landlord harmless from any and all loss or damage which Tenant may incur by reason of the termination of this Lease and/or Tenant's right to possession hereunder; and/or~~

(~~d~~c) to relet the Leased Premises or any part thereof for any term, with or without terminating the Lease, and at such rentals and on such other terms as Landlord may elect including the right to grant free rental, and to alter and repair the Leased Premises as Landlord deems necessary, except no property, equipment, files or supplies of Tenant may be removed, transferred to any new or subsequent tenant, or provided access to such equipment, supplies, property, or files. ~~(It is understood and agreed, however, that Landlord shall have no obligation to mitigate Tenant's damages by reletting the Leased Premises.)~~ Should Landlord relet the Leased Premises, Tenant shall pay all expenses of reletting including brokers' or finders' fees and such reasonable attorneys' fees as Landlord may incur. Upon reletting, sums received from such new tenant by Landlord shall be applied in the following order: (i) payment of costs incident to reletting; (ii) any indebtedness due Landlord from Tenant other than for Fixed Minimum Rent and Percentage Rent; (iii) payment of Fixed Minimum and Percentage Rent due and unpaid; (iv) deficiency Attachment number 1
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~~all~~

~~amounts to be received hereunder and sums to be received by Landlord upon reletting, which deficiency Tenant shall pay to Landlord in full within five (5) days of notice of the same from Landlord. Tenant shall have no right to any proceeds of reletting that remain following application of same in manner set forth herein. (The Percentage Rent for which Tenant remains prospectively liable under the provisions hereof shall be a sum equal to the greatest amount of Percentage Rent paid by Tenant for any Lease Year since the Lease Term Commencement Date multiplied by the number of years remaining in the Term at the time of such termination.); and/or~~

(~~e~~d) to accelerate the rentals with or without entry; and/or

(~~f~~e) all other rights and remedies provided by law or in equity to a Landlord with a defaulting Tenant including all such money damages as Landlord shall be entitled pursuant to the law of damages.

Section 13.3 Tenant's Rights Upon Landlord's Default. In the event the Landlord fails to cure any breach after thirty (30) days' written notice by the Tenant or otherwise fails to comply with any term of this Lease including but not limited to bankruptcy, foreclosure, receivership, cessation of business, then upon an additional ten (10) day written notice period to Landlord to cure, Tenant may terminate this Lease and cease performance of any term or condition of this Lease without penalty or cost. Tenant may remove all equipment, property, tangibles, and intangibles at Tenant's sole cost and expense, including costs incurred to remove and relocate to another location.

ARTICLE XIV MORTGAGE FINANCING AND SUBORDINATION

Section 14.1 Subordination. This Lease and all of Tenant's rights hereunder are and shall be subordinate to any mortgages or deeds of trust which Landlord may place upon the Shopping Center. The foregoing shall be self-operative and no further documents or agreements are required to effectuate such subordination. However, Tenant shall, upon request of either Landlord or the holder of any mortgage or deed of trust on the Shopping Center, execute any documents expressly subordinating this Lease to any mortgage or mortgages now or hereafter placed upon the Landlord's interest in the Leased Premises or future additions thereto, and Tenant shall execute and deliver upon demand, such further instruments subordinating this Lease to the lien of any such mortgage or mortgages provided such subordination shall be upon the express condition that this Lease shall remain in full force and effect during the term of this Lease and any extension thereof, notwithstanding any default by the mortgagors with respect to the mortgages or any foreclosure thereof, so long as Tenant shall perform all of the covenants and conditions of this Lease. Tenant agrees to execute all agreements required by Landlord's mortgagee or any purchaser at a foreclosure sale or sale in lieu of foreclosure by which agreements Tenant will attorn to the mortgagee or purchaser.

Section 14.2 Notice to Mortgagees of Landlord's Default. Tenant shall give prompt written notice to each mortgagee of record of any default of Landlord hereunder, and Tenant shall allow such mortgagee a reasonable length of time (in any event, not less than sixty (60) days from the date of such notice) in which to cure any such default. Any such notice shall be sent to the Mortgage Loan Department of any such mortgagee at its home/office address.

ARTICLE XV CONSTRUCTION OF LEASED PREMISES

Section 15.1 Construction. ~~If applicable, Landlord agrees, at its expense, to construct the Leased Premises in a good and workmanlike manner in accordance with the specifications which are attached hereto as Exhibit D. Such construction shall be in conformity with the building codes and the laws of such authorities having jurisdiction.~~

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Section 15.2 Miscellaneous. Notwithstanding anything to the contrary contained herein, it is mutually agreed by the Landlord and Tenant that the Landlord has no construction responsibilities beyond the present "as is" condition ~~unless so specified in Exhibit D attached.~~

At the time Tenant takes possession of the Leased Premises, all manufacturers warranties and guarantees which may exist will be assigned by Landlord to Tenant. Tenant shall maintain a complete service contract by a certified representative on all heat and air conditioning equipment and furnish Landlord a copy of said contract. If Tenant fails to maintain such a contract, Landlord may take out a contract and bill Tenant for the cost, and such cost shall be paid by Tenant no later than thirty (30) days after receipt of the bill and shall constitute Additional Rent hereunder.

ARTICLE XVI SURRENDER OF LEASED PREMISES

Section 16.1 Condition on Surrender. At the expiration or earlier termination of the tenancy hereby created, Tenant shall surrender the Leased Premises in ~~the same~~ as good as condition as the Leased Premises were upon delivery of possession thereof to Tenant, reasonable wear and tear excepted, and damage by unavoidable casualty excepted to the extent that the same is covered by Landlord's fire insurance policy with extended coverage endorsement. Tenant shall surrender all keys for the Leased Premises to Landlord at the place then fixed for payment of Rent and shall inform Landlord of all combinations on locks, safes and vaults, if any, in the Leased Premises. Tenant shall be responsible for the removal of any furniture, fixtures, equipment, sign, awning, canopy, decoration, lettering, advertising matter or other items that are installed by or on behalf of Tenant and repair any damage to the Leased Premises as a result of such removal, including by way of illustration and not limitation, any holes left in the walls or roof of the building and/or any bolts extending from the walls, ceiling or floor, caused by such removal, at its sole cost and expense. In the event Tenant has a panel on any pylon or monument sign, Tenant shall be responsible for replacing its advertising panel with a blank panel on such pylon and/or monument sign, at its sole cost and expense. In the event Tenant fails to perform any of the foregoing requirements and Landlord incurs any expenses in the removal, replacement or repair thereof, Tenant will be responsible for reimbursement to the Landlord for its expenses within ten (10) days of receipt of such bill or statement from Landlord. Tenant's obligations to observe or perform this covenant shall survive the expiration or earlier termination of this Lease. If Tenant has paid all Rents in full and performed all of its other obligations under the Lease, Tenant shall, as specified in Article IX, Section 9.5, remove all of its trade fixtures and any alterations or improvements (provided any damage caused thereby is repaired), before surrendering the Leased Premises to Landlord. Tenant's obligations to observe or perform this covenant shall survive the expiration or earlier termination of the Lease Term.

Section 16.2 Holding Over. Should Tenant, with Landlord's written consent, hold over at the end of the term, Tenant shall become a "tenant at will" and any such holding over shall not constitute an extension of this Lease. During such holding over, Tenant shall pay Rent and other charges at the highest monthly rate provided for herein. If Tenant holds over at the end of the term without Landlord's written consent, Tenant shall pay Landlord as liquidated damages, a sum equal to twice the Fixed Minimum Rent to be paid by Tenant to Landlord for all the time Tenant shall so retain possession of the Leased Premises; provided that the exercise of Landlord's rights under this clause shall not be interpreted as a grant of permission to Tenant to continue in possession.

ARTICLE XVII
OTHER PROVISIONS

Section 17.1 Indemnification. Tenant shall assume liability for and shall indemnify, defend, and hold harmless Landlord and any other owners of the Shopping Center (and all their shareholders, partners, directors, related and affiliated entities, ground lessors, managers, management companies, employees, agents, guests, customers and invitees) against and from any and all liabilities, obligations, losses, penalties, actions, suits, claims, damages, expenses, disbursements (including attorney's fees and expenses), or costs of any kind and nature whatsoever in any way relating to or arising out of (a) any act, omission or negligence of Tenant (including without limitation the acts or omissions of the Tenant's officers, directors, employees, guests, customers, agents, contractors, invitees and/or licensees within the Shopping Center), (b) any occurrence which takes place in or about the Leased Premises, (c) any damage to the Leased Premises, (d) Tenant's use of the Leased Premises or the Shopping Center, and (e) any and all claims arising from any breach or default in the performance of any obligation of Tenant. ~~To the extent permitted by applicable law, Tenant's duty to indemnify Landlord under this paragraph will apply regardless of and will extend to cover losses caused by either Tenant's or Landlord's concurrent, comparative, or contributory negligence.~~ To the extent permitted, Tenant does not waive any privileges, immunities, sovereignty by the indemnification agreement contained in this Lease.

Tenant further releases Landlord and any other owners of the Shopping Center (and all their shareholders, partners, directors, related and affiliated entities, ground lessors, managers, management companies, employees, agents, guests, customers and invitees) from liability for any damages sustained by Tenant or any other person claiming by, through or under Tenant due to the Leased Premises, the Shopping Center, or any part thereof or any appurtenances thereto becoming out of repair, or due to the happening of any accident, including, but not limited to, any damage caused by water, snow, windstorm, tornado, gas, steam, electrical wiring, sprinkler system, plumbing, heating and air conditioning apparatus and from any acts or omissions of cotenants or other occupants of the Shopping Center. Landlord shall not be liable for any damage to or loss of Tenant's personal property, inventory, fixtures or improvements, from any cause whatsoever, except the affirmative acts of proven gross negligence of Landlord, and then only to the extent not covered by insurance to be obtained by Tenant in accordance with this Lease.

