



Agenda

Greenville City Council

September 10, 2012
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 - Council Member Blackburn

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 April 12, 2012 City Council meeting and the May 21, 2012 joint City Council-Greenville Utilities Commission meeting
2. Request to withdraw rezoning application by The East Carolina Bank
3. Resolution of intent to close a portion of Carolina Avenue
4. Resolution of intent to close a portion of McKinley Avenue

5. Revisions to the City of Greenville Investment Policy
6. Resolutions declaring as surplus and authorizing the disposition of two 2013 International Model 7400 rear loader refuse trucks
7. Business Applications Needs Assessment (BANA) project update and approval of issuing associated request for proposals
8. Supplemental municipal agreement with the North Carolina Department of Transportation for the Green Mill Run Greenway Phase 2 project
9. Resolution approving the execution of a municipal agreement with the North Carolina Department of Transportation for Section 5303 Planning Grant Funds
10. Memorandum of agreement with the North Carolina Sedimentation Control Commission for the City of Greenville's erosion control program
11. Electric Capital Projects Budget ordinance for Greenville Utilities Commission's Generator - EPA Carbon Monoxide Emission Reduction
12. Series Resolution for Greenville Utilities Commission's Westside Pump Station and Force Main Project

VII. New Business

13. Resolution requesting an amendment to the United States Constitution to clarify that corporations are not people and financial contributions are not speech
14. Resolution amending the City of Greenville Personnel Policies for Pay of Reclassified Employee/Pay for Employee Affected by Reorganization or Restructuring
15. Resolution amending the City of Greenville Personnel Policies by adding a new section on Supplemental Interim Pay
16. Amendment to Uptown Greenville contract for services
17. Report on standards for internet sweepstakes businesses
18. Discussion of privilege license fee structure for internet sweepstakes businesses
19. Resolution calling for a public hearing to refund bonds (2009 Installment Financing Agreement and Series 2004 Certificate of Participation Bonds)
20. Budget ordinance amendment #2 to the 2012-2013 City of Greenville budget (Ordinance #12-

027) and amendments to the Special Revenue Grant Fund (Ordinance #11-003)

VIII. Review of September 13, 2012 City Council Agenda

IX. Comments from Mayor and City Council

X. City Manager's Report

XI. Closed Session

- To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes, said law rendering the information as privileged or confidential being the Open Meetings Law
- To establish or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease

XII. Adjournment



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

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- Title of Item:** Minutes from the April 12, 2012 City Council meeting and the May 21, 2012 joint City Council-Greenville Utilities Commission meeting
- Explanation:** Proposed minutes from the April 12, 2012 City Council meeting and the May 21, 2012 joint City Council-Greenville Utilities Commission meeting are included for consideration by Council.
- Fiscal Note:** There is no direct cost to the City
- Recommendation:** Review and approve proposed minutes from the April 12, 2012 City Council meeting and the May 21, 2012 joint City Council-Greenville Utilities Commission meeting

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

Attachments / click to download

- [Proposed_Minutes_of_April_12_2012_City_Council_Meeting_933472](#)
- [Proposed_Minutes_of_May_21_2012_Joint_City_GUC_meeting_933661](#)



PROPOSED MINUTES
MEETING OF THE CITY COUNCIL
CITY OF GREENVILLE, NORTH CAROLINA
THURSDAY, APRIL 12, 2012

A regular meeting of the Greenville City Council was held on Thursday, April 12, 2012 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 Blackburn, assisted by local Girl Scouts, gave the invocation, followed by the Pledge of Allegiance.

Those Present:

Mayor Allen M. Thomas, Mayor Pro-Tem Rose H. Glover, Council Member Kandie Smith, Council Member Marion Blackburn, Council Member Calvin R. Mercer, Council Member Max R. Joyner, Jr. and Council Member Dennis J. Mitchell

Those Absent:

None

Also Present:

Interim City Manager Thomas M. Moton, Jr., City Attorney David A. Holec, City Clerk Carol L. Barwick and Deputy City Clerk Polly W. Jones

APPROVAL OF THE AGENDA

Interim City Manager Thom Moton stated the applicant for the Brighton Park rezoning has requested a continuance to May 10th and the Student Government Association President from East Carolina University has requested that he be allowed to make a presentation.

Upon motion by Council Member Joyner and second by Council Member Blackburn, suggested changes to the agenda were approved by unanimous vote.

Upon motion by Council Member Joyner and second by Council Member Blackburn, the agenda was approved by unanimous vote.



APPOINTMENTS

- Appointments to Boards and Commissions

Affordable Housing Loan Committee

Council Member Smith continued the appointment of Gregory James, who had resigned, and she made a motion to appoint William Kitchin to fill an unexpired term that will expire in February 2015 in replacement of Karalee Coughlin, who had resigned; and to appoint Jackie Parker to fill an unexpired term that will expire in February 2015 in replacement of Sterling Reid, who had not met the attendance requirements. Council Member Joyner seconded and the motion carried unanimously.

Community Appearance Commission

Council Member Mercer made a motion to reappoint Joanne Robertson to her first three-year term that will expire in April 2015, and to appoint Diane Kulik to her first three-year term that will expire in April 2015 in replacement of Albrecht McLawhorn, who was no longer eligible to serve. The motion was seconded by Council Member Joyner and it carried unanimously.

Environmental Advisory Commission

Council Member Blackburn made a motion to reappoint Scott Anderson to his first three-year term that will expire April 2015; reappoint Owen Burney to his second three-year term that will expire April 2015; appoint Michael Behm to his first three-year term that will expire in April 2015, in replacement of E. Wayne Caldwell, who was no longer eligible to serve; and appoint Robert Chin to his first three-year term that will expire in April 2015, in replacement of Tim Kelley, who had resigned. The motion was seconded by Council Member Joyner and it carried unanimously.

Historic Preservation Commission

Council Member Blackburn chose to continue the replacement of Dennis Chestnut, who was no longer eligible to serve.

Human Relations Council

Mayor Pro-Tem Glover made a motion to appoint Geoffrey Kenan to fill an unexpired term that will expire in September 2013, in replacement of Martha Brown, who had resigned. She continued the appointments to replace Guillame Bagal, an East Carolina University student who had moved out of the state, and



Michael Rouse, a Pitt Community College student who had moved out of the city limits. Council Member Joyner seconded the motion and it carried unanimously.

Police Community Relations Committee

Mayor Pro-Tem Glover continued the replacement of Willie Roberts, who was not able to meet the attendance requirements.

Youth Council

Council Member Blackburn continued the replacements of the nine available slots on the Council.

OLD BUSINESS

- Policy on Council Debate

City Attorney Dave Holec stated the City Council adopted a Policy on Council Debate at its annual Planning Session on January 21, 2012 with the stipulation that it be effective for a 3-month period. Because of this, the Policy provides that it will expire and be null and void after April 21, 2012. Such a “sunset provision” allowed the City Council an opportunity to review the Policy by an established deadline in order to determine whether the Policy should continue as is, be amended, or no longer continue.

Since there is no scheduled City Council meeting prior to the date the Policy is scheduled to expire, action by the City Council should be taken at this meeting; otherwise, the Policy will expire and be null and void after April 21, 2012.

Mr. Holec stated the following options are available for City Council consideration:

- Schedule discussion on the Policy for a later meeting date and extend the sunset date from April 21, 2012, to the day after the meeting date.
- Continue the Policy as is and either remove the sunset date or establish another sunset date in order to review the Policy at a later time.
- No longer continue having the Policy, either by taking action to discontinue or by taking no action, in which case the Policy expires and becomes null and void after April 21, 2012.
- Amend the Policy. A sunset date could be established for the amended Policy.

A motion was made by Council Member Joyner, seconded by Mayor Pro-Tem Glover, to continue the Policy as is, with no sunset date.



Council Member Blackburn stated she understood the need to have a certain discipline for Council meetings but said she feels it is unfair to Council Members and to the public to limit time spent in debate when some issues are more complex than others.

Council Member Mercer stated the policy to limit debate was approved on the basis that the City Council needed to have shorter and more efficient meetings, but since its adoption, meetings have been just as long as they were in the past. The Policy calls for two rounds of speaking with five and three minute time limits. Council Member Mercer stated he does not feel this is a good legislative process as not all issues require the same amount of discussion time. Under the current Policy, a complicated item that will impact the City for decades gets the same amount of attention as a purchase order for a new police car. Another flaw in the policy is that the last Council Member to speak can introduce some new angle in the matter which then will not be addressed. Council Member Mercer stated he feels the policy was approved with good intentions, but he does not feel it properly addresses the problems that exist.

Council Member Blackburn moved to amend Council Member Joyner's motion by discontinuing the current Policy to determine if doing so lengthens meetings and to set a sunset provision on that discontinuance to evaluate the result. Council Member Mercer seconded the motion, which resulted in a tie vote of Council Members Blackburn, Mercer and Smith voting in favor and Mayor Pro-Tem Glover and Council Members Joyner and Mitchell voting again. Mayor Thomas broke the tie by voting no and the motion failed.

Council Member Mercer moved to approve Council Member Joyner's motion with the addition of a provision that gives each Council Member one opportunity per calendar year to suspend time limits for debate on a large or complex item. Council Member Blackburn seconded the motion.

Mayor Thomas stated the current policy was adopted with the goal of streamlining meetings and he feels the policy is serving its intended purpose.

Council Member Joyner stated he feels the policy is working, but meetings could be shortened further if the City Council routinely held its third meeting scheduled each month. That meeting is often cancelled.

Council Member Mitchell asked if the current policy would allow a City Council Member to request suspension of the Policy on a particular item. Mr. Holec stated that it would.

On Council Member Mercer's motion, Council Members Blackburn, Mercer and Smith voted in favor and Mayor Pro-Tem Glover and Council Members Joyner and



Mitchell voted against, resulting in a tie. Mayor Thomas broke the tie by voting no and the motion failed.

On the original motion made by Council Member Joyner, Mayor Pro-Tem Glover and Council Members Joyner and Mitchell voted in favor of continuing the Policy as is, with no sunset date. Members Blackburn, Mercer and Smith voted against the motion, resulting in a tie vote which was broken by Mayor Thomas. Mayor Thomas voted in favor of the motion, which was thereby approved.

- Resolutions establishing State Legislative Initiatives (Resolution Nos. 016-12, 017-12, 018-12 and 019-12)

City Attorney Holec stated this is a continuation of items which were discussed at the City Council meeting on Monday and relates to legislative items for which the City Council gave consensus to be presented to the General Assembly when they reconvene at noon on May 16, 2012. Mr. Holec said he developed resolutions for consideration on that basis.

Mr. Holec stated the first resolution for consideration supports the Equity Formula so that transportation needs for Eastern North Carolina are met. This relates to funding provided by the North Carolina Department of Transportation to finance transportation improvement plans within the district.

Upon motion by Council Member Joyner and second by Council Member Blackburn, the City Council voted unanimously to adopt the resolution supporting the Equity Formula so that transportation needs for Eastern North Carolina are met.

Mr. Holec stated the next resolution for consideration supports adjusting the State budget to restore the level of public investment funding in infrastructure for public health and education. It was suggested by Council Member Blackburn.

Council Member Blackburn moved to adopt the resolution, seconded by Council Member Mercer.

Council Member Joyner said the State of North Carolina is required to balance their budget and they have done that. There is no funding to restore and doing so could only be accomplished through tax increases or other fees. He stated he does not feel this is a City issue and he does not support it.

Council Member Blackburn said the City's delegation is standing up for the needs of our community and they need some guidance from the City Council. The State did not have its full complement of revenue last year because a ½ cent sales tax with a sunset date expired.



Following a brief discussion on the merits of this resolution, the motion to adopt the resolution failed by a vote of 2 to 4 with Council Members Blackburn and Mercer casting the only affirmative votes.

Mr. Holec stated the next resolution supports the preservation of municipal revenue sources.

Upon motion by Council Member Joyner and second by Council Member Mercer, the City Council voted unanimously to adopt the resolution supporting the preservation of municipal revenue sources.

Mr. Holec said the next resolution seeks the authority to regulate concealed handguns on greenways, trails and campgrounds.

Council Member Blackburn stated she was at the Recreation and Parks Commission's October 12th meeting and they were very concerned about losing the ability to regulate guns in parks. She said she feels the City needs the ability to impose restrictions in parks, campgrounds and on trails. The City currently has less ability to impose regulation than a commercial property owner.

Council Member Mercer moved to adopt the resolution, seconded by Council Member Blackburn.

Council Member Joyner asked what is required to obtain a concealed carry permit and whether there had been any trouble with permit holders in City parks.

Interim Police Chief Joe Bartlett stated an applicant for a concealed carry permit would be required to take and pass a course, make application and pay a fee. A background check is run on each applicant, and provided there are no concerns, a permit is issued. Generally this is a 2 to 6 month process. He said as far as he knows, there has been no trouble on City property, but he recalled one homicide off City property a few years ago.

Council Member Mitchell asked Interim Chief Bartlett's opinion on the proposal for the City to have this authority.

Interim Chief Bartlett stated he believes this could provide an additional enforcement tool for police officers and said he believes there should be reasonable controls on concealed carry permits, either at the state or local level.

Council Member Smith cited overnight camping in City parks and asked if a camper could have a gun inside their camper or tent.

Mr. Holec stated they could have one inside, but could not carry it concealed on their person.



Following a general discussion about crime in Greenville and its parks, the motion to adopt the resolution seeking authority to regulate concealed handguns on greenways, trails and campgrounds failed by a vote of 2 to 4 with Council Members Blackburn and Mercer casting the only affirmative votes.

Mr. Holec stated the next resolution supports the preservation or enhancement of existing authorities to enter into public-private partnerships.

Council Member Blackburn asked who determines what is appropriate.

Mr. Holec stated the State will likely impose additional limitations or establish a requirement for an oversight commission.

Upon motion by Council Member Joyner and second by Council Member Mercer, the City Council voted unanimously to adopt the resolution supporting the preservation or enhancement of existing authorities to enter into public-private partnerships.

Mr. Holec stated the final resolution relates to support for State funding of statewide and regional organizations which assist in economic development efforts.

Upon motion by Council Member Mercer and second by Council Member Blackburn, the City Council voted unanimously to adopt the resolution supporting State funding of statewide and regional organizations which assist in economic development efforts.

NEW BUSINESS

PUBLIC HEARINGS

- (Continued to May 10th) Ordinance requested by Brighton Park Apartments, LLC, to rezone 0.63 acres located on the western right-of-way of Brighton Park Drive approximately 50 feet south of its intersection with Melrose Drive from MO (Medical-Office) to MR (Medical-Residential)
- Ordinance requested by E. Hoover Taft, III, Trustee, and Margie B. Stafford, Trustee, to rezone 0.43 acres (18,713 square feet) located at the southwest corner of the intersection of Ellsworth Drive and Spring Forest Road from R6S (Residential-Single-Family [Medium Density]) to R6 (Residential [High Density Multi-family]) – (Ordinance No. 12-015)



Planner Chantae Gooby stated Hoover Taft, III and Margie B. Stafford, Trustees, have requested the rezoning of 0.43 acres (18,713 square feet) located at the southwest corner of the intersection of Ellesworth Drive and Spring Forest Road from R6S (Residential-Single-Family [Medium Density]) to R6 (Residential [High Density Multi-Family]). The subject area is located in Vision Area F.

The Future Land Use Plan Map recommends medium density residential (MDR) transitioning to office/institutional/multi-family (OIMF) and high density residential (HDR) at the intersection of Ellsworth Drive and Spring Forest Road. The Future Land Use Plan Map recommends office/institutional/multifamily (OIMF) at the southwest corner of the intersection of Arlington Boulevard and Dickinson Avenue transitioning to conservation/open space (COS) in the interior area.

Ms. Gooby stated in 1972, the subject property was incorporated into the City's extra-territorial jurisdiction (ETJ) and zoned R6 (Residential [High Density Multi-Family]). In 2006, the subject property was rezoned to R6S (single-family) as part of the neighborhood rezoning as recommended by the Task Force on Preservation of Neighborhoods and Housing.

Surrounding land uses and zoning are as follows:

North: R6 - Spring Village Townhomes

South: R6S - Lake Ellsworth (single-family subdivision)

East: CH - Vacant

West: R6 - Lakeside Apartments

Ms. Gooby stated under the current zoning (R6S), the site could yield no more than two (2) single-family lots. Under the proposed zoning (R6), the site could yield no more than two (2) duplex buildings (4 units). The anticipated build-out time is 1-2 years. The Planning and Zoning Commission voted to approve the request at its March 20, 2012, meeting.

Ms. Gooby said it is Staff's opinion that the request is in general compliance with Horizons: Greenville's Community Plan and the Future Land Use Plan Map. "General compliance with the comprehensive plan" should be construed as meaning the requested rezoning is recognized as being located in a transition area and that the requested rezoning (i) is currently contiguous or is reasonably anticipated to be contiguous in the future, to specifically recommended and desirable zoning of like type, character or compatibility, (ii) is complementary with objectives specifically recommended in the Horizons Plan, (iii) is not anticipated to create or have an unacceptable impact on adjacent area properties or travel ways, and (iv) preserves the desired urban form. It is recognized that in the absence of more detailed plans, subjective decisions must be made concerning the scale, dimension, configuration, and location of the requested zoning in the particular case. Staff is not recommending approval of the requested zoning; however, staff does not have any specific objection to the requested zoning.



Mayor Thomas opened the public hearing for the requested rezoning at 8:11 pm and invited anyone wishing to speak in favor to come forward.

Mike Baldwin – No Address Given

Mr. Baldwin stated he is representing the applicant, who wants the property rezoned to get setbacks down. The lot does not lend itself to apartments or single-family, so he feels this is an appropriate request for this lot.

Council Member Smith asked Mr. Baldwin if he had a general idea of what could go on the lot.

Mr. Baldwin stated a duplex would fall in between the R6 zoning and high-density. The restricted use would not allow two duplexes on the lot because of the setbacks. Hearing no further comment in favor of the requested rezoning, Mayor Thomas then invited comment in opposition. Hearing no one, Mayor Thomas closed the public hearing at 8:16 pm.

Council Member Joyner moved to adopt the ordinance to rezone 0.43 acres (18,713 square feet) located at the southwest corner of the intersection of Ellesworth Drive and Spring Forest Road from R6S (Residential-Single-Family [Medium Density]) to R6 (Residential [High Density Multi-Family]). Mayor Pro-Tem Glover seconded the motion, which passed by a vote of 4 to 2 with Council Members Blackburn and Smith voting no.

- Ordinance requested by Lewis Land Development, LLC, POHL, LLC, and V. Parker Overton to rezone 31.74 acres located at the southeastern and southwestern corners of the intersection of Fire Tower Road and Bayswater Road from CN (Neighborhood Commercial) and R6MH (Residential-Mobile Home [High Density]) to CG (General Commercial) – (Ordinance No. 12-016)

Planner Chantae Gooby stated Lewis Land Development, LLC, POHL, LLC and V. Parker Overton to rezone 31.74 acres located at the southeastern and southwestern corners of the intersection of Fire Tower Road and Bayswater Road from CN (Neighborhood Commercial) and R6MH (Residential-Mobile Home [High Density]) to CG (General Commercial). The subject area is located in Vision Area D.

Fire Tower Road is designated as a residential corridor between Evans Street and Corey Road. 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.

There is a designated neighborhood commercial focus area at the intersection of Fire Tower Road and Bayswater Road. These nodes typically contain 20,000-40,000 square feet of conditioned floor space.



The Future Land Use Plan Map recommends commercial (C) along the southern right-of-way of Fire Tower Road between Bayswater Road and Fork Swamp Canal transitioning to conservation/open space (COS) to the east, high-density residential (HDR) to the south, and office/institutional/multi-family (OIMF) to the west.

The Future Land Use Plan Map identifies certain areas for conservation/open space (COS) uses. The map is not meant to be dimensionally specific, and may not correspond precisely to conditions on the ground. When considering rezoning requests or other development proposals, some areas classified as conservation/open space may be determined not to contain anticipated development limitations. In such cases, the future preferred land use should be based on adjacent Future Land Use Plan designations, contextual considerations, and the general policies of the comprehensive plan.

In 1988, the subject property was incorporated into the City's extra-territorial jurisdiction (ETJ) and zoned R6MH (Residential-Mobile Home [High Density]). In 2007, the subject site was included in a Future Land Use Plan Map amendment and a rezoning request. The Future Land Use Plan Map amendment requested to change the recommended land use from office/institutional/multifamily (OIMF) and high density residential (HDR) to commercial (C). The rezoning request was for CN (Neighborhood Commercial). Both requests were approved.

Surrounding land uses and zoning are as follows:

North: O - First South Bank and vacant; R6S - Ashcroft Subdivision

South: R6MH - Vacant (under common ownership as applicants)

East: R6 - Whitebridge Apartments and Duplexes

West: CG - Fire Tower Crossing Shopping Center and Mini-Storage

Ms. Gooby stated under the current and proposed zoning, staff would anticipate Tracts 1 and 2 to yield 43,604 square feet of retail/restaurant/office space. Under current and proposed zoning, staff would anticipate the 18.04 acre portion of Tract 3 that is currently zoned CN (Neighborhood Commercial) to yield 172,880 square feet of retail/restaurant/ office space. Under its current zoning, the remaining 9.11 acres in Tract 3 would be expected to yield 128 multi-family units. Under the proposed zoning, that same tract would be anticipated to yield 87,303 square feet of retail/restaurant/office space. The Planning and Zoning Commission voted to approve the request at its March 20, 2012, meeting.

Ms. Gooby said it is Staff's opinion that the request is in general compliance with Horizons: Greenville's Community Plan and the Future Land Use Plan Map. "General compliance with the comprehensive plan" should be construed as meaning the requested rezoning is recognized as being located in a transition area and that the requested rezoning (i) is currently contiguous or is reasonably anticipated to be contiguous in the future, to specifically recommended and desirable zoning of like



type, character or compatibility, (ii) is complementary with objectives specifically recommended in the Horizons Plan, (iii) is not anticipated to create or have an unacceptable impact on adjacent area properties or travel ways, and (iv) preserves the desired urban form. It is recognized that in the absence of more detailed plans, subjective decisions must be made concerning the scale, dimension, configuration, and location of the requested zoning in the particular case. Staff is not recommending approval of the requested zoning; however, staff does not have any specific objection to the requested zoning.

Mayor Thomas opened the public hearing for the requested rezoning at 8:25 pm and invited anyone wishing to speak in favor to come forward.

Michael Overton – No Address Given

Mr. Overton stated he is representing the owners/developers, who basically want to clean up the lines of the property.

Hearing no further comment in favor of the requested rezoning, Mayor Thomas then invited comment in opposition. Hearing no one, Mayor Thomas closed the public hearing at 8:26 pm.

Council Member Joyner moved to adopt the ordinance to rezone 31.74 acres located at the southeastern and southwestern corners of the intersection of Fire Tower Road and Bayswater Road from CN (Neighborhood Commercial) and R6MH (Residential-Mobile Home [High Density]) to CG (General Commercial). Mayor Pro-Tem Glover seconded the motion, which passed by unanimous vote.

- Ordinance amending Article N of the Zoning Ordinance relating to sign regulations associated with temporary flags and wind blades (Ordinance No. 12-017)

Planner Michael Dail stated a report on the city's sign regulations was requested at the May 31, 2011, City Council meeting and the Planning Division staff developed and presented that report to the City Council at their August 8, 2011 meeting. The City Council then directed staff to develop options for possible modifications to the sign regulations for their review. Staff developed a list of possible options and presented them to the City Council on September 8, 2011. They were then directed by the City Council to contact local sign companies to get their input on the options presented.

Staff met with the owners/operators of four local sign companies and received input on potential modifications which were again presented to City Council along with comments made by the sign companies at their November 14, 2011 meeting. The City Council voted to initiate a Zoning Ordinance Text Amendment that would define "wind blades" and allow their use, but limit the number permitted and limit the number of flags with commercial messages per lot or business.



Staff presented the text amendment requested by the City Council to the Planning and Zoning Commission at their January 17, 2012 meeting. The Commission voted to recommend approval of the text amendment. The City Council revised this original text amendment at their February 9, 2012 meeting and sent it back to the Planning and Zoning Commission for review. Staff presented the revised text amendment to the Planning and Zoning Commission at their March 20, 2012 meeting and the Commission voted to recommend denial of the revised text amendment and to reaffirm their previous recommendation of approval for the original text amendment.

Mr. Dail stated that tonight, both the original text amendment (Option 1) and the revised text amendment (Option 2) are being presented for the City Council's consideration.

Mr. Dail stated that under the current standards, flags, with or without commercial messages, permanent or temporary, are permitted so long as each flag does not exceed 100 square feet in area. There is no limitation on the number of flags that can be erected on a lot. Wind blades are not classified as flags, nor are they currently defined. They are considered temporary signs and are limited to 6 square feet in area and one per lot. He then summarized the options presented for consideration at this meeting:

Option 1

- Defines a "wind blade" as a non-self supporting fabric or film display that is supported on one side by a pole or mast that is curved at the top so that the message is visible regardless of wind conditions. It further states that Wind blades shall be freestanding and shall not be attached to any permanent structure.
- Limits flags without commercial messages to no more than 100 square feet in area with no limitation on the number permitted per lot.
- Limits flags with commercial messages that are attached to functioning light poles located on the business' property to no more than 50 square feet in area.
- Permits freestanding flags with commercial messages and wind blades with commercial or noncommercial messages as follows:
 - At least one freestanding flag or wind blade is permitted per lot;
 - One freestanding flag or wind blade is permitted for each 100 feet of lot frontage on a public or private street; and
 - Each freestanding flag or wind blade shall not exceed 25 square feet in area or 12 feet in height.

Option 2

- Defines a "wind blade" – the same as in Option 1



- Limits flags with or without commercial messages that are located on functioning light poles internal to the business lot to no more than 50 square feet in area. No limitation on the number permitted per lot.
- Temporary freestanding flags and wind blades are not permitted.
- Flags attached to permanent flag poles are limited to 50 square feet for commercial messages, 100 square feet for noncommercial messages, and no more than one flag pole per lot.

Council Member Mitchell moved to have staff review the entire sign ordinance, seconded by Council Member Joyner.

City Attorney Holec stated with that motion, staff would need some direction as to what the City Council desires.

Council Member Mitchell stated trying to understand the sign ordinance is very difficult and reviewing its history suggests it gets amended once or twice annually, often by request of businesses rather than for the overall good of the City. Amending in this manner results in a sign ordinance that is very difficult to follow, case in point being what could be approved tonight regarding a wind blade versus a flag being determined by a three inch curve at the top. He stated he feels the overall ordinance should be reviewed and simplified so that current businesses and new businesses coming into town can look at it and easily understand what is allowed.

Council Member Blackburn stated she appreciates Council Member Mitchell's desire to be thorough, but her concern is the visual clutter. She said she hopes if the decision is to conduct an overall review, the proposal returned will include options to reduce visual clutter; however, she encouraged the City Council to move forward now on the issue of flags and windblades and said she prefers Option 2.

Council Member Joyner stated he gets more calls related to the sign ordinance than anything else because many citizens either do not understand it or fail to obey it. He agreed that an overall review is warranted and asked how long that might take.

Interim City Manager Moton estimated 6-9 months, depending on the City Council's directions to staff.

Mayor Thomas stated he also gets many calls related to the City's sign ordinance and feels education of the public and a clear policy are important.

Council Member Mercer said he thinks he's heard that the goals of an overall review are to develop a simple and understandable ordinance which incorporates best practices of other communities and which has a goal of reducing visual clutter.

There being no further discussion, the City Council voted unanimously to approve the motion to direct staff to review the entire sign ordinance.



Mayor Thomas then asked the City Attorney how to address the specific item on the agenda.

Mr. Holec stated the City Council could move forward with the public hearing and take action on the options presented, or the item could be continued.

Upon consensus of the City Council to proceed, Mayor Thomas declared the public hearing open at 8:42 pm and invited anyone wishing to speak in favor of proposed text amendments to the City's sign ordinance. Hearing none, Mayor Thomas invited comment in opposition. Also hearing none, Mayor Thomas closed the public hearing at 8:43 pm.

Council Member Blackburn moved to adopt the text amendment to the sign ordinance presented as Option 2. Council Member Mitchell seconded the motion.

Council Member Joyner said he feels if staff is reviewing the entire sign ordinance and the City Council will potentially adopt changes in six months, making a change now will only add to the confusion.

Council Member Blackburn stated without any clear standards, there will be a proliferation of clutter. She amended her original motion, with concurrency by Council Member Mitchell, to allow a 30-day grace period for the text amendment to become effective. There being no further discussion, the motion passed by a vote of 4 to 2 with Mayor Pro-Tem Glover and Council Member Joyner casting the dissenting votes.

- (Added) Presentation by East Carolina University's Student Government Association

Council Member Blackburn asked if the City Council would consider hearing the presentation from ECU now rather than waiting until later in the meeting. She noted that it is exam time and said she felt the students would appreciate not having to wait throughout the duration of the meeting.

Council Member Joyner moved to amend the agenda to allow the East Carolina University's Student Government Association to speak next. Council Member Blackburn seconded the motion, which resulted in a tie vote. Mayor Pro-Tem Glover and Council Members Blackburn and Joyner voted in favor of the motion, while Council Members Mercer, Smith and Mitchell voted in opposition. Mayor Thomas voted "yes" to break the tie and invited students to come to the podium.

Josh Myer Kovic stated that, in 17 days, he would be joining Mayor Thomas as a former student body president. He said he wanted to introduce the incoming President and his team as they focus on building a strong foundation on which to make a positive impact on the university and the community. Incoming officers



include: Justin Davis as President, Matt Paske as Vice-President, Eric Greene as Treasurer and Ashleigh Wooten as Secretary.

- Resolution endorsing the submission of the 2012-2013 Community Development Block Grant and HOME Investment Partnerships Annual Action Plan

Housing Administrator Sandra Anderson stated that, as a requirement of receiving Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) funds, the Housing Division must prepare an Annual Action Plan for each year covered by the 2008-2013 Consolidated Plan. The Consolidated Plan outlines proposed activities and funding amounts and was adopted by the City Council on May 15, 2008.

The City of Greenville is an "Entitlement City" under the CDBG program and a "Participating Jurisdiction" under the HOME program. Those designations result in an annual formula allocation of CDBG and HOME funds to the City by the U.S. Department of Housing and Urban Development to benefit low to moderate income residents. Expenditures of CDBG and HOME funds must meet grant program national objectives and guidelines.

Ms. Anderson stated that staff has developed the Annual Action Plan in accordance with the projects identified in the 2008-2013 Consolidated Plan. Staff invited the public to participate in the development of the Annual Action Plan by holding public input meetings on February 9, 2012. In addition, the Affordable Housing Loan Committee participated in the development of the plan in various stages and considered funding requests presentations by non-profit agencies. The Redevelopment Commission also received a presentation on the proposed Action Plan at its March 6, 2012, meeting.

Activities proposed for the 2012-2013 plan year include the following:

- Housing Rehabilitation
- Downpayment Assistance
- New Construction of Affordable Homes
- Public Services by Non-Profit Agencies
- Public Facilities Improvements (Dream Park)
- Property Acquisition
- Demolition of Substandard Properties
- Relocation Assistance
- Economic Development (Business Competition Program)
- Program Administration

Ms. Anderson stated the Annual Action Plan planning process requires that the City Council hold two public hearings prior to the adoption of a resolution approving the Action Plan. The first public hearing was held on January 12, 2012. The second public hearing is scheduled for this meeting.



Council Member Smith asked what areas were most impacted by funding decreases. Ms. Anderson stated the biggest impact was in downpayment assistance and new construction under the HOME program.

Mayor Thomas declared the public hearing open at 9:05 pm and invited anyone wishing to speak in favor of the Annual Action Plan to come forward.

Tony Dennison – No Address Given

Mr. Dennison stated he was a long-time City employee, having worked 33 years in law enforcement. He said he knows the discussion is about signs, but the most important thing in this community is its youth. He said he doesn't know what the answer is, but Chief Bartlett and others in the Police Department are 110% behind what needs to be done. Mr. Dennison stated he has been a school resource officer for 16 years and knows what he is talking about. Thirty of the kids he has worked with during that time are dead now. People can say things are not getting any worse, but they are. The community needs to work together. He stated he has worked with the PALS Program every summer and the City needs to keep it going. Today's children are the future of Greenville and the community needs to do more for them.

Mayor Thomas then asked if anyone else would like to speak, addressing comments in favor of the Annual Action Plan outlined by Ms. Anderson. Hearing no one else wishing to speak in favor, Mayor Thomas invited comment in opposition. Hearing none, Mayor Thomas closed the public hearing at 9:14 pm.

There being no further discussion, Mayor Pro-Tem Glover moved to adopt the resolution endorsing the submission of the Annual Action Plan and to authorize the Mayor and City Manager to sign required documents. Council Member Joyner seconded the motion, which passed by unanimous vote.

- Resolutions relating to financing of the Guaranteed Energy Savings Performance Contract (Resolution No. 021-12 and Resolution No. 022-12)

Interim Public Works Director Scott Godefroy stated the Public Works and Recreation and Parks Departments have been working very closely with Schneider Electric, the City's Energy Services Company (ESCO), as the firm concludes its Investment Grade Audit for the Guaranteed Energy Savings Performance Contract on City facilities, which the City Council unanimously approved to enter into on December 8, 2011. Staff and Celtic Energy, the City's third-party engineering firm which is reviewing the project, are currently wrapping up staff's final comments on the report.

By entering into this contract, City facilities that are to be upgraded under this energy savings performance contract will reduce energy consumption and lower the



City's utility expenditure. The savings realized from lower utility costs will serve as the guarantee for the third-party agreement and will be used to pay for the facility improvements in the project.

In order for the City to continue moving forward in the process, a public hearing must be held to publicize the intent by the City to utilize a third-party financing entity to fund the Guaranteed Energy Savings Performance Contract and there are two resolutions that must be adopted. Those will be sent to the North Carolina Local Government Commission (LGC) for the Commission's mandatory required review and approval.

It was noted that City Attorney Dave Holec provided a written opinion that the proposed project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and the laws of the State of North Carolina

The first resolution is a finance resolution, which is an acknowledgment by the City Council that the City intends to enter into an installment-based finance agreement in which all costs payable will be covered by the savings that result from the project. The resolution also makes certain findings, determinations and acknowledgements.

The second resolution is a Governing Body Resolution, which authorizes the City to apply for mandatory approval of the Guaranteed Energy Savings Performance Contract by the LGC. The resolution also makes certain findings of fact.

Schneider Electric made a presentation at the April 9th meeting on progress of the project. During that presentation, questions arose related to Minority and Women Business Enterprises (MWBE). Robert Williams is here from Schneider Electric to respond to those questions.

Mr. Williams stated Schneider Electric has worked with Denisha Harris, the City of Greenville's MWBE Coordinator, who provided them with the City's strategic plan that the City follows on projects. He stated they have reviewed that and have coordinated with Mr. Godefroy as well to insure they are able to meet and exceed the City's goals to utilize these businesses.

Council Member Joyner observed that, with this plan, if the cost of energy increases so do the City's savings.

Mr. Williams agreed that was correct.

Council Member Joyner asked if there was a pre-payment penalty on the loan.

Mr. Williams stated he did not have that documentation with him, but he believes Financial Services Director Bernita Demery would be addressing that issue with the



lender. He stated the two resolutions pending adoption at this meeting would have no bearing on that issue.

Mayor Thomas declared the public hearing open at 9:22 pm and invited comment in favor of third-party financing for the Guaranteed Energy Savings Contract and the two resolutions. Hearing none, he invited comment in opposition. Also hearing none, Mayor Thomas closed the public hearing at 9:23 pm.

Council Member Joyner moved to approve third-party financing for the Guaranteed Energy Savings Contract and to adopt the two resolutions. Council Member Blackburn seconded the motion, which passed by unanimous vote.

PUBLIC COMMENT PERIOD

Mayor Thomas opened the public comment period at 9:25 pm and explained procedures to be followed by anyone who wished to speak.

- Maury York - 2001 E. Fifth Street

Mr. York stated he and his wife have been residents of the TRUNA Neighborhood since 1979, and in their current location on Fifth Street since 1995. He stated he wished to respond to comments made by Mayor Thomas in the East Carolinian on March 20, 2012. According to that article, Mayor Thomas has indicated he favors allowing owners of large homes near the university to rent to more than three unrelated individuals by applying for a special use permit. Further, Mayor Thomas said there were owners of large properties who have difficulty paying their mortgage. Mr. York stated he respects the mayor's opinions, but he strongly disagrees with them. In the early 1980's, the City Council added the no more than three unrelated occupancy statement to the definition of family in the zoning code to address the proliferation of boarding houses in single-family neighborhoods. Since that time, the City Council has consistently worked to enhance neighborhoods and to assure the survival of single-family neighborhoods. Mayor Thomas' proposal would undermine more than 30 years of hard work, essentially allowing boarding houses to exist in single-family neighborhoods. The older neighborhoods were designed for families at a time when most families had only a single vehicle. They simply do not have the infra-structure to support large numbers of occupants. While most students at East Carolina University are fine individuals, some are taken advantage of by landlords who knowingly allow more than three students to occupy their properties because they want a large rental income each month. If, as Mayor Thomas suggests, some owners are struggling with mortgages that are too high, he and his wife would be happy to tell them how they figured out how much they would need to invest in a house next door so they could rent the house to a single-family or to two graduate students, which they have successfully done. The plan to require a special use permit would require review by the Board of Adjustment each year and this board is very reluctant to deny renewal of special use permits. The



mayor's proposal would increase the number of residents living in neighborhoods that were not designed to accommodate them, thus worsening an already tenuous situation. If that happens, Mr. York stated he fears for the owner/occupants and students living near the university as they will be in danger of living in a slum area instead of a harmonious area of the community.

There being no one else present who wished to address the City Council, Mayor Thomas declared the public comment period closed at 9:27 pm.

OTHER ITEMS OF BUSINESS

- Memorandum of Understanding with the Pitt-Greenville Convention and Visitors Authority for a branding and marketing initiative

Public Information Officer Steve Hawley stated the branding and marketing issue began several years ago as a result of a City Council goal to work with other local agencies to develop and promote Greenville.

A critical component of marketing the City for economic development is the creation and use of a "brand" – a statement of what is good about the community. It is more than just a logo. Proper creation of an effective brand requires expertise in assessing all facets of the community as well as external audiences to understand how citizens and visitors perceive the City. Simply surveying audiences is not enough. The person conducting the community assessment needs to ensure full representation of all parts of the community and then possess the experience to understand, analyze and accurately interpret the resulting information. This brand development process requires someone with experience collecting data and creating brands for similar communities and someone who is impartial to the City and has no personal stake in the outcome of the process.