To the fullest extent permitted by applicable law, Tenant shall indemnify and save Landlord harmless from any and all claims, demands, or suits that may be brought against Landlord by any officer, director, employee, agent, contractor, invitee and/or licensee of Tenant, or any legal representative or successor of any of them, in any way arising out of or incident to this Lease, irrespective of whether such suits are brought about by the negligence or fault of Landlord or anyone for whose acts Landlord may be liable.

The indemnification and waivers contained in this Section 17.1 shall survive the expiration or earlier termination of this Lease.

Section 17.2 Definition and Liability of Landlord. The term "Landlord" as used in this Lease means only the owner for the time being of the building in which the Leased Premises are located or the owner of a leasehold interest in the building and/or the land thereunder so that in the event of sale of the building or an assignment of this Lease or a demise of the building and/or land, Landlord shall be and hereby is entirely freed and relieved of all obligations of Landlord hereunder and it shall be deemed without further agreement between the parties and such purchaser(s), assignee(s) or lessee(s) that the purchaser, assignee or lessee has assumed and agreed to observe and perform all obligations of Landlord hereunder.

It is specifically understood and agreed that there shall be no personal liability on Landlord in respect to any of the covenants, conditions or provisions of this Lease; in the event of a breach or default by Landlord of any of its obligations under this Lease, Tenant shall look solely to the equity of Landlord in the Shopping Center for the satisfaction of Tenant's remedies. In no event shall Landlord be liable to Tenant, or any party claiming through or on behalf of Tenant, for any consequential, indirect or special damages.

Section 17.3 Assignment or Subletting. The Tenant shall make no assignment of this Lease Agreement or sublease of the parties or any portion thereof except with the written consent of the Lessor, which consent shall not be unreasonably withheld. It is understood

and agreed that the Leased Premises will be utilized by the Tenant and other law enforcement agencies and such utilization is permissible. Notwithstanding the foregoing, all All assignments of this Lease or subleases of the Leased Premises by Tenant shall be subject to and in accordance with all of the provisions of this Section. So long as Tenant is not in default under any of the provisions of this Lease:

- (a) Tenant may assign this Lease or sublease the entire Leased Premises to a wholly owned corporation or controlled subsidiary of Tenant without the consent of Landlord.
- (b) Tenant may not assign this Lease or sublease any part of the Leased Premises to a party other than a wholly owned corporation or controlled subsidiary without first obtaining the prior written consent of Landlord. A violation of this provision shall constitute a default under Section 13.1(f) hereof.

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~~Notwithstanding the foregoing provisions of subparagraphs (a) and (b) of this Section 17.3, any assignment or sublease by Tenant shall be only for the purposes specified in ARTICLE I, Section 1.1(E), and for no other purpose, and in no event shall any assignment or sublease of the Leased Premises release or relieve Tenant from any obligations of this Lease.~~

In the event Tenant shall sublease the entire Leased Premises in accordance herewith for rentals in excess of those rentals payable hereunder, Tenant shall pay to Landlord, as Additional Rent hereunder, all such excess rentals.

Any proposed assignee or subtenant shall assume Tenant's obligations hereunder and deliver to Landlord an assumption agreement in form satisfactory to Landlord within ten (10) days after the effective date of the assignment.

~~Tenant agrees to pay Landlord \$1,000.00 to reimburse Landlord for attorneys' fees and administrative expenses for the review, processing or preparation of any document in connection with a transfer, whether or not Landlord's consent to the transfer is required or obtained.~~

Section 17.4 Notices. Whenever notice shall or may be given to either of the parties by the other, each such notice shall be sent by registered or certified mail with return receipt requested, or by a recognized overnight courier, next day service guaranteed.

Notice to Landlord shall be addressed as specified in ARTICLE I, Section 1.1(B), and notice to Tenant shall be addressed as specified in ARTICLE I, Section 1.1(C), or, in each case, to such other address as either may from time to time designate in writing to the other. Any notice under this Lease shall be deemed to have been given within three (3) days if it is placed in the mail with sufficient postage prepaid, or the next day if sent by a recognized overnight courier.

~~Section 17.5 Interest on Late Payments; Late Charge. Should Tenant fail to pay when due any installment of Fixed Minimum Rent, Percentage Rent, Additional Rent or any other sum payable to Landlord under the terms of this Lease, then interest at the maximum legal rate in effect in the State where the Shopping Center is situated or fifteen (15%) percent per annum, whichever is higher, shall accrue from and after the tenth (10th) day following the date on which any such sum shall be due and payable, and such interest shall be paid by Tenant to Landlord at the time of payment of the sum upon which such interest shall have accrued. In addition thereto, if Tenant shall fail to pay any installment of Fixed Minimum Rent, Percentage Rent, Additional Rent, or any other sum payable to Landlord under the terms of this Lease within ten (10) days after the date the same became due and payable, then Tenant shall also pay to the Landlord a late payment service charge (herein referred to as "Late Charge") covering administrative and overhead expenses equal to the greater of: (a) Two Hundred Fifty and 00/100 Dollars (\$250.00), or (b) five cents (\$.05) per each dollar so overdue. The provisions herein for the payment of the Late Charge shall not be construed to represent interest but are intended to reimburse Landlord for its overhead and expense so incurred and shall not be construed to extend the date for payment of any sums required to be paid by Tenant to Landlord hereunder, or to relieve Tenant of its obligation to pay all such sums at the time or times herein stipulated.~~

Section 17.6 Recording. Tenant agrees not to record this Lease. However, Tenant and Landlord, upon request of either, agree to execute and deliver a memorandum or so-called "shortform" of this Lease in recordable form for the purpose of recordation at Tenant's expense. Said

memorandum or short form of this Lease shall describe the parties, the Leased Premises and the Lease Term and shall incorporate this Lease by reference.

Section 17.7 Tenant's Notice to Landlord of Default. Should Landlord be in default under any of the terms of this Lease, Tenant shall give Landlord prompt written notice thereof in the manner specified in Section 17.4 and Tenant shall allow Landlord a reasonable length of time (in any event, not less than thirty (30) days from the date of such notice) in which to cure such default, provided if the nature of such default is not capable of cure within such thirty (30) day period, Landlord shall not be deemed in default hereunder if Landlord commences cure within such thirty (30) day period and diligently proceeds to completion of such cure thereafter.

Section 17.8 Lien of Landlord for Rent, Taxes and Other Sums. ~~Landlord shall have, and Tenant hereby grants, a security interest in any furnishings, equipment, fixtures, inventory, accounts receivable or other personal property of any kind belonging to Tenant, or the equity of Landlord therein, on the Leased Premises. The security interest in granting for the purpose of securing the payment of rent, assessments, charges, penalties and damages herein covenanted to be paid by Tenant hereunder. Upon default or breach of any covenants of this Lease, Landlord shall have all remedies available under the Uniform Commercial Code enacted in the State where the Leased Premises are located including, but not limited to, the right to take possession of the above-mentioned property and dispose of it by sale in a commercially reasonable manner. Tenant hereby agrees to sign a Financing Statement upon a request to do so by Landlord, for the purpose of serving notice to third parties of the security interest herein granted. In addition to the security interest granted to Landlord, Landlord shall also have a Landlord's lien on all of the personal property of Tenant located in the Leased Premises.~~

Section 17.9 Security Deposits. ~~Tenant, contemporaneously with the execution of this Lease, has deposited with Landlord the Security Deposit as defined in ARTICLE I, Section 1.1(Q), above, receipt of which is hereby acknowledged by Landlord without liability for interest as security for the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease by Tenant to be kept and performed during the term. If at any time during the term of this Lease any of the Rent shall be overdue and unpaid, or any other sum payable by Tenant to Landlord shall be overdue and unpaid, then Landlord may at its option appropriate and apply the entire Security Deposit, or so much thereof as may be necessary to compensate the Landlord for loss or damage sustained or suffered by Landlord due to such breach on the part of Tenant. Should the entire Security Deposit, or any portion thereof, be appropriated and applied by Landlord for the payment of overdue Rent or other sums due and payable to Landlord by Tenant, then Tenant shall upon the written demand of Landlord, remit to Landlord as Additional Rental a sufficient amount in cash to restore said security to the original sum deposited, and Tenant's failure to do so within five (5) days after receipt of such demand shall constitute a breach of this Lease. Should Tenant comply with all of the terms, covenants and conditions hereof and shall promptly pay all other sums payable by Tenant to Landlord due hereunder, the Security Deposit shall be returned in full to Tenant at the expiration or earlier termination of this Lease.~~

Section 17.10 Pro Rata Share. Wherever the term "Pro Rata Share" or "proportionate share" appears in this Lease, the same shall be deemed to be a percentage or fraction, the numerator of which shall be the number of square feet of floor area of the Leased Premises and the denominator of which shall be the monthly average number of square feet of leased and occupied floor area of the Shopping Center for which tenants are paying rent, but excluding freestanding buildings situated on "outlots".

Section 17.11 Usufruct. The relationship of Landlord and Tenant as established by this Lease is that of Landlord and Tenant, and the tenancy hereby created is a mere usufruct and not an estate for years. None of the language or terminology of this Lease shall be construed to create any other form of relationship between Landlord and Tenant.