Mr. Hawley said staff suggests establishing a partnership with the Pitt-Greenville Convention and Visitors Authority (CVA) to collaboratively conduct and fund this initiative, recognizing that the resulting brand will be used by both entities for marketing purposes. He recommended the City Council review and consider approval of a Memo of Understanding between the City and CVA which outlines the proposed brand development process, what it is intended to achieve and the responsibilities of each entity.

Council Member Mitchell asked if eventual brand selection would be by the City Council. Economic Development Director Carl Rees stated the City Council ultimately will choose the brand.



Council Member Joyner moved to approve a Memo of Understanding between the City and CVA which outlines the proposed brand development process, the initiative it is intended to achieve and the responsibilities of each entity. Council Member Mitchell seconded the motion, which passed by unanimous vote.

- Award of CDBG funding to the Lucille W. Gorham Intergenerational Community Center

Housing Administrator Sandra Anderson stated this is a request to award \$3,000 in remaining fiscal year 2011 Community Development Block Grant (CDBG) Public Service funding to the Lucille W. Gorham Intergenerational Community Center. CDBG funds that are available for these activities are from unspent funds granted to non-profit organizations in the 2010-2011 CDBG program. These funds will be used to assist with transportation and admission costs for the Summer 2012 Youth Excelling for Success (YES) program. YES is a highly successful program designed to academically and socially empower youth outside of the traditional classroom setting and promote self-esteem and positive behavior.

Council Member Joyner moved to approve the request to award \$3,000 in Community Development Block Grant (CDBG) funds to the Lucille W. Gorham Intergenerational Community Center Youth Excelling for Success (YES) Program to assist with transportation and admission expenses for educational trips during 2012 summer programs. Mayor Pro-Tem Glover seconded the motion, which passed by unanimous vote.

- Award of CDBG funding to the PAL Program

Council Member Joyner moved to approve the request to award \$13,500 in Community Development Block Grant (CDBG) funds to the Greenville Police Department Police Athletic League (PAL) Program to assist with transportation and extra-curricular expenses for educational trips during 2012 summer programs. Mayor Pro-Tem Glover seconded the motion, which passed by unanimous vote.

- Presentation of City of Greenville Strategic Economic Plan and Annual Work Plan

Economic Development Director Carl Rees stated his staff, in concert with the Economic Development Subcommittee, has prepared a Strategic Economic Plan that addresses a number of City Council goals to include "Promote economic development by decreasing the unemployment rate, increasing median income and attracting and retaining new and existing businesses." The plan promotes a vision for Greenville as a top-tier university-medical marketplace designed to enhance Greenville's competitiveness in the ever-changing global economy.

Mr. Rees stated the first section of the document further details the economic vision for Greenville including the importance of the City's service to the Eastern North



Carolina region as well as the City's role as an urbanized education and medical hub. The document then outlines thirteen (13) strategic goals that are divided into shorter term approaches to recovering from the recession as well as longer term goals that will help position Greenville for economic growth opportunities in the future.

The plan identifies thirteen strategic goals:

- Attract and retain jobs by reaching out to companies in targeted economic sectors; complement the efforts of Greenville's economic development partners by focusing on business operations that wish to locate in close proximity to a university or medical campus, at a downtown location, or along a major commercial corridor.
- Develop retail to full potential, maximizing revenue impact and neighborhood vitality.
- Nurture the success of local small businesses.
- Increase Greenville's profile in regional and state forums, emphasizing that Greenville serves the eastern NC region and is a rising uni-med community.
- Diversify City's tax base to increase City's General Revenue.
- Promote Greenville's proven track record as a business-friendly community; demonstrate how Greenville's streamlined, consistent, predictable development review process reduces business costs.
- Support the PCDC & other economic development partners in promoting manufacturing, biotech, "heavier" industries.
- Make transportation gateways and commercial corridors more attractive, legible, and accessible.
- Develop sports, recreational, arts, cultural, and entertainment offerings.
- Position Center City as the vibrant epicenter of Greenville's uni-med community; encourage mixed-use redevelopment including residential and major "anchor" projects that reinforce the identities of downtown districts and adjacent neighborhoods.
- Support & promote community's existing resources for developing human capital: training, technical education, and career and small business support services.
- Build 21st century infrastructure that serves industry needs, attracts active and creative professionals, and improves mobility and accessibility for all Greenville citizens.
- Foster a proactive culture within the City government that anticipates needs and trends, cultivates new ideas, pursues innovations, and constantly seeks new ways to promote the City's strategic and long-range goals.

Based on the 13 strategic goals identified in the Plan, staff has prepared an annual work plan for the 2012-2013 fiscal year that identifies specific actions and steps required to begin implementation of the Plan. A team approach is prescribed as the best way to accomplish the actions within the work plan. Thus, a broad range of



team members is identified for collaboration on various tasks. Tasks are identified for implementation by quarters within the City's fiscal year, with some actions slated for continuous work, others early in the year, and others toward the end of the fiscal year. This type of work flow planning allows City staff to approach the tasks in an organized manner with semi-annual progress reports provided to City Council and the general public.

Mr. Rees stated no action was requested at this time. The presentation was offered to familiarize the City Council with its contents and to allow them opportunity to review.

Mr. Moton added that the Strategic Work Plan would be on the May 7th agenda for consideration and asked that the City Council provide relevant feedback to Mr. Rees by April 25th.

- City Council Budget Committee

Mayor Thomas stated this is not a normal budget year. There are difficult tasks ahead of the City Council in the next couple months. In previous budgets, when you have a constantly growing city, it has been easy to have one large presentation to the City Council. The City is now in the unprecedented situation of having a budget shortfall due to a property revaluation. The result is about a \$2 million hit to the City's budget. Fortunately through the great leadership of prior City Councils and the good work by City staff, the City has a great fund balance and is healthy in that regard. The City is now at a point where the City Council will potentially need to make decisions on whether to raise the tax rate, adopt a revenue neutral budget or simply tighten the belt and make things work. Over the past few weeks, it seems there are really more questions than answers. He applauded Interim City Manager Moton for stepping into this situation, but he feels if someone has to make the tough calls, it is on the City Council's shoulders.

Mayor Thomas said he feels it is important to develop a very flexible platform on which to meet and give the budget close consideration. He stated he didn't wish to exclude any member of the City Council from the process, but wants to get those who have the available time involved in working through this.

Council Member Blackburn asked if he was simply proposing a different way of approaching the budget this year, with perhaps more meetings than is typical.

Mayor Thomas said the City has a standing Audit Committee and suggested perhaps they could act as a Budget Committee to look at the budget in more detail. As many of the other Council Members who wants to attend those meetings and be involved would be welcome to do so.



Council Member Blackburn said she hopes whatever is done will continue to be very transparent, and that perhaps those meetings might even be televised for the public. She said she also wonders if this should be a committee of the City Council as a whole. With a committee of three, even if it is stated everyone is welcome to attend, there is a sense of not really being part of it or of being excluded from it.

Mayor Thomas stated with a budget committee, no action could be or would be taken, regardless of how large or small an item was being discussed.

Council Member Blackburn stated she has concerns about a group smaller than the entire City Council being formed to study the City's budget. This is a critical year with very important decisions to be made and she feels all of the City Council's voices are important.

Council Member Joyner moved to appoint the current Audit Committee to serve as Budget Committee, with meetings to be held in Room 337 at City Hall, and to make Budget Committee meetings open to anyone who wished to attend. Council Member Mitchell seconded the motion.

Council Member Blackburn asked if every present Council Member would have a vote on any decisions made. Mayor Thomas reiterated there would be no voting in these meetings.

Council Member Blackburn asked if every member of the City Council who is present at these committee meetings be able to engage in the discussion. Mayor Thomas stated they would.

Council Member Mercer asked about the motivation for having a separate committee if their meetings are open to all Council Members and any who are present are permitted to engage in the discussion. Council Member Mitchell stated not all Council Members may be available to attend or interested in doing so. Mayor Thomas added that the role of the Committee is, like with the Audit Committee, to make recommendations to the full City Council.

Council Member Mercer stated he strongly opposes any sort of formal subcommittee of the City Council, even if it's only on paper, that addresses the budget. We are entering into a period of intense budget deliberations. The budget determines the City's priorities and answers the very important questions of how tax money is going to be used. He said he feels the proper process is for staff to take the City Council goals, which all Council Members worked on, and work up the budget that, in their professional opinions, reflects those goals. That budget would then be brought before the full City Council. If that is not going to be the process – if indeed there will be a process where the staff sits around the table with the Council to discuss the budget – the whole City Council needs to be doing that. He restated that he opposes any sort of subset of the City Council doing this. He hopes it does



not pass. If it does, he questions why it would be the Audit Committee doing this. He questioned the wisdom of having the same people sit on the two money committees.

Council Member Joyner said his motion was to have the Audit Committee serve as the Budget Committee, but their meetings would be open to any Council Member who wished to attend and participate.

Council Member Blackburn said she understands the need to streamline and be efficient, but she also feels the need for all Council Members to be involved and to do it in front of the cameras. She appreciates the assurances that everyone can be involved, but with the different nomenclature, it still feels like something different.

Council Member Mitchell stated this was his first budget process since being elected to the City Council, but he couldn't see how any previous Council could feel comfortable approving a budget the size of Greenville's based strictly on staff presentations at regular City Council meetings. He stated he didn't see a problem with a subcommittee as long as any Council Member who wished to attend could do so.

Council Member Mercer asked what public notification is required if a committee of three Council Members is formed. City Attorney Holec stated the committee would be subject to the Open Meetings Law, so notice would need to be posted 48 hours in advance on the bulletin board and on the City website.

Council Member Mercer asked what process would be followed for setting meeting dates and times. He asked if all Council Members' schedules would be considered or if only the Committee Members' schedules would be taken into account.

Interim City Manager Moton stated meetings would directly be coordinated with Committee Members.

Council Member Blackburn said she feels it is important to coordinate with all members of the City Council.

Mayor Thomas said obviously all Council Members will be included in the schedule, but if it comes to a choice between meeting or not meeting, he will fall on the side of meeting.

Council Member Mercer asked if meetings would be coordinated with the schedules of all Council Members who want to come.

Mayor Thomas said the Committee would do the best it could to do so.



Council Member Mercer said he wants to state as respectfully as he can that this action fits into a pattern of action by this City Council that impacts legislation without full and open debate before the public eye. He offered three examples:

- Allowing non-emergencies items to be placed on the agenda on the night of a meeting.
- The Economic Development Subcommittee
- Imposing time limits on Council debate.

Council Member Mercer stated he opposes this action because it makes no sense and the effect is not a healthy, open debate in citizens' issues.

Council Member Mitchell said it is important to talk about what has been done as a City Council. The issue of non-emergency items being placed on an agenda happened once, in his first meeting as a Council Member. He could not put it on the agenda prior to that date because he was not a City Council Member. It has not happened since. As for the Economic Development Committee, he feels it has been very effective and because of that group, the City has a great work plan for economic development that the City Council will be voting on in a few months.

Mayor Pro-Tem Glover said for the twelve years she has been on the City Council, she has said the City needed an Economic Development Committee. No one made the effort to move this forward, but rather chose to rely on Pitt County.

Council Member Blackburn stated she has an upcoming out of town engagement and asked if the Budget Committee is approved, could meetings please be scheduled around that date.

Council Member Mercer asked the City Attorney about the process for requesting that the time limit on Council debate be set aside. Mr. Holec stated he could simply make a motion to do so.

Council Member Mercer asked if that motion failed, could he then move to amend the original motion. Mr. Holec stated he could.

Council Member Mitchell moved to suspend the rules on City Council debate. Council Member Mercer seconded the motion, which passed by unanimous vote.

Council Member Mercer stated he had opposed establishing the Economic Development Committee because he believes all Council Members should be involved, but once that motion passed, he wanted to be involved and has attended one meeting. Unfortunately, his schedule has not allowed him to attend others. He stated that is why he is so concerned with scheduling meetings for the Budget Committee.



Council Member Mercer then moved to amend Council Member Joyner’s original motion to appoint the current Audit Committee to serve as Budget Committee, with meetings to be held in Room 337 at City Hall, and to make Budget Committee meetings open to anyone who wished to attend, to reflect a Budget Committee comprised of Council Members Smith, Mitchell and himself.

Council Member Smith stated she appreciates Council Member Mercer’s suggestion that she serve on the Budget Committee, but she respectfully withdraws her name from consideration as she believes there are other members of the City Council with more experience to serve in this capacity.

Council Member Mercer withdrew his amendment and moved to appoint Mayor Pro-Tem Glover, Council Member Mitchell and himself as Budget Committee members. Council Member Blackburn seconded the motion, which failed by a vote of 2 to 4 with the only affirmative votes being those of Council Members Mercer and Blackburn.

Council Member Joyner then moved to call the previous question, seconded by Council Member Mitchell. The motion passed by a vote of 5 to 1 with Council Member Mercer casting the dissenting vote.

The motion to appoint the current Audit Committee to serve as Budget Committee, with meetings to be held in Room 337 at City Hall, and to make Budget Committee meetings open to anyone who wished to attend was then passed by a vote of 4 to 2, with Council Members Mercer and Blackburn voting no.

COMMENTS FROM MAYOR AND CITY COUNCIL

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

CITY MANAGER’S REPORT

Interim City Manager Moton recommended the City Council consider cancelling regularly scheduled meetings on April 23rd and May 21st and instead hold budget work sessions in the Municipal Building on those dates at 6:00 pm.

Upon motion by Council Member Mercer, and second by Council Member Joyner, the City Council voted unanimously to change the City Council meeting schedule as recommended by Mr. Moton.



Mr. Moton then stated that budget presentations are typically made at the first Monday meeting in May, which often results in very lengthy meetings. This year, the Monday meeting (May 7th) will be reserved for the City's and Greenville Utilities' presentations and presentations by the Library, the Airport and the Convention and Visitors Authority will be made on Thursday (May 10th). A copy of the proposed budget will be distributed on May 2nd.

City Attorney Holec then made a report on the settlement of the David Brown versus the City of Greenville civil lawsuit. The settlement involves payment by the City of \$15,000 to Mr. Brown and Mr. Brown dismissing the lawsuit with prejudice and releasing all claims against the City. There is no action required.

ADJOURNMENT

Council Member Joyner moved to adjourn the meeting, seconded by Council Member Smith. There being no discussion, the motion to adjourn passed by unanimous vote and Mayor Thomas adjourned the meeting at 11:17 pm.

Respectfully submitted,

Carol L. Barwick, CMC
City Clerk

PROPOSED MINUTES
JOINT MEETING OF THE GREENVILLE CITY COUNCIL
AND THE GREENVILLE UTILITIES COMMISSION
MONDAY, MAY 21, 2012



The Greenville City Council met in joint session with the Board of Commissioners of the Greenville Utilities Commission at 6:00 p.m. in the Greenville Utilities Commission Board Room with the following members and others present and Mayor Allen Thomas and GUC Chair Freeman Paylor presiding.

City Council Members Present:

Mayor Allen Thomas
Council Member Max Joyner, Jr.
Council Member Kandie Smith
Council Member Dennis Mitchell

Mayor Pro-Tem Rose Glover
Council Member Marion Blackburn
Council Member Calvin Mercer

Commission Members Present:

Freeman Paylor, Chair
Virginia Hardy, Vice Chair
Don Edmonson, Secretary

Stan Eakins
John Minges
Phil Flowers

Vickie Joyner had an excused absence.

City Staff Present:

Thom Moton, Interim City Manager
Chris Padgett
Dave Holec
Leah Futrell
Steve Hawley
Merrill Flood

Carol Barwick
Gerry Case
Frank Salvato
Bernita Demery
Jonathan Edwards
Bill Ale

Commission Staff Present:

Tony Cannon, General Manager/CEO
Roger Jones
Keith Jones
Amy Quinn
Randy Emory
Sue Hatch
Kevin Keyzer

Patrice Alexander
Jeff McCauley
Anthony Miller
Sandy Barnes
George Reel
Kristen Slocum
Lou Norris

Others Present:

Phillip Dixon, GUC Attorney, employees with the City of Greenville and GUC, and media



CALL TO ORDER (Agenda Item 1)

Mayor Thomas called the City Council to order and ascertained that a quorum was present.

Commissioner Paylor called the GUC Board to order and ascertained that a quorum was present.

APPROVAL OF AGENDA (Agenda Item 2)

City Council

A motion was made by Council Member Mercer, seconded by Council Member Joyner, to approve the agenda as presented. The motion carried unanimously.

Greenville Utilities Commission

A motion was made by Commissioner Hardy, seconded by Commissioner Flowers, to approve the agenda as presented. The motion carried unanimously.

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.

There were no comments during the Public Comment Period.

MARKET ADJUSTMENT/MERIT PROGRAM: RECOMMENDATION FROM JOINT COMMITTEE (Agenda Item 3)

Interim City Manager Thom Moton stated the Pay and Benefits Committee met on April 18, 2012, and May 15, 2012, and unanimously recommended that both the City and GUC allocate 2.5% of their respective FY2013 regular salary budgets to be used for funding market adjustments and/or merit programs as determined appropriate independently by each organization. In addition, both the City and GUC will budget \$100,000 to address specific pay compression and/or other pay issues as deemed necessary by the individual organizations.

Mr. Moton stated that the City would use the budgeted 2.5% to fund a market adjustment program. Mr. Cannon added that GUC would budget 2.5% as recommended using 1.5% to fund the merit program and the remainder will be used for market adjustments.



A motion was made by Council Member Joyner, seconded by Council Member Mitchell, to accept the recommendation of the committee. The motion carried unanimously.

A motion was made by Commissioner Minges, seconded by Commissioner Flowers, to accept the recommendation of the committee. The motion carried unanimously.

MERCER CONSULTING CONTRACT: RECOMMENDATION FROM JOINT COMMITTEE
(Agenda Item 4)

Mr. Moton stated that both the City and GUC have worked with Mercer Consulting for three (3) years and their contract expires June 30, 2012.

The recommendation from the Pay and Benefits Committee is to renew the contract with Mercer Consulting for a one year period, at the current rate.

There was discussion on the recommendation for the renewal of the Mercer contract. A Request for Proposal (RFP) was discussed so that local companies could be considered as the provider for the same services for future years. The services received from Mercer Consulting have been positive. The RFP is a way to seek other qualified companies in order to make sure that the best services at the best price are being provided.

A motion was made by Council Member Mitchell, seconded by Council Member Blackburn, to renew the contract with Mercer Consulting for a one year period, at the current rate. The motion was approved by a vote of 5 to 1 with Council Member Joyner casting the opposing vote.

A motion was made by Commissioner Hardy, seconded by Commissioner Eakins, to renew the contract with Mercer Consulting for a one year period, at the current rate. The motion carried unanimously.

DIRECTION FOR NEGOTIATING CIGNA THIRD PARTY ADMINISTRATION CONTRACT
(Agenda Item 5)

Mr. Moton stated that the Joint Pay and Benefits Committee recommended that staff instruct Mercer to commence negotiations with CIGNA for the continuation of the existing Third Party Administration (TPA) contract. The Committee further recommended that Mercer work to continue the existing rates or provide other options for consideration later this summer.

A motion was made by Council Member Joyner, seconded by Council Member Smith, to accept the recommendation as presented. The motion carried unanimously.

A motion was made by Commissioner Minges, seconded by Commissioner Hardy, to accept the recommendation as presented. The motion carried unanimously.



ADJOURNMENT (Agenda Item 6)

City Council:

A motion was made by Council Member Mitchell, seconded by Council Member Joyner, to adjourn the meeting at 6:19 p.m. The motion carried unanimously.

Greenville Utilities Commission

A motion was made by Commissioner Hardy, seconded by Commissioner Minges, to adjourn the meeting at 6:19 p.m. The motion carried unanimously.

Prepared by:

Lou Norris, Recording Secretary
Greenville Utilities Commission

Respectfully submitted,

Carol L. Barwick, CMC
City Clerk



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Request to withdraw rezoning application by The East Carolina Bank

Explanation: Staff received a written request by The East Carolina Bank seeking withdrawal of its application to rezone 41.66 acres from R6S (Residential-Single Family [Medium Density]) to R6A (Residential [Medium Density, Multi-family]). A copy of that request is attached.

Fiscal Note: None.

Recommendation: Consider approval of the applicant, The East Carolina Bank, to withdraw its rezoning application.

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

Attachments / click to download

[Withdrawal Request](#)



Excellence in Community Banking

August 23, 2012

Ms. Barbara W. Lipscomb
City Manager
City of Greenville
200 W. 5th Street
Greenville, NC 27834

Dear Ms. Lipscomb,

As you may be aware, The East Carolina Bank as asked for property owned by the bank on the south side of Regency Blvd. to be rezoned. During the process, it was discovered that the residents in the Shamrock neighborhood were in opposition to the rezoning. We met with residents and the HOA President in an effort to find a solution to their concerns about our request. During that meeting, no common ground was found.

Please accept this letter as our written request to withdraw our application to rezone this property.

Thank you very much for your assistance. I can be reached at 252-321-3012 in the event you have any questions.

Sincerely,

Bob Milam
Vice President
Special Assets Coordinator

Cc: Chantae M. Gooby



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Resolution of intent to close a portion of Carolina Avenue

Explanation: Attached for City Council's consideration is a resolution of intent to close a portion of Carolina Avenue. The street section to be closed is lying west of Pamlico Avenue and shown on the attached map. This section of Carolina Avenue is unimproved.

Appropriate staff of the City and Greenville Utilities have reviewed the proposed closing, and no objections or adverse comments were provided.

Fiscal Note: There are no budgeted funds for maintenance of this street section. No Powell Bill funds are received for this unopened street section.

Recommendation: Adopt the resolution of intent to close a portion of Carolina Avenue.

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

Attachments / click to download

- [Carolina Avenue Street Closing](#)
- [Resolution of Intent to close a portion of Carolina Avenue 935062](#)

RESOLUTION NO. _____
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GREENVILLE
DECLARING ITS INTENT TO CLOSE A PORTION OF CAROLINA AVENUE

WHEREAS, the City Council intends to close said street, in accordance with the provisions of G.S. 160A-299;

THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville, North Carolina, that it is the intent of the City Council to close said street right-of-way, more particularly described as follows:

To Wit: Being a portion of Carolina Avenue as shown on the plat entitled, "Street Closing Map, a Portion of Carolina Avenue", prepared by Gary S. Miller, dated July 25, 2012.

Location: Lying and being in the City of Greenville, Pitt County, North Carolina, being a portion of Carolina Avenue being west of Pamlico Avenue said street sections being more accurately described as follows:

BEGINNING at an iron pipe set located on the western right of way of Pamlico Avenue said iron pipe set also being located at the intersection of the northeastern property corner of Carolina Avenue as recorded in Map Book 1, Page 106 and the southeastern property corner of the property belonging to Merritt Rentals, LLC as recorded in Deed Book 2539, Pages 505-514, Pitt County Registry; thence from said point of beginning and running along the western right of way of Pamlico Avenue S 06-43-50 W, 39.77 feet to an iron pipe set located on the western right of way of Pamlico Avenue; thence leaving said right of way N 83-14-51 W, 171.91 feet to a point; thence N 11-38-12 E, 21.07 feet to a point; thence N 11-10-34 E, 18.84 feet to an existing iron pipe; thence S 83-14-51 E, 168.65 feet to the point of beginning containing 6,772 square feet or 0.155 acres as shown on the plat entitled, "Street Closing Map, a Portion of Carolina Avenue", prepared by Gary S. Miller, dated July 25, 2012.

BE IT FURTHER RESOLVED that a public hearing will be held in the Council Chamber, City Hall, Greenville, North Carolina, on the 11th day of October, 2012 at 7:00 p.m., to consider the advisability of closing portions of the aforesaid streets. At such public hearing, all objections and suggestions will be duly considered.

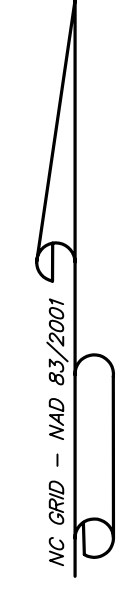
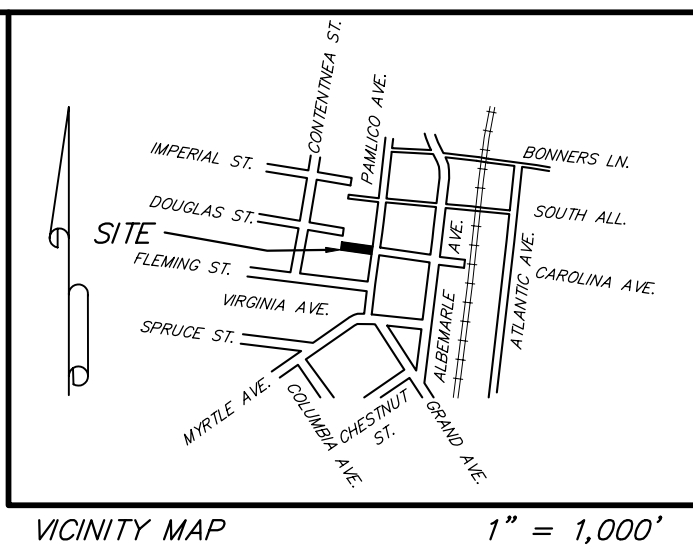
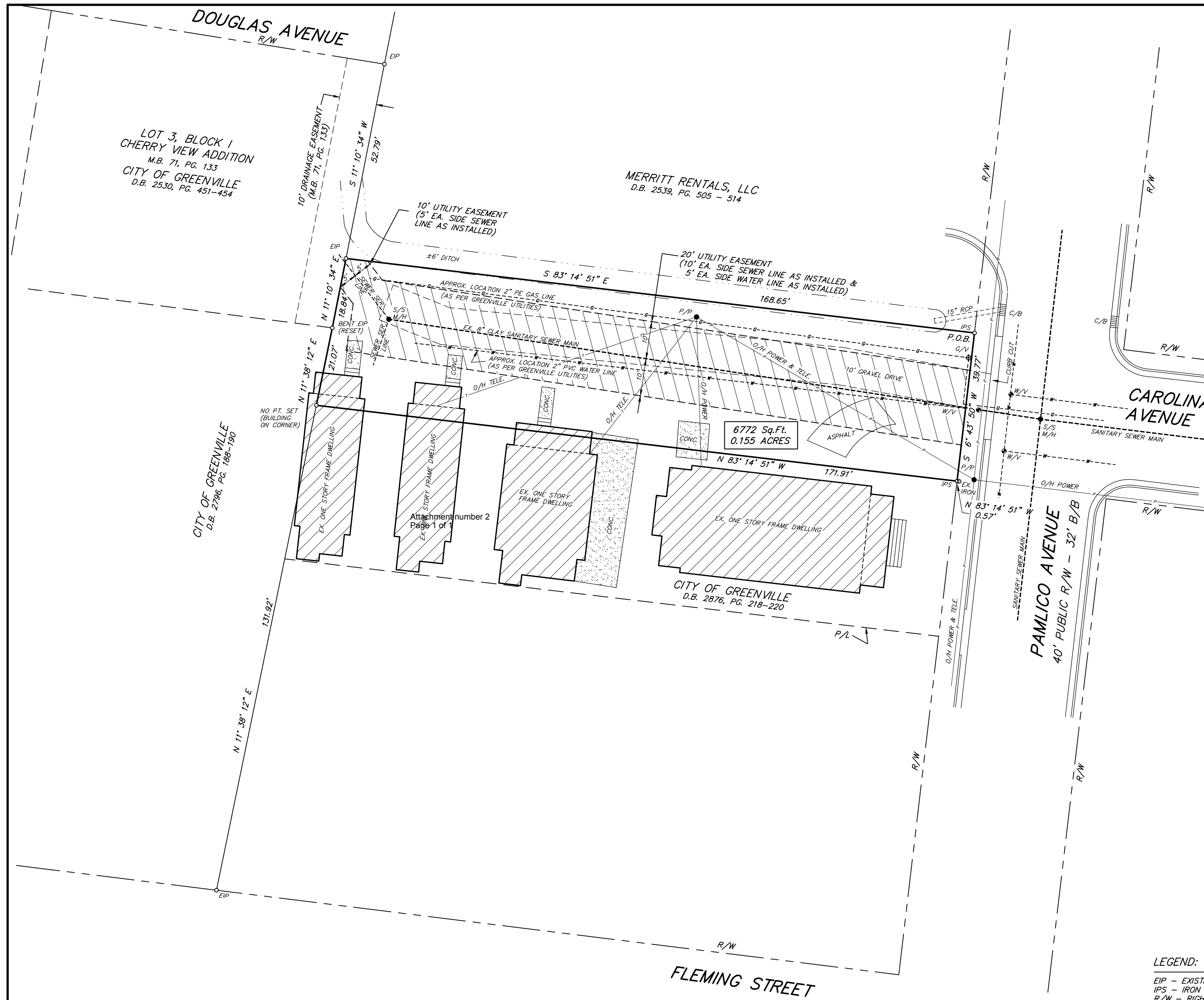
BE IT FURTHER RESOLVED that a copy of this resolution be published once a week for four (4) consecutive weeks in The Daily Reflector; that a copy of this resolution be sent by certified mail to the owners of property adjacent to the above described street, as shown on the County tax records, and that a copy of this resolution be posted in at least two (2) places along the portion of the street to be closed.

Duly adopted this the 10th day of September, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk



- NOTES:**
1. ALL BEARINGS ARE NC GRID; ALL DISTANCES ARE HORIZONTAL GROUND MEASUREMENTS.
 2. THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA. COMMUNITY PANEL # 3720468800J, EFFECTIVE DATE: JANUARY 2, 2004 - ZONE X.

CERTIFICATION

I, GARY S. MILLER, CERTIFY TO THE FOLLOWING:

THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT ORDERED SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION; THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BK. _____ PG. _____ OR OTHER REFERENCE SOURCE M.B. 1, PG. 106); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BK. _____ PG. _____ OR OTHER REFERENCE SOURCE _____; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1:10,000+; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). WITNESS MY HAND AND SEAL THIS 25th DAY OF JULY, 2012.

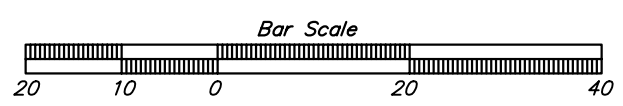
SIGNED _____
PROFESSIONAL LAND SURVEYOR No. L-2562

NORTH CAROLINA, PITT COUNTY
I, A NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID, CERTIFY THAT GARY S. MILLER, A PROFESSIONAL LAND SURVEYOR, PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT.

WITNESS MY HAND AND SEAL THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____

- LEGEND:**
- EIP - EXISTING IRON PIPE
 - IPS - IRON PIPE SET
 - R/W - RIGHT OF WAY
 - B/B - BACK TO BACK
 - P/L - PROPERTY LINE
 - W/V - WATER VALVE
 - G/V - GAS VALVE
 - S/S - SANITARY SEWER
 - M/H - MANHOLE
 - RCP - REINFORCED CONCRETE PIPE
 - C/B - CATCH BASIN
 - O/H - OVERHEAD
 - P/P - POWER POLE
 - P.O.B. - POINT OF BEGINNING



SHEET 1 OF 1

MAP FOR STREET CLOSING OF A PORTION OF CAROLINA AVENUE

BEING ALL OF THE STUB STREET KNOWN AS CAROLINA AVENUE LOCATED WEST OF PAMLICO STREET GREENVILLE, GREENVILLE TOWNSHIP PITT COUNTY, NORTH CAROLINA

GARY S. MILLER & ASSOCIATES, P.A. LAND SURVEYORS

GARY S. MILLER, PLS
Phone (252)756-7878
Fax (252)756-0785

1803 South Charles Blvd.
Greenville, N.C. 27858

SURVEYED: MCP	APPROVED: GSM
DRAWN: BLW	DATE: 07-25-12
CHECKED: TEM	SCALE: 1" = 20'

WO # 12127	FB # 356
SOURCE OF TITLE	
THIS IS TO CERTIFY THAT THE LAST INSTRUMENT(S) IN THE CHAIN OF TITLE(S) OF THIS PROPERTY AS RECORDED IN THE PITT COUNTY REGISTRY AT GREENVILLE, NORTH CAROLINA IS:	
DEED BOOK _____	PAGE _____
DEED BOOK _____	PAGE _____
DEED BOOK _____	PAGE _____
MAP BOOK 1	PAGE 106
N.C. REG. NO. L-2562	

MAYOR'S CERTIFICATE	
THIS IS TO CERTIFY THAT THE CITY COUNCIL OF THE CITY OF GREENVILLE HAS PASSED A RESOLUTION TO CLOSE _____	
RESOLUTION NO. _____	
SIGNED _____	MAYOR
SIGNED _____	CITY CLERK

REVIEW OFFICER	
STATE OF NORTH CAROLINA COUNTY OF PITT	
I, _____ REVIEW OFFICER OF PITT COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.	
REVIEW OFFICER _____	DATE _____



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Resolution of intent to close a portion of McKinley Avenue

Explanation: Attached for City Council's consideration is a resolution of intent to close a portion of McKinley Avenue. The street section to be closed is lying south of Douglas Avenue and shown on the attached map.

This section of McKinley Avenue is unopened. Appropriate staff of the City and Greenville Utilities have reviewed the proposed closing, and no objections or adverse comments were provided.

After closure of the street section, the abandoned right-of-way will be combined with the property located to the west owned by the City of Greenville known as Tax Parcel Number 23512.

Fiscal Note: There are no budgeted funds for maintenance of this street section. No Powell Bill funds are received for this unopened street section.

Recommendation: Adopt the resolution of intent to close a portion of McKinley Avenue.

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

Attachments / click to download

[McKinley Avenue Street Closing](#)

[Resolution of Intent to close a portion of McKinley Avenue 935059](#)

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GREENVILLE
DECLARING ITS INTENT TO CLOSE A PORTION MCKINLEY AVENUE

WHEREAS, the City Council intends to close said street, in accordance with the provisions of G.S. 160A-299;

THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville, North Carolina, that it is the intent of the City Council to close said street right-of-way, more particularly described as follows:

To Wit: Being a portion of McKinley Avenue as shown on the plat entitled, "Street Closing Map, McKinley Avenue", prepared by Gary S. Miller, dated July 3, 2012.

Location: Lying and being in the City of Greenville, Pitt County, North Carolina, being that portion of McKinley Avenue being south of Douglas Avenue with said street section being more accurately described as follows:

BEGINNING at an existing iron pipe located on the southern right of way of Douglas Avenue said existing iron pipe also being located at the intersection of the northeastern property corner of McKinley Avenue as recorded in Map Book 61, Page 134 and the northwestern property corner of the property belonging to the City of Greenville as recorded in Deed Book 2973, Pages 825-828, Pitt County Registry; thence from said point of beginning and leaving the southern right of way of Douglas Avenue S 09-19-52 W, 112.00 feet to an existing iron pipe; thence N 82-11-29 W, 40.01 feet to an existing iron pipe; thence N 09-19-52 E, 112.12 feet to an existing iron pipe located on the southern right of way of Douglas Avenue; thence running along the southern right of way of Douglas Avenue S 82-00-59 E, 40.01 feet to the point of beginning containing 4,482 square feet or 0.103 acres as shown on a map titled Street Closing Map, McKinley Avenue", prepared by Gary S. Miller, dated July 3, 2012.

BE IT FURTHER RESOLVED that a public hearing will be held in the Council Chamber, City Hall, Greenville, North Carolina, on the 11th day of October, 2012 at 7:00 p.m., to consider the advisability of closing portions of the aforesaid streets. At such public hearing, all objections and suggestions will be duly considered.

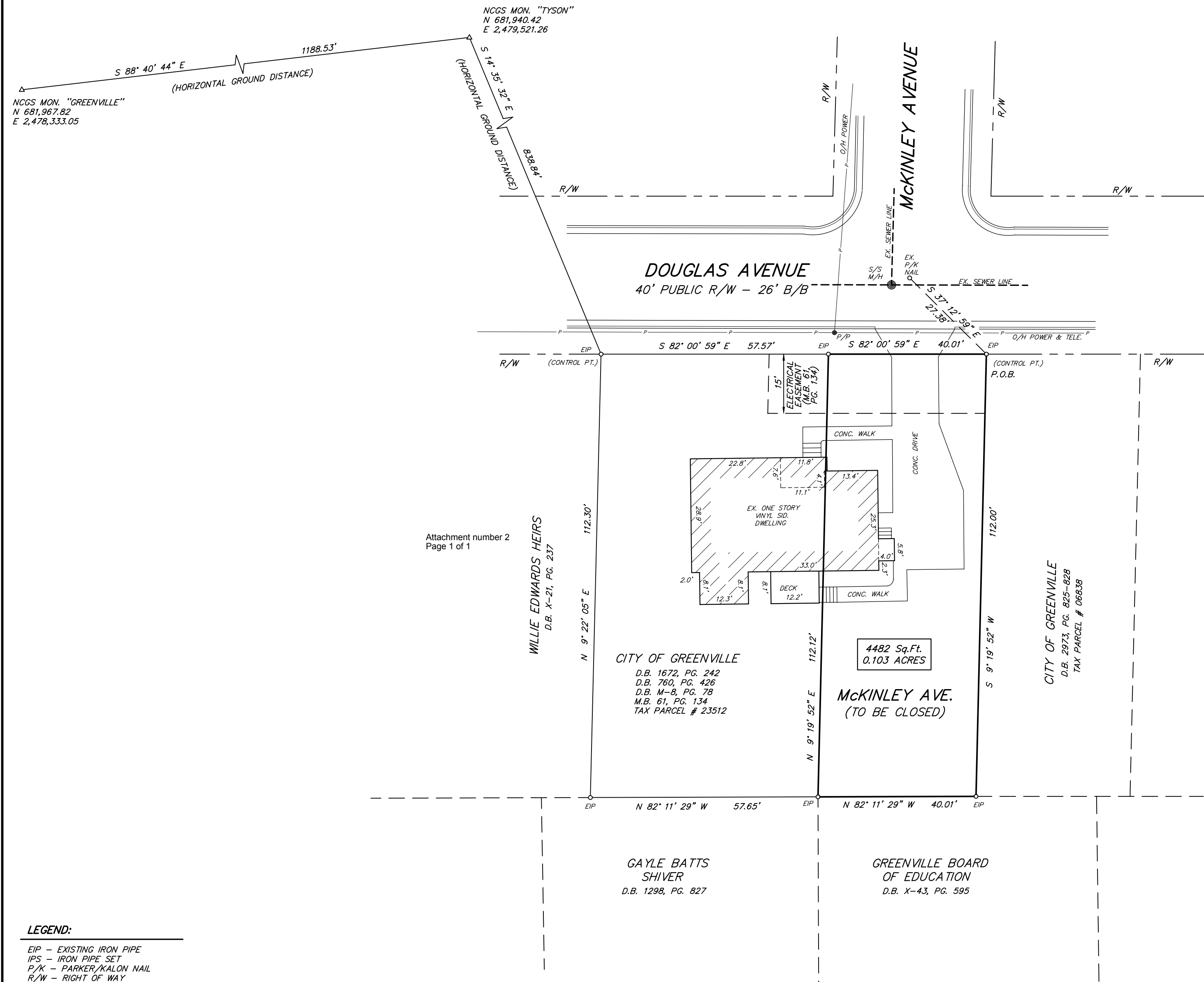
BE IT FURTHER RESOLVED that a copy of this resolution be published once a week for four (4) consecutive weeks in The Daily Reflector; that a copy of this resolution be sent by certified mail to the owners of property adjacent to the above described street, as shown on the County tax records, and that a copy of this resolution be posted in at least two (2) places along the portion of the street to be closed.

Duly adopted this the 10th day of September, 2012.

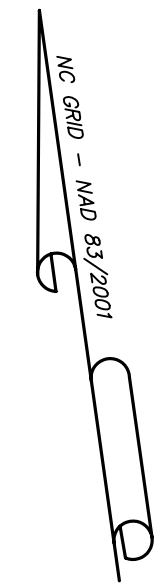
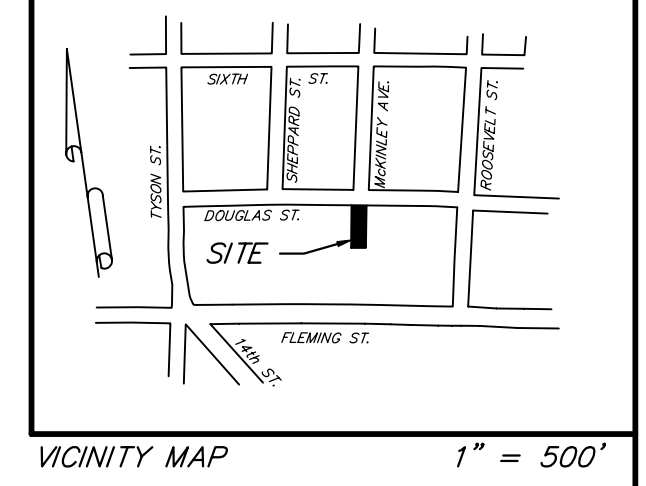
Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk



- NOTES:**
- ALL BEARINGS ARE NC GRID: ALL DISTANCES ARE HORIZONTAL GROUND MEASUREMENTS.
 - THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA. COMMUNITY PANEL # 3720467800J, EFFECTIVE DATE: JANUARY 2, 2004 - ZONE X.



Attachment number 2
Page 1 of 1

CITY OF GREENVILLE
D.B. 1672, PG. 242
D.B. 760, PG. 426
D.B. M-8, PG. 78
M.B. 61, PG. 134
TAX PARCEL # 23512

McKINLEY AVE. (TO BE CLOSED)
4482 Sq.Ft.
0.103 ACRES

GAYLE BATTS SHIVER
D.B. 1298, PG. 827

GREENVILLE BOARD OF EDUCATION
D.B. X-43, PG. 595

CERTIFICATION

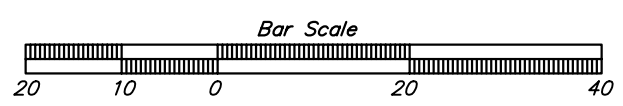
I, GARY S. MILLER, CERTIFY TO THE FOLLOWING:
THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT ORDERED SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION; THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BK. _____ PG. _____ OR OTHER REFERENCE SOURCE M.B. 61, PG. 134); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BK. _____ SEE PG. _____ OR OTHER REFERENCE SOURCE _____; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1:10,000+; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). WITNESS MY HAND AND SEAL THIS 3rd DAY OF JULY, 2012.

SIGNED _____
PROFESSIONAL LAND SURVEYOR No. L-2562

NORTH CAROLINA, PITT COUNTY
I, A NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID, CERTIFY THAT GARY S. MILLER, A PROFESSIONAL LAND SURVEYOR, PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT.
WITNESS MY HAND AND SEAL THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____

- LEGEND:**
- EIP - EXISTING IRON PIPE
 - IPS - IRON PIPE SET
 - P/K - PARKER/KALON NAIL
 - R/W - RIGHT OF WAY
 - B/B - BACK TO BACK
 - S/S - SANITARY SEWER
 - M/H - MANHOLE
 - P.O.B. - POINT OF BEGINNING



SHEET 1 OF 1

MAP FOR STREET CLOSING
OF
McKINLEY AVENUE

BEING ALL OF THE STUB STREET KNOWN AS McKINLEY AVENUE LOCATED SOUTH OF DOUGLAS AVENUE GREENVILLE, GREENVILLE TOWNSHIP PITT COUNTY, NORTH CAROLINA

GARY S. MILLER & ASSOCIATES, P.A.
LAND SURVEYORS
1803 South Charles Blvd.
Greenville, N.C. 27858
Phone (252)756-7878
Fax (252)756-0785

SURVEYED: MCP	APPROVED: GSM
DRAWN: BLW	DATE: 07-03-12
CHECKED: TEM	SCALE: 1" = 20'

WO # 12125 FB # 353

SOURCE OF TITLE
THIS IS TO CERTIFY THAT THE LAST INSTRUMENT(S) IN THE CHAIN OF TITLE(S) OF THIS PROPERTY AS RECORDED IN THE PITT COUNTY REGISTRY AT GREENVILLE, NORTH CAROLINA IS:

DEED BOOK _____	PAGE _____
DEED BOOK _____	PAGE _____
DEED BOOK _____	PAGE _____
MAP BOOK 61	PAGE 134

MAYOR'S CERTIFICATE

THIS IS TO CERTIFY THAT THE CITY COUNCIL OF THE CITY OF GREENVILLE HAS PASSED A RESOLUTION TO CLOSE A PORTION OF McKINLEY AVENUE AS SHOWN HEREON.

RESOLUTION NO. _____
SIGNED _____ MAYOR
SIGNED _____ CITY CLERK

REVIEW OFFICER

STATE OF NORTH CAROLINA
COUNTY OF PITT
I, _____
REVIEW OFFICER OF PITT COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
REVIEW OFFICER _____
DATE _____

N.C. REG. NO. L-2562



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Revisions to the City of Greenville Investment Policy

Explanation: The Financial Services staff, Investment Committee, and the Investment Advisory Committee review the City's Investment Policy at least annually to ensure continued compliance with State and local regulations and to maximize investment objectives. The Investment Committee includes:

- Financial Services Director
- Financial Services Manager
- City Manager
- Assistant City Manager

The Investment Advisory Committee includes:

- Frederick Niswander, Chair
- David Damm, Vice-Chair
- Tilwanda Steinberg, Secretary
- Allen Thomas, Mayor/City Council Liaison

This policy applies to the investment of all operating funds of the City and certain bond proceeds. The attached policy as revised will reflect major changes within the diversification of the investment portfolio that provide additional provisions for the investment of City funds. Also attached are the excerpts of G.S. 159-30, Investment of Idle Funds and G.S. 159-31, Selection of depository; deposits to be secured. These two statutes are part of the policy as written.

This updated policy was reviewed by the Investment Advisory Committee on August 15, 2012, and recommended by the Advisory Committee for approval.

Fiscal Note: As of July 31, 2012, the City's investment portfolio was approximately \$52 million. Adoption of the policy changes will not result in the demand for

additional personnel resources.

Recommendation: Approve the attached revised Investment Policy for the City of Greenville.

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

Attachments / click to download

 [Updated_Investment_Policy_City_of_Greenville_FY_2013_933638](#)

 [Investment_Policy__GS_30_and_GS_31_934906](#)

City of Greenville Investment Policy

Authority:	G.S. 159-30: Investment of Idle Funds
Supersedes:	City of Greenville Investment Policy dated March 6, 2006
Review Responsibility:	Investment Committee
Review Schedule:	Annually or as needed
Approval Needed:	City Council
Supersedes:	January 11, 2010
Updated:	

PURPOSE

The purpose of this investment policy is to establish guidelines for the City of Greenville for the efficient and prudent management of public funds, in accordance with North Carolina General Statutes. This document also sets forth the Investment Policy for Risk Management to ensure that an effective risk management system is in place to monitor the risk levels. This Policy does not require the elimination of risk but instead strives to achieve a balance between risk and return. The City of Greenville, at times, takes on low levels of risk to achieve appropriate levels of return.

SCOPE

This policy applies to the investment of all funds of the City of Greenville with the exception of investment of employee's retirement funds, 401K funds and Other Post Employment Benefits (OPEB) (which are invested by the State of North Carolina) and certain restricted bond issues. These funds are accounted for in the City of Greenville's Comprehensive Annual Financial Report. Except for cash in certain restricted and special funds, the City of Greenville will consolidate cash balances from all funds to maximize investment earnings (pooling of funds). The accounting for the individual fund's cash balances will continue to be maintained separately. Investment income will be allocated to the individual funds based on each fund's respective participation and in accordance with generally accepted accounting principles. Greenville Utilities Commission adopted a separate investment policy for the Enterprise Funds (Water, Sewer, Electric, and Gas). Where applicable, this policy also incorporates the following Government Accounting Standards Board Statements:

- I. GASB Statement No. 31 - *Accounting and Financial Reporting for Certain Investments and External Investment Pools*, implemented July 1, 1997. It should be noted that GASB Statement No. 32 amends No. 31 but only as it applies to Section 457 plans so it is not applicable to the City of Greenville.

II. GASB Statement No. 40 – *Deposit and Investment Risk Disclosure, effective July 1, 2004.*

STRATEGIC OBJECTIVES

The City of Greenville’s primary investment objectives, in priority order, shall be safety, liquidity, and yield:

- I. **Safety** – Safety of principal is the highest objective of this policy. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to minimize credit risk and interest rate risk as well as identifying, measuring and communicating risks. The strategic objective is also to monitor whether investment returns are reasonable for the government.
 - a. Credit Risk – The City of Greenville will minimize credit risk, the risk of loss due to the failure of the security issuer or backer, by:
 - Limiting investments to the safest type of securities
 - Pre-qualifying the financial institutions, advisers, brokers/dealers and intermediaries with which the City of Greenville will do business with (as described under the Suitable and Authorized Investment section of this policy)
 - Diversifying the investment portfolio to minimize the risk of loss resulting from over concentration of assets in a specific maturity, issuer, financial institution, or class of securities
 - b. Interest Rate Risk – The City of Greenville will minimize the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, by:
 - Evaluating cash flow requirements and structuring the maturity of investments accordingly in order to avoid selling securities on the open market prior to maturity
 - Investing primarily in shorter-term securities, such as bank money market accounts, when long-term rates are less attractive.
- II. **Liquidity** – The investment portfolio shall remain sufficiently liquid to meet all operating and debt service requirements that may be reasonably anticipated. This is accomplished by structuring the maturity of investments to meet the anticipated cash needs. In addition, since all possible cash demands cannot be anticipated, the portfolio will consist largely of securities with active resale markets.
- III. **Yield** – The portfolio shall be designed with the objective of attaining a benchmark rate of return throughout budgetary and economic cycles, commensurate with the City of Greenville’s investment portfolio constraints and the cash flow characteristics of the portfolio. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The investments prescribed in this policy are limited to relatively low risk securities and therefore, it

is anticipated they will earn a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:

1. A security swap would improve the quality, yield, or target duration in the portfolio
2. Liquidity needs of the portfolio require that the security be sold
3. A security with declining credit may be sold prematurely to minimize loss of principal
4. An investment held as part of a portfolio intended to match the return on a benchmark index where the sale of such is essential to matching the benchmark.

STANDARDS OF CARE

- I. Prudent Person Rule – The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio. The standard states, “Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as, the probable income to be derived.”

Investment Officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided the deviations from expectations are reported in a timely fashion and the subsequent liquidity and sale of securities are carried out in accordance with the terms of this policy.

- II. Responsibility – In accordance with North Carolina General Statute 159-30, the Director of Financial Services is designated as the Investment Officer of the City of Greenville. The Investment Officer will establish and maintain procedures for operation of the investment program which are consistent with this policy. The Director of Financial Services shall have the power to purchase, sell, and exchange securities on behalf of the City Council. In order to promote efficiency of investment duties and related activities, the Director of Financial Services may, at his/her option, designate one or more staff members to serve as investment staff and perform the functions of cash management and investing. Employees involved in these functions shall act in accordance with established written procedures and internal controls for the operation of the investment program consistent with this investment policy. The Director and Investment Staff will select and maintain risk management tools to provide analyses that inform and support the investment actions. The Director and Staff shall monitor and report material changes on all violations of guidelines to the Investment Committee.

In the absence of the Director and those to which she/he has delegated investment authority, the City Manager or his or her designee is authorized to execute investment activities.

- III. Investment Committee – The investment committee will consist of the City Manager, Assistant City Manager, Director of Financial Services, and Financial Services Manager. Members of the investment committee meet every other month to determine general strategies and evaluate results. At which point, the committee advises the Director of Financial Services on investment options. The committee includes in its deliberations such topics as: economic outlook, portfolio diversification, maturity structure, potential risks to the government’s funds, authorized depositories, brokers and dealers, and the investment portfolio’s target rate of return.

The investment committee will review the investment policy periodically and recommend approval of changes to City Council. The committee shall perform such other duties as may be assigned to it by this policy or by action of the City Council.

- IV. Investment Advisory Committee – This Advisory Committee will consist of three Greenville, NC residents with qualifications related to investing (i.e. bankers, stock brokers, accountants, economists, etc.). These members will be appointed by City Council and will meet three times a year (normally during April, August and December). At inception, this committee will meet initially with the Investment Committee during November. Initial appointments are staggered and will be for one (1) year, two (2) year, and three (3) year terms. Thereafter, appointments will be for three (3) year terms. Additional appointments of the same members may be made for a maximum of two terms. Members filling a partial term (less than three years) may be appointed for three additional terms. The appointments shall be effective each November 1st and expire on October 31st three years later.

Members of the Advisory Committee will meet to review the City’s current portfolio and any recommendations for new investments that the committee has, in order to determine general strategies and monitor results. At which point, it advises the Investment Committee on investment options. The Advisory Committee will receive three-month (quarterly) investment reports from the Investment Committee at the end of each quarter in order to facilitate discussion topics. Similar to the Investment Committee, this committee includes in its deliberations such topics as: economic outlook, portfolio diversification, maturity structure, potential risks to the government’s funds, authorized depositories, brokers and dealers, and the target rate of return on the investment portfolio.

Annually, the Advisory Committee will report to the City Council on investment strategies and accomplishments that have occurred. The committee shall perform such other duties as may be assigned to it by this policy or upon action of the City Council.

- V. Conflicts of Interest – Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions that conduct business with the City of Greenville. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. This disclosure need not include normal banking or brokerage relationships that are at normal market rates and conditions available to the general public.
- VI. Investment Procedures – The Director of Financial Services, or delegate, shall establish written investment procedures for the operation of the investment program consistent with this policy. The procedures should include reference to: safekeeping, wire transfer agreements, banking service contracts and collateral/depository agreements. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Director of Financial Services.

SUITABLE AND AUTHORIZED INVESTMENTS

I. Investment Instruments

North Carolina General Statute 159-30 provides the legal limitations of types of investments permitted for local governments. Within these limitations, the following investments are authorized:

- a. United States Treasury Bills, Notes, and Bonds or those for which the full faith and credit of the United States are pledged for payment of principal and interest. There shall be no limit on the percentage of the portfolio invested in these instruments
- b. U.S. Government Agency Securities or U.S. Government Instrumentality Securities – the Federal Home Loan Mortgage Corporation (FHLMC or Freddie Macs); the Federal Home loan Banks; the Federal National Mortgage Association; and others as allowed by state statute
- c. North Carolina Capital Management Trust
- d. Certificates of Deposit with banks and savings and loan associations having their principal office in North Carolina
- e. Banker's Acceptances provided that the accepting bank or its holding company bank is either 1) incorporated in the State of North Carolina or 2) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service

- f. Commercial Paper of the highest quality as defined by the North Carolina General Statute
- g. North Carolina State and Local Bonds of the highest rating

This policy specifically limits the purchase of Stripped Instruments (Derivative Security) and Repurchase Agreements. Although, these are allowed by State Statute, the Stripped Instruments have considerable market risk attached to them and the Repurchase Agreements have strict compliance rules. This exclusion does not apply to permissible Government Agencies.

SELECTION OF INVESTMENTS

The Director of Financial Services or designee will determine which investments will be purchased and sold and the desired maturity date(s) that are in the best interest of the City. The selection of an investment will involve the evaluation of, but not limited to, the following factors: cash flow projections and requirements; current market conditions; and overall portfolio balance and makeup.

Selection of investments will be made in one of two ways. Some investments, particularly Certificates of Deposit, will be selected based on a competitive basis through quotes. Alternatively, electronic information sources (e.g. Bloomberg) may also be utilized to verify a dealer's pricing by accessing real-time market data.

DEALERS AND FINANCIAL INSTITUTIONS

A list will be maintained of financial institutions that are approved for investment purposes. A list will also be maintained of approved security broker/dealers selected by creditworthiness, which will largely be the "primary" dealers or regional dealers that qualify under the Securities and Exchange Commission (SEC) Rule. All financial institutions and brokers/dealers who desire to become qualified for investment transactions with the City of Greenville may be required to submit the following as appropriate:

- Audited financial statements
- Proof of National Association of Securities Dealers (NASD) certification
- Proof of state registration
- Completed broker/dealer questionnaire
- Certification of having read and understood and agreeing to comply with the City of Greenville's investment policy.

With the exception of the "primary" dealers/brokers, a periodic review of the financial condition and registration of qualified financial institutions and broker/dealers will be conducted by the Director of Financial Services or designee as deemed necessary. The SEC closely monitors the primary dealers/brokers and hence a review will not be required. In addition, approved financial institution lists supplied by the Local

Government Commission or Government Finance Officers Association or other reputable source will not require additional review by the Financial Services Department.

DIVERSIFICATION AND MAXIMUM MATURITIES

I. Diversification – The investments shall be diversified by:

- The City will identify three categories of funds as a base for how much of the cash portfolio will be invested in specific investment instrument. Definitions are:
 - Immediate Need/Reserve – a segment of the portfolio that consist of funds that are readily available for unexpected events/occurrences.
 - General Operating – a segment of the portfolio that will provide funds for investment after obligations are met over a 12 month period. This category will include restricted bond funds.
 - Long Term – 1-5 years – a segment of the portfolio that is in excess of the immediate needs and general operating. This category is treated with an assertive approach to achieve maximum performance.

<u>Type of Segment</u>	<u>% Maintained</u>	<u>Investment Types</u>	<u>Return Goal</u>
<u>Immediate Need /Unexpected</u>	<u>5%-10%</u>	<u>NCCMT</u>	<u>Market Rate of Return</u>
<u>General Operating</u>	<u>20%-60%</u>	<u>CD's, Commercial Paper, Money Markets</u>	<u>Market Rate of Return</u>
<u>Long – Term (1-5 years)</u>	<u>20%-60%</u>	<u>Buy/Sell US Treasury/Agency Securities</u>	<u>Achieves a Market Rate of Return</u>

To summarize the above investment diversification, the City of Greenville’s portfolio will:

- Limit investment in securities that have higher credit risks,
- Invest in securities with varying maturities, and
- Continuously invest a portion of the portfolio in readily available funds to ensure that appropriate liquidity is maintained in order to meet ongoing obligations.
- The Financial Services Director is responsible for monitoring compliance with the above restrictions. If a violation occurs, in a timely manner, the Director shall report such violation to the Investment Committee along with a plan to address the violation.

II. Maximum Maturities – To the extent possible, the City of Greenville shall attempt to match the maturity of investments with anticipated cash flow requirements. Investments will be limited to maturities not exceeding 5 years from the settlement date. However, with specific approval of the Investment Committee, for a specific reserve, project, etc. the maturity may extend beyond 5 years.

SAFEKEEPING AND CUSTODY

- I. Internal Controls – The Director of Financial Services or designee is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City of Greenville are protected from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that 1) the cost of a control should not exceed the benefits likely to be derived and 2) the valuation of costs and benefits requires estimates and judgments by management. The internal controls shall address the following points:
- Control of collusion
 - Separation of transaction authority from accounting and record keeping
 - Custodial safekeeping
 - Clear delegation of authority to subordinate staff members
 - Written confirmation of transactions for investments and wire transfers
 - Development and maintenance of a wire transfer agreement
- II. Safekeeping Arrangement – All securities purchased by the City of Greenville shall be held in third party safekeeping by the bank designated as the primary agent. A detailed receipt shall be issued by the primary agent (bank) for each security transaction, as well as, a monthly report detailing all securities held by the Trust Department of this bank.
- III. Delivery vs. Payment (DVP) – All trades where applicable will be executed by delivery versus payment to ensure that securities are deposited in an eligible financial institution prior to the release of funds. A third-party custodian as evidenced by safekeeping receipts will hold securities.
- IV. Collateralization – In accordance with the Government Finance Officers Association Recommended Practices on the Collateralization of Public Deposits, and as required by state law, full collateralization will be required on checking accounts and non-negotiable certificates of deposit. North Carolina General Statutes allow the State Treasurer and the Local Government Commission (LGC) to prescribe rules to regulate the collateralization of public deposits in North Carolina banks. The method of “pooling investments” transfers the responsibility for monitoring each bank’s collateralization and financial condition from the City to the State Treasurer and LGC. The City will only maintain deposits with institutions using the Pooling Method of Collateralization.

REPORTING AND ANALYSIS

- I. Reporting – The Director of Financial Services, or designee, shall prepare an investment report monthly, which will be provided to the Investment Committee and a three-month report to be distributed to the Investment Advisory Committee. The report(s) will, at a minimum, include the following:
- Listing of securities held at the end of the reporting period

- Listing or chart of investments by maturity date
- Percentage of the total portfolio that each type of investment represents (e.g. Certificate of Deposit, Government Agencies, etc.)
- Percentage of the total portfolio “of” each issuer (e.g. Federal Home Loan Bank)

II. Performance Standards and Market – The City of Greenville’s investment strategy is passive. Given this strategy, the basis used by the Director of Financial Services to determine whether market yields are being achieved shall be to identify one or more comparable benchmarks to the portfolio investment duration, (e.g. 90-day T-bill, 6-month T-bill, etc.). Benchmarks will be identified and approved by the Investment Committee with advice from the Investment Advisory Committee. However, undue emphasis will not be placed on achieving any specific return. The safety and liquidity of the funds will remain the primary objectives.

III. Marking to Market – A report of the market value for the portfolio will also be prepared monthly. The Financial Services Director or designee will use the reports to review the investment portfolio in terms of value and price volatility, as well as for compliance with GASB Statement 31.

POLICY CONSIDERATIONS

- I. Approval and Amendments - The investment policy shall be adopted by the City Council. The policy shall be reviewed annually by the Investment Committee and the Investment Advisory Committee. Any recommended modifications made thereto must be approved by the City Council.
- II. Exemption – Any investment currently held that does not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.
- III. Changes in state law incorporated – Changes in the North Carolina General Statutes that are applicable to this policy will be incorporated, with subsequent notification provided to City Council.
- IV. List of Attachments
 - a. Glossary of Terms
 - b. Investment trading relationship agreement
 - c. G.S. 159-30 – Investment of idle funds
 - d. G.S. 159-31 – Selection of depository; deposits to be secured

Glossary of Terms City of Greenville, NC Investment Policy

Following is a listing and a more detailed definition of the investing terms that appear in the City of Greenville's Investment Policy. This glossary has been adapted from: 1) "Investment Terms for Everyday Use," and an article which was published in the *Public Investor*, April 5, 1996, 2) "Collateralization of Public Deposits in North Carolina," Harlan E. Boyles, State Treasurer, 3) "An Elected Official's Guide to Investing," Government Finance Officers Association.

Agency – A debt security issued by a federal or federally sponsored agency. Federal agencies are backed by the full faith and credit of the U.S. Government. Federally sponsored agencies (FSAs) are backed by each particular agency with a market perception that there is an implicit government guarantee. An example of a federal agency is the Government National Mortgage Association (GNMA). An example of an FSA is the Federal National Mortgage Association (FNMA).

Bankers' Acceptances – A time draft drawn on an accepted by a bank to pay a specified amount of money on a specified date. The draft is a primary and unconditional liability of the accepting bank. They are typically created for international trade transactions. They are backed by the issuers' guarantee to pay, the underlying goods being financed, and the guarantee of the accepting bank (triple-barreled guarantee).

Benchmark – A comparative base for measuring the performance or risk tolerance of some or the entire investment portfolio. A benchmark should represent a close correlation to the level of risk and the average duration of the portfolio's investments.

Bid – The indicated price at which a buyer is willing to purchase a security or commodity.

Broker – One who brings buyers and sellers together for a commission.

Certificate of Deposit – A time deposit that bears a specified interest rate, for a specified dollar amount, for a specified time period. They may be issued in negotiable or nonnegotiable form. Nonnegotiable CDS carry penalties for early redemptions and are the least liquid money market instrument available.

Collateralization – Process by which a borrower pledges securities, property, or other deposits for the purpose of securing the repayment of a loan and/or security. Collateralization of public funds requires the financial institution to pledge government securities sufficient to cover public funds in excess of the FDIC guaranteed amount. There are two methods. The first is the "Dedicated Method," which each public depositor's deposits are secured separately, and which requires the establishing of a separate escrow account for each public depositor. The second is the "Pooling Method,"

under which all public depositors' deposits are secured through a single escrow account established by the depository with the State Treasurer for the benefit of the State and the participating units.

Commercial Paper – An unsecured short-term promissory note issued by corporations, with maturities, ranging from 2 to 270 days.

Comprehensive Annual Financial Report (CAFR) – The official annual report for the City of Greenville. It includes five combined statements for each individual fund and is prepared in conformity with Generally Accepted Accounting Principles (GAAP).

Credit quality – The measurement of the financial strength of a bond issuer. This measurement helps an investor to understand an issuer's ability to make timely interest payments and repay the loan principal upon maturity. Generally, the higher the credit quality of a bond issuer, the lower the interest rate paid by the issuer because the risk of default is lower. Credit quality ratings are provided by nationally recognized rating agencies.

Credit risk – The risk to an investor that an issuer will default in the payment of interest and/or principal on a security.

Dealer – Makes markets in money market instruments by quoting bid and asked prices at which they are prepared to buy and sell for their own accounts.

Delivery Versus Payment (DVP) – A type of securities transaction in which the purchaser pays for the securities when they are delivered either to the purchaser or his/her custodian.

Derivative Security – Financial instrument created from, or whose value depends upon, one or more underlying assets or indexes of asset values.

Diversification - A process of investing assets among a range or security types by sector, maturity, and quality.

Fair Value – The amount at which an investment could be exchanged in a current transaction between willing parties, other than in a forced or liquidation sale.

Government Securities – An obligation of the U.S. government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market. See “Treasury Bills, Notes, and Bonds.”

Interest Rate Risk - The risk associated with declines or rises in interest rates that cause an investment in a fixed-income security to increase or decrease in value.

Internal Controls – An internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that 1) the cost of a control should not exceed the benefits likely to be derived and 2) the valuation of costs and benefits requires estimates and judgments by management. Internal controls should address the following points:

1. **Control of collusion** – Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. **Separation of transaction authority from accounting and record keeping** – By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
3. **Custodial safekeeping** - Securities purchased from any bank or dealer including appropriate collateral (as defined by state law) shall be placed with an independent third party for custodial safekeeping.
4. **Avoidance of physical delivery securities** – Book-entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
5. **Clear delegation of authority to subordinate staff members** – Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
6. **Written confirmation of transactions for investments and wire transfers** – Due to the potential for error and improprieties arising from telephone and electronic transactions, all transactions should be supported by written communications and approved by the appropriate person. Written communications may be via FAX if on letterhead and if the safekeeping institution has a list of authorized signatures.
7. **Development of a wire transfer agreement with the lead bank and third-party custodian** – The designated official should ensure that an agreement will be entered into and will address the following points: controls, security provisions, and responsibilities of each party making and receiving wire transfers.

Investment Policy – A concise and clear statement of the objectives and parameters formulated by an investor or investment manager for a portfolio of investment securities.

Liquidity – A characteristic of an asset that can be converted easily and quickly into cash.

Local Government Investment Pool (LGIP) – An investment by local governments in which their money is pooled as a method for managing local funds.

Mark-to-market – The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.

Market Risk – The risk that the value of a security will rise or decline as a result of changes in market conditions.

Market Value – The current market price of a security.

Maturity – The date on which payment of a financial obligation is due. The final stated maturity is the date on which the issuer must retire a bond and pay the face value to the bondholder.

Money Market Mutual Fund – Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, repos and federal funds).

Mutual Fund – An investment company that pools money and can invest in a variety of securities, including fixed-income securities and money market instruments. Mutual funds are regulated by the Investment Company Act of 1940 and must abide by the following Securities and Exchange Commission (SEC) disclosure guidelines:

1. Report standardized performance calculations.
2. Disseminate timely and accurate information regarding the fund's holdings, performance, management, and general investment policy.
3. Have the fund's investment policies and activities supervised by a board of trustees, which are independent of the adviser, administrator or other vendor of the fund.
4. Maintain the daily liquidity of the fund's shares.
5. Value their portfolios on a daily basis.
6. Have all individuals who sell SEC-registered products licenses with a self-regulating organization (SRO) such as the National Association of Securities Dealers (NASD).
7. Have an investment policy governed by a prospectus that is updated and filed by the SEC annually.

National Association of Securities Dealers (NASD) – A self-regulatory organization (SRO) of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.

Portfolio – The collection of securities held by an investee.

Primary Dealer – A dealer that buys government securities directly from the Federal Reserve Bank (the Fed) and that has met certain minimum financial criteria set by the Markets Reports Division of the Federal Reserve Bank of New York. To ensure that

dealers have sufficient capital to support their activities and manage their risk exposure, the Fed requires primary dealers to maintain a minimum capital adequacy ratio.

Principal – The face value or par value of a debt instrument. Also may refer to the amount of capital invested in a given security.

Prudent Person Rule – An investment standard outlining the fiduciary responsibilities of public funds investors relating to investment practices.

Repurchase Agreement (Repo or RP) – An agreement of one party to sell securities at a specified price to a second party and a simultaneous agreement of the first party to repurchase the securities at a specified price or at a specified later date.

Safekeeping – Holding of assets (e.g. securities) by a financial institution.

Swap – Trading one asset for another.

Treasury Bills – Short-term U.S. government non-interest bearing debt securities with maturities of no longer than one year and issued in minimum denominations of \$10,000. Auctions of three-and six-month bills are weekly, while auctions of one-year bills are monthly. The yields on these bills are monitored closely in the money markets for signs of interest rate trends.

Treasury Notes – Intermediate U.S. government debt securities with maturities of one to 10 years and issued in denominations ranging from \$1,000 to \$1 million or more.

Treasury Bonds – Long-term U.S. government debt securities with maturities of ten years or longer and issued in minimum denominations of \$1,000. Currently, the longest outstanding maturity for such securities is 30 years.

Volatility – A degree of fluctuation in the price and valuation of securities.

Yield – The current rate of return of an investment security generally expressed as a percentage of the security's current price.

CITY OF GREENVILLE
INVESTMENT TRADING RELATIONSHIP AGREEMENT

In consideration of and as a prerequisite to conducting investment business with the City of Greenville, North Carolina, the undersigned investment/financial firm (hereafter firm) agrees to the following terms and conditions:

Eligible Investment Securities – The firm acknowledges that it has reviewed and is aware of the North Carolina State Statutes governing the investments that are eligible for purchase by local governments in North Carolina. The firm agrees to offer no investment to the City that does not meet these statutory and regulatory guidelines. A copy of the applicable general statute (NCGS 159-30) is enclosed. The investment/financial firm also certifies that they are a “primary dealer.” The Director of Financial Services will authorize any other financial institution.

Confirmation and Monthly Statements – The firm agrees that it will send or email confirmation on every transaction promptly to the following address:

City of Greenville	-or -	Director of Financial Services
Financial Services Department		bdemery@greenvillenc.gov
P.O. Box 7207		
Greenville, NC 27835		Financial Services Manager
		kbranch@greenvillenc.gov

Delivery Instructions – The firm agrees to deliver securities to the City delivery versus payment.

Financial Statements – The firm agrees to send its annual audited financial statements to the City within 180 days after the end of each fiscal year.

Cancellation – The City or the firm may immediately cancel this agreement upon written notification.

The undersigned authorized representative of the firm agrees, on behalf of the firm, that the provisions of this agreement will be followed and that if the city sustains losses as a result of the firm’s failure to abide by this agreement, then the firm will be liable for the losses and will reimburse the City the amount of those losses. The firm also agrees that any changes to this agreement will not be effective unless authorized in writing by the Director of Financial Services.

Firm

Person Authorized to Bind Firm

Date

The City of Greenville reserves the right to limit the number of firms authorized to do business with the City, regardless of the qualifications of any particular firm. Following outlines a checklist that all providers must review and signoff on prior to conducting business with the City of Greenville.

1. Has your firm been in existence for more than 5 years? (check one)
 Yes No

2. Does your firm carry adequate insurance coverage including liability, errors and omissions and worker's compensation? (check one)
 Yes No

3. Has your firm conducted trades with any other North Carolina Municipality or other agency? (check one)
 Yes No

4. If your answer to number 3 was yes, please list at least two references below contact names and phones numbers.
a. _____
b. _____

5. Has your firm been subject to any litigation, arbitration, or regulatory proceedings, either pending, adjudicated, or settled within the last year, that involved allegations of improper, fraudulent, disreputable or unfair activities related to the sale of securities to or the purchase of securities from institutional clients? (check one)
 Yes No If "Yes", please describe each matter briefly.

6. Has your firm been subject to a regulatory, state, or federal agency investigation, within the last year, for alleged improper, fraudulent, disreputable, or unfair activities related to the purchase or sale of securities? (check one)

Yes No If "Yes", please describe each matter briefly.

7. If you are not on the State of North Carolina Treasurer's listing for "pooling method," has your firm submitted its annual financial statements for the City's review? (check one)

Yes No

8. Is any official or employee of the City of Greenville directly or indirectly interested in this agreement for any reason or personal gain? (check one)

Yes No If "Yes", please describe relationship

CERTIFICATION

We hereby certify that we have read and that we understand the investment policies and objectives of the City of Greenville as reflected in the City’s Investment Policy, as amended January 2010. Our firm will ensure that all affected sales personnel will be routinely informed of the City’s investment objectives, horizon, outlook, strategies, and risk constraints, as the City provides such information.

Our firm will notify the Director of Financial Services, the Senior Financial Services Manager, or a designated Financial Services staff member, by telephone, and, in writing, in the event of a material adverse change in the firm’s financial condition.

Our firm pledges to exercise due diligence in informing the Director of Financial Services, the Senior Financial Services Manager, or a designated Financial Services staff member of all foreseeable risks associated with any financial transactions that our firm undertakes with the City. We guarantee the accuracy and dedication to the services our firm performs for the City.

Signing of this Certification is only part of the City of Greenville’s review process and DOES NOT guarantee that the candidate will be authorized to provide financial services to the City.

Firm: _____

Name: _____

Signed: _____

Title: _____

Date: _____

§ 159-30. Investment of idle funds.

(a) A local government or public authority may deposit at interest or invest all or part of the cash balance of any fund. The finance officer shall manage investments subject to whatever restrictions and directions the governing board may impose. The finance officer shall have the power to purchase, sell, and exchange securities on behalf of the governing board. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(b) Moneys may be deposited at interest in any bank, savings and loan association, or trust company in this State in the form of certificates of deposit or such other forms of time deposit as the Commission may approve. Investment deposits, including investment deposits of a mutual fund for local government investment established under subdivision (c)(8) of this section, shall be secured as provided in G.S. 159-31(b).

(b1) In addition to deposits authorized by subsection (b) of this section, the finance officer may deposit any portion of idle funds in accordance with all of the following conditions:

- (1) The funds are initially deposited through a bank or savings and loan association that is an official depository and that is selected by the finance officer.
 - (2) The selected bank or savings and loan association arranges for the deposit of funds in certificates of deposit for the account of the local government or public authority in one or more federally insured banks or savings and loan associations wherever located, provided that no funds shall be deposited in a bank or savings and loan association that at the time holds other deposits from the local government or public authority.
 - (3) The full amount of principal and any accrued interest of each certificate of deposit are covered by federal deposit insurance.
 - (4) The selected bank or savings and loan association acts as custodian for the local government or public authority with respect to the certificates of deposit issued for the local government's or public authority's account.
 - (5) At the same time that the local government or public authority funds are deposited and the certificates of deposit are issued, the selected bank or savings and loan association receives an amount of deposits from customers of other federally insured financial institutions wherever located equal to or greater than the amount of the funds invested by the local government or public authority through the selected bank or savings and loan association.
- (c) Moneys may be invested in the following classes of securities, and no others:
- (1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States.
 - (2) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, Fannie Mae, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Service.
 - (3) Obligations of the State of North Carolina.
 - (4) Bonds and notes of any North Carolina local government or public authority, subject to such restrictions as the secretary may impose.
 - (5) Savings certificates issued by any savings and loan association organized under the laws of the State of North Carolina or by any federal savings and loan association having its principal office in North Carolina; provided that

- any principal amount of such certificate in excess of the amount insured by the federal government or any agency thereof, or by a mutual deposit guaranty association authorized by the Commissioner of Banks of the Department of Commerce of the State of North Carolina, be fully collateralized.
- (6) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation.
 - (7) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, provided that the accepting bank or its holding company is either (i) incorporated in the State of North Carolina or (ii) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations.
 - (8) Participating shares in a mutual fund for local government investment; provided that the investments of the fund are limited to those qualifying for investment under this subsection (c) and that said fund is certified by the Local Government Commission. The Local Government Commission shall have the authority to issue rules and regulations concerning the establishment and qualifications of any mutual fund for local government investment.
 - (9) A commingled investment pool established and administered by the State Treasurer pursuant to G.S. 147-69.3.
 - (10) A commingled investment pool established by interlocal agreement by two or more units of local government pursuant to G.S. 160A-460 through G.S. 160A-464, if the investments of the pool are limited to those qualifying for investment under this subsection (c).
 - (11) Evidences of ownership of, or fractional undivided interests in, future interest and principal payments on either direct obligations of the United States government or obligations the principal of and the interest on which are guaranteed by the United States, which obligations are held by a bank or trust company organized and existing under the laws of the United States or any state in the capacity of custodian.
 - (12) Repurchase agreements with respect to either direct obligations of the United States or obligations the principal of and the interest on which are guaranteed by the United States if entered into with a broker or dealer, as defined by the Securities Exchange Act of 1934, which is a dealer recognized as a primary dealer by a Federal Reserve Bank, or any commercial bank, trust company or national banking association, the deposits of which are insured by the Federal Deposit Insurance Corporation or any successor thereof if:
 - a. Such obligations that are subject to such repurchase agreement are delivered (in physical or in book entry form) to the local government or public authority, or any financial institution serving either as trustee for the local government or public authority or as fiscal agent for the local government or public authority or are supported by a

safekeeping receipt issued by a depository satisfactory to the local government or public authority, provided that such repurchase agreement must provide that the value of the underlying obligations shall be maintained at a current market value, calculated at least daily, of not less than one hundred percent (100%) of the repurchase price, and, provided further, that the financial institution serving either as trustee or as fiscal agent for the local government or public authority holding the obligations subject to the repurchase agreement hereunder or the depository issuing the safekeeping receipt shall not be the provider of the repurchase agreement;

- b. A valid and perfected first security interest in the obligations which are the subject of such repurchase agreement has been granted to the local government or public authority or its assignee or book entry procedures, conforming, to the extent practicable, with federal regulations and satisfactory to the local government or public authority have been established for the benefit of the local government or public authority or its assignee;
 - c. Such securities are free and clear of any adverse third party claims; and
 - d. Such repurchase agreement is in a form satisfactory to the local government or public authority.
- (13) In connection with funds held by or on behalf of a local government or public authority, which funds are subject to the arbitrage and rebate provisions of the Internal Revenue Code of 1986, as amended, participating shares in tax-exempt mutual funds, to the extent such participation, in whole or in part, is not subject to such rebate provisions, and taxable mutual funds, to the extent such fund provides services in connection with the calculation of arbitrage rebate requirements under federal income tax law; provided, the investments of any such fund are limited to those bearing one of the two highest ratings of at least one nationally recognized rating service and not bearing a rating below one of the two highest ratings by any nationally recognized rating service which rates the particular fund.