Section 17.12 Access to Leased Premises. With advance notice to Tenant, and when accompanied by an employee of Tenant, Landlord shall have the right to place, maintain and repair all utility equipment of any kind in, upon or under the Leased Premises as may be necessary for the servicing of the Leased Premises and other portions of the Shopping Center. Landlord shall also have the right to enter the Leased Premises at all times, With advance notice to Tenant, and when accompanied by an employee of Tenant, to inspect or to exhibit the same to prospective

purchasers, mortgagees, lessees and tenants and to make such repairs, additions, alterations or improvements as Landlord may deem desirable. Landlord shall be allowed to take all material in, to and upon said Leased Premises that may be required therefor without the same constituting an eviction of Tenant in whole or in part and the Rents reserved shall not abate while said work is in progress by reason of loss or interruption of Tenant's business or otherwise and Tenant shall have no claim for damages. ~~If Tenant shall not be personally present to permit an entry into said Leased Premises when for any reason an entry therein shall be permissible, Landlord may enter the same by a master key or by the use of force without rendering Landlord liable therefor and without in any manner affecting the obligations of this Lease.~~ The provisions of this paragraph shall not be construed to impose upon Landlord any obligation whatsoever for the maintenance or repair of the Leased Premises or any part thereof except as otherwise herein specifically provided. During the six (6) months prior to the expiration of this Lease or any renewal term, Landlord may place upon the said Leased Premises "To Let" or "For Sale" signs which Tenant shall permit to remain thereon. Notwithstanding the foregoing, it is understood that the Leased Premises will be a secure area and the Tenant will re-key the doors of the Leased Premises with distribution of the keys to be at the discretion of the Tenant.

Section 17.13 Attornment. Tenant shall in the event of the sale or assignment of Landlord's interest in the building of which the Leased Premises form a part, or in the event of any proceedings brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by Landlord covering the Leased Premises, attorn to the purchaser and recognize such purchaser as Landlord under this Lease, provided the Lease shall in all events remain in full force and effect as long as Tenant is not in default hereunder.

Section 17.14 Waiver. The waiver by Landlord or Tenant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. ~~The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent.~~ No covenant, term or condition of this Lease shall be deemed to have been waived by Landlord or Tenant, unless such waiver be in writing by Landlord or Tenant.

Section 17.15 ~~Radon Gas Mandatory Disclosure Statement (for Florida real property). In compliance with the 1988 Florida Legislature, the amendment of Florida Statute 404.056 to 404.056(8) requires that on all real estate sales and lease contracts that the following notice is required:~~

~~"RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit."~~

Section 17.16 OFAC Certification.

- (a) Representations and Warranty. Tenant represents and warrants that:
- (i) It is not, and shall not become, a person or entity with whom Landlord is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, without limitation, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended ["Executive Order 13224"]), or other governmental action and is not, and shall not, engage in any dealings or transactions or otherwise be associated with such persons or entities; and
 - (ii) It is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation with whom Landlord is restricted from doing business under the regulations of OFAC (including, but not limited to, Executive Order 13224) or other governmental action and is not and shall not engage in any dealings or transactions, employ or otherwise be associated, with such person, group, entity or nation.

- (b) **Default.** Any breach of the representation and/or warranty contained in (i) or (ii) immediately preceding shall constitute a non-curable default and is grounds for immediate termination of this Lease by Landlord. Any such exercise by Landlord of its remedies under this Section shall not constitute a waiver by Landlord to recover (x) any Rent due under this Lease and (y) any damages arising from such breach by Tenant.
- (c) **Indemnification.** Tenant hereby agrees to defend, indemnify, and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification consistent with the indemnification provisions found elsewhere in this Lease.

Section 17.17 Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy in this Lease provided.

Section 17.18 Entire Agreement. This Lease and the Exhibits and Rider, if any, attached hereto and forming a part hereof, set forth all of the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Leased Premises and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed by both parties.

Section 17.19 Binding Agreement. The terms, covenants and conditions contained herein shall inure to the benefit of and be binding upon Landlord and Tenant and their respective successors and assigns, from and after the date of execution hereof by both Landlord and Tenant, except as may be otherwise expressly provided in this Lease.

Section 17.20 Force Majeure. In the event that Landlord shall be delayed or hindered in or prevented from doing or performing any act or thing required hereunder by reason of strikes, lock-outs, casualties, Acts of God, labor disputes, inability to obtain or procure labor or materials or reasonable substitutes therefor, service or financing, failure of power, governmental laws, controls, or regulations, riots, civil commotion, terrorism, acts of terrorism, insurrection, war, sabotage, hurricanes, fire or other causes beyond the reasonable control of Landlord, then Landlord shall not be liable or responsible for any such delays and the doing or performing of such act or thing shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

Section 17.21 Landlord's or Tenant's Expenses. If Landlord or Tenant, as applicable, shall at any time breach any of the terms and conditions of this Lease, or shall be in default hereunder, and if Landlord shall deem it necessary to engage attorneys to enforce Landlord's or Tenant's rights hereunder, the determination of such necessity to be in the sole discretion of Landlord or Tenant, Landlord or Tenant will reimburse Landlord or Tenant for the reasonable expenses incurred thereby, including but not limited to court costs and reasonable attorney's fees. ~~If Tenant's rights hereunder are not terminated, the amount of such expenses shall be deemed to be Additional Rent hereunder and shall forthwith be due and payable by Tenant to Landlord.~~

Section 17.22 Captions and Section Numbers. The captions, section numbers, article numbers, and index appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such section or articles of this Lease or in any way affect this Lease.

Section 17.23 Tenant Defined, Use of Pronoun. The word "Tenant" shall be deemed and taken to mean each and every person or party mentioned as a Tenant herein, be the same one or more; and if there shall be more than one Tenant, any notice required or permitted by the terms of this Lease may be given by or to any one thereof, and shall have the same force and effect as if given by or to all

thereof. The use of the neuter singular pronoun to refer to Landlord or Tenant shall be deemed a proper reference even though Landlord or Tenant may be an individual, a corporation, or a group of two or more individuals or corporations. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where there is more than one Landlord or Tenant and to either corporations, associations, partnerships, or individuals, males or females, shall in all instances be assumed as though in each case fully expressed.

~~Section 17.24 Broker's Commissions. Tenant shall defend, indemnify and hold Landlord harmless from all damages, judgments, liabilities and expenses (including attorneys' fees) arising from any claims or demands of any broker, agent or finder with whom Tenant has dealt for any commission or fee alleged to be due in connection with its participation in the procurement of Tenant or the negotiation with Tenant of this Lease, other than a broker with whom Landlord has signed a written agreement relating to this Lease. The provisions of this Section 17.24 shall survive the expiration or earlier termination of this Lease.~~

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Section 17.25 Partial Invalidity. If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 17.26 Documentary Stamps. Tenant shall be responsible for paying the cost of any federal and state documentary stamps required to be affixed to this Lease.

Section 17.27 Execution of Lease. The submission of this Lease for examination does not constitute a reservation of or option for the Leased Premises and this Lease becomes effective as a Lease only upon execution and delivery thereof by Landlord and Tenant. Tenant hereby confirms with its signature below that it is duly authorized to enter into this Lease, and that the person signing below on behalf of Tenant is duly authorized to do so. ~~If Tenant is a corporation, Tenant shall furnish Landlord with such evidence as Landlord reasonably requires to evidence the binding effect on Tenant of the execution and delivery of this Lease.~~

Section 17.28 Applicable Law. The laws of the State where the Shopping Center is located shall govern the validity, performance and enforcement of this Lease. *The parties further designate the Superior Court of Pitt County, North Carolina as the forum for the resolution of any dispute arising under the terms of this Lease or otherwise between the parties hereto.*

~~Section 17.29 Relocation. During the Lease Term of this Lease, Landlord shall have the right to relocate the Leased Premises to another part of the Shopping Center in accordance with the following: (a) the new leased premises (the "New Leased Premises") shall be substantially the same in size, decor, and nature as the Leased Premises described herein, and shall be placed in that condition by Landlord at its cost; (b) the physical relocation of the Leased Premises shall be accomplished by the Landlord at its cost; (c) Landlord shall give Tenant at least sixty (60) days' notice of Landlord's intention to relocate the Leased Premises; (d) Landlord shall diligently pursue the relocation of the Leased Premises, and Minimum Annual Rent and all other sums and charges payable under this Lease shall abate during the period of such relocation, which abatement shall commence upon the expiration of the sixty (60) day notice period provided in the immediately preceding subparagraph; (e) all incidental costs incurred by Tenant as a result of the relocation, including without limitation, costs incurred in changing addresses on stationary, business cards, directories, advertising, and such other items, shall be paid by Landlord, in a sum not to exceed \$500.00; (f) if the New Leased Premises are smaller than the Leased Premises as they existed before the relocation, Minimum Annual Rent and all other sums and charges based on square footage shall be reduced pro rata; and (g) the parties shall immediately execute an amendment to this Lease noting the relocation of the Leased Premises, describing the size and location of the New Leased Premises in the Shopping Center, and indicating the change in Minimum Annual Rent, if any.~~

Section 17.30 No Set-Off. The obligation of Tenant to pay all Rent and other sums hereunder provided to be paid by Tenant and the obligation of Tenant to perform Tenant's other covenants and duties hereunder constitute independent and unconditional obligations to be performed at all

times provided for hereunder, save and except only when an abatement thereof or reduction therein is hereinabove expressly provided for and not otherwise. Tenant waives and relinquishes all rights which Tenant might have to claim any nature of lien against or withhold, or deduct from or off-set against any Rent and other sums provided hereunder to be paid Landlord by Tenant. Tenant waives and relinquishes any right to assert, either as a claim or as a defense, that Landlord is bound to perform or is liable for the nonperformance of any implied covenant or implied duty of Landlord not expressly herein set forth.

Section 17.31 Time is of the Essence. Time is of the essence with respect to this Lease.

~~Section 17.32 Confidentiality. The terms and provisions of the herein Lease are confidential and shall not be disclosed or revealed by Tenant to any party other than its respective employees, lenders, attorneys, accountants, or potential mortgagees or purchasers.~~

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[Signature Page to Follow]

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written, each acknowledging receipt of an executed copy hereof.

WITNESSES:

LANDLORD:

ZP NO. 169, LLC, a North Carolina limited liability company
BY: *ZP GC NO. 1, LLC , a North Carolina limited liability company, its Managing Member*

As to Landlord

_____(SEAL)
By: *Jeffrey L. Zimmer, Manager*

WITNESSES:

TENANT:

City of Greenville, a North Carolina municipal corporation

As to Tenant

_____(SEAL)
By: *Barbara Lipscomb, City Manager*

As to Tenant

_____(SEAL)

NORTH CAROLINA
PITT COUNTY

I, _____, Notary Public in and for the aforesaid County and State, do hereby certify that Barbara Lipscomb, City Manager for the City of Greenville, personally appeared before me on this day and acknowledged the due execution of the foregoing instrument on behalf of the City of Greenville.

WITNESS my hand and seal, this the _____ day of _____, 2016.

NOTARY PUBLIC

My Commission Expires: _____

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NORTH CAROLINA
NEW HANOVER COUNTY

I, _____, a Notary Public of New Hanover County, North Carolina, do hereby certify that Jeffrey L. Zimmer, as Manager of ZP GC NO. 1, LLC, the Managing Member of ZP NO. 169, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of ZP NO. 169, LLC.

WITNESS my hand and official seal, this the ____ day of _____, 2016.

Notary Public

My Commission Expires: _____

APPROVED AS TO FORM:

David A. Holec, City Attorney

PRE-AUDIT CERTIFICATION

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Bernita W. Demery, Director of Financial Services

GUARANTY

~~For good and valuable consideration, and for the term of the Lease, including any Renewal Term thereof, the undersigned Guarantors guarantee to Landlord, Landlord's successors and assigns, the full performance and observance of all agreements to be performed and observed by Tenant in the attached Lease, without requiring any notice to Guarantor of non payment or non performance, or proof, or notice of demand, to hold the undersigned responsible under this Guaranty. The legality of this Guaranty and the agreements of the Guarantor under this Guaranty shall not be ended or changed by reason of the claims of Landlord against Tenant of any of the rights or remedies given to Landlord as agreed in the attached Lease. The Guarantor further agrees that this Guaranty shall remain and continue in full force and effect as to any renewal, change or modification of the Lease. As a further inducement to Landlord to execute the Lease, Landlord and Guarantor agree that in any action or proceeding brought by either Landlord or Guarantor against the other on any matters concerning the Lease or of this Guaranty, that Landlord and the undersigned to the extent permitted by applicable law, shall and do waive trial by jury.~~

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WITNESSES:

GUARANTOR:

As to Guarantor

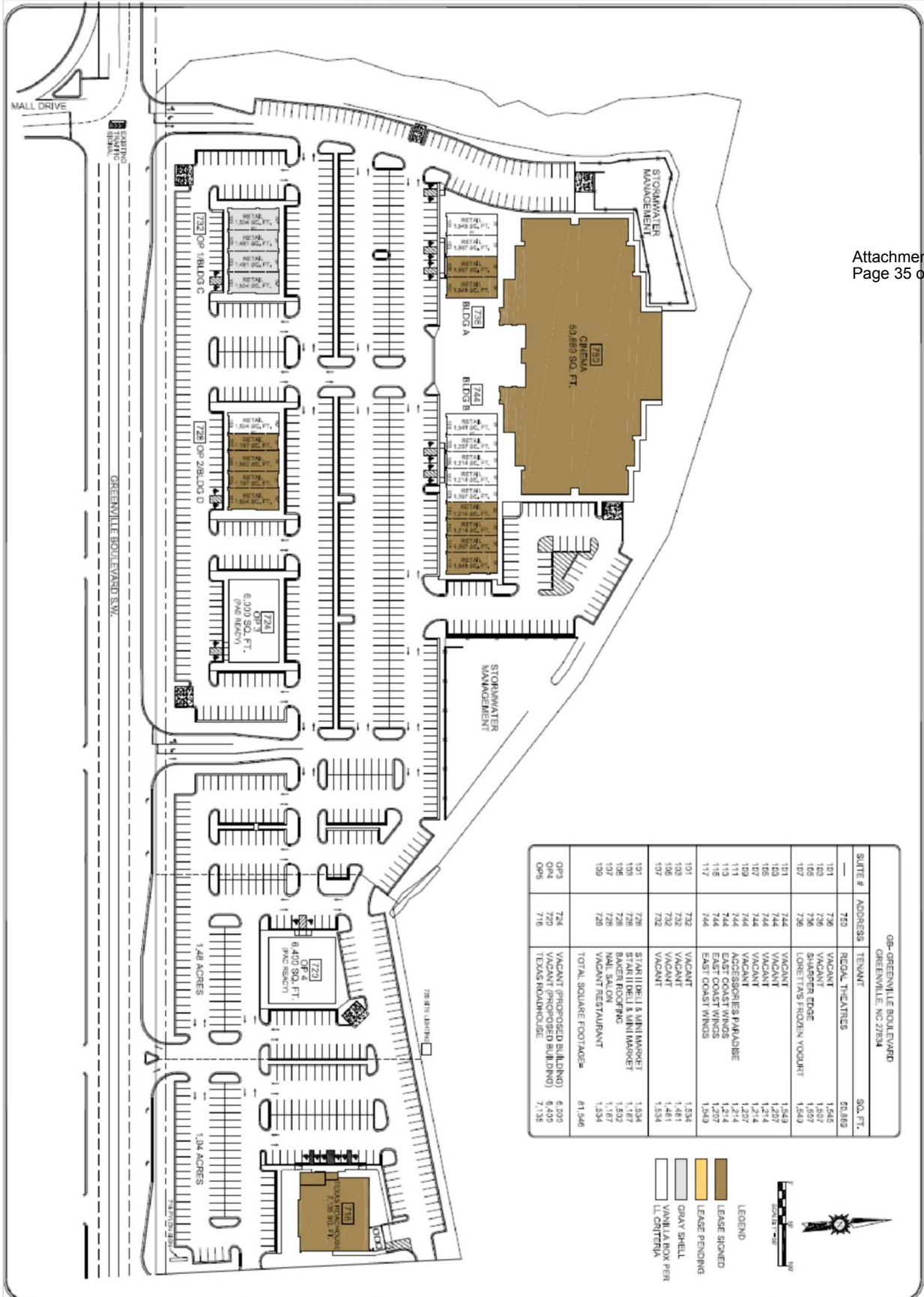
_____(SEAL)

As to Guarantor

_____(SEAL)

EXHIBIT A SITE PLAN OF SHOPPING CENTER

* This Exhibit is for informational purposes only, and is not a warranty, representation or agreement that the Leased Premises, Shopping Center or other areas will be as shown on the Exhibit, or that other occupants if shown on the Exhibit will be in the Shopping Center. (Not to be used for construction purposes.)



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GP- GREENVILLE BOULEVARD GREENVILLE, NC 27834			
SUITE #	ADDRESS	TENANT	SQ. FT.
—	720	RECAL THEATRES	60,869
101	736	VACANT	1,546
102	736	VACANT	1,507
105	736	SHARPER EDGE	1,507
107	736	LOMBI TAS FROZEN YOGURT	1,549
108	744	VACANT	1,543
109	744	VACANT	1,207
110	744	VACANT	1,214
111	744	ACCESSORIES PARADISE	1,207
112	744	VACANT	1,214
113	744	EAST COAST WINGS	1,214
114	744	EAST COAST WINGS	1,207
117	744	EAST COAST WINGS	1,207
101	732	VACANT	1,534
102	732	VACANT	1,481
103	732	VACANT	1,481
107	732	VACANT	1,534
108	728	STANII DELL & MINI MARKET	1,534
109	728	STANII DELL & MINI MARKET	1,487
110	728	BAKERS ROOM	1,502
111	728	VACANT RESTAURANT	1,502
112	728	VACANT RESTAURANT	1,534
119	728	VACANT RESTAURANT	1,534
TOTAL SQUARE FOOTAGE=			81,546
093	724	VACANT (PROPOSED BUILDING)	6,300
094	726	VACANT (PROPOSED BUILDING)	6,400
095	716	VACANT (PROPOSED BUILDING)	7,135