(d) Investment securities may be bought, sold, and traded by private negotiation, and local governments and public authorities may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program. Securities and deposit certificates shall be in the custody of the finance officer who shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

(e) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

(f) Registered securities acquired for investment may be released from registration and transferred by signature of the finance officer.

(g) A local government, public authority, an entity eligible to participate in the Local Government Employee's Retirement System, or a local school administrative unit may make

contributions to a Local Government Other Post-Employment Benefits Trust established pursuant to G.S. 159-30.1.

(h) A unit of local government employing local law enforcement officers may make contributions to the Local Government Law Enforcement Special Separation Allowance Fund established in G.S. 147-69.5. (1957, c. 864, s. 1; 1967, c. 798, ss. 1, 2; 1969, c. 862; 1971, c. 780, s. 1; 1973, c. 474, ss. 24, 25; 1975, c. 481; 1977, c. 575; 1979, c. 717, s. 2; 1981, c. 445, ss. 1-3; 1983, c. 158, ss. 1, 2; 1987, c. 672, s. 1; 1989, c. 76, s. 31; c. 751, s. 7(46); 1991 (Reg. Sess., 1992), c. 959, s. 77; c. 1007, s. 40; 1993, c. 553, s. 55; 2001-193, s. 16; 2001-487, s. 14(o); 2005-394, s. 2; 2007-384, ss. 4, 9; 2010-175, s. 1.)

§ 159-31. Selection of depository; deposits to be secured.

(a) The governing board of each local government and public authority shall designate as its official depositories one or more banks, savings and loan associations, or trust companies in this State or, with the written permission of the secretary, a national bank located in another state. In addition, a unit or public authority, with the written permission of the secretary, may designate a state bank or trust company located in another state as an official depository for the purpose of acting as fiscal agent for the unit or public authority. The names and addresses of the depositories shall be reported to the secretary. It shall be unlawful for any public moneys to be deposited in any place, bank, or trust company other than an official depository, except as permitted by G.S. 159-30(b); however, public moneys may be deposited in official depositories in Negotiable Order of Withdrawal (NOW) accounts.

(b) The amount of funds on deposit in an official depository or deposited at interest pursuant to G.S. 159-30(b) shall be secured by deposit insurance, surety bonds, letters of credit issued by a Federal Home Loan Bank, or investment securities of such nature, in a sufficient amount to protect the local government or public authority on account of deposit of funds made therein, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission. When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by a local government or public authority because of the default or insolvency of the depository. No security is required for the protection of funds remitted to and received by a bank, savings and loan association, or trust company acting as fiscal agent for the payment of principal and interest on bonds or notes, when the funds are remitted no more than 60 days prior to the maturity date. (1927, c. 146, s. 19; 1929, c. 37; 1931, c. 60, s. 32; c. 296, s. 7; 1935, c. 375, s. 1; 1939, c. 129, s. 1; c. 134; 1953, c. 675, s. 28; 1955, cc. 698, 724; 1971, c. 780, s. 1; 1973, c. 474, s. 26; 1979, c. 637, s. 1; 1981, c. 447, s. 2; 1983, c. 158, s. 3; 1999-74, s. 1.)



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Resolutions declaring as surplus and authorizing the disposition of two 2013 International Model 7400 rear loader refuse trucks

Explanation: The City of Greenville Sanitation Division is transitioning to curbside refuse collection. The Sanitation Division's plan includes acquisition of automated trucks. Prior to the City Council's directive for curbside collection only, two rear loading sanitation trucks were ordered and were in production for replacement of two existing rear loading refuse trucks. Subsequent to City Council's action, Public Works made a request to the supplier to consider the two trucks as trade-ins for an automated truck or make them available for purchase by other entities rather than deliver the rear loading trucks to the City. These efforts were not successful.

Additionally, staff explored converting the rear loaders to automated trucks, but due to the fact that they were already in production, the supplier was not able to modify the trucks to function as automated trucks. Consequently, as per our purchase agreement, the Sanitation Division took delivery of the two trucks on July 18, 2012. The trucks have not been put into the fleet for use pending their potential sale to a municipality or private enterprise who may be seeking a similar truck for their use.

Since the trucks were delivered, there have been several municipalities expressing interest in purchasing the trucks. We have received for Council's concurrence two signed contract proposals for purchase of the two trucks: the first from the Town of Ayden, NC, and the second from the City of Goldsboro, NC. The negotiated price for each of the trucks is \$125,100.

In order to sell the trucks to the two municipalities, Council must pass resolutions declaring the two trucks as surplus and authorizing their disposition to the Town of Ayden and City of Greensboro, respectively.

The funds from the sale of these trucks will be placed back into the vehicle replacement fund and used to assist with the purchase of an automated truck. Purchasing an automated truck will augment curbside conversion and increase

efficiency.

Fiscal Note:

The sale of these trucks will be used to begin the conversion of Sanitation's refuse trucks to support automated refuse collection. If the City Council approves the resolutions and contracts for sale of these trucks, the fiscal impact is a net loss of \$28,368 (original P.O. \$278,568 - \$250,200 = \$28,368); however, the \$250,200 from the sale of the trucks will be made available for the purchase of an automated refuse truck.

Recommendation:

Approve the resolutions to surplus and sell the two refuse trucks and provide authority for the City Manager to execute the contracts for sale of the two refuse trucks to the Town of Ayden and the City of Goldsboro.

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

Attachments / click to download

- [Contract to Sell Refuse Truck to City of Ayden](#)
 - [Contract to Sell Refuse Truck to City of Goldsboro](#)
 - [Resolution Sale of Refuse Truck Town of Ayden 935095](#)
 - [Resolution Sale of Refuse Truck City of Goldsboro 935099](#)
-

RESOLUTION NO. ____ - 12
RESOLUTION DECLARING CERTAIN PROPERTY AS SURPLUS AND AUTHORIZING
ITS DISPOSITION TO THE TOWN OF AYDEN

WHEREAS, certain property has been determined to be surplus to the needs of the City of Greenville;

WHEREAS, the Town of Ayden can put this property to use; and

WHEREAS, North Carolina General Statute 160A-274 permits City Council to authorize the disposition, upon such terms and conditions it deems wise, with or without consideration, of real or personal property to another governmental unit;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Greenville that the hereinafter described property is declared as surplus to the needs of the City of Greenville and that said property shall be conveyed to the Town of Ayden for One Hundred Twenty Five Thousand One Hundred and no/100ths Dollars (\$125,100.00), said property being described as follows:

One (1) 2013 International Rear Loader Refuse Truck,
VIN #1HTWGAZR1DH183450

BE IT FURTHER RESOLVED that the contract for the sale of the afore-described property be and is hereby approved.

This the 10th day of September, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk

RESOLUTION NO. ____ - 12
RESOLUTION DECLARING CERTAIN PROPERTY AS SURPLUS AND AUTHORIZING
ITS DISPOSITION TO THE CITY OF GOLDSBORO

WHEREAS, certain property has been determined to be surplus to the needs of the City of Greenville;

WHEREAS, the City of Goldsboro can put this property to use; and

WHEREAS, North Carolina General Statute 160A-274 permits City Council to authorize the disposition, upon such terms and conditions it deems wise, with or without consideration, of real or personal property to another governmental unit;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Greenville that the hereinafter described property is declared as surplus to the needs of the City of Greenville and that said property shall be conveyed to the City of Goldsboro for One Hundred Twenty Five Thousand One Hundred and no/100ths Dollars (\$125,100.00), said property being described as follows:

One (1) 2013 International Rear Loader Refuse Truck,
VIN #1HTWGAZR1DH183451

BE IT FURTHER RESOLVED that the contract for the sale of the afore-described property be and is hereby approved.

This the 10th day of September, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk

**NORTH CAROLINA
PITT COUNTY**

CONTRACT

THIS CONTRACT, made and entered into as of the _____ day of September, 2012, by and between the City of Greenville, a body corporate and politic, organized and existing under the laws of the State of North Carolina, Party of the First Part and hereinafter referred to as the "Seller" and the Town of Ayden, a body corporate and politic, organized and existing under the laws of the State of North Carolina, Party of the Second Part and hereinafter referred to as the "Buyer";

WITNESSETH:

WHEREAS, North Carolina General Statute 160A-174 authorizes a governmental unit to sell to and purchase from another governmental unit any interest in personal property upon such terms and conditions it deems wise; and

WHEREAS, the City Council of the City of Greenville has approved the sale of the personal property described herein upon the terms and conditions described herein and the Board of Commissioners of the Town of Ayden has approved the purchase of the personal property described herein upon the terms and conditions described herein;

NOW, THEREFORE, for and in consideration of the mutual benefits, covenants, and promises contained herein, the Seller and the Buyer agree as follows:

1. Seller agrees to sell and Buyer agrees to buy, on the terms expressed below, the following described property: one (1) 2013 International Rear Loader Refuse Truck, VIN# 1HTWGAZR1DH183450, said property being hereinafter referred to as the Equipment.
2. Buyer agrees to pay for the Equipment the sum of One Hundred Twenty Five Thousand One Hundred and no/100ths Dollars (\$125,100.00) payable to the Seller prior to possession of the Equipment being taken by the Buyer but no later than September 14, 2012.
3. The title to the Equipment shall be transferred to Buyer when Buyer takes possession of the Equipment. Buyer shall take possession of the Equipment at the Public Works Department, 1500 Beatty Street, Greenville, North Carolina. The Buyer and the Seller shall coordinate with each other in determining the date for possession to be taken by the Buyer but it shall be no later than September 14, 2012.
4. The risk of loss or damage to the Equipment shall belong to the Seller until the Buyer takes possession of the Equipment. Thereafter, the Buyer assumes the risk of loss or damage.
5. The Equipment is sold "as is – where is". The Seller is not providing any warranties, expressed or implied, for the Equipment except that the Buyer may have the benefit of any warranty provided by the manufacturer of the Equipment, which the manufacturer

allows to be transferred from the Seller to the Buyer. Seller shall not be liable to the Buyer for damages of any nature arising out of the sale of the Equipment, any defects in the Equipment or otherwise.

6. Buyer shall not assign this contract without the written consent of Seller.
7. This contract is executed in duplicate originals; and both the Buyer and the Seller acknowledge receipt of one such original, agree that the duplicate originals hereof are identical, and further agree that either original shall be admissible in any proceeding, legal, or otherwise, without the production of the other such original.

IN TESTIMONY WHEREOF, the Buyer has caused this instrument to be executed in its corporate name by the Town Manager of the Town of Ayden, and the Seller has caused this instrument to be executed in its corporate name by the City Manager of the City of Greenville.

TOWN OF AYDEN

By:  (SEAL)
Adam Mitchell, Town Manager

CITY OF GREENVILLE

By: _____ (SEAL)
Barbara Lipscomb, City Manager

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

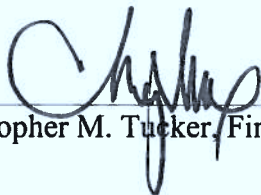
APPROVED AS TO FORM:



Phillip R. Dixon, Town Attorney

PRE-AUDIT CERTIFICATION

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



Christopher M. Tucker, Finance Director

**NORTH CAROLINA
PITT COUNTY**

CONTRACT

THIS CONTRACT, made and entered into as of the _____ day of September, 2012, by and between the City of Greenville, a body corporate and politic, organized and existing under the laws of the State of North Carolina, Party of the First Part and hereinafter referred to as the "Seller" and the City of Goldsboro, a body corporate and politic, organized and existing under the laws of the State of North Carolina, Party of the Second Part and hereinafter referred to as the "Buyer";

WITNESSETH:

WHEREAS, North Carolina General Statute 160A-174 authorizes a governmental unit to sell to and purchase from another governmental unit any interest in personal property upon such terms and conditions it deems wise; and

WHEREAS, the City Council of the City of Greenville has approved the sale of the personal property described herein upon the terms and conditions described herein and the City Council of the City of Goldsboro has approved the purchase of the personal property described herein upon the terms and conditions described herein;

NOW, THEREFORE, for and in consideration of the mutual benefits, covenants, and promises contained herein, the Seller and the Buyer agree as follows:

1. Seller agrees to sell and Buyer agrees to buy, on the terms expressed below, the following described property: one (1) 2013 International Rear Loader Refuse Truck, VIN # 1HTWGAZR3DH183451 said property being hereinafter referred to as the Equipment.
2. Buyer agrees to pay for the Equipment the sum of One Hundred Twenty Five Thousand One Hundred and no/100ths Dollars (\$125,100.00) payable to the Seller prior to possession of the Equipment being taken by the Buyer but no later than September 14, 2012.
3. The title to the Equipment shall be transferred to Buyer when Buyer takes possession of the Equipment. Buyer shall take possession of the Equipment at the Public Works Department, 1500 Beatty Street, Greenville, North Carolina. The Buyer and the Seller shall coordinate with each other in determining the date for possession to be taken by the Buyer but it shall be no later than September 14, 2012.
4. The risk of loss or damage to the Equipment shall belong to the Seller until the Buyer takes possession of the Equipment. Thereafter, the Buyer assumes the risk of loss or damage.
5. The Equipment is sold "as is – where is". The Seller is not providing any warranties, expressed or implied, for the Equipment except that the Buyer may have the benefit of

any warranty provided by the manufacturer of the Equipment which the manufacturer allows to be transferred from the Seller to the Buyer. Seller shall not be liable to the Buyer for damages of any nature arising out of the sale of the Equipment, any defects in the Equipment or otherwise.

- 6. Buyer shall not assign this contract without the written consent of Seller.
- 7. This contract is executed in duplicate originals; and both the Buyer and the Seller acknowledge receipt of one such original, agree that the duplicate originals hereof are identical, and further agree that either original shall be admissible in any proceeding, legal, or otherwise, without the production of the other such original.

IN TESTIMONY WHEREOF, the Buyer has caused this instrument to be executed in its corporate name by the City Manager of the City of Goldsboro, and the Seller has caused this instrument to be executed in its corporate name by the City Manager of the City of Greenville.

CITY OF GOLDSBORO

By:  (SEAL)
Scott A. Stevens, City Manager

CITY OF GREENVILLE

By: _____ (SEAL)
Barbara Lipscomb, City Manager

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

APPROVED AS TO FORM:



James D. Womble, Jr., Town Attorney

PRE-AUDIT CERTIFICATION

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



Kaye Scott, Finance Director



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Business Applications Needs Assessment (BANA) project update and approval of issuing associated request for proposals

Explanation: In December 2011, the City embarked on a project to conduct a needs assessment of our current software applications. Plante & Moran, PLLC was selected to assist the City in this task. The resulting project consists of multiple phases to select a replacement Enterprise Resource Planning (ERP) software system for the City, which includes as a key component replacement of the City's aging financial and business system.

The first phase of this project was to deliver an ERP needs assessment and was completed on May 9, 2012. This phase of the project yielded a recommendation to proceed with existing plans to select a replacement Enterprise Resource Planning (ERP) software system.

The second phase of the Business Applications Needs Assessment (BANA) project has been completed as of August 22, 2012. The deliverable for this phase is the Enterprise Resource Planning request for proposals document.

In summary, we have met the following project milestones:

December 8, 2011	City Council approved consulting services agreement with Plante & Moran
February 7, 2012	BANA project kickoff meeting conducted in the Council Chambers. Opening comments delivered by Assistant City Manager Thom Moton. Plante & Moran, PLLC delivered the kickoff presentation.
March 2, 2012	Project Charter Completed
May 9, 2012	Plan of Action completed. Assessment of current

	applications rendered to City by Plante & Moran, PLLC.
May 21 - June 22, 2012	Development of software specifications and requirements completed
June 15, 2012	Business Applications Needs Assessment (BANA) project update delivered to City Council, via notes to Council (attached)
August 2012	Final draft of ERP RFP document distributed to Executive Steering Committee for review, and finalized

Moving forward into the next phase of the project, ERP solution selection, the project team will be engaged in analyzing RFP responses from the various software providers. This process will include the evaluation of those proposals and conducting due diligence activities culminating in the selection of a preferred vendor solution. Staff is scheduled to distribute requests for proposals (RFPs) on September 11, 2012. The contract award for vendor selection is scheduled for March 2013.

Fiscal Note:

The estimated cost is included in the Capital Improvement Program (CIP) approved on June 14, 2012 at \$2,350,000. The estimated debt service on this amount (\$81,775) has been appropriated within the City of Greenville's operating budget for this fiscal year.

Recommendation:

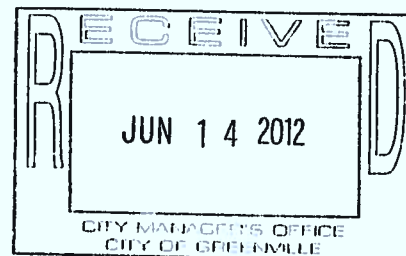
Approve the next phase of this project of proceeding with the issuance of the Enterprise Resource Planning (ERP) request for proposals document to select a replacement ERP software solution.

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

Attachments / click to download

 [BANA Memo](#)

MEMORANDUM



TO: Chris Padgett, Interim Assistant City Manager

FROM: Jon Hoggard, CGCIO, System Analyst IV – BANA Project Manager

DATE: June 13, 2012

SUBJECT: Business Applications Needs Assessment (BANA) Project Update

Since September 21, 2010, the City has been embarked on a project to assess the need for financial related computer software. The City's financial and human resource related software applications have been in service for over 20 years. These essential applications are becoming outdated and more expensive to maintain. This software is from a company called SunGard HTE. City department heads have asked that the City pursue an Enterprise Resource Planning (ERP) software system that will provide new software to fit the business financial needs of this growing city. The Financial Services Director, Human Resources Director, Recreation and Parks Director, and Community Development Director along with Information Technology staff met with the City Manager and Assistant City Manager to discuss software needs. The City Manager authorized a committee be formed to select a consultant to perform a needs assessment related to business financial needs.

In May of 2011, the City embarked on a formal process to select a consultant to conduct a needs assessment of our current software applications. Plante & Moran, PLLC was selected based on their response to the Business Financial Software Consultant Request for Proposal (RFP). Consultants were evaluated based on their responses to the RFP and onsite interviews. Plante & Moran, PLLC was chosen over other consultant firms as the firm was best suited to meet the needs of the Business Applications Needs Assessment (BANA) project. Staff worked with Plante & Moran to develop a Project Charter that identifies objectives and deliverables of the project along with a project organizational structure representing executive sponsorship and leadership. The Project Charter was completed on March 2, 2012.

Management of the project is ongoing and is active from the start of the project until a software system selection is made. This ongoing phase represents the project management activities by Plante & Moran and City staff for the duration of the project.

The first phase of the project is defined as ERP Needs Assessment. This phase of the project is designed to assess the City's current software applications with respect to what is available in the market today. The primary deliverable of this phase is the Plan of Action which provides an executive level summary of the assessment findings as well as the plan for going forth with a software selection process. This phase of the project has been completed and yielded the recommendation to proceed with existing plans to select an Enterprise Resource Planning (ERP) software system. That recommendation was based on the observed weaknesses for the current system and the risks associated with continuing to maintain the current system with its given limitations.

The second phase of the project is defined as ERP RFP Preparation and is currently underway. City staff is actively defining and reviewing software specifications for the various software applications identified in the needs assessment. To complete this phase, City staff along with Plante & Moran, PLLC, will compile, review and finalize all of the necessary specifications for the new software. Various components of the ERP Request for Proposal (RFP) document will be developed and reviewed internally. This document along with the selection criteria and decision making process will be defined and approved by the project's Executive Steering Committee as a deliverable.

In review, we have met the following project milestones:

- December 8, 2011 City Council approved consulting services agreement with Plante & Moran.
- February 7, 2012 BANA project kickoff meeting conducted in the Council chambers. Opening comments delivered by Thom Moton. Mark Warner and Tracey Rau of Plante & Moran, PLLC delivered the kickoff presentation.
- February 7 - 10, 2012 Departmental interview sessions conducted onsite by Plante & Moran, PLLC. Unique software specifications and requirements developed by City staff and delivered to Plante & Moran, PLLC.
- March 2, 2012 Project Charter completed.
- May 9, 2012 Plan of Action completed. Assessment of current applications rendered to City by Plante & Moran, PLLC.

The next step is to complete the second phase of the project which will provide an ERP Request for Proposal (RFP) document and prepare the City to be able to request proposals from various solution providers.

cc: BANA Executive Steering Committee



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Supplemental municipal agreement with the North Carolina Department of Transportation for the Green Mill Run Greenway Phase 2 project

Explanation: The City has requested that right-of-way be added as a reimbursable expense as part of the municipal agreement with the North Carolina Department of Transportation (NCDOT) on the Green Mill Run Greenway Phase 2 project. Also, as part of the agreement, a time extension will be placed in order to ensure the funds are available for construction.

The original agreement expires on June 30, 2014, and will be extended to December 30, 2014. This project is currently under design with construction scheduled to begin in June 2013.

Fiscal Note: No additional money is associated with the time extension or right-of-way acquisition as a reimbursable expense.

Recommendation: Approve the supplemental municipal agreement with NCDOT for the Green Mill Run Greenway Phase 2 project.

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

Attachments / click to download

[Supplemental Agreement for Green Mill Run Greenway](#)

NORTH CAROLINA
PITT COUNTY

SUPPLEMENTAL AGREEMENT

DATE: 9/5/2012

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: EB-4996

AND

WBS ELEMENTS: PE 41061.1.1

ROW 41061.2.1

CITY OF GREENVILLE

CON 41061.3.1

FEDERAL AID NUMBER HPP-0220(27)

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 12/5/2011, entered into a certain Locally Administered Project Agreement for the original scope: the construction of a 10-ft wide paved multi-use trail along Green Mill Run with 2-ft shoulders of granite screenings on both sides from the western terminus of the first phase of Green Mill Run Greenway at Charles Boulevard, across Evans Street, and then along Arlington Boulevard to Evans Park. The total length of the project is approximately 1.4 miles, programmed under Project EB-4996; and,

WHEREAS, the parties agree that additional activity eligible for funding reimbursement for this project will be Right of Way; and

WHEREAS, the parties wish to extend the completion dates for the project;

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

SCOPE

The Department's funding participation in the project shall include the following eligible item:

- Right of Way

TIME FRAME

The schedule shall be modified to have the pre-construction activities completed by August 9, 2013 and the Project completion by December 30, 2014.

TITLE VI

The Municipality shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs and activities of any recipient of Federal assistance.

Except as hereinabove provided, the Agreement heretofore executed by the North Carolina Department of Transportation and City of Greenville on 12/5/2011, 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.

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)



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Resolution approving the execution of a municipal agreement with the North Carolina Department of Transportation for Section 5303 Planning Grant Funds

Explanation: The City of Greenville is annually awarded a planning grant to assist in conducting short-term and long-range planning for the City's bus service. The City's request for planning funds is submitted as part of the Greenville Urban Area Metropolitan Planning Organization annual Planning Work Program (PWP). This agreement provides Greenville Area Transit (GREAT) planning funds for FY 12-13. The Federal Transit Administration and the North Carolina Department of Transportation are the approving agencies for this grant. The Federal portion of the grant funds 80% of the cost of the program while the State funds 10%. These funds are used to support the salaries of the Transit Manager and the system planner.

Fiscal Note:

Federal Share:	\$28,536
State Share:	\$ 3,567
Local Share:	<u>\$ 3,567</u>
TOTAL	\$35,670

Recommendation: Approve the resolution authorizing the municipal agreement for the Section 5303 Planning Grant Funds and authorize the City Manager to execute the agreement between the City of Greenville and the North Carolina Department of Transportation.

Attachments / click to download

 [FY 13 5303 Agreement](#)

 [FY 13 5303 Resolution 934327](#)

RESOLUTION NO.
RESOLUTION AUTHORIZING
THE FY2013 PLANNING WORK PROGRAM
OF THE GREENVILLE URBAN AREA
5303 Grant Program

A motion was made by Council Member _____
and seconded by Council Member _____
for the adoption of the following resolution, and upon being put to a vote, was duly adopted.

Whereas, a comprehensive and continuing transportation planning program must be carried out cooperatively in order to ensure that funds for transportation projects are effectively allocated to the Greenville Urban Area.

Whereas, the City of Greenville has been designated as the recipient of Federal Transit Administration Metropolitan Planning Program funds.

Whereas, the City of Greenville will comply with all requirements as set forth in the 5303 Planning Grant Program and appropriate applicable regulations or guidance.

NOW, THEREFORE, BE IT RESOLVED BY THE GREENVILLE CITY COUNCIL

1. That the City Manager is authorized to execute this Agreement for Transit funding under the 5303 Planning Grant Program.
2. That the Mayor and/or City Manager are authorized to submit any additional information as the Federal Transit Administration or the North Carolina Department of Transportation may require in connection with this project.

ADOPTED this the 10th day of September, 2012.

Allen M. Thomas, Mayor

CERTIFICATION

The undersigned duly qualified City Clerk, acting on behalf of the City of Greenville, certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Greenville City Council on September 10, 2012.

Carol L. Barwick, City Clerk

Date

STATE OF NORTH CAROLINA
COUNTY OF WAKE

METROPOLITAN PLANNING PROGRAM
GRANT AGREEMENT FOR
PUBLIC BODY ORGANIZATIONS

**NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION**

CFDA NUMBER: 20.505

and

PROJECT NUMBER: 13-08-011

**CITY OF GREENVILLE
On behalf of
GREENVILLE URBAN AREA
METROPOLITAN PLANNING
ORGANIZATION**

WBS ELEMENT: 36230.17.11.6

AGREEMENT: TBD

THIS AGREEMENT made this the ___ day of _____, 20___, (hereinafter referred to as AGREEMENT) by and between the NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as "Department", an agency of the State of North Carolina) and **CITY OF GREENVILLE**, [acting in its capacity as the designated Federal Transit Administration (FTA) Planning Program (49 U.S.C. 5303) recipient for the **Greenville Urban Area Metropolitan Planning Organization**, hereinafter referred to as the "Contractor"].

WHEREAS, the Contractor has been selected by principal elected officials as the designated transportation Lead Planning Agency for **Greenville Urban Area Metropolitan Planning Organization**; and

WHEREAS, certain funds may be made available to designated transportation Lead Planning Agencies for supporting the "3-C" Process pursuant to 49 U.S.C. 5303; and

WHEREAS, the Department receives funds from FTA which includes 49 U.S.C. 5303 funds which may be made available to the Contractor for transportation planning for the **Greenville Urban Area Metropolitan Planning Organization**; and

WHEREAS, 49 U.S.C. 5303 promulgates that it is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the states and local communities efficiently and effectively; and

WHEREAS, the purposes of 49 U.S.C. 5303 are to assist in the development of improved public transportation facilities, equipment, techniques, and methods with the cooperation of public transportation companies both public and private; to encourage the planning and establishment of area-wide urban public transportation systems needed for transportation companies both public and private; and to provide assistance to state and local governments and their instrumentalities in financing such systems, to be operated by public or private public transportation companies as determined by locals needs; and

WHEREAS, various federal urban transportation planning regulations require that each urbanized area have a comprehensive, cooperative, and continuing transportation planning process (commonly referred to at the "3-C" process); and

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes designates the Department of Transportation as the agency of the State of North Carolina responsible for administering all Federal and/or State programs relating to public transportation, and granted the Department authority to do all things required under applicable Federal and/or State legislation to properly administer the public transportation within the State of North Carolina; and

WHEREAS, effective February 14, 1986, the Governor of the State of North Carolina designated the Department as the single State Agency specifically authorized to administer Planning Program and Statewide Planning funds for urbanized areas; and

WHEREAS, the Governor of North Carolina, in accordance with Section 5303 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU), Public Law 109-59, August 10, 2005, and the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, June 1998, as amended, has designated the Department as the agency to receive and administer Federal funds under this program; and

WHEREAS, the Department and the Contractor desire to secure and utilize funds for the above referenced purposes;

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the Department and the Contractor agree as follows:

Section 1. Purpose of Agreement. The purpose of this Agreement is to provide for the undertaking of public transportation studies described in each cycle of Planning Work Program (commonly and herein after referred to as "PWP") properly developed, endorsed, approved, and transmitted by the Contractor to the Department, and to state the terms, conditions, and mutual undertakings of the parties as to the manner in which the PWP will be undertaken and completed.

Section 2. Project Implementation. The Contractor agrees to carry out the Project as follows:

a. **Scope of Project.** The City of Greenville is requesting funds to work on the transit element of the Long Range Transportation Plan through mapping and scheduling, design, route surveys, and marketing. Activities also include updates for safety operations of the transit system and public information enhancement. The Contractor shall undertake and complete the public transportation planning work described in such respective section of the PWP, filed with and approved by the Department and specifically incorporated herein by reference, in accordance with the terms and conditions of this Agreement. The planning funds referred to herein shall be 49 U.S.C. 5303 funds passed through the Department to the Contractor under this Agreement, and any planning funds provided to the Contractor under this Agreement shall be used for only transportation planning related activities and in accordance with the most current approved PWP. Nothing shall be construed under the terms of this Agreement by the Department or the Contractor that shall cause any conflict with Department, State, or Federal statutes, rules, or regulations. The Contractor shall undertake and complete the public transportation planning work described in the PWP in accordance with the procedures and guidelines set forth in the following documents:

- (1) FTA Circular 8100.1C, dated September 1, 2008 at http://www.fta.dot.gov/documents/FTA_C_8100.1C.pdf
- (2) FTA Master Agreement, dated October 1, 2010, Document Number FTA MA (17), at www.fta.dot.gov/documents/17-Master.pdf;
- (3) The Section 5303 grant application for financial assistance.

The aforementioned documents, and any subsequent amendments or revisions thereto, are herewith incorporated by reference, and are on file with and approved by the Department in accordance with the terms and conditions of this Agreement. Nothing shall be construed under the terms of this Agreement by the Department or the Contractor that shall cause any conflict with Department, State, or Federal statutes, rules, or regulations.

b. **Cost of Project.** The total cost of the Project approved by the Department is **THIRTY-FIVE THOUSAND SIX HUNDRED SEVENTY DOLLARS (\$35,670)** as set forth in the Project Description and Budget, incorporated into this Agreement as Attachment A.

(1) **Federal Share.** The Department shall provide, from Federal funds, **EIGHTY PERCENT (80%)** of the actual net cost of the Project, not in excess of **TWENTY-EIGHT THOUSAND FIVE HUNDRED THIRTY-SIX DOLLARS (\$28,536)**.

(2) **State Share.** The Department shall provide, from State funds, **TEN PERCENT (10%)** of the actual net cost of the Project, not in excess of **THREE THOUSAND FIVE HUNDRED SIXTY-SEVEN DOLLARS (\$3,567)**. The Department does not provide

matching funds for non-transit planning activities. The Contractor shall be responsible for any remaining costs.

(3) Local Share. The Contractor hereby agrees that it will provide **TEN PERCENT (10%)** of the actual net cost of the Project and any amounts in excess of the Department's maximum. The net cost is the price paid minus any refunds, rebates, or other items of value received by the Contractor which have the effect of reducing the actual cost. The Contractor shall initiate and prosecute to completion all actions necessary to enable it to provide its share of the Project costs at the time directed.

c. Period of Performance.

This Agreement shall commence upon the date of execution, unless specific written authorization from the Department to the contrary is received. The period of performance for all expenditures shall extend from **JULY 1, 2012 TO JUNE 30, 2013**, unless written authorization to the contrary is provided by the Department. Any requests to change the Period of Performance must be made in accordance with the policies and procedures established by the Department or FTA. The Contractor shall commence, carry on, and complete the approved Project with all practicable dispatch, in a sound, economical, and efficient manner.

d. Contractor's Capacity. The Contractor agrees to maintain sufficient legal, financial, technical, and managerial capability to:

- (1) Plan, manage, and complete the Project;
- (2) Carry out the safety and security aspects of the Project; and
- (3) Comply with the terms of this agreement, the Master Agreement

between the FTA and the Department, the Approved Project Budget, the Project schedules, and applicable Federal and State laws, regulations, and directives.

e. Administrative Requirements. The Contractor agrees to comply with the following Federal and State administrative requirements:

(1) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 C.F.R. Part 18 at (<http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>).

(2) Title 19A North Carolina Administrative Code (N.C.A.C.) Subchapter 5B at (<http://reports.oah.state.nc.us/ncac.asp>).

f. Application of Federal, State, and Local Laws, Regulations, and Directives. To achieve compliance with changing federal requirements, the Contractor makes note that federal, state and local requirements may change and the changed requirements will apply to this Agreement as required.

g. Contractor's Primary Responsibility to Comply with Federal and State Requirements. Irrespective of involvement by any other participant in the Project, the Contractor agrees that it, rather than the participant, is ultimately responsible for compliance with all applicable Federal and State laws, regulations, and directives, the Master Agreement between the FTA and the Department, and this Agreement, except to the extent that the Department determines otherwise in writing. Unless otherwise authorized in writing by the Department, the Contractor shall not assign any portion of the work to be performed under this Agreement, or execute any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of the Department. Further, the Contractor shall incorporate the provisions of this Agreement into any lease arrangement and shall not enter into any lease arrangement without the prior concurrence of the Department. Any lease approved by the Department shall be subject to the conditions or limitations governing the lease as set forth by the FTA and the Department. If the Contractor leases any Project asset to another party, the Contractor agrees to retain ownership of the leased asset, and assure that the Lessee will use the Project asset to provide mass transportation service, either through a "Lease and

Supervisory Agreement" between the Contractor and Lessee, or another similar document. The Contractor agrees to provide a copy of any relevant documents.

(1) Significant Participation by a Third Party Contractor. Although the Contractor may enter into a third party contract, after obtaining approval from the Department, in which the third party contractor agrees to provide property or services in support of the Project, or even carry out Project activities normally performed by the Contractor, the Contractor agrees that it, rather than the third party contractor, is ultimately responsible to the Department for compliance with all applicable Federal and State laws, regulations, and directives, except to the extent that the Department determines otherwise in writing.

(2) Significant Participation by a Subcontractor. Although the Contractor may delegate any or almost all Project responsibilities to one or more subcontractors, the Contractor agrees that it, rather than the subcontractor, is ultimately responsible for compliance with all applicable Federal and State laws, regulations, and directives, except to the extent that the Department determines otherwise in writing.

(3) Significant Participation by a Lessee of a Contractor. Although the contractor may lease project property and delegate some or many project responsibilities to one or more lessees, the Contractor agrees that it, rather than any lessee, is ultimately responsible for compliance with all applicable Federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing.

h. Contractor's Responsibility to Extend Federal and State Requirements to Other Entities.

(1) Entities Affected. Only entities that are signatories to this Agreement for the Project are parties to this agreement. To achieve compliance with certain Federal and State laws, regulations, or directives, however, other Project participants (such as subcontractors, third party contractors, lessees, or other) will necessarily be involved. Accordingly, the Contractor agrees to take the appropriate measures necessary to ensure that all Project participants comply with applicable Federal and state laws, regulations and directives affecting Project implementation, except to the extent FTA and the Department determines otherwise in writing. In addition, if any entity other than the Contractor is expected to fulfill responsibilities typically performed by the Contractor, the Contractor agrees to assure that the entity carries out the Contractor's responsibilities as set forth in this Grant Agreement for the Project or the FTA Master Agreement.

(2) Documents Affected. The applicability provisions of Federal and State laws, regulations, and directives determine the extent to which their provisions affect a Project participant. Thus, the Contractor agrees to include adequate provisions to ensure that each Project participant complies with those Federal and State laws, regulations, and directives, except to the extent that the Department determines otherwise in writing.

(a) Required Clauses. The Contractor agrees to use a written document (such as a subagreement, lease, third party contract or other) including appropriate clauses stating the entity's (subrecipient, lessee, third party contractor or other) responsibilities under Federal and state laws, regulations, or directives, except to the extent that FTA determines otherwise in writing.

(b) Compliance with Federal Requirements. The Contractor agrees to implement the Project in a manner that will not compromise the Contractor's compliance with Federal and State laws, regulations, and directives applicable to the Project and the Contractor's obligations under this Agreement for the Project and the FTA Master Agreement. Therefore, the Contractor agrees to include in each subagreement appropriate clauses directing the subrecipient to comply with those requirements applicable to the Contractor imposed by this Agreement for the Project or the FTA Master Agreement and extend those requirements as necessary to any lower level subagreement or any third party contractor at each tier, except as the Department determines otherwise in writing.

i. No Federal/State Government Obligations to Third Parties. In connection with performance of the Project, the Contractor agrees that, absent the Federal/State Government's express written consent, the Federal/State Government shall not be subject to any obligations or liabilities to any subrecipient, third party contractor, lessee, or other person or entity that is not a party to this Agreement for the Project. Notwithstanding that the Federal/State Government may have concurred in or approved any solicitation, subagreement, lease, or third party contract at any tier, the Federal/State Government has no obligations or liabilities to any such entity, including any subrecipient, lessee or third party contractor at any tier.

j. Changes in Project Performance (i.e., Disputes, Breaches, Defaults, or Litigation). The Contractor agrees to notify the Department immediately, in writing, of any change in local law, conditions (including its legal, financial, or technical capacity), or any other event that may adversely affect the Contractor's ability to perform the Project as provided in this Agreement for the Project. The Contractor also agrees to notify FTA and the Department immediately, in writing, of any current or prospective major dispute, breach, default, or litigation that may adversely affect the Federal/State Government's interests in the Project or the Federal/State Government's administration or enforcement of Federal/State laws or regulations. The Contractor also agrees to inform FTA and the Department, also in writing, before naming the Federal or State Government as a party to litigation for any reason, in any forum. At a minimum, the Contractor agrees to send each notice to FTA required by this subsection to the FTA Regional Counsel within whose region the Contractor implements the Project.

k. Limitations of Agreement. This Agreement shall be subject to the availability of Federal and State funds, and contingent upon the terms and conditions of the Master Agreement between the FTA and the Department.

Section 3. Insurance & Real Property

a. The Contractor shall be responsible for protecting the state and/or federal financial interest in the facility construction/renovation and equipment purchased under this Agreement throughout the useful life. The Contractor shall provide, as frequently and in such manner as the Department may require, written documentation that the facility and equipment are insured against loss in an amount equal to or greater than the state and/or federal share of the real value of the facility or equipment. Failure of the Contractor to provide adequate insurance shall be considered a breach of contract and, after notification may result in termination of this Agreement.

In addition, other insurance requirements may apply, the Contractor agrees as follows:

(1). Minimum Requirements. At a minimum, the Contractor agrees to comply with the insurance requirements normally imposed by North Carolina State and local laws, regulations, and ordinances, except to the extent that the Department determines otherwise in writing.

(2). Flood Hazards. To the extent applicable, the Contractor agrees to comply with the flood insurance purchase provisions of Section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a(a), with respect to any Project activity involving construction or an acquisition having an insurable cost of \$10,000 or more.

b. Recording Title to Real Property To the extent required by FTA and the Department, the Contractor agrees to record the Federal and/or State's interest in title to real property used in connection with the Project and/or execute at the request of the Department any instrument or documents evidencing or related to the State's interest in the Project's property.

(1) As a condition of its participation in a Facility Project, the Department will retain a secured interest in the Project for the estimated life of the Project, expected to be forty (40) years, following completion of the Project; or the

prorated share of the original investment or current fair market value (the higher value of the two); whichever comes first.

To the extent required by FTA and the Department, the Contractor agrees to record the Federal and State interest in title to real property used in connection with the Project.

c. Department Approval of Changes in Real Property Ownership. The Contractor agrees that it will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities used in the Project without prior written permission and instructions from the Department.

d. Disposal of Real Property.

- (1) If useful life is not attained, upon the sale or disposition of any Project facility, the Department shall be entitled to a refund of the original state and/or federal investment or the state and/or federal prorated share of the current fair market value of the project facility, whichever is greater.
- (2) For the purpose of this Agreement, the term "any sale or disposition of the Project facility" shall mean any sale or disposition of the facility for a use not consistent with purposes for which the state and/or federal share was originally granted pursuant to the Project Agreement, or for a use consistent with such purposes wherein the transferee in the sale or disposition does not enter into an assignment and assumption agreement with the Contractor with respect to the Contractor's obligation under this Agreement or the Grant Agreement, so that the transferee becomes obligated as if the transferee had been the original party.

Section 4. Ethics.

a. Code of Ethics. The Contractor agrees to maintain a written code or standards of conduct that shall govern the actions of its officers, employees, board members, or agents engaged in the award or administration of third party contracts, subagreements, or leases financed with Federal/State assistance. The Contractor agrees that its code or standards of conduct shall specify that its officers, employees, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from any present or potential third party contractor at any tier, any subrecipient at any tier or agent thereof, or any lessee. Such a conflict would arise when an employee, officer, board member, or agent, including any member of his or her immediate family, partner, or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in the firm selected for award. The Contractor may set de minimis rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. The Contractor agrees that its code or standards shall also prohibit its officers, employees, board members, or agents from using their respective positions in a manner that presents a real or apparent personal or organizational conflict of interest or personal gain. As permitted by State or local law or regulations, the Contractor agrees that its code or standards of conduct shall include penalties, sanctions, or other disciplinary actions for violations by its officers, employees, board members, or their agents, its third party contractors or sub-recipients or their agents.

(1) Gifts. It is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offer or, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (a) have a contract with a governmental agency; or
- (b) have performed under such a contract within the past year; or
- (c) anticipate bidding on such a contract in the future.

State Executive Order 24 and G.S. Sec. 133-32.

(2) Personal Conflicts of Interest. The Contractor agrees that its code or standards of conduct shall prohibit the Contractor's employees, officers, board members, or agents from participating in the selection, award, or administration of any third party contract, or sub-agreement supported by Federal/State assistance if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, board member, or agent, including any member of his or her immediate family, partner, or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in the firm selected for award.

(3) Organizational Conflicts of Interest. The Contractor agrees that its code or standards of conduct shall include procedures for identifying and preventing real and apparent organizational conflicts of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract or sub-agreement, may, without some restrictions on future activities, result in an unfair competitive advantage to the third party contractor or sub-recipient or impair its objectivity in performing the contract work.

b. Debarment and Suspension. The Contractor agrees to comply, and assures the compliance of each third party contractor, sub-recipient, or lessee at any tier, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Government-wide Debarment and Suspension (Non-procurement)," 49 C.F.R. Part 29. The Contractor agrees to, and assures that its third party contractors, sub-recipients, and lessees will, review the Excluded Parties Listing System at (<http://epls.arnet.gov/>) before entering into any contracts.

c. Bonus or Commission. The Contractor affirms that it has not paid, and agrees not to pay, any bonus or commission to obtain approval of its Federal/State assistance application for the Project.

d. Lobbying Restrictions. The Contractor agrees that:

a) In compliance with 31 U.S.C. 1352(a), it will not use Federal assistance to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending the Grant Agreement;

b) It will comply with other applicable Federal laws and regulations prohibiting the use of Federal assistance for activities, designed to influence Congress or a State legislature with respect to legislation or appropriations, except through proper, official channels; and

c) It will comply, and will assure the compliance of each sub-recipient, lessee, or third party contractor at any tier, with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352.

e. Employee Political Activity. To the extent applicable, the Contractor agrees to comply with the provisions of the Hatch Act, 5 U.S.C. §§ 1501 through 1508, and 7324 through 7326, and U.S. Office of Personnel Management regulations, "Political Activity of State or Local Officers or Employees," 5 C.F.R. Part 151. The Hatch Act limits the political activities of State and local agencies and their officers and employees, whose principal employment activities are financed in whole or part with Federal funds including a Federal grant, cooperative agreement, or loan. Nevertheless, in accordance with 49 U.S.C. § 5307(k)(2)(B) and 23 U.S.C. § 142(g), the Hatch Act does not apply to a non-supervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom the Hatch Act would not otherwise apply.

f. False or Fraudulent Statements or Claims. The Contractor acknowledges and agrees that:

(1) Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with the Project. By executing this Agreement for the Project, the Contractor certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Contractor also understands that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal/State Government concerning the Project, the Federal/State Government reserves the right to impose on the Contractor the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal/State Government deems appropriate.

(2) Criminal Fraud. If the Contractor makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal/State Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal/State Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal/State Government reserves the right to impose on the Contractor the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001 or other applicable Federal/State law to the extent the Federal/State Government deems appropriate.

Section 5. Project Expenditures.

a. General. The Department shall reimburse the Contractor for allowable costs for work performed under the terms of this Agreement which shall be financed with Federal Section 5303 funds and State matching funds. The Contractor shall expend funds provided in this Agreement in accordance with the approved PWP and approved Project Budget included as Attachment A to this Agreement. It is understood and agreed that the work conducted pursuant to this Agreement shall be done on an actual cost basis by the Contractor. Expenditures submitted for reimbursement shall include all eligible cost incurred within the Period Covered. The Period Covered represents the monthly or quarterly timeframe in which the project reports expenditures to the Department. All payments issued by the Department will be on a reimbursable basis unless the Contractor requests and the Department approves an advance payment. The Department allows grantees in good standing to request advance payment (prior to issuing payment to the vendor) for vehicles and other high-cost capital items. The Contractor agrees to deposit any advance payments into its account when received and issue payment to the vendor within 3 (three) business days. The amount of reimbursement from the Department shall not exceed the funds budgeted in the approved Project Budget. The Contractor shall initiate and prosecute to completion all actions necessary to enable the Contractor to provide its share of project costs at or prior to the time that such funds are needed to meet project costs. The Contractor shall provide its share of project costs from sources other than FTA and State funds from the Department. Any costs for work not eligible for Federal and State participation shall be financed one hundred percent (100%) by the Contractor.

b. Payment and Reimbursement. The Contractor shall submit itemized invoices requesting reimbursement to the Department for the Period Covered not more frequently than monthly, nor less frequently than quarterly, reporting on the Department's Uniform Public Transportation Accounting System (UPTAS) invoicing forms furnished by the Department for work performed under this Agreement. Invoices shall be supported by documentation of costs unless otherwise waived by the Department. Expenditures submitted for reimbursement shall include all eligible costs incurred within the Period Covered. All requests for reimbursement must be submitted within (30) days following the end of the project's reporting period. Failure to request reimbursement for eligible projects costs incurred within the Period Covered as outlined

may result in non-payment and/or termination of the Project. Invoices shall be approved by the Department's Public Transportation Division and reviewed by the Department's External Audit Branch prior to payment.

Additional forms must be submitted with reimbursement requests to report on contracting activities with Disadvantaged Business Enterprise (DBE) firms.

c. Excluded Costs. The Contractor understands and agrees that, except to the extent the Department determines otherwise in writing, ineligible costs will be treated as follows:

(1) In determining the amount of Federal/State assistance the Department will provide, the Department will exclude:

(a) Any Project cost incurred by the Contractor before the Effective Date of the Grant;

(b) Any cost that is not included in the latest Approved Project Budget;

(c) Any cost for Project property or services received in connection with a third party contract or subagreement with a subrecipient that must be approved by the Department, or other arrangement required to be, but has not been, concurred in or approved in writing by the Department;

(d) Any non-project cost consistent with the prohibitions of 49 U.S.C. § 5323(h); and

(e) Any cost ineligible for FTA/Department participation as provided by applicable Federal/State laws, regulations, or directives.

(2) The Contractor shall limit reimbursement for meals, lodging and travel to the rates established by the State of North Carolina Travel Policy. Costs incurred by the Contractor in excess of these rates shall be borne by the contractor.

(3) The Contractor understands and agrees that payment to the Contractor for any Project cost does not constitute the Federal/State Government's final decision about whether that cost is allowable and eligible for payment and does not constitute a waiver of any violation by the Contractor of the terms of this Agreement. The Contractor acknowledges that the Federal/State Government will not make a final determination about the allowability and eligibility of any cost until an audit of the Project has been completed. If the Federal/State Government determines that the Contractor is not entitled to receive any portion of the Federal/State assistance the Contractor has requested or provided, the Department will notify the Contractor in writing, stating its reasons. The Contractor agrees that Project closeout will not alter the Contractor's responsibility to return any funds due the Federal/State Government as a result of later refunds, corrections, or other transactions; nor will Project closeout alter the Federal/State Government's right to disallow costs and recover funds on the basis of a later audit or other review. Unless prohibited by Federal/State law or regulation, the Federal/State Government may recover any Federal/State assistance funds made available for the Project as necessary to satisfy any outstanding monetary claims that the Federal/State Government may have against the Contractor.

d. Federal/State Claims, Excess Payments, Disallowed Costs, including Interest.

(1) Contractor's Responsibility to Pay. Upon notification to the Contractor that specific amounts are owed to the Federal/State Government, whether for excess payments of Federal/State assistance, disallowed costs, or funds recovered from third parties or elsewhere, the Contractor agrees to remit to the Department promptly the amounts owed, including applicable interest and any penalties and administrative charges.

(2) Amount of Interest. The Contractor agrees to remit to the Department interest owed as determined in accordance with N.C.G.S. 147-86.23.

(3) Payment to FTA. The Department shall be responsible to remit amounts owed to FTA, after receipt of repayment from the Contractor.

e. De-obligation of Funds. The Contractor agrees that the Department may de-obligate unexpended Federal and State funds before Project closeout.

Section 6. Accounting Records.

a. Establishment and Maintenance of Accounting Records. The Contractor shall establish and maintain separate accounts for the public transportation program, either independently or within the existing accounting system. All costs charged to the program shall be in accordance with most current approved budget and shall be reported to the Department in accordance with invoicing forms provided by the Department and the approved PWP.

b. Documentation of Project Costs. All costs charged to the Project, including any approved services performed by the Contractor or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature and propriety of the charges, as referenced in 49 C.F.R. 18, the Office of Management and Budget Circulars A-87, "Costs Principles for State, Local, and Indian Tribal Governments" and A-102 "Grants and Cooperative Agreements with State and Local Governments."

c. Allowable Costs. Expenditures made by the Contractor shall be reimbursed as allowable costs to the extent they meet all of the requirements set forth below. They must be:

(1) Based on work completed to the satisfaction of the Department within the timeframe established by the most current approved PWP, and further be made in conformance with the PWP Description and the PWP Budget and all other provisions of this Agreement;

(2) Necessary in order to accomplish the Project;

(3) Reasonable in amount for the goods or services purchased;

(4) Actual net costs to the Contractor, i.e., the price paid minus any refunds (e.g., refundable sales and use taxes pursuant to N.C.G.S. 105-164.14), rebates, or other items of value received by the Contractor that have the effect of reducing the cost actually incurred;

(5) Incurred (and be for work performed) within the period of performance and period covered of this Agreement unless specific authorization from the Department to the contrary is received;

(6) In conformance with the standards for allowability of costs set forth in Office of Management and Budget (OMB) Circular A-87 "Cost Principles for State, Local, and Indian Tribal Governments;"

(7) Satisfactorily documented; and

(8) Treated uniformly and consistently under accounting principles and procedures approved or prescribed by the Department.

Section 7. Reporting, Record Retention, and Access.

a. Reports. The Contractor shall advise the Department regarding the progress of the Project at a minimum quarterly and at such time and in such a manner as the Department may require. Such reporting and documentation may include, but not limited to meetings and progress reports. The Contractor shall collect and submit to the Department such financial statements, data, records, contracts, and other documents related to the Project as may be deemed necessary by the Department. Such reports shall include narrative and financial statements of sufficient substance to

be in conformance with the reporting requirements of the Department. Progress reports throughout the useful life of the project equipment shall be used, in part, to document utilization of the project equipment. Failure to fully utilize the project equipment in the manner directed by the Department shall constitute a breach of contract, and after written notification by the Department, may result in termination of the Agreement or any such remedy as the Department deems appropriate.

The Contractor will be responsible for having an adequate cost accounting system, and the ongoing burden of proof of adequacy for such system shall be upon the Contractor. The Department will determine whether or not the Contractor has an adequate cost accounting system. Such determination shall be documented initially prior to payment of any invoices pursuant to the Agreement, and from time to time as deemed necessary by the Department. In the event of a negative finding during such determining proceedings, the Department may suspend, revoke, or place conditions upon its determination, and/or may recommend or require remedial actions as appropriate.

b. Record Retention. The Contractor and its third party contractors shall retain all records pertaining to this Project for a period of five (5) years from the date of final payment to the Contractor, or until all audit exceptions have been resolved, whichever is longer, in accordance with "Records Retention and Disposition Schedule – Public Transportation Systems and Authorities, April 1, 2006," at (<http://www.ah.dcr.state.nc.us/records/local/>).

c. Access to Records of Contractor and Subcontractors. The Contractor shall permit and shall require its third party contractors to permit the Department, the Comptroller General of the United States, and the Secretary of the United States Department of Transportation, or their authorized representatives, to inspect all work, materials, payrolls, and other data and records with regard to the Project, and to audit the books, records, and accounts of the Contractor pertaining to the Project. The Department shall reserve the right to reject any and all materials and workmanship for defects and incompatibility with Project Description or excessive cost. The Department shall notify the Contractor, in writing, if materials and/or workmanship are found to be unacceptable. The Contractor shall have ninety (90) days from notification to correct defects or to provide acceptable materials and/or workmanship. Failure by the Contractor to provide acceptable materials and/or workmanship, or to correct noted defects, shall constitute a breach of contract.

d. Project Closeout. The Contractor agrees that Project closeout does not alter the reporting and record retention requirements of this Section 6 of this Agreement.

Section 8. Project Completion, Audit, Settlement, and Closeout.

a. Project Completion. Within ninety (90) calendar days following Project completion, the end of the Project's period of performance, or termination by the Department, the Contractor agrees to submit a final reimbursement request to the Department for eligible Project expenses.

b. Financial Reporting and Audit Requirements. In accordance with OMB Circular A-133, "Audits of State, Local Governments and Non-Profit Organizations," revised on June 27, 2003, and N.C.G.S. 159-34, the Contractor shall have its accounts audited as soon as possible after the close of each fiscal year by an independent auditor. The Contractor agrees to submit the required number of copies of the audit reporting package to the Local Government Commission four months after the Contractor's fiscal year-end.

c. Audit Costs. Unless prohibited by law, the costs of audits made in accordance with the provisions of OMB Circular A-133 are allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in OMB Circular A-87 "Cost Principles for State, Local, and Indian Tribal Governments." The cost of any audit not conducted in accordance with OMB Circular A-133 and N.C.G.S. 159-34 is unallowable and shall not be charged to State or Federal grants.

d. Funds Owed to the Department. The Contractor agrees to remit to the Department any excess payments made to the Contractor, any costs disallowed by the Department, and any amounts recovered by the Contractor from third parties or from other sources, as well as any penalties and any interest required by Subsection 4g of this Agreement.

e. Project Closeout. Project closeout occurs when the Department issues the final project payment or acknowledges that the Contractor has remitted the proper refund. The Contractor agrees that Project closeout by the Department does not invalidate any continuing requirements imposed by this Agreement.

Section 9. Civil Rights. The Contractor agrees to comply with all applicable civil rights laws and implementing regulations including, but not limited to, the following:

a. Nondiscrimination in Federal Public Transportation Programs. The Contractor agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

b. Nondiscrimination – Title VI of the Civil Rights Act. The Contractor agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21.

c. Equal Employment Opportunity. The Contractor agrees to comply, and assures the compliance of each third party contractor at any tier of the Project and each subrecipient at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and implementing Federal regulations and any subsequent amendments thereto. Accordingly, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Contractor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

d. Disadvantaged Business Enterprises.

(1) Policy. It is the policy of the North Carolina Department of Transportation that Disadvantaged Business Enterprises (DBEs) as defined in *49 CFR Part 26* shall have the equal opportunity to compete fairly for and to participate in the performance of contracts financed in whole or in part by Federal Funds.

The Contractor is also encouraged to give every opportunity to allow DBE participation in Supplemental Agreements.

(2) Obligation. The Contractor, subconsultant, and subcontractor shall not discriminate on the basis of race, religion, color, national origin, age, disability or sex in the performance of this contract. The Contractor shall comply with applicable requirements of *49 CFR Part 26* in the award and administration of federally assisted contracts. Failure by the Contractor to comply with these requirements is a material breach of this contract, which will result in the termination of this contract or such other remedy, as the Department deems necessary.

(3) Goals. Even though specific DBE goals are not established for this project, the Department encourages the Contractor to have participation from DBE contractors and/or suppliers

(4) Listing of DBE Subcontractors. The contractor, at the time the Letter of Interest is submitted, shall submit a listing of all known DBE contractors that will participate in the performance of the identified work. The participation shall be submitted on the Department's Form RS-2. In the event the contractor has no DBE participation, the contractor shall indicate this on the Form RS-2 by entering the word 'None' or the number 'zero' and the form shall be signed. Form RS-2 may be accessed on the website at <https://apps.dot.state.nc.us/quickfind/forms/Default.aspx>.

(5) Certified Transportation Contractor Directory. Real-time information about contractors doing business with the Department and contractors that are certified through North Carolina's Unified Certification Program is available in the Directory of Transportation Firms. The Directory can be accessed by the link on the Department's homepage or by entering <https://apps.dot.state.nc.us/vendor/directory/> in the address bar of your web browser. Only contractors identified as DBE certified in the Directory shall be listed in the proposal.

The listing of an individual contractor in the Department's directory shall not be construed as an endorsement of the contractor's capability to perform certain work.

(6) Reporting Disadvantaged Business Enterprise Participation. When payments are made to Disadvantaged Business Enterprise (DBE) contractors, including material suppliers, contractors at all levels (Contractor, subconsultant or subcontractor) shall provide the Contract Administrator with an accounting of said payments. The accounting shall be listed on the Department's Subcontractor Payment Information Form (Form DBE-IS). In the event the contractor has no DBE participation, the contractor shall indicate this on the Form DBE-IS by entering the word 'None' or the number 'zero' and the form shall be signed. Form DBE-IS may be accessed on the website at <https://apps.dot.state.nc.us/quickfind/forms/Default.aspx>.

A responsible fiscal officer of the payee Contractor, subconsultant or subcontractor who can attest to the date and amounts of the payments shall certify that the accounting is correct. A copy of an acceptable report may be obtained from the Department of Transportation. This information shall be submitted as part of the requests for payments made to the Department.

e. Access for Individuals with Disabilities. The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the Contractor agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the Department determines otherwise in writing, as follows:

(1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

(2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

(3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

(4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

(5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

(6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

(7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

(8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and

(9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;

(10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

(11) Federal civil rights and nondiscrimination directives implementing the foregoing regulations.

f. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Contractor agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 201 *et seq.*, and any subsequent amendments to these acts.

g. Access to Services for Persons with Limited English Proficiency. To the extent applicable and except to the extent that the Department determines otherwise in writing, the Contractor agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 66 Fed. Reg. 6733 *et seq.*, January 22, 2001.

h. Environmental Justice. The Contractor agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Department determines otherwise in writing.

i. Other Nondiscrimination Laws. The Contractor agrees to comply with all applicable provisions of other Federal laws, regulations, and directives pertaining to and prohibiting discrimination that are applicable, except to the extent the Department determines otherwise in writing.

Section 10. Planning and Private Enterprise.

a. General. To the extent applicable, the Contractor agrees to implement the Project in a manner consistent with the plans developed in compliance with the Federal planning and private enterprise provisions of the following: (1) 49 U.S.C. §§ 5303, 5304, 5306, and 5323(a)(1); (2) the joint Federal Highway Administration (FHWA)/FTA document, "Interim

Guidance for Implementing Key SAFETEA-LU Provisions on Planning, Environment, and Air Quality for Joint FHWA/FTA Authorities," dated September 2, 2005, as amended by joint FHWA/FTA guidance, "SAFETEA-LU Deadline for New Planning Requirements (July 1, 2007)," dated May 2, 2006, and other subsequent Federal directives implementing SAFETEA-LU, except to the extent FTA determines otherwise in writing; (3) joint FHWA/FTA regulations, "Planning Assistance and Standards," 23 C.F.R. Part 450 and 49 C.F.R. Part 613 to the extent that those regulations are consistent with the SAFETEA-LU amendments to public transportation planning and private enterprise laws, and subsequent amendments to those regulations that may be promulgated; and (4) FTA regulations, "Major Capital Investment Projects," 49 C.F.R. Part 611, to the extent that those regulations are consistent with the SAFETEA-LU amendments to the public transportation planning and private enterprise laws, and any subsequent amendments to those regulations that may be subsequently promulgated.

b. Governmental and Private Nonprofit Providers of Nonemergency Transportation. In addition to providing opportunities to participate in planning as described in Subsection 9a of this Agreement, to the extent feasible the Contractor agrees to comply with the provisions of 49 U.S.C. § 5323(k), which afford governmental agencies and nonprofit organizations that receive Federal assistance for nonemergency transportation from Federal Government sources (other than U.S. DOT) an opportunity to be included in the design, coordination, and planning of transportation services.

c. Infrastructure Investment. During the implementation of the Project, the Contractor agrees to take into consideration the recommendations of Executive Order No. 12803, "Infrastructure Privatization," 31 U.S.C. § 501 note, and Executive Order No. 12893, "Principles for Federal Infrastructure Investments," 31 U.S.C. § 501 note.

Section 11. Preference for United States Products and Services. To the extent applicable, the Contractor agrees to comply with U.S. domestic preference requirements.

Section 12. Procurement. To the extent applicable, the Contractor agrees to comply with the following third party procurement provisions:

a. Federal Standards. The Contractor agrees to comply with the third party procurement requirements of 49 U.S.C. chapter 53 and other applicable Federal laws in effect now or as subsequently enacted; with U.S. DOT third party procurement regulations of 49 C.F.R. §§ 18.36 and other applicable Federal regulations pertaining to third party procurements and subsequent amendments thereto, to the extent those regulations are consistent with SAFETEA-LU provisions; and Article 8 of Chapter 143 of the North Carolina General Statutes. The Contractor also agrees to comply with the provisions of FTA Circular 4220.1E, "Third Party Contracting Requirements," to the extent those provisions are consistent with SAFETEA-LU provisions and with any subsequent amendments thereto, except to the extent the Department or the FTA determines otherwise in writing. Although the FTA "Best Practices Procurement Manual" provides additional procurement guidance, the Contractor understands that the FTA "Best Practices Procurement Manual" is focused on third party procurement processes and may omit certain Federal requirements applicable to the third party contract work to be performed. The Contractor shall establish written procurement procedures that comply with the required Federal and State standards.

b. Full and Open Competition. In accordance with 49 U.S.C. § 5325(a), the Contractor agrees to conduct all procurement transactions in a manner that provides full and open competition as determined by the Department and FTA.

c. Exclusionary or Discriminatory Specifications. Apart from inconsistent requirements imposed by Federal laws or regulations, the Contractor agrees to comply with the requirements of 49 U.S.C. § 5325(h) by not using any Federal assistance awarded by FTA to support a procurement using exclusionary or discriminatory specifications.

d. Geographic Restrictions. The Contractor agrees that it will not use any State or local geographic preference, except State or local geographic preferences expressly

mandated or as permitted by FTA. However, for example, in procuring architectural, engineering, or related services, the Contractor's geographic location may be a selection criterion, provided that a sufficient number of qualified firms are eligible to compete.

e. Neutrality in Labor Relations. To the extent permitted by law, the Contractor agrees to comply with Executive Order No. 13202, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," Executive Order No. 13202, as amended by Executive Order No. 13208, 41 U.S.C. § 251 note, which among other things prohibits requirements for affiliation with a labor organization as a condition for award of any third party contract or subcontract for construction or construction management services, unless the Federal Government determines otherwise in writing.

f. Federal Supply Schedules. State, local, or nonprofit Recipients may not use Federal Supply Schedules to acquire federally assisted property or services except to the extent permitted by U.S. GSA, U.S. DOT, or FTA laws, regulations, directives, or determinations.

g. Force Account. The Contractor agrees that FTA may determine the extent to which Federal assistance may be used to participate in force account costs.

h. Project Approval/Third Party Contract Approval. Except to the extent the Department determines otherwise in writing, the Contractor agrees that the Department's award of Federal and State assistance for the Project does not, by itself, constitute pre-approval of any non-competitive third party contract associated with the Project.

i. Preference for Recycled Products. To the extent applicable, the Contractor agrees to comply with U.S. EPA regulations, "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and with subsequent Federal regulations that may be promulgated. Accordingly, the Contractor agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient.

j. Clean Air and Clean Water. The Contractor agrees to include in each third party contract and subagreement exceeding \$100,000 adequate provisions to ensure that each Project participant will agree to report the use of facilities placed on or likely to be placed on the U.S. Environmental Protection Agency (U.S. EPA) "List of Violating Facilities," to not use any violating facilities, to report violations to the Department and the Regional U.S. EPA Office, and to comply with the inspection and other applicable requirements of:

(1) Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q; and

(2) Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377.

k. National Intelligent Transportation Systems Architecture and Standards. To the extent applicable, the Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 et seq., January 8, 2001, and any subsequent further implementing directives, except to the extent FTA or the Department determines otherwise in writing.

l. Competitive Proposal/Request for Proposal (RFP). The competitive proposal/request for proposal (RFP) method of procurement is normally conducted with more than one source submitting an offer, i.e., proposal. Either a fixed price or cost reimbursement type contract is awarded. This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. The Contractor acknowledges that certain restrictions

apply under North Carolina law for use of the RFP method and these restrictions and exceptions are discussed below.

(1) The Contractor agrees that the RFP Method may not be used in lieu of an invitation for bids (IFB) for:

(a) Construction/repair work; or
(b) Purchase of apparatus, supplies, materials or equipment. See next Subsection; this Agreement, regarding information technology goods as services.

(2) The Contractor agrees that the RFP method of solicitation may be used (in addition to or instead of any other procedure available under North Carolina law) for the procurement of information technology goods and services [as defined in N.C.G.S. 147-33.81(2)]. This applies to electronic data processing goods and services, telecommunications goods and services, security goods and services, microprocessors, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design or redesign of information technology supporting business processes. The Contractor will comply with the following minimum requirements [N.C.G.S. 143-129.8]:

(a) Notice of the request for proposals shall be given in accordance with N.C.G.S. 143-129(b).

(b) Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be considered in awarding contracts shall be identified in the request for proposals.

(c) The Contractor may use procurement methods set forth in N.C.G.S. 143-135.9 in developing and evaluating requests for proposals.

(d) The Contractor may negotiate with any proposer in order to obtain a final contract that best meets the needs of the Contractor.

(e) Any negotiations shall not alter the contract beyond the scope of the original request for proposals in a manner that deprives the proposers or potential proposers of a fair opportunity to compete for the contract; and would have resulted in the award of the contract to a different person or entity if the alterations had been included in the request for proposals.

(f) Proposals submitted shall not be subject to public inspection until a contract is awarded.

(3) The Contractor agrees that the RFP method, in accordance with FTA Circular 4220.1E, under the guidelines of FTA "Best Practices Procurement Manual," should be used for procurements of professional services, such as consultants for planning activities and for transit system operations/management. The Contractor acknowledges that certain restrictions apply under North Carolina law for use of the RFP method and these restrictions and exceptions are discussed in Subsection 11I. of this Agreement.

(4) When the RFP method is used for procurement of professional services, the Contractor agrees to abide by the following minimum requirements:

(a) Normally conducted with more than one source submitting an offer (proposal);

(b) Either fixed price or cost reimbursement type contract will be used;

(c) Generally used when conditions are not appropriate for use of sealed bids;

(d) Requests for proposals will be publicized;

(e) All evaluation factors will be identified along with their relative importance;

(f) Proposals will be solicited from an adequate number (3 is recommended) of qualified sources;

(g) A standard method must be in place for conducting technical evaluations of the proposals received and for selecting awardees;

(h) Awards will be made to the responsible firm whose proposal is most advantageous to the Contractor's program with price and other factors considered; and

(i) In determining which proposal is most advantageous, the Contractor may award to the proposer whose proposal offers the greatest business value (best value) to the agency. "Best value" is based on determination of which proposal offers the best tradeoff between price and performance, where quality is considered an integral performance factor.

m. Award to Other than the Lowest Bidder. In accordance with Federal and State statutes, a third party contract may be awarded to other than the lowest bidder, if the award furthers an objective (such as improved long-term operating efficiency and lower long-term costs). When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs will be considered in determining which bid is lowest. Prior to the award of any contract equal to or greater than \$2,500 to other than apparent lowest bidder, the Contractor shall submit its recommendation along with basis/reason for selection to the Department for pre-award approval.

n. Award to Responsible Contractors. The Contractor agrees to award third party contracts only to responsible contractors who possess potential ability to successfully perform under the terms and conditions of the proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Contracts will not be awarded to parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities in accordance with the Federal debarment and suspension rule, 49 C.F.R. 29. For procurements over \$25,000, the Contractor shall comply, and assure the compliance of each third party contractor and subrecipient at any tier, with the debarment and suspension rule. FTA and the Department recommend that grantees use a certification form for projects over \$25,000, which are funded in part with Federal funds. A sample certification form can be obtained from the Department. The Contractor also agrees to check a potential contractor's debarment/suspension status at the following Web site: <http://epls.arnet.gov/>.

o. Procurement Notification Requirements. With respect to any procurement for goods and services (including construction services) having an aggregate value of \$500,000 or more (in Federal funds), the Contractor agrees to:

(1) Specify the amount of Federal and State funds that will be used to finance the acquisition in any announcement of the contract award for such goods or services; and

(2) Express the said amount as a percentage of the total costs of the planned acquisition.

p. Contract Administration System. The Contractor shall maintain a contract administration system that ensures that contractors/subcontractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

q. Access to Third Party Contract Records. The Contractor agrees, and agrees to require its third party contractors and third party subcontractors, at as many tiers of the Project as required, to provide to the Federal and State awarding agencies or their duly authorized representatives, access to all third party contract records to the extent required by 49 U.S.C. § 5325(g), and retain such documents for at least five (5) years after project completion.

Section 13. Leases.

a. Capital Leases. To the extent applicable, the Contractor agrees to comply with FTA regulations, "Capital Leases," 49 C.F.R. Part 639, and any revision thereto.

b. Leases Involving Certificates of Participation. The Contractor agrees to obtain the Department's concurrence before entering into any leasing arrangement involving the issuance of certificates of participation in connection with the acquisition of any capital asset.

Section 14. Patent Rights. If any invention, improvement, or discovery of the Contractor or any third party contractor or any subrecipient at any tier of the Project is conceived or first actually reduced to practice in the course of or under the Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Contractor agrees to notify the Department immediately and provide a detailed report in a format satisfactory to the Department. The Contractor agrees that its rights and responsibilities, and those of each third party contractor at any tier of the Project and each subrecipient at any tier of the Project, pertaining to that invention, improvement, or discovery will be determined in accordance with 37 C.F.R. Part 401 and any applicable Federal and State laws, regulations, including any waiver thereof.

Section 15. Rights in Data and Copyrights.

a. Data. The term "subject data," as used in this Section 14 of this Agreement means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement for the Project. Examples include, but are not limited to: computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information. "Subject data" does not include financial reports, cost analyses, or similar information used for Project administration. The Contractor acknowledges that, regarding any subject data first produced in the performance of this Agreement for the Project, except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of the Department, unless the Department has previously released or approved the release of such data to the public.

b. Copyrights. The Contractor acknowledges that the FTA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

(1) The copyright in any work developed under this Agreement or subagreement/subcontract; and

(2) Any rights of copyright to which the Contractor or its subrecipients/subcontractors purchase ownership with funds awarded for this Project.

c. Hold Harmless. Except as prohibited or otherwise limited by State law or except to the extent that FTA or the Department determines otherwise in writing, upon request by the Federal or State Government, the Contractor agrees to indemnify, save, and hold harmless the Federal and State Government and its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The Contractor shall not be required to indemnify the Federal or State Government for any such liability caused by the wrongful acts of Federal or State employees or agents.

Section 16. Employee Protections.

a. Activities Not Involving Construction. The Contractor agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the Project, with the employee protection requirements for nonconstruction employees of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 et seq., in particular the wage and hour requirements of Section 102 of that Act at 40 U.S.C. § 3702, and with U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to

Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5.

b. Activities Involving Commerce. The Contractor agrees that the provisions of the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq., apply to employees performing Project work involving commerce.

Section 17. Environmental Protections. The Contractor recognizes that many Federal and State laws imposing environmental and resource conservation requirements may apply to the Project. Some, but not all, of the major Federal laws that may affect the Project include: the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 through 4335; the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q and scattered sections of Title 29, United States Code; the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 through 6992k; the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601 through 9675, as well as environmental provisions within Title 23, United States Code, and 49 U.S.C. chapter 53. The Contractor also recognizes that U.S. EPA, FHWA and other Federal agencies have issued, and in the future are expected to issue, Federal regulations and directives that may affect the Project. Thus, the Contractor agrees to comply, and assures the compliance of each third party contractor, with any applicable Federal laws, regulations and directives as the Federal Government are in effect now or become effective in the future, except to the extent the Federal Government determines otherwise in writing. Listed below are environmental provisions of particular concern to FTA and the Department. The Contractor understands and agrees that those laws, regulations, and directives may not constitute the Contractor's entire obligation to meet all Federal environmental and resource conservation requirements.

a. National Environmental Policy. Federal assistance is contingent upon the Contractor's facilitating FTA's compliance with all applicable requirements and implementing regulations of the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. §§ 4321 through 4335 (as restricted by 42 U.S.C. § 5159, if applicable); Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements at 49 U.S.C. § 5324(b); U.S. Council on Environmental Quality regulations pertaining to compliance with NEPA, 40 C.F.R. Parts 1500 through 1508; and joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622, and subsequent Federal environmental protection regulations that may be promulgated. As a result of enactment of 23 U.S.C. §§ 139 and 326 as well as to amendments to 23 U.S.C. § 138, environmental decision making requirements imposed on FTA projects to be implemented consistent with the joint FHWA/FTA document, "Interim Guidance for Implementing Key SAFETEA-LU Provisions on Planning, Environment, and Air Quality for Joint FHWA/FTA Authorities," dated September 2, 2005, and any subsequent applicable Federal directives that may be issued, except to the extent that FTA determines otherwise in writing.

b. Air Quality. Except to the extent the Federal Government determines otherwise in writing, the Contractor agrees to comply with all applicable Federal laws, regulations, and directives implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q, and:

(1) The Contractor agrees to comply with the applicable requirements of Section 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c), consistent with the joint FHWA/FTA document, "Interim Guidance for Implementing Key SAFETEA-LU Provisions on Planning, Environment, and Air Quality for Joint FHWA/FTA Authorities," dated September 2, 2005, and any subsequent applicable Federal directives that may be issued; with U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40

C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93, and any subsequent Federal conformity regulations that may be promulgated. To support the requisite air quality conformity finding for the Project, the Contractor agrees to implement each air quality mitigation or control measure incorporated in the Project. The Contractor further agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the SIP.

(2) U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, which may apply to public transportation operators, particularly operators of large public transportation bus fleets. Accordingly, the Contractor agrees to comply with the following U.S. EPA regulations to the extent they apply to the Project: "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 C.F.R. Part 86; and "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600.