LEGEND

- LEASE SIGNED
- LEASE PENDING
- GRAY SHELL
- VACANT/AS RENT PER
- LL CONTRACT

FILE NO. 2018-16
DATE: 2/6/2018

SHEET NO. 04B45-43

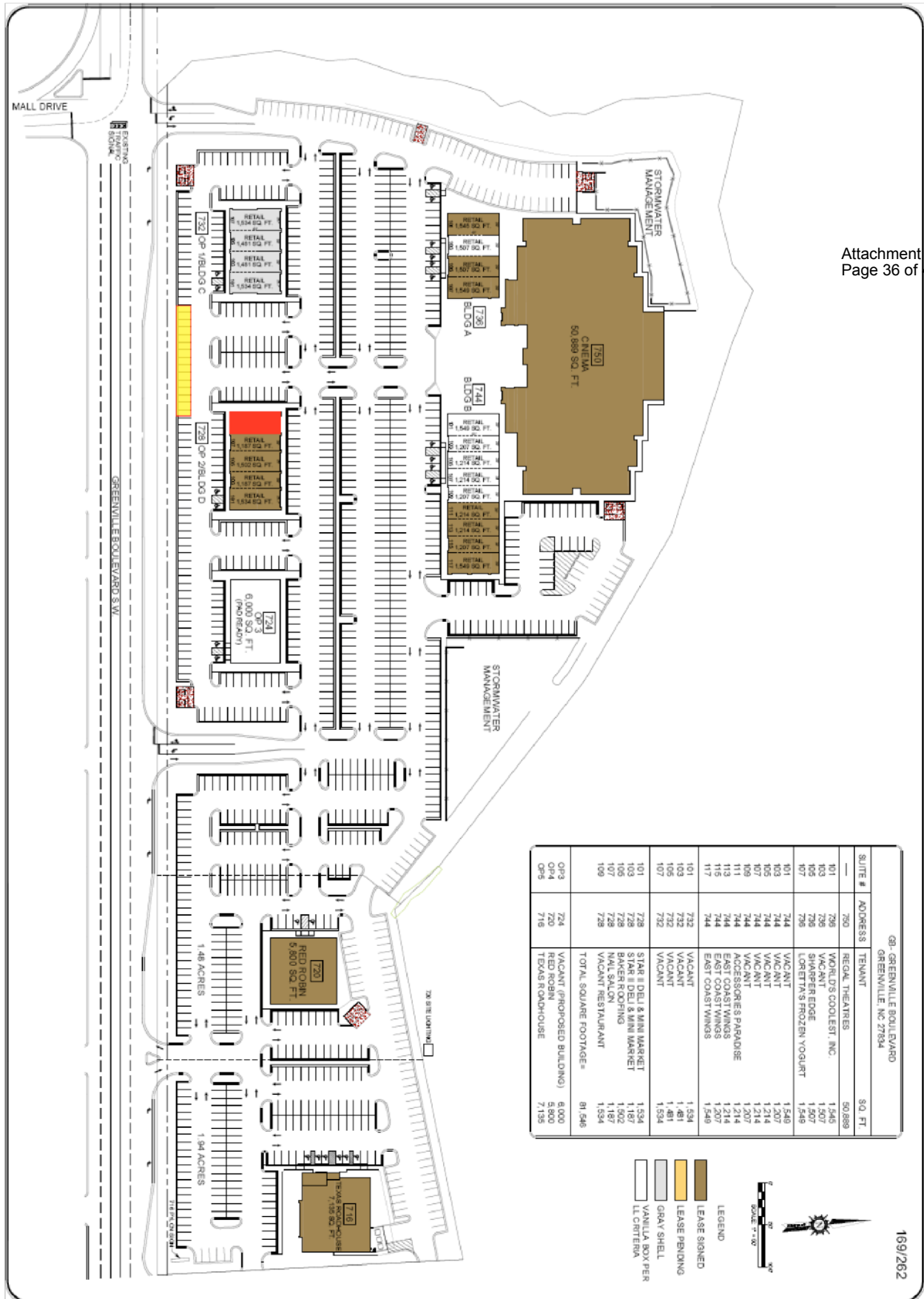
ZIMMER
REAL ESTATE DEVELOPMENT
WILMINGTON, N. CAROLINA
910-763-4669

LEASE PLAN
GREENVILLE BOULEVARD SW
AT S MEMORIAL DRIVE
GREENVILLE, NORTH CAROLINA

REVISIONS		
MARK	DATE	DESCRIPTION

EXHIBIT B IDENTIFICATION AND/OR OUTLINING OF LEASED PREMISES

* This Exhibit is for informational purposes only, and is not a warranty, representation or agreement that the Leased Premises, Shopping Center or other areas will be as shown on the Exhibit, or that other occupants if shown on the Exhibit will be in the Shopping Center. (Not to be used for construction purposes.)



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EXHIBIT C RULES AND REGULATIONS

The Landlord adopts the following rules and regulations, which the Tenant agrees to comply with and observe as follows:

- (1) All loading and unloading of goods shall be done only at such times, in the areas, and through the entrances designated for such purposes by Landlord. All loading and unloading shall be done at such times as permitted by applicable law, statutes, regulations and ordinances and any recorded agreement affecting the Shopping Center.

(2) The delivery or shipping of merchandise, supplies and fixtures to and from the Leased Premises shall be subject to such rules and regulations as in the judgment of Landlord are necessary for the proper operation of the Leased Premises or Shopping Center.

(3) All garbage and refuse shall be kept in the kind of container specified by Landlord, and shall be placed outside of the Leased Premises prepared for collection in the manner and at the time and places specified by Landlord. If Landlord shall provide or designate a service for picking up refuse and garbage, Tenant shall use same at Tenant's cost. Tenant shall pay the cost of removal of any of Tenant's refuse or rubbish.

(4) No radio or television or other similar device shall be installed without first obtaining in each instance Landlord's consent in writing, such consent not to be unreasonably withheld. No aerial shall be erected on the roof or exterior walls of the Leased Premises or on the grounds, without in each instance, the written consent of Landlord. Any aerial so installed with ^{Attachment number 1} ~~out~~ _{Page 5 of 46} written consent shall be subject to removal without notice at any time.

(5) No loud speakers, televisions, phonographs, radios, or other devices shall be used in a manner so as to be heard or seen outside of the Leased Premises without the prior written consent of Landlord.

(6) If the Leased Premises are equipped with heating facilities separate from those in the remainder of the Shopping Center, Tenant shall keep the Leased Premises at a temperature sufficiently high to prevent freezing of water in pipes and fixtures.

(7) The exterior areas immediately adjoining the Leased Premises shall be kept clean and free from snow, ice, dirt and rubbish by Tenant to the satisfaction of Landlord, and Tenant shall not place or permit any obstructions or merchandise in such areas.

(8) Tenant and Tenant's employees shall park their cars only in those parking areas designated for that purpose by Landlord as outline in yellow on Exhibit B attached hereto. ~~Tenant shall furnish Landlord with State automobile license tag numbers assigned to Tenant's car or cars, and cars of Tenant's employees, within five (5) days after taking possession of the Leased Premises and shall thereafter notify Landlord of any changes within five (5) days after such changes occur. In the event that Tenant or its employees fail to park their cars in designated parking areas as aforesaid, then Landlord at its option shall charge Tenant Ten Dollars (\$10.00) per day per car parked in any area other than those designated, as and for liquidated damage.~~

(9) The plumbing facilities shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Tenant who shall, or whose employees, agents or invitees shall, have caused it. If Tenant uses the Leased Premises for restaurant purposes, then Tenant shall be obligated to hire a service contractor to properly inspect (not less than quarterly) and maintain all disposal lines, drains and/or grease traps serving the Leased Premises during the Term of this Lease.

(10) Tenant shall not burn any trash or garbage of any kind in or about the Leased Premises, the Shopping Center, or within one mile of the outside property lines of the Shopping Center.

(11) Tenant shall not commit or suffer to be committed any waste upon the Leased Premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any other tenant in the building in which the Leased Premises may be located, or in the Shopping Center, or which may disturb the quiet enjoyment of any person within five hundred (500) feet of the boundaries of the Shopping Center.

(12) Tenant shall, at Tenant's sole cost and expense, comply with all of the requirements of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to the Leased Premises, and shall faithfully observe in the use of the Leased Premises all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force, and all regulations, orders and other requirements issued or made pursuant to any such ordinances and statutes.

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EXHIBIT D LANDLORD'S CONSTRUCTION RESPONSIBILITY

I. GENERAL

These specifications define the scope of construction work to be furnished and installed by Landlord if not already existing. All work not described herein as Landlord's work shall be Tenant's responsibility and shall be done by Tenant at no cost to Landlord. Notwithstanding anything contained herein to the contrary, Landlord's Work as hereinafter set forth is subject to applicable rules and regulations for the state, city, county and other local municipalities wherein which the Leased Premises is or will be constructed. As such, Landlord's Work will be modified to be in compliance with such rules and regulations and may differ from what is shown below.

II. LANDLORD'S WORK – Not applicable. The Leased Premises are to be delivered in number 1
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"AS-IS, WHERE-IS" condition with no Landlord work to be performed.

- A. Store Front. ~~Landlord to provide store front with 1/4" clear float glass, and 3'0" x 7'0" aluminum and glass door with closers at entrance, as designed by Landlord's architect.~~
- B. Partitions. ~~Tenant side walls to be metal studs with 5/8" fire code gypsum board on each side to underside of roof deck. Cross partitions separating sales and storage areas to be metal stud with 1/2" gypsum board on both sides. Cross partition to have 3'0" x 6'8" x 1-3/4" solid core door. Side walls will be exposed block painted whenever side walls are masonry. Gypsum wallboard to be taped, sanded and ready for paint. Doors shall be ready for finish.~~
- C. Ceiling. ~~Ceiling in sales area to have 2' x 4' suspended fiberglass acoustical tile panels (not restaurant type tile). Ceiling height to be a minimum of 10'. Storage room to be exposed construction.~~
- D. Floor. ~~Floor will be a concrete slab left in a broom swept condition.~~
- E. Rear Door. ~~3'0" x 7'0" H.M. rear door and frame with hardware (per code requirements).~~
- F. Lavatory. ~~Landlord to provide one partitioned toilet room with no inside partition in one rear corner of storage room which will meet handicap requirements. Walls and ceiling to be gypsum wall board inside toilet with plywood top for storage. Toilet room to have one water closet and one lavatory complete with fittings for hot and cold water. Lavatory door to open outward with inside privacy lock. Landlord will also provide one mirror over sink, one towel dispenser, one toilet tissue dispenser, and a six gallon electric water heater on separate circuit. Lavatory ceiling to have exhaust fan vented to outside. Floors to have vinyl composition tile and vinyl base.~~
- G. Electrical. ~~Landlord to provide duplex convenience outlets in sales room spaced at approximately 20' on center, 12" above floor; one duplex convenience outlet to be in storage room and one duplex outlet to be in lavatory. Electrical panel installed in storage area, with not less than 200 amp 3 phase, electric service and panel box.~~
- H. Lights. ~~Landlord will provide recessed 2' x 4' lay in fluorescent light fixtures with three 32 watt T8 lamps, electronic ballast and prismatic acrylic lenses. Lights shall be installed one row per 10' of store frontage at 8'0" O.C. in depth in sales area. Storage room to have fluorescent fixtures as required to provide a minimum of 20 foot candles illumination. Lavatory room shall be lighted and water proof fixture installed at rear door. One 20 amp circuit provided to fascia for Tenant's sign. Lighted exit signs provided as required by local codes. All electrical and lighting wired to Tenant's meters. Under canopy lights on house panel with photo celled time clock.~~
- I. Heating and Air Conditioning. ~~Landlord to provide one ton of air conditioning for every 400 square feet by means of a roof mounted heating and air conditioning unit. Landlord will provide HVAC in working order within 20 days after Landlord tenders possession of the Leased Premises to Tenant (as opposed to prior to tender).~~