(3) The Contractor agrees to comply with notice of violating facility provisions of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

c. Clean Water. Except to the extent the Federal Government determines otherwise in writing, the Contractor agrees to comply with all applicable Federal regulations and directives issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. In addition:

(1) The Contractor agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f through 300j-6.

(2) The Contractor agrees to comply with notice of violating facility provisions of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

d. Historic Preservation. The Contractor agrees to encourage compliance with the Federal historic and archaeological preservation requirements of Section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. § 470f; with Executive Order No. 11593, "Protection and Enhancement of the Cultural Environment," 16 U.S.C. § 470 note; and with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. §§ 469a through 469c, as follows:

(1) In accordance with U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic and Cultural Properties," 36 C.F.R. Part 800, the Contractor agrees to consult with the State Historic Preservation Officer concerning investigations to identify properties and resources included in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, and agrees to notify FTA of those properties that are affected.

(2) The Contractor agrees to comply with all applicable Federal regulations and directives to avoid or mitigate adverse effects on those historic properties, except to the extent the Federal Government determines otherwise in writing.

Section 18. Energy Conservation. The Contractor agrees to comply with the North Carolina Energy Policy Act of 1975 (N.C.G.S. 113B) issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 et seq., except to the extent that the Department determines otherwise in writing. To the extent applicable, the Contractor agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

Section 19. Substance Abuse. To the extent applicable, the Contractor agrees to comply with the following Federal substance abuse regulations:

a. Drug-Free Workplace. U.S. DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), 49 C.F.R. Part 32, that implement the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701 et seq.

b. Alcohol Misuse and Prohibited Drug Use. FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 C.F.R. Part 655, that implement 49 U.S.C. § 5331.

Section 20. Seat Belt Use. In accordance with Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U. S. C. § 402 note, the Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned, rented, or personally operated vehicles, and to include this provision in any third party contracts, third party subcontracts, or subagreements involving the Project.

Section 21. Protection of Sensitive Security Information. To the extent applicable, the Contractor agrees to comply with 49 U.S.C. § 40119(b) and implementing U.S. DOT regulations, "Protection of Sensitive Security Information," 49 C.F.R. Part 15, and with 49 U.S.C. § 114(s) and implementing U.S. Department of Homeland Security, Transportation Security Administration regulations, "Protection of Sensitive Security Information," 49 C.F.R. Part 1520.

Section 22. Disputes, Breaches, Defaults, or Other Litigation. The Contractor agrees that FTA and the Department have a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

a. Notification to the Department. The Contractor agrees to notify the Department in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal/State Government's interests in the Project or the Federal/State Government's administration or enforcement of Federal/State laws or regulations. If the Contractor seeks to name the Federal/State Government as a party to litigation for any reason, in any forum, the Contractor agrees to inform the Department in writing before doing so. In turn, the Department shall be responsible for notifying FTA.

b. Federal/State Interest in Recovery. The Federal/State Government retains the right to a proportionate share, based on the percentage of the Federal/State share awarded for the Project, of proceeds derived from any third party recovery, except that the Contractor may return any liquidated damages recovered to its Project Account in lieu of returning the Federal/State share to the Department.

c. Enforcement. The Contractor agrees to pursue all legal rights provided within any third party contract.

d. FTA and Department Concurrence. The FTA and the Department reserve the right to concur in any compromise or settlement of any claim involving the Project and the Contractor.

e. Alternative Dispute Resolution. The Department encourages the Contractor to use alternative dispute resolution procedures, as may be appropriate.

Section 23. Amendments/Revisions to the Project. The Contractor agrees that a change in Project circumstances causing an inconsistency with the terms of this Agreement for the Project will require an amendment or revision to this Agreement for the Project signed by the original signatories or their authorized designees or successors. The Contractor agrees that a change in the fundamental information submitted in its Application will also require an Amendment to its Application or this Agreement for the Project. The Contractor agrees that the project will not incur any costs associated with the amendment or revision before receiving notification of approval from the division. The Contractor agrees that any requests for amendments and or revisions will be submitted in accordance with the policies and procedures established by FTA and the Department.

Section 24. Information Obtained Through Internet Links. This Agreement may include electronic links/Web site addresses to Federal/State laws, regulations, and directives as well as other information. The Department does not guarantee the accuracy of information accessed through such links. Accordingly, the Contractor agrees that information obtained through any electronic link within this Agreement does not represent an official version of a Federal/State law, regulation, or directive, and might be inaccurate. Thus, information obtained through such links is neither incorporated by reference nor made part of this Agreement. The Federal Register and the Code of Federal Regulations are the official sources for regulatory information pertaining to the Federal Government.

Section 25. Geographic Information and Related Spatial Data. In accordance with U.S. OMB Circular A-16, "Coordination of Geographic Information and Related Spatial Data Activities," August 19, 2002, the Contractor agrees to implement its Project so that any activities involving spatial data and geographic information systems activities financed directly or indirectly, in whole or in part, by Federal assistance, consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

Section 26. Severability. If any provision of the FTA Master Agreement or this Agreement for the Project is determined invalid, the remainder of that Agreement shall not be affected if that remainder would continue to conform to the requirements of applicable Federal/State laws or regulations.

Section 27. Termination of Agreement.

a. The Department of Transportation. In the event of the Contractor's noncompliance with any of the provisions of this Agreement, the Department may suspend or terminate the Agreement by giving the Contractor thirty (30) days advance notice. Any failure to make reasonable progress on the Project or violation of this Agreement for the Project that endangers substantial performance of the Project shall provide sufficient grounds for the Department to terminate the Agreement for the Project. In general, termination of Federal and State assistance for the Project will not invalidate obligations properly incurred by the Contractor before the termination date to the extent those obligations cannot be canceled. If, however, the Department determines that the Contractor has willfully misused Federal/State assistance by failing to make adequate progress, failing to make reasonable and appropriate use of Project property, or failing to comply with the terms of this Agreement for the Project, the Department reserves the right to require the Contractor to refund the entire amount of Federal and State assistance provided for the Project or any lesser amount as the Department may determine. Expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the Agreement for the Project. The Department, before issuing notice of Agreement termination, shall allow the Contractor a reasonable opportunity to correct for noncompliance. Upon noncompliance with the nondiscrimination section (Section 8) of this Agreement or with any of the said rules, regulations or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for contracts in accordance with procedures authorized in Executive Orders No. 11246 and No. 11375, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law. In addition to the Department's rights of termination described above, the Department may terminate its participation in the Project by notifying and receiving the concurrence of the Contractor within sixty (60) days in advance of such termination.

b. The Contractor. The Contractor may terminate its participation in the Project by notifying and receiving the concurrence of the Department sixty (60) days in advance of the termination.

Section 28. Contract Administrators. All notices permitted or required to be given by one Party to the other and all questions about this Agreement from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, postal address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrators are set out below. Either Party may change the name, postal address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

For the Department:

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Name: MR. CHARLIE WRIGHT Title: FINANCIAL MANAGER Agency: NCDOT/PTD MSC: 1550 MSC City/Zip: RALEIGH NC 27699-1550 Phone: 919-707-4674 Fax: 919-733-2304 Email: CCWRIGHT@NCDOT.GOV	Name: MR. CHARLIE WRIGHT Title: FINANCIAL MANAGER Agency: NCDOT/PTD Street: TRANSPORTATION BLDG Address: 1 SWILMINGTON ST RM 524 City: RALEIGH NC

For the Contractor:

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Name: Stephen Mancuso Title: Transit Manager Agency: City of Greenville Postal Address: PO Box 7207 City/Zip: Greenville, NC 27835 Phone: 252-329-4047 Fax: 252-329-4535 Email: smancuso@greenvillenc.gov	Name: Stephen Mancuso Title: Transit Manager Agency: City of Greenville Street Address: 1500 Beatty Street City: Greenville

Section 29. Federal Certification Regarding Lobbying. The Contractor certifies, by signing this Agreement, its compliance with Subsection 3d of this Agreement.

Section 30. Federal Certification Regarding Debarment. The Contractor certifies, by signing this Agreement, its compliance with Subsection 3b of this Agreement.

Section 31. Federal Certification Regarding Alcohol Misuse and Prohibited Drug Use. As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, subpart I, the Contractor certifies, by signing this Agreement, that it has established and implemented an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655, and Section 18 of this Agreement.

Section 32. Safe Operation of Motor Vehicles.

The Recipient agrees as follows:

- a. Seat Belt Use. In accordance with the provisions of Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, the

Recipient is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned, rented, or personally operated vehicles, and to include this provision in any subagreements, leases, third party contracts, or other similar documents in connection with the Project.

Section 33. Distracted Driving includes Text Messaging While Driving. In accordance with Executive Order No. 13513, Federal Leadership on Reducing Text Messaging While Driving October 1, 2009, 23 U.S.C.A. § 402 note, and DOT Order 3902.10, Text Messaging While Driving December 30, 2009, the Grantee is encouraged to comply with the term of the following Special Provision

Section 34. Text Messaging While Driving. In accordance with Executive Order No. 13513, Federal Leadership on Reducing Text Messaging While Driving October 1, 2009, 23 U.S.C.A. § 402 note, and DOT Order 3902.10, Text Messaging While December 30, 2009, the Grantee is encouraged to comply with the term of the following Special Provision.

a. Definitions. As used in this Special Provision:

(1) "Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

(2) "Text Messaging" means reading from or entering data into any handheld or other electric device, including the purpose of short message service texting, e-mailing, instant messaging, obtaining navigating information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

b. Safety. The Grantee is encouraged to:

(1) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving –

(a) Grantee-owned or Grantee-rented vehicles or Government-owned, leased or rented vehicles;

(b) Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or

(c) Any vehicle, on or off duty, and using an employer supplied electronic device.

(2) Conduct workplace safety initiatives in a manner commensurate with the Grantee's size, such as:

(a) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(b) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(3) Include this Special Provision in its subagreements with its subrecipients and third party contracts and also encourage its subrecipients, lessees, and third party contractors to comply with the terms of this Special Provision, and include this Special Condition in each subagreement, lease, and third party contract at each tier financed with Federal assistance provided by the Federal Government

Section 35. Ethics Acknowledgement Policy on Gifts.

N.C.G.S. § 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.”

IN WITNESS WHEREOF, this Agreement has been executed by the Department, an agency of the State of North Carolina, and the Contractor by and through a duly authorized representative, and is effective the date and year first above written.

CITY OF GREENVILLE
On behalf of
GREENVILLE URBAN AREA
METROPOLITAN PLANNING ORGANIZATION

CONTRACTOR'S FEDERAL TAX ID NUMBER: 566000229
CONTRACTOR'S FISCAL YEAR END: JUNE 30, 2013

BY: _____
TITLE: CITY MANAGER

(SEAL)

ATTEST: _____
TITLE: _____

DEPARTMENT OF TRANSPORTATION

BY: _____
TITLE: DEPUTY SECRETARY FOR TRANSIT

ATTEST: _____
TITLE: SECRETARY

Attachment

Certification Regarding Lobbying (for bids and/or awards)

The Contractor certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor's Authorized Representative: _____

Title: CITY MANAGER

APPENDIX A

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION DIVISION

PROJECT NUMBER: 13-08-011

APPROVED BUDGET SUMMARY

EFFECTIVE DATE 7/1/2012

PROJECT SPONSOR: CITY OF GREENVILLE

PROJECT DESCRIPTION: FY2013 METROPOLITAN PLANNING PROGRAM

I. TOTAL PROJECT EXPENDITURES

DEPARTMENT - 4526 PLANNING I -	36230.17.11.6	\$35,670
PERIOD OF PERFORMANCE JULY 01, 2012 - JUNE 30, 2013		

II. TOTAL PROJECT FUNDING

		<u>TOTAL</u>	<u>FEDERAL</u>	<u>STATE</u>	<u>LOCAL</u>
PLANNING -	36230.17.11.6	100%	80%	10%	10%
AGREEMENT #	0	\$35,670	\$28,536	\$3,567	\$3,567
TOTAL		\$35,670	\$28,536	\$3,567	\$3,567

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION DIVISION
APPROVED PROJECT BUDGET

PROJECT: 13-08-011
SPONSOR: CITY OF GREENVILLE
WBS: 36230.17.11.6

DEPARTMENT 4526 - PLANNING I

<u>OBJECT</u>	<u>TITLE</u>	<u>APPROVED BUDGET</u>
R302	442100-PROGRAM SUPPORT ADMINISTRATION	\$ 17,280
R303	442200-GENERAL DEVELOPMENT/COMP PLANNING	\$ -
R304	442301-LONG RANGE TRNSP PLN SYSTEM LEVEL	\$ 13,390
R305	442302-LONG RANGE TRNSP PLN PROJECT LEVEL	\$ -
R306	442400-SHORT RANGE TRNSP PLANNING	\$ -
R307	442500-TRANSP IMPROVEMENT PROGRAM	\$ 4,000
R308	442612-CORD NON-EMERG HUMAN SVC TRNSP	\$ -
R309	442613-TRANSIT OPER PART IN METRO&S-WIDE PLN	\$ -
R310	442614-TRANSIT MGMT-OPS PLN TO INCREASE RIDER	\$ -
R311	442615-SYS PLN TO SUPT TRNSIT CAP INVEST DECIS	\$ -
R312	442616-SAFETY-SECURITY TRNSP PLANNING	\$ 1,000
R313	442700-OTHER ACTIVITIES	\$ -
	TOTAL PLANNING	\$ 35,670



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Memorandum of agreement with the North Carolina Sedimentation Control Commission for the City of Greenville's erosion control program

Explanation: The City of Greenville's Public Works Department is currently delegated by the State of North Carolina to manage the Sedimentation and Erosion Control Program within its Extraterritorial Jurisdiction. The North Carolina Sedimentation Control Commission has developed a memorandum of agreement between the Commission and those local governments that are delegated a local program. The memorandum of agreement simply clarifies both the City's and Commission's roles in the enforcement of the program and the Sedimentation Pollution Control Act. The memorandum of agreement must be executed to remain in full compliance with the North Carolina Sedimentation Control Commission.

The City's Public Works Department currently abides by the practices included within the memorandum of agreement.

Fiscal Note: There is no fiscal impact associated with the memorandum of agreement.

Recommendation: Authorize execution of the attached memorandum of agreement with the North Carolina Sedimentation Control Commission.

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

Attachments / click to download

MEMORANDUM OF AGREEMENT

BETWEEN

THE NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION

AND

THE CITY OF GREENVILLE, NORTH CAROLINA

This MEMORANDUM OF AGREEMENT is entered into between the **North Carolina Sedimentation Control Commission** (hereinafter, “Commission”) and **The City of Greenville, North Carolina** (hereinafter, “Local Government,” collectively, “Parties”) for the purpose of clarifying their roles in the enforcement of the Sedimentation Pollution Control Act of 1973, N.C. Gen. Stat. Ch. 113A Art. 4 and any rules adopted pursuant to the Act (hereinafter collectively, “SPCA.”)

Part I. Local Program Creation.

A. Model Ordinance

The Parties agree that the Commission shall do the following:

1. Per N.C. Gen. Stat. § 113A-54(1), provide a model erosion and sedimentation control ordinance (hereinafter, “model ordinance”) for adoption by local governments who wish to operate a delegated local sedimentation and erosion program (hereinafter, “local program.”)
2. Update its model ordinance upon changes in the SPCA.

B. Proposed Ordinance Review

The Parties agree that:

1. Local governments who choose to create and operate a local program may do so by ordinance (hereinafter, “local program ordinance”.) However, the local government must submit the proposed local program ordinance to the Commission staff for review prior to adoption. Local governments must adopt the ordinance prior to submission to the Commission for approval.
2. North Carolina General Statute § 113A-60(b) requires the Commission to review approve, approve as modified, or disapprove proposed local program ordinances based upon the minimum requirements of the SPCA.
3. The Commission shall review a local program ordinance submitted and, within 90 days of receipt thereof, shall notify the local government submitting the program that it has been approved, approved with modifications, or disapproved.

4. The local program's erosion and sedimentation control standards must equal or exceed those of the SPCA.
5. The City of Greenville has an existing local program and an ordinance approved by the Sedimentation Control Commission.

Part II. Responsibilities and Expectations of the Commission.

A. Local Program Review

The Parties agree that the Commission shall do the following:

1. Review periodically approved local programs for compliance with the SPCA. The results of the reviews shall be presented at the next quarterly meeting of the Commission.
2. If the Commission determines that any local government is failing to administer or enforce an approved erosion and sedimentation control program, it shall notify the local government in writing and shall specify the deficiencies of administration and enforcement.
3. If the local government has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the local government indicates its willingness and ability to resume administration and enforcement of the program.

B. Training and Education for Local Programs

The Parties agree that the Commission shall provide the following:

1. Educational programs in erosion and sedimentation control directed persons engaged in land-disturbing activities, general educational materials on erosion and sedimentation control, and instructional materials for persons involved in the enforcement of the SPCA and erosion and sedimentation control rules, ordinances, regulations, and plans.
2. Manuals and publications to assist in the design, construction and inspection of erosion and sedimentation control measures.
3. Periodic review of local erosion and sedimentation control programs and through the reviews provide recommendations to improve program administration.
4. Technical assistance in review of draft erosion and sedimentation control plans for complex activities.

C. Concurrent Jurisdiction

The Parties agree that the Commission shall maintain concurrent jurisdiction with the local government for land-disturbing activities and may take appropriate compliance action if the Commission determines that the local government has failed to take appropriate compliance action.

Part III. Responsibilities and Expectations of the Local Government.

A. Enforcement

The Parties agree that the local government shall administer its own local program ordinances, through the following:

1. Enforce the provisions of the SPCA.
2. Administer the SPCA for all land-disturbing activity within its jurisdiction, including existing sites at the time the local government received program delegation. The Commission may continue to administer the SPCA over specific projects under enforcement action upon mutual agreement with the local government. The local program is not responsible for activities over which the Commission has exclusive jurisdiction.
3. Employ a sufficient number of qualified personnel. Qualified personnel shall be competent to review sedimentation and erosion control plans and conduct inspections of land-disturbing activities.
4. Provide adequate resources for plan review and compliance inspections.

B. Reporting

The Parties agree that the local government shall provide the following reports/information:

1. Monthly activity report to the Commission in the form adopted by the Commission.
2. Copy of all Financial Responsibility/Ownership forms to the Division of Water Quality (DWQ) when draft erosion and sedimentation control plans are received.
3. Copy of Notices of Violation to the appropriate regional office of DWQ.
4. Current contact information for their local program to the Division of Land Resources.

C. Sediment and Erosion Control Plans for Land-Disturbing Activity Review

The Parties agree that the local government shall review erosion and sedimentation control plans for land-disturbing activity (hereinafter, "plans") submitted to its local program under the following standards:

1. Review plans within 30 days of receipt of a new plan and within 15 days of a revised plan.
2. Approve, approve with modifications, approve with performance reservations, or disapprove draft plans in conformance with the basic control objectives contained in 15A NCAC 04B .0106.

3. Notify in writing the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations or disapproved within 30 days of receipt of a new plan and within 15 days of a revised plan.
4. Include in written notifications of plan approval the following:
 - a. reference to NPDES General Stormwater Permit NCG 010000,
 - b. expiration date of the approval,
 - c. the right of periodic inspection, and
 - d. condition the approval upon the applicant's compliance with federal and State water quality laws, regulations and rules.
5. Enclose with all written permit notifications the following
 - a. NPDES General Stormwater Permit NCG 010000, and
 - b. Certificate of Approval for posting at the site of the land-disturbing activity.

D. Inspection

The Parties agree that the local government shall inspect all sites undergoing land-disturbing activity under the following standards:

- a. Periodically and regularly inspect sites undergoing land-disturbing activity within its jurisdiction. Periodically and regularly means with sufficient frequency to effectively monitor compliance with the SPCA and rules adopted pursuant to the SPCA and the local erosion and sedimentation control ordinance.
2. Document all inspections in writing, including electronic documents.
3. Inspection reports shall include, at a minimum, all information in the model sedimentation inspection report developed by the Commission.
4. Maintain inspection records for active projects in accordance with State and local record retention policies.

E. Enforcement

The Parties agree that the local government shall enforce its local program ordinance under the following standards:

1. Issue Notices of Violation (hereinafter, "NOV") for any significant violation of the SPCA, rules adopted pursuant to the SPCA, or the local erosion and sedimentation control ordinance documented in an inspection report. An NOV shall be issued to the persons responsible for the violations, pursuant to N.C. Gen. Stat. § 113A-61.1.
2. The NOV shall specify the following:
 - a. describe the violation with reasonable particularity
 - b. request that all illegal activity cease
 - c. the actions that need to be taken to comply with the SPCA and the local ordinance

- d. a date by which the person must comply with the SPCA and the local ordinance
 - e. inform the violator that any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and the local ordinance
3. Undertake appropriate enforcement actions, including injunctive relief, or assessment of civil penalties for an initial penalty or a daily penalty for continuing violations.
 4. Require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57(3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation.

[This space left intentionally blank.]

IN WITNESS HEREOF, the Parties enter into this Memorandum of Agreement, this the _____ day of _____ 2012.

SEDIMENTATION CONTROL COMMISSION

THE CITY OF GREENVILLE, NORTH CAROLINA

By: _____
Robin K. Smith
Chair
Dated: _____

By: _____
Allen M. Thomas
Mayor
Dated: _____

DIVISION OF LAND RESOURCES

By: _____
James D. Simons
Director
Dated: _____

By: _____
Rose H. Glover
Mayor Pro-Tem
Dated: _____

Approved as to Form

Approved as to Form

Rufus C. Allen
Assistant Attorney General and Counsel to
the Commission
Dated: _____

David A. Holec
City of Greenville, North Carolina Attorney
Dated: _____

Appendix I.

NORTH CAROLINA GENERAL STATUTES
Sedimentation Pollution Control Act (Ch. 113A Art. 4)
(selected statutes)

§ 113A-54. Powers and duties of the Commission.

(d) In implementing the erosion and sedimentation control program, the Commission shall:

- (1) Assist and encourage local governments in developing erosion and sedimentation control programs and, as a part of this assistance, the Commission shall develop a model local erosion and sedimentation control ordinance. The Commission shall approve, approve as modified, or disapprove local programs submitted to it pursuant to G.S. 113A-60.

§ 113A-56. Jurisdiction of the Commission.

(a) The Commission shall have jurisdiction, to the exclusion of local governments, to adopt rules concerning land-disturbing activities that are:

- (1) Conducted by the State.
- (2) Conducted by the United States.
- (3) Conducted by persons having the power of eminent domain other than a local government.
- (4) Conducted by a local government.
- (5) Funded in whole or in part by the State or the United States.

(b) The Commission may delegate the jurisdiction conferred by G.S. 113A-56(a), in whole or in part, to any other State agency that has submitted an erosion and sedimentation control program to be administered by it, if the program has been approved by the Commission as being in conformity with the general State program.

(c) The Commission shall have concurrent jurisdiction with local governments that administer a delegated erosion and sedimentation control program over all other land-disturbing activities. In addition to the authority granted to the Commission in G.S. 113A-60(c), the Commission has the following authority with respect to a delegated erosion and sedimentation control program:

- (1) To review erosion and sedimentation control plan approvals made by a delegated erosion and sedimentation control program and to require a

revised plan if the commission determines that a plan does not comply with the requirements of this Article or the rules adopted pursuant to this Article.

- (2) To review the compliance activities of a delegated erosion and sedimentation control program and to take appropriate compliance action if the Commission determines that the local government has failed to take appropriate compliance action.

(1973, c. 392, s. 7; c. 1417, s. 4; 1987, c. 827, s. 130; 1987 (Reg. Sess., 1988), c. 1000, s. 4; 2002-165, s. 2.5; 2006-250, s.2.)

§ 113A-60. Local erosion and sedimentation control programs.

(a) A local government may submit to the Commission for its approval an erosion and sedimentation control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sedimentation control programs. An ordinance adopted by a local government may establish a fee for the review of an erosion and sedimentation control plan and related activities. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this Article. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission.

(b) The Commission shall review each program submitted and within 90 days of receipt thereof shall notify the local government submitting the program

that it has been approved, approved with modifications, or disapproved. The Commission shall only approve a program upon determining that its standards equal or exceed those of this Article and rules adopted pursuant to this Article.

- (c) If the Commission determines that any local government is failing to administer or enforce an approved erosion and sedimentation control program, it shall notify the local government in writing and shall specify the deficiencies of administration and enforcement. If the local government has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the local government indicates its willingness and ability to resume administration and enforcement of the program.
- (d) A local government may submit to the Commission for its approval a limited erosion and sedimentation control program for its jurisdiction that grants the local government the responsibility only for the assessment and collection of fees and for the inspection of land-disturbing activities within the jurisdiction of the local government. The Commission shall be responsible for the administration and enforcement of all other components of the erosion and sedimentation control program and the requirements of this Article. The local government may adopt ordinances and regulations necessary to establish a limited erosion and sedimentation control program. An ordinance adopted by a local government that establishes a limited program shall conform to the minimum requirements regarding the inspection of land-disturbing activities of this Article and the rules adopted pursuant to this Article regarding the inspection of land-disturbing activities. The local government shall establish and collect a fee to be paid by each person who submits an erosion and sedimentation control plan to the local government. The amount of the fee shall be an amount equal to eighty percent (80%) of the amount established by the Commission pursuant to G.S. 113A-54.2(a) plus any amount that the local government requires to cover the cost of inspection and program administration activities by the local government. The total fee shall not exceed one hundred dollars (\$100.00) per acre. A local government that administers a limited erosion and sedimentation

control program shall pay to the Commission the portion of the fee that equals eighty percent (80%) of the fee established pursuant to G.S. 113A-54.2(a) to cover the cost to the Commission for the administration and enforcement of other components of the erosion and sedimentation control program. Fees paid to the Commission by a local government shall be deposited in the Sedimentation Account established by G.S. 113A-54.2(b). A local government that administers a limited erosion and sedimentation control program and that receives an erosion control plan and fee under this subsection shall immediately transmit the plan to the Commission for review. A local government may create or designate agencies or subdivisions of the local government to administer the limited program. Two or more units of local government may establish a joint limited program and enter into any agreements necessary for the proper administration of the limited program. The resolutions establishing any joint limited program must be duly recorded in the minutes of the governing body of each unit of local government participating in the limited program, and a certified copy of each resolution must be filed with the Commission. Subsections (b) and (c) of this section apply to the approval and oversight of limited programs.

- (e) Notwithstanding G.S. 113A-61.1, a local government with a limited erosion and sedimentation control program shall not issue a notice of violation if inspection indicates that the person engaged in land-disturbing activity has failed to comply with this Article, rules adopted pursuant to this Article, or an approved erosion and sedimentation control plan. The local government shall notify the Commission if any person has initiated land-disturbing activity for which an erosion and sedimentation control plan is required in the absence of an approved plan. If a local government with a limited program determines that a person engaged in a land-disturbing activity has failed to comply with an approved erosion and sedimentation control plan, the local government shall refer the matter to the Commission for inspection and enforcement pursuant to G.S. 113A-61.1.

(1973, c. 392, s. 11; 1993 (Reg. Sess., 1994), c. 776, s. 7; 2002-165, s. 2.8; 2006-250, s. 3.)



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Electric Capital Projects Budget ordinance for Greenville Utilities Commission's Generator - EPA Carbon Monoxide Emission Reduction

Explanation: The U.S. Environmental Protection Agency (EPA) has approved a National Emission Standards for Hazardous Air Pollutants (NESCHAP) for Existing Reciprocating Internal Combustion Engines (RICE). Greenville Utilities Commission (GUC) has completed an Initial Notification of Applicability for fourteen (14) stationary RICE units greater than 500 horsepower to be in compliance with the emission standards prior to May 3, 2013. Twelve (12) RICE units are operated by the Electric Department, and two (2) RICE units are operated by the Water Resources Department at the Water Treatment Plant. The project includes engineering, design, construction and installation services for carbon monoxide (CO) emission reduction on GUC peaking generator engines. Materials shall include a crankcase ventilation closed loop system, oxidation catalyst/exhaust silencer combination, support system and data logging alarm system. Services shall include design, engineering, testing, installation, and training. The Generator – EPA Carbon Monoxide Emission Reduction Electric Capital Project Budget estimated cost is \$450,000 to be funded with capital reserve funds. The GUC Board of Commissioners adopted the Electric Capital Project Budget for \$450,000 at its August 16, 2012, regular meeting and recommends similar action by City Council.

Fiscal Note: No costs to the City.

Recommendation: Adopt the attached ordinance.

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Attachments / click to download

ORDINANCE NO. 12-_____
FOR ELECTRIC CAPITAL PROJECTS BUDGET
GENERATOR-EPA CARBON MONOXIDE EMISSION REDUCTION

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES ORDAIN:

Section 1. Revenues. Revenues of the Electric Capital Projects Budget, Generator-EPA Carbon Monoxide Emission Reduction, is hereby established to read as follows:

Revenue

Fund Balance	<u>\$450,000</u>	<u>\$450,000</u>
--------------	------------------	------------------

Section 2. Expenditures. Expenditures of the Electric Capital Projects Budget, Generator-EPA Carbon Monoxide Emission Reduction, is hereby established to read as follows:

Expenditures

Project Costs	<u>\$450,000</u>	
Total Project Expenditures		<u>\$450,000</u>

Section 3. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the _____ day of _____, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Series Resolution for Greenville Utilities Commission's Westside Pump Station and Force Main Project

Explanation: An offer for funding of the Westside Regional Pump Station and Force Main Project under the Clean Water State Revolving Fund (SRF) Program was accepted by the GUC Board of Commissioners on July 19, 2011. In January 2012, GUC and City Council adopted the amended Capital Project Budget. By utilizing the SRF program for this project, GUC obtains a favorable financing interest rate of 2.455% over a twenty (20) year period. At its regular meeting on August 16, 2012, the GUC Board of Commissioners adopted a Series Resolution for SRF financing and recommends similar approval by City Council.

Fiscal Note: No costs to the City.

Recommendation: Adopt the attached resolution.

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Attachments / click to download

[Resolution - Westside Pump Station and Force Main Project](#)

A regular meeting of the City Council of the City of Greenville, North Carolina was held in the City Council Chamber at the City Hall in Greenville, North Carolina, the regular place of meeting, on September __, 2012 at 6:00 P.M.

Present: Mayor Allen M. Thomas, presiding, and Council members

Absent: _____

* * * * *

Mayor Thomas introduced the following resolution, a copy of which had been provided to each Councilmember and which was read by its title:

RESOLUTION NO. 12-

SERIES RESOLUTION AUTHORIZING THE INCURRENCE OF ADDITIONAL INDEBTEDNESS EVIDENCED BY A STATE REVOLVING LOAN FUND PROGRAM NOTE OF UP TO \$13,987,369 PURSUANT TO THE PROVISIONS OF SECTION 216 OF THE BOND ORDER ADOPTED BY THE CITY COUNCIL ON AUGUST 11, 1994, AMENDED AND RESTATED AS OF APRIL 13, 2000.

WHEREAS, the City of Greenville, North Carolina (the “City”), a municipal corporation in Pitt County, North Carolina, owns certain public utility or public service enterprise facilities comprising an electric system, a natural gas system, a sanitary sewer system and a water system, within and without the corporate limits of the City (collectively, the “Combined Enterprise System”), and

WHEREAS, in accordance with Chapter 861 of the 1992 Session Laws of North Carolina, the Greenville Utilities Commission (the “Commission”) has been created for the proper management of the public utilities of the City, within and without the corporate limits of the City, with responsibility for the entire supervision and control of the management, operation, maintenance, improvement and extension of the public utilities of the City, including the Combined Enterprise System; and

WHEREAS, the Federal Clean Water Act Amendments of 1987, the Federal Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 authorize the making of loans and grants to aid eligible units of government in financing

the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems; and

WHEREAS, the City Council of the City (the “City Council”) adopted, on August 11, 1994, a bond order, which, among other things, authorizes and secures Greenville Utilities Commission Combined Enterprise System Revenue Bonds of the City, which order was amended and restated as of April 13, 2000 (the “Order”); and

WHEREAS, Section 216 of the Order authorizes the incurrence or assumption of Additional Indebtedness (as defined in the Order) for any lawful purpose of the City related to the ownership or operation of the Combined Enterprise System (as defined in the Order); and

WHEREAS, the Commission and the City Council have determined that it is necessary to acquire, construct and pay for a portion of the cost of certain additional improvements to the Combined Enterprise System, which improvements are described in Appendix A attached hereto and constitute Additional Improvements; and

WHEREAS, the Commission and the City Council have determined to finance a portion of the cost of paying for such Additional Improvements by incurring Additional Indebtedness evidenced by another State Revolving Loan Fund Program Note referred to herein as the “Series 2012B Promissory Note”; and

WHEREAS, the City Council has received information to the effect that the City will be able to satisfy the requirements of Section 216 of the Order with respect to the Series 2012B Promissory Note; and

WHEREAS, pursuant to Section 216 of the Order, the Series 2012B Promissory Note is to have such terms and provisions as may be provided by a series resolution to be adopted by the City Council prior to the incurrence of said Additional Indebtedness; and

WHEREAS, the Commission has adopted a resolution to the effect that it approves the provisions of this resolution and recommends to the City Council that the City Council adopt this series resolution authorizing and setting forth the terms and provisions of the Series 2012B Promissory Note;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA DOES HEREBY DETERMINE AND RESOLVE, as follows:

Section 1. Definitions. Capitalized words and terms used in this series resolution (this “Resolution”) and not otherwise defined herein shall have the meanings given to them in the Order.

Section 2. Authorization of the Series 2012B Promissory Note. (A) The Series 2012B Promissory Note. Pursuant to the Enabling Act and Section 216 of the Order, the City Council hereby authorizes the incurrence of Additional Indebtedness evidenced by a State Revolving Fund Program Note (as defined in the Order) designated “Greenville Utilities Commission Combined Enterprise System State Revolving Loan Fund Program Note, Series 2012B” (the “Series 2012B Promissory Note”) in a principal amount of up to \$13,987,369 for the purpose of

providing funds, together with any other available funds, for (1) paying, or reimbursing the Commission and the City for paying, a portion of the Cost of the Additional Improvements described in Appendix A hereto and (2) paying expenses incidental and necessary or convenient thereto.

(B) Note Provisions. The Series 2012B Promissory Note shall be executed on such date, be effective as of such date, shall bear interest at the rate, shall be repaid, subject to prepayment, in the amounts and on the dates, all as hereinafter provided.

(C) Interest Payment Dates. Interest on the Series 2012B Promissory Note shall begin to accrue on the unpaid principal balance thereof from the original estimated completion date for said Additional Improvements as established by the General Manager of the Commission or any officer of the Commission authorized by the General Manager of the Commission (an "Authorized Officer of the Commission") and shall be payable semi-annually on or before each May 1 and each November 1 until the principal balance of the Series 2012B Promissory Note is paid or prepaid in accordance with its terms. The first interest payment shall be due not earlier than six (6) months nor later than twelve (12) months after the date of completion of said Additional Improvements as certified by the Department of Environmental and Natural Resources – Division of Water Quality ("DENR").

(D) Principal Payment Dates. Principal on the Series 2012B Promissory Note shall be payable annually on or before each May 1, all as set forth in the Series 2012B Promissory Note. The first principal payment shall be due not earlier than six (6) months after the date of completion of said Additional Improvements as certified by the DENR.

(E) Prepayment of the Series 2012B Promissory Note. The Series 2012B Promissory Note shall be pre-payable in accordance with its terms.

Section 3. Delegation and Standards. The City Council hereby delegates to any Authorized Officer of the Commission, subject to the limitations contained herein, the power to determine and carry out the following with respect to the Series 2012B Promissory Note:

(A) Principal Amount. To determine the aggregate principal amount of the Series 2012B Promissory Note, such principal amount, up to \$13,987,369, to be sufficient for the purposes described in Section 2(A) of this Resolution;

(B) Interest Rates. To determine the interest rate on the Series 2012B Promissory Note, which interest rate shall not exceed the lesser of four percent (4%) per annum and one-half (1/2) the prevailing national market rate as derived from the Bond Buyer's 20-Bond Index in accordance with North Carolina G.S. 159G-40(b) for the applicable priority review period;

(C) Repayment of Series 2012B Promissory Note. To determine a schedule for the payment of the principal amount of the Series 2012B Promissory Note, such principal payment schedule not to extend more than twenty (20) years after the first principal payment date as established in Section 2(D) of this Resolution;

(D) Execution Date and Effective Date. To determine the date of execution of the Series 2012B Promissory Note and the effective date of the Series 2012B Promissory Note;

(E) Other Provisions. To determine any other provisions deemed advisable and not in conflict with the provisions of this Resolution or the Order.

Section 4. Series Certificate. The General Manager of the Commission or an Authorized Officer of the Commission shall execute a certificate or certificates evidencing determinations or other actions taken pursuant to the authority granted in this Resolution, and any such certificate or certificates shall be conclusive evidence of the action taken.

Section 5. Form of the Series 2012B Promissory Note. The Series 2012B Promissory Note shall be substantially in the form attached hereto as Appendix B, with such variations, omissions and insertions as are required or permitted by this Resolution or the Order:

Section 6. Method of Payment of the Series 2012B Promissory Note. All principal and interest on the Series 2012B Promissory Note which is payable and is punctually paid or duly provided for shall be made payable by the Commission to DENR on or before each principal and interest payment date.

Section 7. Application of Proceeds of the Series 2012B Promissory Note. Moneys received by the City or the Commission pursuant to the Series 2012B Promissory Note shall be deposited to the credit of the Greenville Utilities Commission Capital Projects Fund in the Sewer Enterprise Fund.

Section 8. Application of Certain Revenues. In accordance with the provisions of Section 507 of the Order and after making the payments required by paragraphs (a) - (e) thereof, the Commission shall withdraw from the Operating Checking Account moneys held for the credit of the Appropriate Operating Funds in such amounts as shall be necessary for the purpose of making principal and interest payments on the Series 2012B Promissory Note to DENR.

Section 9. LGC Approval of the Series 2012B Promissory Note; Execution of the Promissory Note. The City Council recognizes that the North Carolina Local Government Commission (the "LGC") has approved the incurrence of Additional Indebtedness evidenced by the Series 2012B Promissory Note in accordance with the terms and provisions of this Resolution. Based upon the LGC approval of the incurrence of such Additional Indebtedness evidenced by the Series 2012B Promissory Note as hereinabove requested, the form of the Series 2012B Promissory Note presented to the City Council for its consideration is hereby approved in all respects, and the General Manager of the Commission or an Authorized Officer of the Commission are hereby authorized to signify such approval by the execution of the Series 2012B Promissory Note in substantially the form presented, taking into account among other items any changes made pursuant to the delegation set forth in Section 3 of this Resolution, such execution to be conclusive evidence of the approval thereof by the City.

Section 10. Authorization to City and Commission Officials. The officers, agents and employees of the City and the Commission are hereby authorized and directed to do all acts and

things required of them by the provisions of the Series 2012B Promissory Note, the Order and this Resolution for the full, punctual and complete performance of the terms, covenants, provisions and agreements therein.

Section 11. Effective Date. This Resolution shall take effect immediately upon its adoption.

Adopted this the ____th day of September, 2012.

Allen M. Thomas
Mayor

[SEAL]

ATTEST:

Carol L. Barwick
City Clerk

APPENDIX A

THE ADDITIONAL IMPROVEMENTS

The Additional Improvements referenced in the resolution to which this is Appendix A include but are not limited to preliminary engineering design, easements, site acquisition, engineering analyses, pump station site and pipeline route surveys, environmental assessment and permitting, geotechnical investigations, wetlands delineations and construction of a wastewater pump station and force main, SCP-100, Westside Pump Station and Force Main Project.

North Carolina Water Pollution Control Revolving Fund

Project No. E-SRF-T-10-0260
CS370487-07

PROMISSORY NOTE

For value received, the Greenville Utilities Commission, City of Greenville herein referred to as the "Unit," hereby promises to pay the State of North Carolina the principal sum of Thirteen Million Nine Hundred Eighty Seven Thousand Three Hundred Sixty Nine Dollars (\$13,987,369) with interest on the unpaid principal sum, from the estimated completion date for a loan made to the Unit by the Department of Environment and Natural Resources for a Sanitary Sewer Project, herein referred to as the "Project," until said principal sum shall be paid.

Interest will accrue at the rate of 2.455 percent per annum on the unpaid principal sum from the Water Pollution Control Revolving Fund. The first interest payment is due not earlier than six months nor later than twelve months after the certified completion of the Project by The Department of Environment and Natural Resources - Division of Water Quality. All interest payments will be made semiannually, payable on or before May 1 and November 1. (see attached maturity schedule).

The principal sum shall be repaid in not more than 20 annual installments on May 1, the first principal payment is due not earlier than six months after completion of the Project.

The Unit may be required by the North Carolina Department of Environment and Natural Resources to prepay this note in whole and any further commitment of funds may be withdrawn if the Unit fails to: (i) adopt on or before completion of Project, place into effect, and agree to maintain until the principal sum is paid, a schedule of fees, charges, and other available funds, that will adequately provide for proper operation, maintenance, and administration of the project and for repayment of all principal of and interest on loans; (ii) arrange for necessary financing of the Project within one year of the date of acceptance of a revolving loan; (iii) award a contract for construction of the Project within one year of the date of acceptance of a revolving loan.

The principal sum will be used entirely within the intent of Water Pollution Control Revolving Fund for the purpose of acquiring, constructing and equipping the Project.

The Unit shall keep the Project continuously insured against such risks as are customarily insured against. In case of material damage to the Project, prompt notice shall be given to Department of Environment and Natural Resources. Proceeds from any insurance settlement shall either be used to reduce the unpaid principal amount or replace, repair, rebuild or restore the Project, in the discretion of the unit.

The Project will be made accessible for inspection by any duly authorized representative of the State.

This note is not secured by a pledge of the faith and credit of the State of North Carolina or of the Unit, but is payable solely from the revenues of the Project or benefited systems, or other available funds.

Payments of principal and interest on this Note shall be made directly to Department of Environment and Natural Resources. All obligations of the Unit hereunder shall terminate when all sums due and to become due pursuant to this Note have been paid. This Note shall be governed by, and construed in accordance with, the laws of the State of North Carolina.

The Unit agrees that any other monies due to the unit of local government from the State may be withheld by the State and applied to the payment of this obligation whenever the unit fails to pay any payment of principal or interest on this note when due.

The obligation of the Unit to make payments on this Note and observe all conditions herein stated shall be absolute and unconditional. The Unit shall not suspend or discontinue any such payment on this Note for any cause including, without limitation, failure to complete the Project, failure of title to all or any part of the Project, destruction or condemnation of all or any part of the Project.

In Witness Whereof, the Greenville Utilities Commission, City of Greenville caused this Note to be executed as of this date.

By _____
Authorized Representative

ACKNOWLEDGMENT OF EXECUTION

STATE OF _____

COUNTY OF _____

This _____ day of _____, 20____, personally came before me _____ who, being by me duly sworn, says that he is the authorized representative of Greenville Utilities Commission, City of Greenville and that the said writing was signed by him, in behalf of said governmental unit by its authority duly given. And the said authorized representative acknowledged the said writing to be the act and deed of the said governmental unit.

Notary Public

My Commission Expires:

(NOTARIAL SEAL)



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

-
- Title of Item:** Resolution requesting an amendment to the United States Constitution to clarify that corporations are not people and financial contributions are not speech
- Explanation:** Mr. Jake Gellar-Goad, Eastern Organizer of Democracy North Carolina, contacted City Council Members and staff and requested that this item be placed on the City Council agenda for consideration by Council. Two Council Members asked the City Manager to include the item on the agenda.
- Fiscal Note:** No fiscal impact to the City
- Recommendation:** Consider the resolution requesting an amendment to the United States Constitution to clarify that corporations are not people and financial contributions are not speech
-

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[Resolution Requesting Constitutional Amendment re Corporations and Money_935488](#)

RESOLUTION NO. _____
RESOLUTION REQUESTING AN AMENDMENT TO THE UNITED STATES CONSTITUTION
TO CLARIFY THAT CORPORATIONS ARE NOT PEOPLE AND FINANCIAL
CONTRIBUTIONS ARE NOT SPEECH

Whereas, the US Constitution and Declaration of Independence guarantee the fundamental right of We The People to self-government; and

Whereas, corporations are rightfully subservient to human beings and governments as legal creations that may amass wealth, shield their officers and owners from liability, and simultaneously exist in perpetuity in many nations; and

Whereas, labor unions are legal associations of individual members but they may also amass wealth from multiple sources into their treasuries; and

Whereas, the US Supreme Court, in a 5-to-4 decision called *Citizens United v. the Federal Election Commission*, declared that spending in elections is a form of free speech protected by the First Amendment and that corporations and unions have a First Amendment right to spend unlimited amounts of money from their treasurers to sway the outcome of elections; and

Whereas, the *Citizens United* decision has allowed large donors, corporations, unions and conduit associations to increase their influence, while often remaining anonymous, and has made candidates even more dependent on special-interests and private money suppliers; and

Whereas, equating political spending with free speech and awarding corporations and unions the same rights as human beings are decisions that undermine the fundamental right of self-government in our Constitution;

Therefore, be it resolved, that the City Council of the City of Greenville, North Carolina, calls upon federal and state lawmakers to defend democracy from the corrupting effects of undue financial influence by increasing disclosure of political money, providing candidates with the option of qualifying for voter authorized public funding, and amending the United States Constitution to establish that:

1. Only human beings are endowed with protected constitutional rights, and
2. Money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.

Adopted this the 10th day of September, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Resolution amending the City of Greenville Personnel Policies for Pay of Reclassified Employee/Pay for Employee Affected by Reorganization or Restructuring

Explanation: The proposed amendment changes the pay provision of the existing policy in Article III, Section 10.0 of the City of Greenville Personnel Policies. The current policy does not provide the City Manager with the authority to grant a pay increase to employees whose positions move to a higher pay grade classification. City Council Members will recall that this issue was presented to Council for consideration following Council's decision to expand the Community Development Department Urban Planning Division's focus to include economic development as a core division function of the newly created Office of Economic Development and Revitalization at the January 12, 2012, City Council meeting.

The proposed amendment allows for up to a 5% salary increase for those employees moving to a higher classification and resets the performance evaluation review date to one year from the date of the reclassification. If the employee's position is reclassified to the same or a lower pay grade, no salary change occurs.

This pay practice was recommended by the Waters Consulting Group in 2011, and the former Interim City Manager recommended the policy change during this year's budget process. This amendment is considered by the Human Resources Department and City Manager's Office as an equitable approach in dealing with reclassified positions. The amendment involves the revision of Section 10.0 in Article III of the Personnel Policies to authorize a salary increase for reclassifications when the stipulated conditions exist.

Fiscal Note: No immediate costs to the City.

Recommendation: Adopt the attached resolution amending the City of Greenville Personnel Policies retroactive to June 30, 2012.

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

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 [Resolution amending Personnel Policies re reclassification 935414](#)

RESOLUTION NO.
A RESOLUTION AMENDING THE CITY OF GREENVILLE
PERSONNEL POLICIES

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, RESOLVES:

Section 1. The City of Greenville Personnel Policies is hereby amended by deleting in its entirety Article III, Section 10.0 Pay of Reclassified Employee/Pay for Employee Affected by Reorganization or Restructuring, and substituting the following Section 10.0 in lieu thereof:

Section 10.0 Pay of Reclassified Employee/Pay for Employee Affected by Reorganization or Restructuring. The salary and annual performance review date of an employee whose position is reclassified to a lower or lateral classification shall not be affected by the change. The employee whose position is reclassified to a higher pay grade will receive up to a 5% salary increase or be increased to the minimum of the new pay grade, whichever is higher. The annual performance review date will be changed to one year from the date of the reclassification. However, if the employee's current pay rate is below the minimum of the new pay grade, the employee's pay rate will be increased to the new minimum, a performance review will be conducted at the end of six months, and the employee will be eligible for a salary increase of an amount not to exceed 5%. If an employee's current pay rate is above the maximum of the new pay grade, the pay shall remain unchanged until the rate falls within the established range.

A reclassification occurs as a result of a review of job content and is based upon job duties and labor market salary information rather than individual performance. A reorganization or job restructuring occurs in response to organizational, operational, and/or technological needs. In both situations, an entire class of positions or only one or more individual positions within a class may be affected.

Section 2. All inconsistent provisions of former resolutions, ordinances, or policies are hereby repealed.

Section 3. This resolution shall be effective June 30, 2012.

ADOPTED this the 10th day of September, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Resolution amending the City of Greenville Personnel Policies by adding a new section on Supplemental Interim Pay

Explanation: The proposed amendment provides a formal structure for compensating exempt employees who perform higher level duties and responsibilities on a temporary, or interim, basis during the period of a vacancy in that position that is expected to be at least sixty (60) days. The City of Greenville has traditionally used an informal practice in the event of a department head vacancy, but has not adopted a formal policy to recognize the performance of other key exempt employees. The significance of this deficiency became evident after the Deputy Police Chief was designated as the Interim Police Chief, which resulted in a Police Captain being designated as the Interim Police Chief and a Police Lieutenant being designated as a Captain.

A clear and established procedure is beneficial and preferred to permit the City Manager to appropriately compensate those employees serving in interim roles.

The amendment involves the addition of a new section, Section 22.0, in Article III of the Personnel Policies.

Fiscal Note: No immediate costs to the City.

Recommendation: Adopt the attached resolution amending the City of Greenville Personnel Policies retroactive to June 30, 2012.

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

Attachments / click to download

 [Resolution amending Personnel Policies re Supplemental Interim Pay 934997](#)

RESOLUTION NO.
A RESOLUTION AMENDING THE CITY OF GREENVILLE
PERSONNEL POLICIES

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, RESOLVES:

Section 1. The City of Greenville Personnel Policies is hereby further amended by adding a new section, Article III, Section 22.0 Supplemental Interim Pay to read as follows:

Section 22.0 Supplemental Interim Assignment Pay From time to time, to meet the needs of the City of Greenville, an employee in an exempt position may be placed in a temporary or interim assignment to perform some or all of the duties of a higher level exempt position that is temporarily vacant. The employee shall be eligible for supplemental pay during such an assignment provided that the temporary or interim assignment meets all of the following criteria:

- a. The temporary or interim assignment is determined in writing by the Human Resources Director to exceed 60 consecutive days.
- b. The temporary or interim assignment requires the employee to assume all of the duties of the higher level exempt position.
- c. The duties of the higher level exempt position to be performed in the temporary or interim assignment should be clearly differentiated from the types of duties the employee normally performs in the employee's current job description.
- d. The duties of the higher level exempt position to be performed in the temporary or interim assignment must require a minimum of 90% of the employee's workday. These duties must be defined as essential job functions, not peripheral duties.
- e. The employee must be fully qualified to perform the duties of the higher level exempt position during the temporary or interim assignment, as determined by a proficiency examination or judgment of the supervisor, considering such characteristics as the employee's training, experience, education, reliability and total work performance record.

For non-Department Head level positions, the supplemental pay, during the assignment, shall be a minimum of five (5) percent of the employee's regular base pay or the difference between the employee's regular base pay and the minimum entry rate of the higher level exempt position not to exceed fifteen (15) percent. For Department Head level positions, the supplemental pay, during the assignment, shall be an amount, approved by the City Manager, of up to fifteen (15) percent of the employee's regular base pay. The supplemental pay is not part of the regular base pay but a separate pay entry. Supplemental pay becomes effective when the assignment commences after approval by the City Manager.

Temporary or interim assignments are limited to a period not to exceed (6) six months unless an

extension is approved by the City Manager due to extenuating circumstances. At the end of a temporary or interim assignment, the employee's supplemental pay will cease.

Temporary or interim assignments must be recommended in writing by the Department Head, reviewed by the Director of Human Resources, and approved by the City Manager. The City Manager may administratively establish guidelines to administer the supplemental pay.

When an employee is placed on a temporary or interim assignment which does not qualify for supplemental pay, such assignment may be considered during annual performance reviews and, where applicable, merit pay.

For the purpose of this section, an exempt position is a position determined by the City of Greenville to be exempt from the provisions of the Fair Labor Standards Act requiring overtime compensation.

Section 2. All inconsistent provisions of former resolutions, ordinances, or policies are hereby appealed.

Section 3. This resolution shall be effective June 30, 2012.

ADOPTED this the 10th day of September, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk

#934997



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Amendment to Uptown Greenville contract for services

Explanation: Beginning in 2010, the City Council has approved requests to execute annual contracts with Uptown Greenville in the amount of \$25,000 for the provision of a defined set of services. Most recently, City Council approved a request by Uptown Greenville for contract services at its City Council meeting on March 5, 2012 (attached). At the June 14, 2012, City Council meeting, Council Member Joyner requested additional funding for Uptown Greenville. The services outlined in the 2012 contract include uptown business recruitment and retention, beautification projects, management of special events and promotions, along with organization and management of public input for infrastructure projects in the Uptown Commercial District. The Uptown organization is also charged with assessing the feasibility and developing support for the establishment of a municipal services district within the City's urban core. As required by the contract, Uptown Greenville has reported their progress toward fulfilling the terms of the contract. A copy of the mid-year contract report and cover letter are attached.

Uptown Greenville requests the contract be amended to include additional services related to economic development. At the above-referenced City Council meeting, Council directed staff to return with provisions for said contract. Those additional duties are outlined on page six of the mid-year report and include business recruitment, assessment of arts incubation opportunities, marketing, infrastructure plan alignment, and development of a new downtown merchant lighting program. A draft amended contract outlining these additional services is attached. In recognition of these additional public benefit services, the Uptown Greenville organization requests that the services contract fee be increased by \$25,000 for a total of \$50,000 per year.

Fiscal Note: A total of \$25,000, which equals one-half of the new proposed contract amount is included in the Community Development Department's adopted budget for the current fiscal year. Additional funds required to fulfill a similar, subsequent contract that would commence in March of 2013 have also been included in the

current budget. The additional \$25,000 was set aside in the fiscal year 2012-2013 Community Development Department's budget.

Recommendation: Consider approval of amended contract for services to reflect the new services and increased fee of \$25,000.

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

Attachments / click to download

- [Letter from Uptown Greenville](#)
 - [Contract](#)
 - [Mid-Year Report](#)
 - [Amendment to Uptown Greenville Contract 2012_935421](#)
-

NORTH CAROLINA
PITT COUNTY

AMENDMENT TO
CONTRACT FOR SERVICES

This AMENDMENT TO CONTRACT FOR SERVICES is made the 10th day of September, 2012, by and between the City of Greenville, a North Carolina municipal corporation (the CITY), and Evergreen of Greenville, Inc. doing business as Uptown Greenville, a North Carolina nonprofit corporation (UPTOWN);

WITNESSETH

WHEREAS, the parties entered into a CONTRACT FOR SERVICES (CONTRACT) on February 12, 2010, March 29, 2011, and most recently, March 5, 2012 for services to be performed by UPTOWN for the CITY and the sum of \$25,000 paid by the CITY to UPTOWN.

WHEREAS, the parties desire to amend the CONTRACT so that additional services will be performed by UPTOWN for the additional sum of \$25,000 paid by the CITY to UPTOWN, for a total annual payment of \$50,000 paid by the CITY to UPTOWN.

NOW, THEREFORE, the parties hereto agree to amend the CONTRACT as follows:

1. Section 3, Specific Work to be Performed, subsection I, Business Recruitment and Retention, is amended by the addition of sections G, H, and I, which shall read as follows:

- G. Assist the City of Greenville with developing a list of 5-10 businesses that would be a good fit for recruitment to Greenville's Uptown district including a hotel and mixed-used development opportunities. Uptown Greenville will assist the City with outreach, marketing and recruitment activities as needed in order to attract and locate those businesses in the Uptown district.
- H. Assist the City of Greenville with marketing for economic development initiatives to include SEED, a co-working space partnership with the Chamber of Commerce, the Small Business Plan competition and the Façade Improvement Grant program, new Amtrak shuttle, events at Five Points Plaza and fundraising efforts for projects in Uptown Greenville such as the Uptown Community Arts Space and Go-Science.
- I. Assist the City of Greenville in developing options for the location of an Arts Incubator within the Uptown District.

2. Section 3, Specific Work to be Performed, subsection II, Uptown Beautification, is amended by the addition of section E, which shall read as follows:

E. Lead a campaign to improve lighting levels in the Uptown district.

3. Section 3, Specific Work to be Performed, subsection IV, Guidance for Public Infrastructure Projects, is amended by the addition of section F, which shall read as follows:

F. Mesh the interest of East Carolina University, Uptown, property owners, government agencies and others into actionable plans for economic growth.

4. Payment of the additional \$25,000 will be made by the CITY to UPTOWN within 30 days of the effective date of this AMENDED CONTRACT FOR SERVICES.

5. This AMENDMENT TO CONTRACT FOR SERVICES shall commence on September 13, 2012, and terminate on February 28, 2013.

6. All other Sections of the CONTRACT remain unchanged and in full effect as stated in the CONTRACT.

IN WITNESS WHEREOF, the parties hereto have executed this AMENDMENT TO CONTRACT FOR SERVICES, in duplicate originals, this the day and year first written above.

EVERGREEN OF GREENVILLE, INC.
doing business as UPTOWN GREENVILLE

Todd Hickey, President

ATTEST:

Ashley Sierant, Secretary

CITY OF GREENVILLE

Barbara Lipscomb, City Manager

ATTEST:

Carol L Barwick , City Clerk

APPROVED AS TO FORM:

David A. Holec, City Attorney

PRE-AUDIT CERTIFICATION

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

Bernita W. Demery, Director of Financial Services



Allen Thomas, Mayor
City of Greenville
200 West 5th Street
Greenville, NC 27834

August 27, 2012

Dear Mayor Thomas:

This is a tremendously exciting time for the entire community. We have come together create a new downtown-Uptown Greenville- that unifies all of us, city center to suburb. To be a truly great community, we must have a downtown that delights, inspires, entertains, educates, provides an array of services and bustles with energy....from its richly varied workforce to its growing commercial district.

Uptown Greenville should be a city's most unique and stimulating environment- a place that epitomizes our city's power and pulse. To achieve this, we need strong partnerships and a unified vision. We are fortunate to have both.

Why is a strong, vibrant, creative downtown so important? To compete in the 21st century, a community must be a stimulating and creative place to live and work- economically stimulating, socially stimulating, and intellectually stimulating. People with vision, with creativity, with ideas often live wherever they choose. Entrepreneurs should want to live here because of the business opportunities. Educators should want to live here because of the exciting things happening in our universities, colleges and schools. Doctors should want to live here because of the vast medical opportunities. Artists should want to live here because of our rich creative environment. People from other cultures should want to come here because this is a place of opportunity. Uptown Greenville sets the tone in these areas for our entire city.

As our vision for the Uptown district moves forward, there is a great deal more to be done. More support from the public sector, more investment from the private sector, more innovative public-private or public-public partnerships to take us where we want to go. The community is fortunate to have Uptown Greenville, a model of public/private partnership innovation, as a steward of the district.

In response to this partnership, Uptown Greenville is pleased to submit its Mid-Year Report. Highlighted throughout the document are the guiding principles and services essential to a thriving downtown; beautification programs, special events, business recruitment and public infrastructure projects. We look forward to working together.

Communally,

A handwritten signature in black ink, appearing to read "Todd Hickey".

Todd Hickey, FACHE
President, Uptown Greenville

A handwritten signature in black ink, appearing to read "Bianca G. Shoneman".

Bianca Shoneman
Director, Uptown Greenville

NORTH CAROLINA
PITT COUNTY

CONTRACT FOR SERVICES

This CONTRACT is made the _____ day of March, 2012, by and between the City of Greenville, a North Carolina municipal corporation (the CITY), and Evergreen of Greenville, Inc. doing business as Uptown Greenville, a North Carolina nonprofit corporation (UPTOWN);

WITNESSETH

1. Consideration.

The consideration of this CONTRACT are the services to be performed by UPTOWN for the CITY, and the sum of \$25,000 paid by the CITY to UPTOWN.

2. General Work to be Performed.

UPTOWN will use its best efforts to publicize the economic, educational, social, and cultural benefits of the Uptown business district of Greenville; assist in recruiting business and residents to the Uptown area; and provide information on the Uptown business district of Greenville to prospective businesses and residents. UPTOWN will publicize and promote the Center City-West Greenville Revitalization Plan through the normal business activities of UPTOWN.

3. Specific Work to be Performed.

UPTOWN will perform the following specific services:

I. BUSINESS RECRUITMENT AND RETENTION:

- A. Identify types of retail/restaurants that will fill areas of wants, needs or leakage in the Uptown business district of Greenville, utilizing data collected from shopper surveys and market analysis.
- B. Contact appropriate businesses/companies/corporations and promote vacant properties within the Uptown business district of Greenville.
- C. Maintain up-to-date information for use by prospective new businesses on downtown demographics, traffic counts, populations, and vacant properties for lease or sale to be used in but not limited to:
 - Flyers
 - Postcards
 - Uptown Greenville website
- D. Market the Uptown business district of Greenville to the local community as well as to neighboring cities/counties through television, print media,

websites, etc.

- E. Continue to work with CITY staff and the Pitt County Development Commission to recruit new businesses and help make their experience pleasant.
- F. Continue to bring arts into the Uptown business district of Greenville by working with the Pitt County Arts Council at Emerge Gallery & Art Center, Greenville Museum of Art, and Magnolia Arts Center.

II. UPTOWN BEAUTIFICATION:

- A. Continue and expand marketing and communication efforts regarding the Façade Improvement Grant program workshops, deadlines, and resources.
- B. Encourage new and vibrant seasonal window displays.
- C. Continue to maintain and improve on Planter Beds adopted through the Adopt-A-Bed program located along Evans St. between 5th and 3rd Streets.
- D. Add to destination feel of Uptown by providing colorful event and district lamp post banners throughout the Uptown business district of Greenville.

III. SPECIAL EVENTS, PROMOTIONS & PRIVATE SUPPORT

- A. Serve as organizer or sponsor for PirateFest, First Friday ArtWalk Series, Freeboot Friday, and the Uptown Umbrella Market.
- B. Provide information regarding who to contact for appropriate permits and approvals needed to outside organizations interested in holding special events in the Uptown business district of Greenville.
- C. Serve on the City of Greenville's review committee for organizations applying to hold special events on the Five Points Plaza or in the Uptown District
- D. Credit the CITY as a major sponsor of PirateFest, Freeboot Friday, and the Uptown Umbrella Market.

IV. GUIDANCE FOR PUBLIC INFRASTRUCTURE PROJECTS

- A. Build consensus for public infrastructure projects in the form of public input gathering, surveying, and communication of plans.
- B. Coordinate and conduct Public Input Forums regarding future redevelopment plans.
- C. Gather input from local, professional design experts regarding design strategies (Visioning Process).
- D. Develop and distribute design guidelines.
- E. Continue facilitation of public input for Five Points Plaza.

4. Municipal Service District.

UPTOWN will develop a strategy and implement a plan to generate support from property

owners in the Uptown business district of Greenville for the establishment by the CITY of a municipal service district. The purpose of the municipal service district will be to generate funds for downtown revitalization promotion and developmental activities as defined in NC General Statute 160A-536.

5. Schedule of Payments.

Payment of \$12,500 will be made by the CITY to UPTOWN on a semi-annual basis with the first payment to be made within 30 days of the effective date of this contract for services, and the second and final payment to be made on or about six months following the first payment.

6. Reports.

Prior to the CITY making the second payment as described in Section 5 and at the end of the contract period, UPTOWN shall provide written reports to the City Council of the CITY of the significant achievements of UPTOWN with regard to the work performed under Sections 2, 3, and 4 of this CONTRACT.

7. Duration, Termination, and Amendment.

This CONTRACT shall commence on March 8, 2012, and terminate on February 28, 2013. This CONTRACT may be amended with the consent of both parties when such an amendment is made in writing and signed by an authorized officer of each party.

IN WITNESS WHEREOF, the parties hereto have executed this contract, in duplicate originals, this the day and year first written above.

EVERGREEN OF GREENVILLE, INC.
doing business as UPTOWN GREENVILLE

Todd Hickey, President

ATTEST:

Ashley Sierant, Secretary

CITY OF GREENVILLE

Thomas Moton, Interim City Manager

ATTEST:

Carol L Barwick , City Clerk

APPROVED AS TO FORM:

David A. Holec, City Attorney

PRE-AUDIT CERTIFICATION

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

Bernita W. Demery, Director of Financial Services



MID-YEAR REPORT

FY 2012

Uptown Greenville promotes a variety of activities and programs designed to obtain a healthy balance of strategic economic growth and improved quality of life in the Uptown district

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Please note that this report is a response to the City of Greenville and Uptown Greenville's Contract for Services executed on 5 March, 2012. The report responds directly to section 3.0, *Work to be performed*.

UPTOWN GREENVILLE MID-YEAR REPORT

To Our Stakeholders

STRATEGIC HIGHLIGHTS

April 2012: Uptown Greenville led an “aspirational city” tour to Durham, NC. 32 local leaders met with Durham’s downtown development champions, including Durham City Mayor, Bill Bell, Bill Kalkhof, President, Downtown Durham, Inc., and Scott Selig, Associate Vice-President of Capital Assets and Real Estate, Duke University

May 2012: The organization expanded its membership base by engaging chief community stakeholders, including East Carolina University, Vidant Medical Center and citizens at-large

June 2012: The organization’s first full-time director, Bianca Shoneman, was hired

BUSINESS RECRUITMENT AND RETENTION HIGHLIGHTS

The Uptown District has reached a tipping point. In the last few months, the organization met with quite a few developers and current business owners as a means to recruit and retain private investment. New investments, some private, others public, are planned.

BEAUTIFICATION HIGHLIGHTS

Uptown Greenville installed seven new bicycle racks, planted 300 bulbs and purchased/installed 48 new lamppost banners in the district. In conjunction with City efforts, such as the planters on East 5th Street, the district’s appearance is moving on Up!

SPECIAL EVENTS, PROMOTIONS AND PRIVATE SUPPORT HIGHLIGHTS

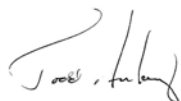
In the last six months, we estimate that Piratefest, the Umbrella Market, and the First Friday Artwalks collectively brought 35,000 people to the Uptown district, or 42% of the municipal population.

GUIDANCE FOR PUBLIC INFRASTRUCTURE PROJECTS

Drawing on the voice of our membership base, Uptown Greenville offered guidance to City officials on a range of issues including downtown parking, the E-Tag program and the Evans Street Gateway Project.

LOOKING AHEAD

You can anticipate more data-driven marketing, promotional and development expertise.



Todd Hickey, FACHE
President, Uptown Greenville
August 27, 2012



Bianca Shoneman
Director, Uptown Greenville

UPTOWN GREENVILLE MID-YEAR REPORT

Business Recruitment and Retention Highlights

CONTRACTED SERVICE	APPROACH
<p>A. Identify types of retail/restaurants that will fill areas of wants, needs or leakage in the Uptown business district of Greenville, utilizing data collected from shopper surveys and market analysis.</p>	<p>A. Entrepreneurs regularly approach Uptown Greenville. We assist them in identifying available properties and navigating the City’s business licensing requirements.</p> <p>Utilizing ESRI Market Data, we will identify 5-10 businesses, including a hotelier, to relocate within the district.</p>
<p>B. Contact appropriate businesses/ companies/corporations and promote vacant properties within the Uptown business district.</p>	<p>B. Work to complete the organization’s “downtown database”, which catalogs building ownership, building use, available square footage, employment and tax base, is underway.</p>
<p>C. Maintain up-to-date information for use by prospective new businesses on downtown demographics, traffic counts, populations, and vacant properties for lease or sale to be used in but not limited to:</p> <ul style="list-style-type: none"> - Flyers - Postcards - Uptown Greenville website 	<p>C. <u>District data</u>, such as <u>parking guidelines</u> and <u>business development resources</u>, is available on Uptown Greenville’s website.</p> <p>Uptown Greenville maintains a property database and is working with the City to create a “Development Opportunities” brochure.</p>
<p>D. Market the Uptown business district of Greenville to the local community as well as to neighboring cities/counties through television, print media, websites, etc.</p>	<p>D. 10,000 <u>Eat Up</u> guides, a snapshot of the 20 Uptown restaurants, was recently printed and distributed throughout the community. A contract is being negotiated to create a district-wide marketing campaign. Additionally, district-centric ads and print materials are available in area hotels, the visitor’s bureau and The Magnolia Arts Center’s performance programs. By utilizing social media outlets, Uptown Greenville maintains a strong presence on the web.</p>
<p>E. Continue to work with CITY staff and the Pitt County Development Commission to recruit new businesses and make their experience pleasant.</p>	<p>E. In the last three months, four potential street-level businesses sought Uptown Greenville’s assistance to link them to available properties/resources. The organization’s Economic Development (ED) team is working in tandem with area ED professionals and business owners to develop policies and programs designed to strengthen the economy.</p>
<p>F. Continue to bring arts into the Uptown business district by working alongside of the Pitt County Arts Council at Emerge and Magnolia Arts Center</p>	<p>F. Of the 70 registered <u>Umbrella Market</u> vendors, 32 are local artists. Additionally, the organization maintains a strong partnership with area arts groups and participates in work groups such as the <u>ArtForce group</u>.</p>

UPTOWN GREENVILLE MID-YEAR REPORT

Beautification Highlights

CONTRACTED SERVICE	APPROACH
A. Continue and expand marketing and communications efforts regarding the Façade Improvement Grant (FIG) Program workshops, deadlines and resources.	A. Existing business resources, like the Façade Improvement Grant , are marketed to the community through Uptown Greenville's weekly e-news and on the website .
B. Encourage new and vibrant seasonal window displays.	B. Uptown Greenville is looking forward to promoting the annual Holiday Window display competition.
C. Continue to maintain and improve on Planter Beds adopted through the Adopt-A-Bed program located along Evans Street between 3 rd and 5 th Streets.	C. The Boy Scouts, Pitt County Master Gardeners, Rivers and Associates and several community members participated in a " planter maintenance day " organized by Uptown Greenville (August 28, 2012). 200 bulbs and 30 bags of mulch were added to the planter beds along Evans Street.
D. Add to destination feel of Uptown by providing colorful event and district lamp post banners throughout the Uptown business district.	D. 48 new <i>Freeboot Friday</i> banners were purchased and installed to welcome the fall football season.



UPTOWN GREENVILLE MID-YEAR REPORT

Special Events, Promotions and Private Support

CONTRACTED SERVICE

- A. Serve as an organizer or sponsor for PirateFest, First Friday Artwalks, the Uptown Umbrella Market and Freeboot Fridays.



- B. Provide information regarding who to contact for appropriate permits and approvals needed for outside organizations interested in holding special events in the Uptown District
- C. Serve on the City of Greenville’s review committee for organizations applying to hold special events at Five Points Plaza or in the Uptown District
- D. Credit the CITY as a major sponsor of PirateFest, Freeboot Friday and the Uptown Umbrella Market

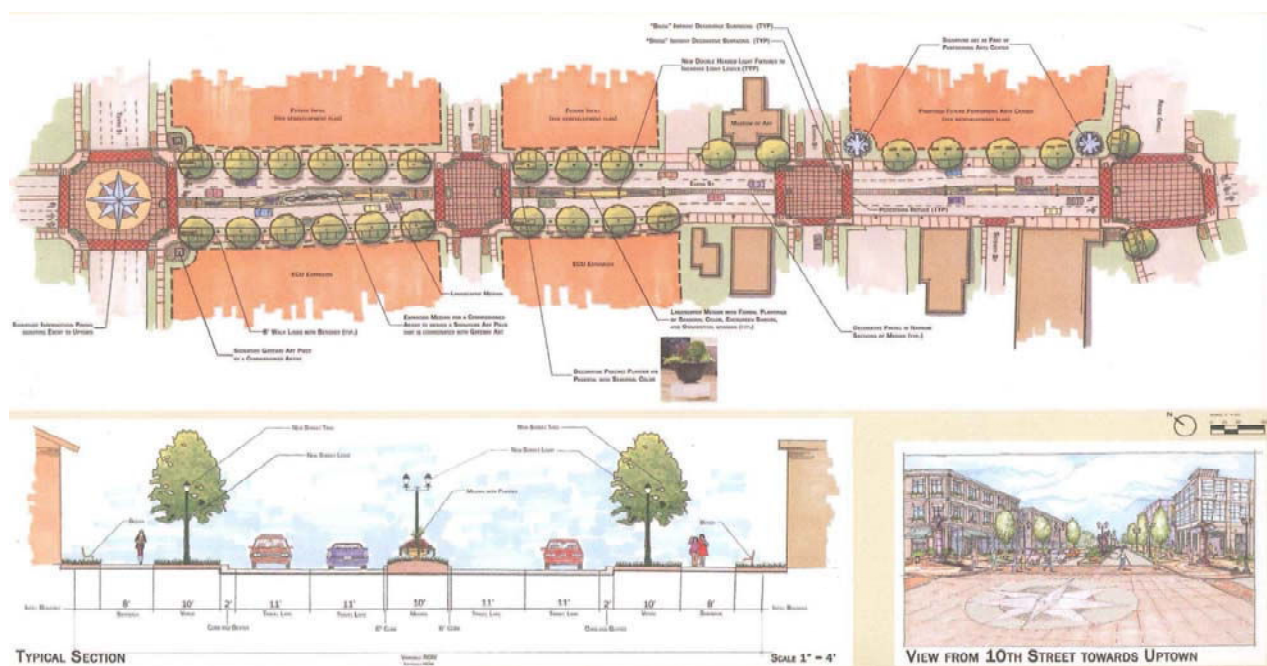
APPROACH

- A. As a means to promote the district, Uptown Greenville hosts a variety of events and activities that put feet on the street. In the last six months the following event related successes took place:
- **PirateFest:** April 12-13, 2012 brought 30,000-35,000 people to the district, a record number. A summary report of the 622 surveys completed
 - **First Friday ArtWalks:** A monthly self-guided walking tour of eight art galleries and 12 restaurants. Estimated average attendance during the school year is 400 per event;
 - **The Umbrella Market** wrapped up on August 31, 2012. While the weather did not cooperate a majority of events were canceled or rained-out, however, vendors expressed satisfaction with sales and attendance. Estimated average attendance was 350 per event;
 - **Freeboot Friday Music Series:** The official pep-rally of home football games, this music series will run five times in 2012; August 31, September 28, October 12 and 26 and November 2. The organization has secured \$56,100 in sponsorships, a 3% increase
- B. In the last three months, Uptown Greenville met with four unique groups interested in hosting an event in the district. We will continue to inform those of the special event permit process.
- C. No reviews occurred in the last six months; however, Uptown Greenville anticipates that the CITY will receive at least three event requests in the next six months.
- D. The CITY is a major sponsor of all of Uptown Greenville’s events. Please note that the City’s logo was added to the FreeBoot Friday Lamppost banners.

UPTOWN GREENVILLE MID-YEAR REPORT

Guidance for Public Infrastructure Projects

CONTRACTED SERVICE	APPROACH
<p>A Build consensus for public infrastructure projects in the form of public input gathering, surveying and communication of plans.</p>	<p>A. Uptown Greenville worked closely with municipal staff garner information to support the <u>Parking Study</u> submitted to Council in August, 2012. Surveys, forums and focus groups were conducted to garner public opinion. As the discussion regarding a parking deck in the Uptown district continues, Uptown Greenville will continue to build consensus and communicate plans.</p>
<p>B. Coordinate and conduct public infrastructure projects regarding future redevelopment plans</p>	<p>B. The organization facilitated the distribution of the “Call for Developers” on behalf of the Convention and Visitors Bureau redevelopment project</p>
<p>C Gather input from local, professional design experts regarding design strategies (visioning process)</p>	<p>C. The design committee meets bi-monthly to address local design and district appearance issues; bike rack design, planter maintenance, façade improvement grant, etc</p>
<p>D Develop and distribute design guidelines</p>	<p>D. Uptown Greenville led the development of district design guidelines. These are available in both municipal and Uptown Greenville offices</p>
<p>E Continue facilitation of public input for Five Points Plaza</p>	<p>E. Uptown Greenville was supportive of the work that was completed and appreciates the City’s support for creating a gathering space within the district</p>



UPTOWN GREENVILLE MID-YEAR REPORT

Municipal Service District

CONTRACTED SERVICE	APPROACH
<p>A. Uptown Greenville will develop a strategy and implement a plan to generate support from property owners in the Uptown district for the establishment by the CITY of a municipal service district. The purpose of the Municipal Service District will be to generate funds for downtown revitalization promotion and developmental activities as defined in General Statute 160A-536</p>	<p>A. - <u>Visit</u> inspirational downtowns, like Durham, NC</p> <ul style="list-style-type: none"> - Begin data collection - Contact property and business owners to expand dialogue - Host speakers forum - Conduct district survey to understand the business/property owners priorities and needs - Draft and present district plan

Expanded Contract Deliverables

CONTRACTED SERVICE	APPROACH
<p>A. Assist the City of Greenville with developing a list of 5-10 businesses that would be a good fit for recruitment to Greenville’s Uptown district including a hotel and mixed-used development opportunities. Uptown Greenville will assist the City with outreach, marketing and recruitment activities as needed in order to attract and locate those businesses in the Uptown district</p>	<p>A. Review ESRI market data to identify the penetration successful competitive products, analyze market for purchase patterns and reach underserved consumers.</p> <p>Develop marketing materials to highlight “development opportunities” within the Uptown district.</p> <p>Provide professional and confidential recruitment.</p>
<p>B. Assist the City of Greenville in developing options for the location of an Arts Incubator within the Uptown District.</p>	<p>B. Assist with site identification for an Arts Incubator.</p> <p>Co-develop management and financing plans.</p>
<p>C. Assist the City of Greenville with marketing for economic development initiatives to include SEED, a co-working space partnership with the Chamber of Commerce, the Small Business Plan competition and the Façade Improvement Grant program, new Amtrak shuttle, events at Five Points Plaza and fundraising efforts for projects in Uptown Greenville such as the Uptown Community Arts Space and Go-Science</p>	<p>C. Make direct investments into SEED.</p> <p>Communicate the availability of investment incentives and link to appropriate investors/businesses,</p> <p>Participate in and promote the fundraising efforts for Uptown Arts and Science groups.</p> <p>Serve as a Public Space Manager and Uptown Events recruiter (three events will be proposed in next six months).</p>
<p>D. Attract positive change to the Uptown District; create 24-hour downtown</p>	<p>D. Mesh the interest of East Carolina University, Uptown property owners, government agencies and others into actionable plans for economic growth.</p> <p>Lead a campaign to improve lighting levels in the Uptown district.</p>



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Report on standards for internet sweepstakes businesses

Explanation: At the June 11, 2012, meeting, City Council voted to direct staff to develop a report on the City's standards for internet sweepstakes businesses. This request was initiated by Council Member Smith, who stated that she was interested in refining the standards to ensure appropriate separation from residential areas. This item was continued by City Council on August 9, 2012, to the September City Council agenda.