J. ~~Storage Room. Storage room to be exposed construction, not painted, with one 3'0" x 7'0" x 1-3/4" hollow metal door set in metal frame with keyed lockset in rear wall of store. Rear door provided with security barrel bolt inside. Door hinges to be provided with locked hinge pins.~~

K. ~~Tenant's Inspection. Tenant shall have ten (10) days from the date Landlord tenders possession of the Leased Premises to Tenant to inspect Landlord's work and submit to Landlord a punch list, in writing, itemizing any defects. If Tenant does not submit such a list, Tenant shall be conclusively deemed to have accepted all Landlord's work not specifically itemized as defective on that list.~~

L. ~~Compliance. All work will be constructed per applicable Local, State, Federal and ADA guidelines.~~

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M. ~~Water and Sewer. Landlord will provide tap fees, for industry standard 3/4" or 5/8" water line and 4" sewer line for connection to Tenant's utilities. Extra costs incurred in tap fees, water and sewer lines due to Tenant requirements above specification as outlined in "Landlord's Work" will be borne by Tenant.~~

III. EXCLUSIONS FROM LANDLORD'S WORK

A. All items of work not limited as Landlord's work under Section II of this Exhibit D shall be furnished and installed by Tenant and, for all work other than the installation of moveable trade fixture(s), Tenant must first obtain Landlord's written approval of Tenant's working drawings and specifications for the work prepared by a registered architect or professional engineer.

B. All Tenant work shall be installed in accordance with (i) the terms of this lease; (ii) all governing codes, laws and regulations; and (iii) Landlord's design, construction and labor standards. Upon completion of Tenant's work, Tenant must obtain a Certificate of Occupancy for Tenant's business. Tenant shall pay any application deposits.

C. Tenant's responsibility shall include, but are not limited to, the following:

1. All furnishings, decorating, interior signs and trade fixtures.
2. All storage shelving.
3. Interior partitions and doors not included in above scope of work.
4. Security wiring and grilles.
5. Special hardware, automatic door operators, sliding glass doors.
6. Storefront window platforms, show windows, backgrounds, decorative and/or display lighting.
7. Tenant's equipment, including but not limited to, show cases and counters, barber chairs, hair dryers, laundry machines, pressing equipment, boilers, hand sinks, etc.
8. Special plumbing, heating, ventilation and air-conditioning and electric work required for the installation of Tenant's equipment.
9. Tenant shall furnish and install all other lighting fixtures, panels, wiring, conduit, as may be required for Tenant's store fixtures and other equipment at Tenant's sole cost and expense. It is Tenant's responsibility to obtain any metering devices. Landlord shall place the canopy lighting (exclusive of Tenant's sign) on a separate Landlord meter.
10. Interior painting of walls and partitions (including toilet room).

11. Tenant sign(s).

12. All other items of work not specifically listed as “Landlord’s Work”.

~~Prior to Landlord tendering possession of the Leased Premises to Tenant, Landlord shall substantially complete the work as described as “Landlord’s Work” on this Exhibit D.~~

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EXHIBIT E SIGN CRITERIA

LANDLORD APPROVAL REQUIRED FOR TRADE NAME TO BE USED AT THIS LOCATION.

SIGNAGE IN GENERAL

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The purpose of these criteria is to provide a framework for Occupants of the Developer Tract to develop a graphic identity that adequately addresses their needs and at the same time provide for the needs of their customers and enhance the overall environment unique to a dense, mixed use development.

Above all else, Occupants of the Developer Tract should strive to create a graphic image that is consistent with their market, their customers, and their identity in a creative way that also expresses quality. Due to the proximity of the Occupants to residential, educational and park uses, careful consideration must be paid to signage that may be seen by these residential, educational and park properties.

Diverse graphic solutions are encouraged and desired. This diversity will help create the sense of uniqueness and discovery found in mixed-use developments. In general, the proposed signage for the Developer Tract's Occupants must comply with these criteria, but the owner of each respective Tract may consider creative and unusual solutions not expressed by these criteria.

All Occupants of the Developer Tract must comply with the requirements of these criteria and any additional directives submitted by the owner of the subject Tract. All design content such as fonts, colors, size and overall structure are subject to the respective Tract owner's approval prior to installation. The theater tenant shall not be subject to the attached criteria.

Signage construction and installation shall comply with applicable codes.

MECHANICAL AND ELECTRICAL

All mechanical and electrical mechanisms shall be concealed. All necessary access panels shall be located at the store side of signage and designed as an integral part of the graphic design. Threaded rods or anchor bolts – concealed from public view shall be used to 'float' elements from a 'mounting surface'. Angle clips are not acceptable for this purpose.

Electrical services shall be connected to the Occupant's electrical service. Electrical signs shall bear the U.L. label as required by applicable codes, and all labels shall be concealed from public view. Signs that have exposed neon light reflecting backgrounds or letters are prohibited. 'Light Leaks', that are not integral to the graphic design, will not be permitted. All illumination must be from a steady, stationary light source. Light rays from signs shall shine on the property within the premises and shall not spill over the property line in any direction, except by indirect reflection.

PROHIBITED SIGN TYPES

- Pylon or monument signs installed by Occupants are prohibited except as shown on the Site Plan attached to the Occupants' leases.
- Signs with incorporated exposed (i) raceways, (ii) ballast boxes, (ii) lamps, (iii) transformers and (iv) neon.
- Signs constructed of paper, fabric, cardboard, Styrofoam type materials, formed plastic, injected molded plastic, or stickers or decals (provided, however, the foregoing shall not prohibit the placement at the entrance of each Occupant's space of a small sticker or decal indicating hours of business, emergency telephone numbers, acceptance of credit cards and

other similar items of information), or other such materials that do not provide a sense of permanence or quality (exclusive of contractor signs).

- Signs with incorporated animated components, moving or flashing lights, or smoke emitting components.
- Signs attached with suction cups or tape.
- Signs constructed of luminous vacuum formed plastic letters. ▪ Signs that appear to be flags or made of fabric.
- “Reader board” signs.
- No sign may be placed on canopy roofs extending above the Building roof, placed on penthouse walls, or placed so as to project above the parapet, canopy or top of the wall upon which it is mounted.
- Signs painted on the surface of any Building.
- Signs that have exposed neon light reflecting backgrounds or letters are prohibited.
- ‘Light Leaks’, that are not integral to the graphic design, will not be permitted. ▪ Signs with any illumination that is not from a steady stationary light source.
- Sign with any audible sounds.
- No sign shall be placed at any angle to the Building; provided, however, the foregoing shall not apply to any sign located under a sidewalk canopy if such sign is at least eight (8) feet above the sidewalk and otherwise meets the requirements set forth herein.

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MEASUREMENT OF SIGNS

Signage is to be measured along the perimeter of major elements of the entire sign. Logos and spaces between words are to be included in the calculation of the signage.

PERMITTED SIGN TYPES FOR RETAIL OCCUPANTS (OTHER THAN RESTAURANT OCCUPANTS)

CHANNEL LETTERS: A sign composed of individual letters with plastic or glass face, clear or color, with aluminum sides and rear. Internal illumination is achieved by neon lighting.

SILHOUETTE SIGN (Reverse Channel): A sign composed of individual letters with internal illumination to light the face of the Building or sign background causing the letters to be silhouetted at night. Letters are pinned off of a backing plate or pinned off of the wall a minimum of one inch (1”) and a maximum of three inches (3”). The face of the letters may be painted but shall not be illuminated. Reflection of the neon lighting off of the background is not allowed. Text size is to be no less than one and one-half inches (1-1/2”) in thickness.

INDIVIDUALIZED LETTER SIGN: A sign composed of externally illuminated flat, cutout individual letters with a minimum thickness of one inch (1”) and a maximum thickness of two inches (2”). The letters are to be mounted flat on the face of the Building. Light intensity shall not exceed twenty (20) foot-candles at any point on the sign. Light source shall be white.

PLACARD SIGN: A sign made of an externally illuminated flat placard with the message and background painted on the face. Light intensity shall not exceed twenty (20) foot-candles at any point on the sign. Light source shall be white.

BLADE SIGN: Placards may be hung perpendicularly from the face of the Building, however in order to ensure design consistency the backing of the placard as well as the framing will be provided by the owner of the respective Tract. The placard’s size and type, as well as its framework, shall be approved by the owner of the respective Tract prior to installation. Signage must be identical on both sides. Signage, text and logos shall not exceed thirty percent (30%) of each side. The minimum distances between blade signs shall be located on individual store elevations. Blade signs shall be externally illuminated at the Occupant’s expense. Blade signs may not project out further than nine feet (9’) from sidewalk.

MARQUEE SIGNS: Placard signs that are hung perpendicularly from the face of the Building but that exceed five feet (5’) in vertical length are allowed in certain areas. The owner of the respective

Tract shall provide the framework and backing of Marquee signs. Signage, text and logos shall not exceed forty percent (40%) of each side. Signage must be identical on both sides, and may be located on Building corners. Possible locations of marquee signs shall be located on individual store elevations. Marquee signs shall be externally illuminated at the Occupant's expense.

DIMENSIONAL SIGNS: The accent of dimensional signage is on breaking away, breaking out, getting beyond the flat finished surface of the façade. Sculptured elements or signage can only be placed above the entrance or storefront (above eight-eight inches (88")), and may not be part of an entire dimensional storefront. The maximum cantilever for dimensional signage is three feet (3')-zero inches (0"). The illumination can be internal or external. The allowable space and location of these signs shall be determined on individual store elevations.

AWNING SIGNS: Fabric awnings may have signs painted on the skirt of the awning. Awning number 1
Page 44 of 46 Letters on the skirt shall not exceed six inches (6") in height and shall not cover more than twenty percent (20%) of the length of the skirt. Letters, signs or logos painted on the face of the awning shall not cover more than twenty percent (20%) of the area of the face of the awning. The Tract owner shall approve all fonts, colors, and content. The location and placing of awnings will be determined by the Tract owner prior to installation, and shall be shown on Building elevations.

PROJECTED CANOPIES: Framework or structures that are built out from Building facades are permitted. Occupants may use their projected canopy as "framework" for their signage. Occupants must consider these canopies when designing signage and choosing materials or colors including selection of awning colors. The Tract owner will consider creative and original solutions. The Occupant is required to replace the canopy if, in the Tract owner's discretion, the color and design of the awning do not complement the overall appearance of the store.

WINDOW SIGNS: Window signs may not exceed ten percent (10%) of the window area on each ground floor elevation of a store. Window signs are prohibited on floors above the ground floor. Opening Hour signs, Credit Card signs, etc. are included in the requirements of this paragraph. Window signs are subject to all local sign ordinances and provisions, and are prohibited above second floor occupancy.

NON-ILLUMINATED SIGNS: Non-illuminated signs of any kind shall not be permitted.

NOTE: All fonts, colors, and content shall be approved by the owner of the Tract prior to installation.

FUNCTIONAL SIGN TYPES

SERVICE SIGNS: Service area signs shall be located over the rear door of all leased spaces. The signs shall be twenty inches (20") high and thirty-six (36") long. Signs shall contain the name of the leased space and the number identifying the space. Letters shall be Helvetica and no taller than six inches (6").

TEMPORARY SIGNS: must be displayed in a manner consistent with the overall quality and character of the storefront design requirements.

NOTE: All fonts, colors, and content shall be approved by the owner of the Tract prior to installation.

OCCUPANTS

PRIMARY ANCHOR: Intentionally deleted

ANCHOR: Intentionally deleted

JUNIOR ANCHORS: ~~Occupants are classified as Junior Anchors if the leased space is comprised of between ten thousand (10,000) square feet and twenty thousand (20,000) square feet.~~

- ~~▪ Junior Anchors may have up to two hundred (200) square feet of gross allowable sign area for the leased space.~~
- ~~▪ No signage shall be placed on the sides or on the rear of the Building except for the Buildings with façades within 150 feet of Greenville Boulevard.~~
- ~~▪ No more than one hundred thirty (130) square feet of sign area may be used on any one façade.~~
- ~~▪ Maximum sign height shall be twenty four inches, unless otherwise approved by Tract owner.~~
- ~~▪ Sign area is the area contained within a single continuous rectangular perimeter enclosing all parts of the sign excluding exterior supporting elements.~~
- ~~▪ Signs shall be located as indicated on the attached façade elevations.~~
- ~~▪ Junior Anchors may have channel letters, silhouette signs, individualized letter signs or may use dimensional signs but must not obscure view to adjacent Occupants.~~
- ~~▪ Signs require Tract owner's approval prior to installation.~~

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~~RETAIL TENANTS: Occupants are classified as Retail Tenants if the leased space is comprised of less than ten thousand (10,000) square feet. Sign area is the area contained within a single continuous rectangular perimeter enclosing all parts of the sign excluding exterior supporting elements.~~

- ~~▪ May have the following gross allowable sign area:~~

Linear Footage of Façade	Square Feet of Sign Area
0-59'35
60'+50

~~(Not to exceed 75% of façade)~~

- ~~▪ Maximum sign height shall be thirty inches (30"), unless otherwise approved by Tract owner.~~
- ~~▪ If the Retail Tenant has more than one façade, the gross allowable sign area may be increased by fifty percent (50%) so long as the signage is placed on more than one façade and neither façade has less than 40% of the total signage area allowed.~~
- ~~▪ If the Retail Tenant has more than two façades, the gross allowable sign area may be increased by eighty five percent (85%) so long as the signage is placed on more than two façades and neither façade has less than 30% of the total signage area allowed.~~
- ~~▪ Signs shall be located as indicated on the attached façade elevations.~~
- ~~▪ May have placard signs, individualized letter signs.~~
- ~~▪ May use dimensional signs but must not obscure view to adjacent Occupants—requires approval by Tract owner.~~

RESTAURANT SIGNAGE REQUIREMENTS

~~ALLOWABLE SIGN TYPES: silhouette, individualized letter, dimensional, or marquee, as described above~~

~~SIZE LIMITATIONS: Restaurant Occupants:~~

- ~~▪ Signs require the approval of the Tract owner prior to installation.~~
- ~~▪ Restaurant Occupants leasing greater than six thousand five hundred (6,500) square feet ○ may have gross allowable sign area on any one façade up to ninety (90) square feet and of any one other façade up to seventy (70) square feet.~~
 - ~~○ If an Occupant's façade is within 150 feet of Greenville Boulevard, an additional 40 square feet of signage area shall be allowed above the maximum stated above so long as no one sign is less than 30 percent of the allowable sign area (i.e., this additional signage area may not be added to the maximums stated above and put on two walls). The placement of this additional signage shall be subject to approval by the Tract owner.~~
 - ~~○ Letters can not exceed thirty inches (30") in height.~~
 - ~~○ Signs require Tract owner's approval prior to installation.~~

~~▪ Restaurant Tenants leasing less than six thousand five hundred (6,500) square feet ○ may have gross allowable sign area on any one façade up to seventy (70) square feet and of any one other façade up to fifty (50) square feet. ○ If an Occupant's façade is within 100 feet of Greenville Boulevard, an additional 30 square feet of signage area shall be allowed above the maximum stated above so long as no one sign is less than 30 percent of the allowable signage area (i.e., this additional signage area may not be added to the maximums stated above and put on two walls). The placement of this additional signage shall be subject to approval by the Tract owner.~~

~~○ Letters can not exceed thirty inches (30") in height.~~

~~○ Signs require Tract owner's approval prior to installation.~~

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City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Presentation by the Police Department regarding implementation of a Red Light Camera Enforcement Program

Explanation: **Abstract:** The Greenville Police Department, in conjunction with Pitt County Schools, is working toward implementation of a red light camera program to address red light violations and reduce motor vehicle crashes at intersections.

Explanation: The Police Department has focused resources for many years to address red light violations and stop sign violations at intersections throughout the city in an effort to reduce motor vehicle collisions. A force-multiplier in the enforcement of these violations is a Red Light Camera Enforcement Program designed to cite violators at the top intersections known for serious motor vehicle crashes.

The Police Department has met with the Pitt County Schools Superintendent to garner support for the program and will make a formal presentation to the School Board on March 21, 2016. It is essential that the schools be included, as they will be the recipient of any funding associated with the fines for violations.

Additionally, Police Department staff will be making a presentation to the Public Transportation & Parking Commission at their meeting on March 16, 2016.

To determine where the greatest needs exist, the Police Department used data collected by the Traffic Safety Unit, the North Carolina Department of Transportation, and the City of Greenville Traffic Engineer. Although not fully vetted at this point, there will be five locations selected for implementation of the program if approved.

Fiscal Note: There will be no fiscal expenditures by the City related to the program. All costs will be included in the lease payment and program expenses that will be collected by the chosen vendor. The balance of any funds collected for violations will be forwarded by the vendor directly to Pitt County Schools.

Recommendation: Approval by City Council to include the Red Light Camera Enforcement program as part of this year's state legislative initiatives.

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City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: 2016 State Legislative Initiatives

Explanation: **Abstract:** City Council will identify potential legislative initiatives to pursue with the local legislative delegation during the 2016 Session of the North Carolina General Assembly. After the initiatives have been identified, resolutions relating to the identified legislative initiatives will be prepared and scheduled to be acted upon by City Council at the Thursday, March 17, 2016, meeting.

Explanation: The North Carolina General Assembly will reconvene at noon on April 25, 2016. The 2016 Session is the "short" session, and the matters that may be considered are limited.

In accordance with the Adjournment Resolution approved by the General Assembly, the following may be considered in the 2016 Session:

(1) bills affecting the budget; (2) bills amending the NC Constitution; (3) bills and resolutions introduced in 2015 that passed the crossover deadline; (4) bills and resolutions implementing recommendations of study commissions and committees; (5) any noncontroversial local bill; (6) selection, appointment, or confirmation of state board and commission members; (7) any matter authorized by joint resolution; (8) a joint resolution authorizing the introduction of a bill; (9) any bill affecting state or local pension or retirement systems; (10) joint, House, or Senate resolutions authorized under Senate Rule 40(b) or House Rule 31; (11) bills concerning redistricting; (12) bills vetoed by the Governor, to consider overriding the veto; (13) election law bills; (14) bills to disapprove rules under GS 150B-21.3; and (15) a joint resolution adjourning the 2015 Regular Session, sine die.

Discussion by City Council of issues and local acts which it desires to pursue with our local legislative delegation during this Session should occur at this time so that the City's legislative initiatives can be developed and identified. Upon Council reaching a consensus, resolutions for Council's consideration will be presented at its Thursday, March 17, 2016, meeting which will request the City's local legislative delegation support of identified initiatives during the Session.

The City is not alone in its efforts to secure legislation which will assist it in providing services to its citizens. The North Carolina League of Municipalities, in representing its more than 530 member cities, towns, and villages, promotes the common interests of municipalities in the General Assembly. Attached is a copy of the NCLM Core Municipal Principles 2015-2016.

Some potential legislative initiatives for Council to consider for this session are as follows:

Preservation and Enhancement of Municipal Revenue Sources

Support efforts to preserve the existing revenue sources of cities and to enhance the revenue sources which cities have the authority to implement. Cities are reliant upon municipal revenue sources in order to provide services to their citizens. The available revenue sources for cities are limited. Any reduction of municipal revenue sources will result in budget problems for cities. Cities would then be required to either reduce services provided to citizens or increase revenues from other sources. It is important that existing municipal revenue sources be preserved. During the 2015 Session, the adopted State budget included a sales tax plan that provides additional money to primarily rural and suburban counties and cities with no county or city to receive less local sales tax revenue than currently received. The revenue for the additional money comes from an expansion of the sales tax base to include repair, maintenance, and installation of tangible personal property. This is expected to help fund a total of \$84.8 million which is to be distributed to 79 counties with Pitt County to get 0.16% of this amount. The distribution to Pitt County is to be divided among the county and the cities. Although the City of Greenville benefitted from this change, there is the possibility of further reform of the sales tax which may not be beneficial to the City of Greenville including alteration of the distribution formulas. Sales tax is a significant revenue source for the City of Greenville. The sales tax should continue to be a reliable and growing source of revenue for cities. The North Carolina League of Municipalities continues to work on legislation that would provide cities with additional revenue options, including authority for a city-only sales tax.

Preservation of Municipal Authorities

Support efforts to preserve the existing authorities of cities. Cities are authorized to act based upon grants of authorities by the North Carolina General Assembly. Cities need flexibility in exercising these authorities to allow the local elected officials the opportunity to make decisions that effectively and efficiently meet the needs of their community. During this Session, there are several bills eligible for consideration which would limit or restrict the authorities of local elected officials to make decisions on significant issues which are important to the community. An example is a proposal (HB304/SB320) which would overrule local rules governing existing billboards by allowing an existing billboard to be moved from its current location to any non-residential zone in a city regardless of the city's restrictions on locations and which would allow the relocated billboard to be enlarged, made taller, or converted to digital display, even if the city's ordinance says otherwise.

Red Light Camera Enforcement

Seek a local act which will allow the City of Greenville to implement a red light camera enforcement program utilizing an interlocal agreement with the Pitt County Board of Education which includes provisions on cost sharing and reimbursement. In 2014, the City of Fayetteville secured a local act which authorized the implementation of such a red light camera enforcement program. This innovative approach has been successfully implemented by Fayetteville. This approach allows the city to implement the red light camera enforcement program in a fiscally prudent manner. Without this authority, the clear proceeds of the fines which are collected from citations issued due to red light camera enforcement would be paid to and retained by the local school system. And the City could only retain the amount which represents the cost of collection of the fines which could not exceed 10% of the amount of the fines. Drivers of motor vehicles who violate the law by entering an intersection after the signal light turns red create a serious safety hazard. The implementation of this enforcement tool is expected to result in a decline of stoplight violations and a correlating increase in the safety for the citizens of Greenville.

Urban Search and Rescue Funding Source

Support legislation to establish a sustainable funding source for the Urban Search and Rescue Program. North Carolina has seven (7) regional Urban Search and Rescue (USAR) teams which provide disaster response and additional capabilities such as swift water rescue, confined space rescue, and aquatic rescue. One of the regional teams is located and provided personnel by the City of Greenville Fire-Rescue Department. The primary source of funding for the USAR program in North Carolina has been through Homeland Security Grants passed through North Carolina Emergency Management (NCEM). However, this grant funding is decreasing, and there is a need to establish a sustainable funding source. During the 2015 Session, legislation was passed to support the Urban Search and Rescue Program, but a provision relating to sustainable funding was not included. The North Carolina Coalition of Metropolitan Fire Chiefs has supported this issue in the past.

Business Registration

Support efforts to maintain the authority of cities to implement business registration programs and charge a reasonable fee in connection with the program. The 2014 repeal of municipal privilege license authority eliminated a tool for cities to collect data on businesses operating within their jurisdiction. This data provided information to employees in areas like police, fire, safety inspections, and zoning compliance. Some local governments have commenced collecting this data and charging a fee associated with the costs of collecting the data. However, this prompted the introduction of bills during the 2015 Session to restrict or eliminate the fee which could be charged. HB739 would eliminate the authority of cities to charge a reasonable fee and is eligible for consideration during this session.

Economic Development

Support legislation which promotes economic development. Preservation of the Job

Development Investment Grant (JDIG) program is a priority. JDIG is a state level discretionary program that provides grants to businesses that create new jobs and make a capital investment. To qualify for JDIG, a business must demonstrate that North Carolina is competing with another state and that the business is paying a wage that exceeds the county average. JDIG does require a local contribution, based on Tier designation. The Greenville MSA currently uses JDIG as an economic development recruiting tool to compete with other states that offer incentives. During the 2015 Session, legislation which increased the annual cap on JDIG grants to \$20 million was approved. Elimination of JDIG funding, without a viable replacement, will put the Greenville MSA at a competitive disadvantage when competing with other states for jobs. Additionally, legislation which encourages a regional development approach that benefits eastern North Carolina will also benefit Greenville.

Fiscal Note: The development of the Legislative Initiatives will not have a fiscal impact.

Recommendation: Identify the initiatives which Council desires to include in its Legislative Initiatives so that resolutions for Council action at the March 17, 2016, meeting can be developed.

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 [2015-2016 NCLM Core Principles](#)



NCLM CORE MUNICIPAL PRINCIPLES 2015-2016

The following principles provide a foundation to advocate for excellence in N.C. municipal government, with the objective of giving elected officials the ability to create a high quality of life for hometowns to provide economic opportunity, and to attract businesses, residents, and visitors.

Authority

Preserve existing municipal authority

The League supports a broad construction of municipal powers, and therefore stands opposed to legislation preempting municipal authority and to measures designed to otherwise erode local control of significant municipal issues.

Revenues

Protect local revenue streams

The League supports measures to ensure the fiscal stability of cities, including the preservation of existing local revenue sources. In addition, the League supports the equitable distribution of state-collected revenues, the autonomy of local elected officials to determine the best use of their revenues, and the authorization of replacement revenues for repealed fiscal authorities.

Mandates

Minimize state and federal mandates

The League opposes requirements by the state and federal governments to appropriate funds for particular programs or functions, or to make specific management decisions, that were not voluntarily agreed to by the local elected body. The League only supports mandates to expend monies if the directive is accompanied by implementation funds.

Open Government and Ethical Conduct

Promote open government and ethical conduct



The League supports the principle of openness in government, with reasonable exceptions when such limitations are in the public interest, for all levels of government. Further, the League supports adherence to the highest standards of ethical conduct by elected and appointed officials at all levels of government.

Liability

Limit imposition of liability

The League opposes proposals placing burdensome liability upon municipalities, including measures that seek to erode well-established principles of immunity or other defenses.

Growth

Support responsible growth and economic development policies

The League supports the ability of local officials to target their resources toward the specific investments needed in their communities to grow and attract jobs. To that end, the League supports initiatives and policies that contribute to making N.C. hometowns more attractive places to live, work, and visit, while respecting the rights of current residents.

Regulation

Support science-based, equitable, cost-effective, flexible, achievable regulatory solutions.

The League supports providing regulatory agencies sufficient funding and flexibility for program implementation. Further, the League supports an inclusive process for developing regulations that apply to municipalities. This process should prioritize the most critical concerns, allow localized solutions, account for compliance costs, eliminate duplicative regulations, apply proportionally to all contributors of pollution, and avoid layering with safety factors and conservative assumptions that are not based on a reasonable risk management approach.



City of Greenville, North Carolina

Meeting Date: 3/14/2016
Time: 6:00 PM

Title of Item: Discussion of directing staff to draft a proposed amendment to one of the options which qualifies a bidder to be an Eligible Local Bidder in the Local Preference Policy

Explanation: **Abstract:** Mayor Allen Thomas requested an item be placed on the agenda for discussion of directing staff to draft a proposed amendment to one of the options which qualifies a bidder to be an Eligible Local Bidder in the Local Preference Policy.

Explanation: One of the options which qualifies a bidder to be considered as an Eligible Local Bidder is that the bidder has an office from which all or a portion of the business is directed or managed and which is located within a residence within the corporate limits or extraterritorial jurisdictional area of the City as allowed by the Zoning Ordinance for a period of at least one year. The way the ordinance is currently written, a company outside of Greenville can utilize this provision to get around the local preference policy, applying for contracts based not on a registered place of business but on an employee's residence. The Mayor has requested that this provision be reviewed to ensure it matches the intent of the policy to support Greenville-based businesses.

Fiscal Note: No direct cost to discuss the issue.

Recommendation: Discuss the issue as requested by Mayor Thomas.

Attachments / click to download