Staff has developed the attached report as a means of meeting City Council's directive. The report includes sections addressing the following:

- Description of Internet Sweepstakes Businesses;
- Legal Authority for Local Land Use Regulation;
- Background and Summary of Existing Standards;
- Identification of Existing and Approved Internet Sweepstakes Businesses;
- Survey of Other Communities;
- Potential Standards; and
- Analysis of Potential Standards.

Fiscal Note: No fiscal impact anticipated with this action.

Recommendation: Accept report provided by staff and consider initiating a zoning ordinance text amendment defining and creating standards for internet sweepstakes businesses.

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Attachments / click to download

 [Report on Standards for Internet Sweepstakes Businesses 931958](#)

Report on Standards for Internet Sweepstakes Businesses

Contents:

- Section I. City Council Directive – Page 1
- Section II. Description of Internet Sweepstakes Businesses – Page 1
- Section III. Legal Authority for Local Land Use Regulation – Page 4
- Section IV. Background and Summary of Existing Standards – Page 5
- Section V. Identification of Existing and Approved Internet Sweepstakes
Businesses – Page 6
- Section VI. Survey of Other Communities – Page 8
- Section VII. Potential Standards – Page 10
- Section VIII. Analysis of Potential Standards – Page 11



**Report Developed by the City of Greenville
Community Development Department - Planning Division
Originally Created July 20, 2012
Updated August 24, 2012**

SECTION I – City Council Directive

City Council voted to direct staff to develop a report on the City's standards for internet sweepstakes businesses at their June 11, 2012, meeting. This request was initiated by Council Member Smith, who stated that she was interested in refining the standards to ensure appropriate separation from residential areas. Council Member Joyner added that the City of Rocky Mount had developed standards to address these land uses and that staff should review these standards as part of the proposed report. Council Member Mitchell stated that he had never visited this type of business and was not familiar with how they operate. As such, he requested that the report include a general description of how these establishments operate.

SECTION II – Description of Internet Sweepstakes Businesses

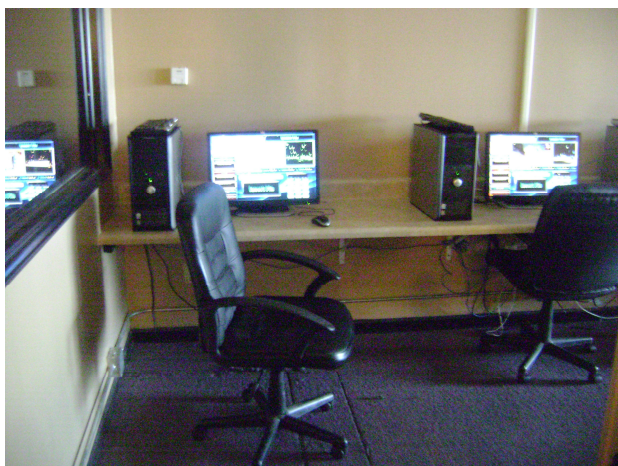
Planning Division staff visited five of the 15 local internet sweepstakes businesses in an effort to better understand how they operate. The following facility descriptions are based upon information provided by business employees and staff's observations during the site visits.

Internet sweepstakes operations contain computer/gaming terminals where customers pay for internet time. While regular internet service and some limited programs are generally available on these terminals, most use them to play a sweepstakes (estimated between 70% - 90%). Sweepstakes come in the form of traditional "Las Vegas style" gambling games, but winning is not based on random chance or skill, it is based on predetermined odds.

When customers enter these facilities, they have to see an attendant located behind a counter or in a booth. They pay the attendant for "internet time", with a typical rate being \$.20 per minute. The attendant gives the customer a log-in number, and the customer chooses which terminal to use and logs in. At this point the customer can begin playing the sweepstakes games or using the terminal for other purposes. If a customer wins, they can receive their cash prize from the attendant. At least one establishment allowed cash pay-outs up to \$600 at one time.

Other characteristics of these facilities include:

- Most offer refreshments (water, soft drinks, coffee, chips, candy, etc.). Some of these refreshments are complimentary as long as you are “playing”, while others are sold.
- Some are open 24 hours a day, while others do close in the early morning hours (i.e. closed between 2:00 a.m. and 9:00 a.m.).
- Some limit entrance to those 18 years of age or older. Others allow minors, but prohibit them from playing sweepstakes games.
- All of the facilities visited provided smoking and non-smoking areas. Several provided a small area designated non-smoking, while the vast majority of the facility allowed smoking.
- None offer alcoholic beverages; however, this type of facility is eligible to apply for an ABC permit.
- Many offer ancillary office services such as access to fax machines, copiers, and ATM’s. Some also have limited inventories of basic office supplies available for sale.
- Based upon police records, these establishments generate few calls for service.



Example of Terminal



Lounge Area within Establishment



Example of Layout

Services we offer:	
❖ Full Internet Access	❖ Internet Phone Use (select locations)
❖ Google docs (similar to Microsoft Word & Excel)	❖ E-mail
❖ On-line Fun Games	❖ IIT Home Dial-up Internet

Pricing	
❖ Prepaid Internet & Computer usage	\$ 0.20 / min
❖ Printing	\$ 0.08 / page
❖ Copying	\$ 0.08 / page
❖ Faxing	\$ 1.00 / page
❖ IIT Home Dial-Up Internet	\$5.00 unlimited 1 month
(Must ask attendant for installation CD)	

Example of Services / Pricing

SECTION III – Legal Authority for Local Land Use Regulationⁱ

Gaming machines have a colorful and largely illegal history in North Carolina. Most forms of gambling have been illegal since the Depression era. In the 1990's, the question arose as to whether video game technology could be adapted to avoid the criminal ban. Initial video gaming restrictions were created by S.L. 2000-151. That law was enacted after South Carolina outlawed video poker gambling, prompting concern by North Carolina officials that this might result in an influx of video gaming machines in North Carolina. In 2001, the General Assembly adopted G.S. 14-306.1 which banned all video gaming machines except those lawfully in operation within the state at that time. This State law provided restrictions on the location, age of players, hours of operation, and advertisement.

In 2006, the General Assembly shifted from regulation to an attempt to ban video gambling. S.L. 2006-6 repealed the limits on video poker and banned them effective July 1, 2007. The industry responded to the ban with a shift from video poker machines to video sweepstakes machines. As a result, the General Assembly expanded the prohibition in 2010 (S.L. 2010-103) to include video sweepstakes and similar devices. The ban includes any use of electronic machines for real or simulated video poker, bingo, craps, keno, lotto, pot-of-gold, eight liner, and similar video games.

This 2010 law is the subject of a recent North Carolina court opinion. On March 6, 2012, the State Court of Appeals held that the ban was unconstitutional in *Hest Technologies, Inc. v. North Carolina* and *Sandhill Amusements v. North Carolina*. More specifically, the court held that the restriction on displaying sweepstakes results through an “entertaining display” was an overly broad restriction of free speech. Further appeals of the case have been filed, but the result is that internet sweepstakes businesses are currently legal in North Carolina.

It should be noted that the State law that was invalidated only addresses a narrow issue and does not preclude local land use regulation. G.S. 160A-381 grants to cities zoning authority. This authority authorizes cities to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. This authority may be exercised in connection with internet sweepstakes businesses.

SECTION IV – Background and Summary of Existing Standards

Internet sweepstakes businesses were first established in Greenville in 2008. These first establishments presented themselves as “business centers” because they offered computers with internet access, fax machines and similar business support services. These facilities were originally classified as “Miscellaneous Retail” which is permitted by right in six commercial zoning districts (MCH, MCG, CH, CG, CDF and CD).

In the fall of 2011, after developing a better understanding of what these businesses were and how they operate, it was determined that they should be classified as “Game Centers”. Game Centers are permitted in fewer commercial districts and require a special use permit from the Board of Adjustment; thus, this change in classification yielded greater restrictions. Since that change in classification, the City has received six special use permit applications related to these land uses. Four of these applications were approved, one was denied and the other was withdrawn.

The standards applicable to “Game Centers” are as follows:

Definition.

Any establishment that has more than five coin/token operated or other amusement devices or whose principal purpose is the operation of a “game center” regardless of the total number of amusement devices. For purposes of this definition, the term “amusement devices” shall include electronic games and similar machines, and any other game table or device. Bingo parlors shall be considered as “game centers” regardless of the number of participants. See also definition of billiard parlor; pool room.

Table of Uses

Game Centers are permitted with a special use permit in the following zoning districts:

- CH (Heavy Commercial)
- CG (General Commercial)
- CDF (Downtown Commercial Fringe)
- CD (Downtown Commercial)

Parking Requirements

The parking requirement for Game Centers is one space per 200 square feet of activity area. This is the standard for Indoor Commercial Recreation.

There are no additional standards specifically developed for, or applicable to, these facilities.

SECTION V. Identification of Existing and Approved
Internet Sweepstakes Businesses

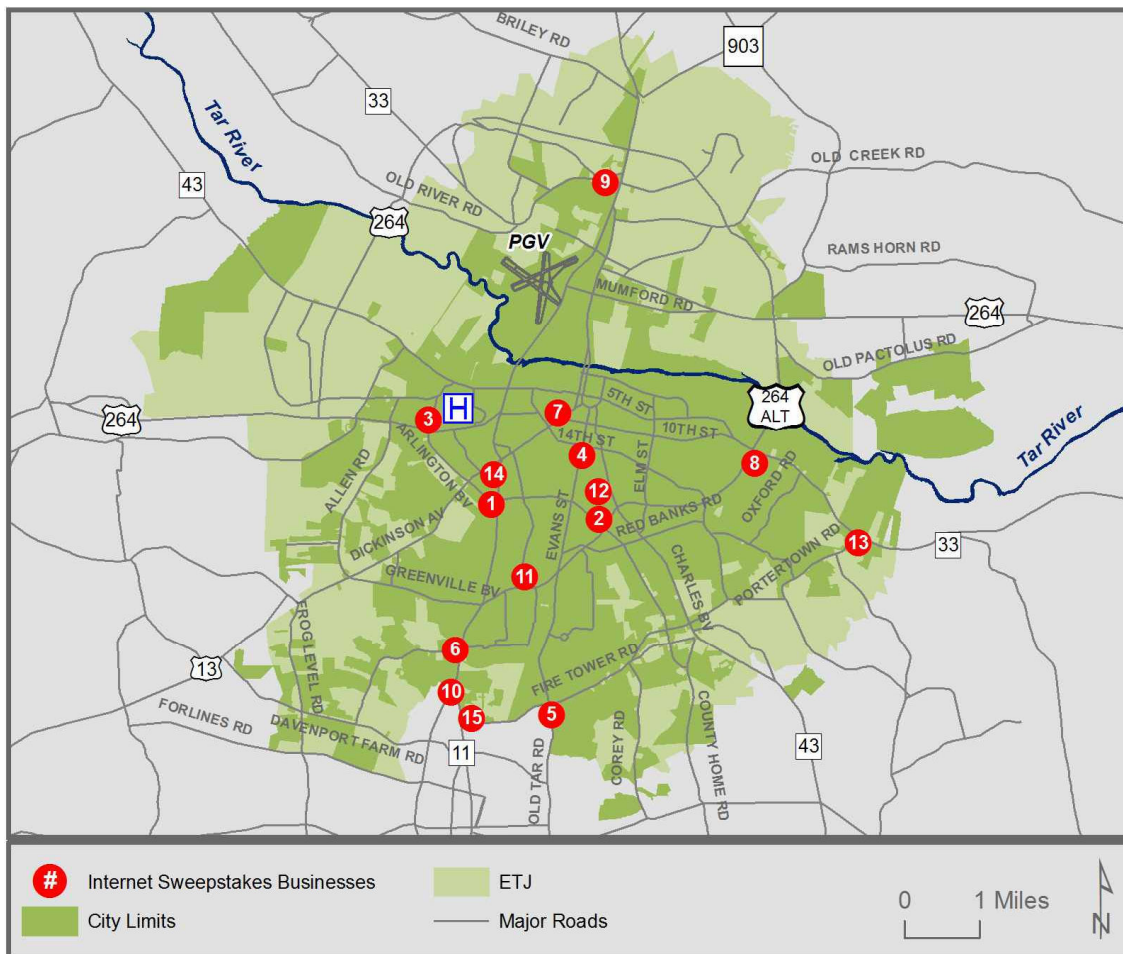
Table 1, below, identifies all of the internet sweepstakes businesses operating within the City's planning and zoning jurisdiction, or approved to do so, as of August 23, 2012. The Map I.D. Number provided for each establishment corresponds to the establishment's location on the Map 1 that follows.

**Table 1: Inventory of Internet Sweepstakes Businesses Located
Within the City of Greenville**

Map I.D. Number	Name	Address	Parcel Number	Zoning	Type
1	Express of NC	1311 W. Arlington Blvd., Ste. 102	14287	CH	Existing Nonconforming
2	Emerald City Business Center	703 SE Greenville Blvd.	31669	CG	Existing Nonconforming
3	Sweepstakes Internet Cafe	2462 Stantonsburg Road	32243	MCG	Existing Nonconforming
4	H&L Enterprises, Inc.	1501-B Evans Street	17909	CH	Existing Nonconforming
5	Carolina Cyber Center	4125-D Old Tar Road	31595	CG	Existing Nonconforming
6	Black Beards Treasure	3700 S. Memorial Drive	06399	CG	Existing Nonconforming
7	RLC Business Center	1012-B Dickinson Ave.	07586	CDF	Existing Nonconforming
8	Purple and Gold Sweepstakes	3140-G Moseley Drive	41837	CG	Existing Nonconforming
9	Emerald City Business Services II	250-E Easy Street	60440	CH	Existing Nonconforming
10	Pirate's Loot	4052-B S. Memorial Drive	62278	CG	Special Use Permit
11	Sweepstakes & GVL Business Center	240-B SW Greenville Blvd.	63737	CG	Special Use Permit

Map I.D. Number	Name	Address	Parcel Number	Zoning	Type
12	Stephen Kozikowski (Unnamed)	703-D SE Greenville Blvd.	32694	CG	Special Use Permit
13	Cory Scott (Unnamed)	4320-J E. Tenth Street	60442	CG	Special Use Permit
14	Tim Hogge and Duke Davenport (Unnamed)	2400 S. Memorial Drive, Unit 14	70163	CG	Special Use Permit
15	H&L Enterprises, Inc.	740 W. Fire Tower Road, Suite 115	80764	CG	Special Use Permit

Map 1: Location of Internet Sweepstakes Businesses



SECTION VI – Survey of Other Communities

Staff contacted numerous other communities to obtain information regarding how they classify and regulate internet sweepstakes businesses. Table 2, below, summarizes the findings of these inquiries.

**Table 2: Survey Results - Internet Sweepstakes Business Standards
From Other Communities**

City	Land Use Category	Permitted Zoning Districts	Permitted By Right or SUP/CUP	Separation Standards	Special Standards
Asheville	Electronic Gaming Operation	Commercial Districts	By Right	None	None
Concord	Electronic Gaming Operation	General Commercial only	By right	1650' from other gaming centers, 500' from residential, 1000' from gateway corridors, daycares, schools.	None
Durham	Retail	Industrial, Light and Heavy Commercial, Downtown	By right	None	None
Gastonia	Electronic Gaming Operation	Heavy Commercial only	By right	1000' from other gaming centers. 500' from residential, parks, churches, schools, historic districts, day cares, libraries.	None
Goldsboro	Place of entertainment having games	Industrial, Commercial: similar to retail uses. Not permitted	CUP	200' from: Residential, church, school, other gaming centers.	None

City	Land Use Category	Permitted Zoning Districts	Permitted By Right or SUP/CUP	Separation Standards	Special Standards
		downtown.			
Greenville	Game Centers	All commercial districts except Neighborhood Commercial.	SUP	None	None
High Point	Use Bingo classification	Commercial	By right	None	None
Mooreville	Electronic gaming establishments.	Commercial/ mixed use/ neighborhood commercial	By right	1,600 feet from any residential use.	No more than 5 machines per establishment. Restrict hours of operation to between 9:00 am and 6:00 pm.
Monroe	Electronic gaming establishments.	General business/ commercial only.	By right, principal use only.	400' from: residential, churches, schools, other gaming centers.	None
Rocky Mount	Internet Cafe	Commercial only	By right	500' from: residential, church, school, other gaming centers.	Not permitted in locally designated Historic District. Not more than one facility per building.

SECTION VII – Potential Standards

It is the intent of these standards is to establish reasonable regulations to protect the health, safety and general welfare of the public by preventing the concentration of internet sweepstakes businesses within the City’s planning and zoning jurisdiction; by providing a separation between said land uses and other specified land uses; and by providing operational requirements that will ensure compatibility with adjacent and nearby land uses.

Potential standards include the following:

1. Create and define a new land use titled Internet Sweepstakes Business as follows:

Internet Sweepstakes Business. Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games, including but not limited to sweepstakes and video poker, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This use does not include any lottery approved by the State of North Carolina.

2. Allow internet sweepstakes businesses, subject to the issuance of a Special Use Permit, within the Heavy Commercial (CH) and General Commercial (CG) zoning districts.
3. Specific Criteria.
 - A. At the time of special use permit approval, a proposed internet sweepstakes business shall not be located within a ¼ mile (1,320 feet) radius, including street rights-of-way, of an existing or approved internet sweepstakes business. The required measurement shall be from the building or structure containing the proposed internet sweepstakes business to the nearest lot line of the parcel on which the existing internet sweepstakes business is located.
 - B. At the time of special use permit approval, a proposed internet sweepstakes business shall not be located within a 500-foot radius, including street rights-of-way, of (i) **a conforming use single-family dwelling located in any district**, (ii) **any single-family residential zoning district**, or (iii) **a school**. The required measurement shall be from the building or structure containing the internet sweepstakes business to the nearest single-family dwelling lot line, school lot line, or single-family residential zoning district boundary line. For purpose of this section, the term “single-family residential zoning district” shall include any RA20, R15S, R9S, R6S, and MRS district.

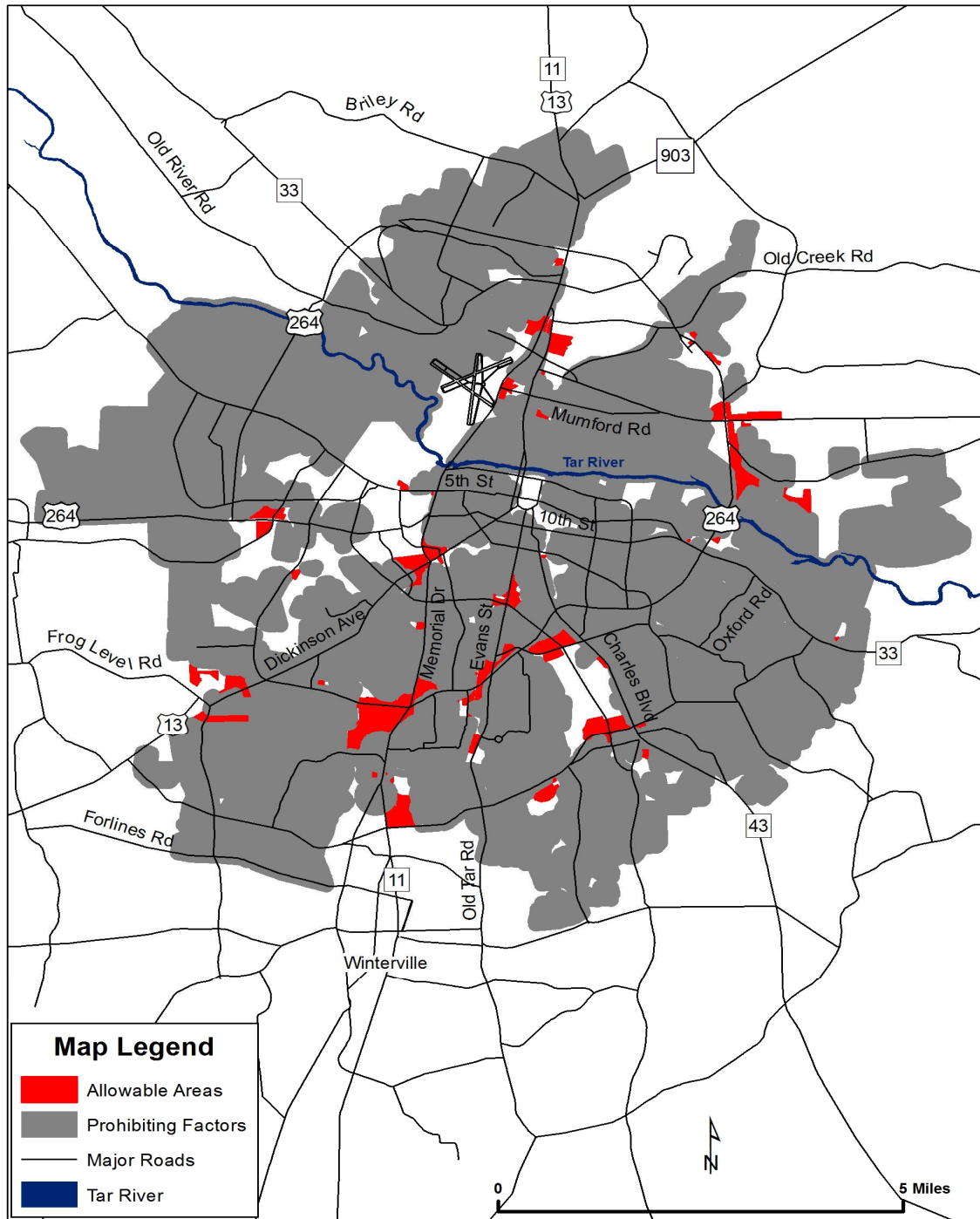
- C. The use shall be conducted within a completely enclosed building, and no outside congregation of customers is permitted for any purpose.
4. Parking Requirement.
- One parking space per computer / gaming terminal plus one parking space per employee on largest shift.
5. Other Standards that May be Considered:
- A. Additional separation requirements from parks, daycares or churches.
 - B. Limitations on hours of operation.
 - C. Limitation on the number of computer / gaming terminals.
 - D. Limitations on co-locating or dual use of structures with specified land uses (i.e. public or private clubs, dining and entertainment establishments, tobacco shops, check cashing, etc...).

SECTION VIII – Analysis of Potential Standards

An analysis of the potential standards prescribed in Section VII, subsections 2 and 3, of this report results in:

- (1) 927 acres (2%) of property within the City’s planning and zoning jurisdiction that would be available for the establishment of a new internet sweepstakes business. Map 2, below, depicts the locations of these acceptable areas. These areas are primarily located along the community’s primary corridors (Greenville Boulevard / HWY 264, Memorial Drive / NC 11, Firetower Road, Dickinson Avenue, and Evans Street).
- (2) Only one of the 15 internet sweepstakes businesses that are currently operating, or are approved to do so, within the city’s planning and zoning jurisdiction meet the proposed standards. It should be noted that nine of the 15 are already nonconforming because they were established without a Special Use Permit.

**Map 2: Acceptable Locations for Internet Sweepstakes Businesses
Based on Potential Standards (see Section VII)**



¹ Owens, D. (2012, April 17). *Land Use Regulation of Internet Sweepstakes Cafes*.

Retrieved from NC Local Government Law Blog: <http://canons.sog.unc.edu/?p=6577>



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Discussion of privilege license fee structure for internet sweepstakes businesses

Explanation: Staff received a request from Council Member Blackburn to place discussion of the internet sweepstakes privilege license issue on the City Council agenda. This agenda item was originally prepared by staff for presentation to City Council during the budget development process; however, legal issues relating to cities' authority to impose different privilege license fee structures were unresolved at that time.

Financial Services staff reviewed the current fee structure for internet sweepstakes businesses. Fees charged to internet sweepstakes businesses in the City of Greenville are currently based on annual gross receipts reported to the City by the businesses. Gross receipts charges are calculated at \$50 for the first \$25,000 in gross sales plus 50 cents per thousand to a maximum of \$2,000 per business. Fees derived from the 18 locations for 2011 were \$3,176. The licensing fees are paid annually.

North Carolina General Statute 160A-211 authorizes cities to levy privilege license taxes on businesses with certain exceptions and limitations. The North Carolina Constitution requires that all local taxes be "just and equitable". This means that the amount of a tax cannot be so high that it amounts to a prohibition on the particular business, effectively eliminating all similar businesses within the city. In other words, a City cannot use its taxation power to eliminate a type of business by preventing the business from earning a profit.

Listed below are fee schedules from survey results from 54 municipalities throughout North Carolina:

- 32 charged over \$1,000 per location;
- 17 charged under \$1,000 per location;
- 2 charged \$1,000 per location;
- 17 charged \$250 to \$1,000 per terminal;
- 11 charged \$1,000 to \$2,500 per machine;

- 2 did not allow internet sweepstakes businesses; and
- 1 did not respond

A survey prepared by the North Carolina League of Municipalities dated November 3, 2011, shows cities are charging between \$500 and \$5,000 per location (of course, many cities do not apply a sweepstakes fee). Further, those cities charge between \$100 and \$3,000 per terminal (see attached).

It should be noted that the fees charged to internet sweepstakes businesses is a controversial issue in the State of North Carolina at this time. There have been several recent court decisions impacting this subject. First, on February 21, 2012, the North Carolina Court of Appeals decided in the Lumberton case that cities have the authority to levy privilege license taxes on internet sweepstakes businesses. Second, on March 6, 2012, the North Carolina Court of Appeals held that the 2010 State criminal law enacted by the General Assembly prohibiting internet sweepstakes was an unconstitutional regulation of free speech. Third, on May 1, 2012, the North Carolina Court of Appeals decided in the Fayetteville case that a business that produces sufficient evidence about the impact of the privilege license taxes on the ability of the business to operate profitably is entitled to a trial on the issue of whether the amount of the taxes is too high and in violation of the North Carolina constitutional requirement that all local taxes be just and equitable. All of the above decisions have been appealed to the North Carolina Supreme Court.

During the 2012 Session of the General Assembly, House Bill 1180 was introduced which would have imposed a State tax on the privilege of operating a video sweepstakes establishment and authorized cities to impose an annual license tax on the privilege of operating a video sweepstakes establishment. The amount of the annual license tax which a City could impose was set in the bill as \$1,000 per establishment and \$500 per machine. This bill was not passed and was in the House Committee on Finance on the date of adjournment.

If the City were to adopt a fee schedule of \$1,000 per business location and \$500 per sweepstakes computer terminal, the City would see a significant increase in revenue. The number of terminals within each business varies, and an audit of each business' terminals would be necessary to assess the correct fee. Based on limited staff observations of the businesses, the number of terminals may be as high as 50 terminals per business or as low as 10 terminals per business. Using an estimated average of 25 terminals, the City would receive revenue of the following annually:

18 businesses	= \$ 18,000
25 terminals	= <u>\$225,000</u>
Total Annual Revenue	= \$243,000


Fiscal Note:

Approximately \$239,724 would be available for general governmental operating expenses annually based on the above assumptions and assuming no increase or reduction in internet sweepstakes cafes operating.

Recommendation: Discuss the privilege license fee structure related to internet sweepstakes businesses, and advise of any actions desired by Council.

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

Attachments / click to download

 [Survey](#)

 [Sweepstakes Listing 897571](#)

CITY OF GREENVILLE SWEEPSTATE INTERNET REVENUE COLLECTIONS BASED ON BUSINESS LICENSE FEES									
BUSINESS NAME	ADDRESS	APPROVAL OR DENIAL DATE	FEE BASIS GROSS RECEIPTS MIN(\$50) - MAX(\$2000) CARD SALES	FEE BASIS GROSS RECEIPTS MIN(\$50) - MAX(\$2,000) SERVICE	TOTAL LICENSE FEES COLLECTED	SPECIAL USE PERMIT FEES	ALL FEES COLLECTED	Doc # 897571	
J&K Cyber Café	4054 S Memorial Dr	6/17/2009	0.00	86.67	86.67	385.00			
H&L Business Centre	605 SE Greenville Blvd	6/17/2009	472.73	472.73	945.46	385.00			
Carolina Internet Services	3195 E. 10th St.	8/31/2009	0.00	55.00	55.00	385.00			
G-Vegas Internet Café	1311 W. Arlington Blvd.	10/2/2009	62.50	62.50	125.00	385.00			
Emerald City Business Services	703 SE Greenville Blvd.	10/29/2009	50.00	50.00	100.00	385.00			
10th Street Internet Café	116 W. 10th Street	11/19/2009	50.00	50.00	100.00	385.00			
J&R Business Services	1009 Dickinson Ave.	11/19/2009	0.00	60.00	60.00	385.00			
T&K Enterprises	113 Arlington Blvd, Suite 104	1/18/2010	50.00	50.00	100.00	385.00			
Biltmore Venture Group/dba/ Sweepstates Internet Café	2462 Statonsburg Rd.	2/5/2010	289.67	289.67	579.33	385.00			
T&K Enterprises/Express NC	1311 W. Arlington Blvd.		78.75	78.75	157.50	385.00			
About 2 Win LLC - DBA Purple and Gold Sweepstakes	1613 S. Elm Street	3/4/2010	83.00	83.00	166.00	385.00			
J&K Cyber Café	4054 S Memorial Dr	7/2/2010	0.00	50.00	50.00	385.00			
Black Beards Treasure	3700 S. Memorial	6/8/2011	56.25	56.25	112.50	385.00			
East Coast Café	300 SW Greenville Blvd	6/20/2011	50.00	50.00	100.00	385.00			
Emerald City Business Services #2	250 Easy St	Not Approved	62.50	62.50	125.00	385.00			
RLC Business Center, LLC	1012 Dickinson Ave Suite B	8/26/2011	50.00	50.00	100.00	385.00			
GVL Games & Business Center	40 SW Greenville Blvd Suite	Not Approved	55.00	55.00	110.00	385.00			
The Jolly Café	405 E. 14th St.	Not Approved	50.00	50.00	100.00	385.00			
Pirate's Loot	4052 S. Memorial Drive	12/20/2011	50.00	50.00	100.00	385.00			
TOTAL			1510.40	1762.07	3272.46	7315.00			13859.92

Thom Moton

From: Karl Knapp [kknapp@NCLM.ORG]
Sent: Thursday, November 03, 2011 3:39 PM
To: The ccmanagers mailing list
Subject: RE: [ccmanagers] Internet Sweepstakes Cafe Fees - AGAIN!
Attachments: internet sweepstakes spreadsheet email.pdf

Vivian,

I've attached a list that was compiled over the summer in response to a similar query on the business license listserv.

Karl Knapp
Director of Research and Policy Analysis
NCLM
919-715-9768
919-301-1109 (fax)



From: Vivian White [mailto:vwhite@cityofec.com]
Sent: Thursday, November 03, 2011 2:22 PM
To: The ccmanagers mailing list
Subject: [ccmanagers] Internet Sweepstakes Cafe Fees - AGAIN!

Currently Elizabeth City charges \$2,000 per location and \$500 per terminal annually for internet sweepstakes cafes. The City Council has been approached to consider decreasing these fees; and has directed staff to get current information from other jurisdictions regarding fees charged. If you have such businesses, we would appreciate you sharing your fee structure. Thanks!

Vivian White
Admin. Ass't., City Manager's Office
City of Elizabeth City
306 E. Colonial Avenue ~ P. O. Box 347
Elizabeth City, NC 27907-0347
Phone: 252-337-6864 ~ Fax: 252-335-2503

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	MUNICIPALITY	POPULATION	FEE
1	Aberdeen	5,000	\$2,500 per machine and a \$2,000 per business location
2	Albemarle		1st two machines = \$2,000, thereafter \$3,000 each. Max 20
3	Archdale		\$500 per machine
4	Black Mountain		\$500 per machine and \$2,000 per location
5	Canton	4,042	\$2,500 for 1st 4 machines and \$700 per machine after
6	Carolina Beach	5,089	\$5 per machine + a percentage of gross receipts
7	Clinton	8,645	\$500 per machine with max of 12 machines
8	Creedmore		\$750 per machine and \$2,000 per location
9	Dunn	9,712	\$2,600 per business location plus proposing per machine
10	Durham	187,847	Gross Receipts
11	Elkin	4,192	\$500 per machine and \$5,000 per business
12	Fairmont	2,613	\$2,500 per machine
13	Fayetteville		\$2,500 per machine and a \$2,000 per business location
14	Franklin	3,508	\$2,600 per location
15	Graham	12,894	\$1,000 per business
16	Granite Falls		\$500 per machine
17	Greensboro		proposed for 7/11 - \$500 per machine plus \$2,500 per location
18	Hendersonville	12,997	\$2,600 for 1st five, & \$500 for each thereafter
19	Hillsborough	6,677	\$75.00 per location
20	Kannapolis	37,135	\$500 per machine
21	Kinston	22,800	\$500 per machine
22	Kure Beach	2,200	\$2,000 per location + \$2,500 per machine
23	Laurinburg	15,974	\$2,500 per machine + \$2,000 flat fee
24	Leland	12,623	\$3000 per machine
25	Long View	4,963	\$1,000 per establishment
26	Lumberton		\$2,500 per machine plus \$5,000 per location
27	Maggie Valley	1,142	\$2,500 for 1st 4 machines and \$750 per machine after; 1 machine per 1,000 square feet of floor space
28	Matthews	22,613	\$2,000 per location
29	Mayodan	2,420	\$5,000 flat fee with a max of 12 machines
30	Morganton		\$1,500 per machine and \$2,000 per location
31	North Wilkesboro		\$2,600 per location
32	Oak Island		\$500 per machine
33	Oxford	9,500	\$1,000 per machine & \$500 per location
34	Pinebluff		\$1,000 per machine & \$2,000 per location
35	Rowland	1,150	\$300 per machine
36	Roxboro	8,722	\$1,000 per business + \$500 per machine
37	Spring Lake		\$300 per machine plus \$500 per location
38	Sylva		\$2,500 each machine up to 4, thereafter \$700 each
39	Washington		\$500 per machine
40	Waxhaw		\$100 per machine
41	Wendell	5,796	\$1,000 per machine + gross receipts

42	White Lake		\$250 per machine, plus \$1,000 per location
43	Whiteville	11,010	Based on Gross Receipts
44	Wilkesboro	3,174	\$1,000 per machine plus \$2,600 per location
45	Williamston		\$500 per machine
46	Wilmington	101,526	\$3000 per machine; looking into tiered structure per City Council request. (proposed)
47	Winston-Salem	228,362	\$500.00 per machine and \$2,500 per location
48	Winterville		\$500.00 per machine and \$2,500 per location
49	Zebulon	5,444	\$200.00 per machine and \$600.00 to Planning for "special Use Permit"

Many other cities and towns which charge on gross receipts are basing their fees as such.



City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Resolution calling for a public hearing to refund bonds (2009 Installment Financing Agreement and Series 2004 Certificate of Participation Bonds)

Explanation: Financial Services staff has been working with First Southwest Company (the City's Financial Advisors) to refinance the 2009 Installment Financing Agreement and the Series 2004 Certificates of Participation (COPs). Given the current interest rate environment, staff has reviewed all of the City's outstanding debt in efforts of finding areas of potential interest savings.

Based on the amount to be refunded, commercial banks can purchase the bonds. Selling to commercial banks will lower the costs compared to the option of a public offering through investment banks. Proposals were sought from commercial banks. The Requests for Proposals (RFPs) were distributed on August 8th. Proposals were opened on August 28, 2012 from four banks (a bid tabulation is attached.)

Also attached is the resolution that calls for a September 13, 2012, public hearing on the refunding (at the regular City Council meeting). Additionally, the resolution requests that the Director of Financial Services be authorized to file an application with the Local Government Commission (LGC) to enter into this transaction. This resolution authorizes a refunding not to exceed \$20,100,000.

Fiscal Note: The proposed October 11, 2012, sale date will include a refunding amount for the 2009 Installment Financing Agreement (\$9,500,000) and the Series 2004 COPs (\$10,600,000).

Annual debt service payment amounts are included in the 2012-2013 financial operating plan. The current debt service on these two issuances is attached, along with the proposed debt service resulting from the refunding.

Refunding the 2009 Installment Financing Agreement and the Series 2004 COPs

debt is estimated to generate approximately \$1,731,738 in interest expense savings and issuance costs over the term of the agreement (13 years).

Recommendation: Approve the resolution calling for a public hearing on refunding bonds (2009 Installment Financing Agreement and Series 2004 Certificates of Participation).

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

Attachments / click to download

- [Updated Findings Resolution Refunding 2012 934925](#)
 - [Current Debt Service 2004 COPS 2009 IP 2012 935020](#)
 - [2004 COPS Payment Schedule 935163](#)
 - [Bid Summary for Gville 2012 Refunding 935211](#)
-

A regular meeting of the City Council of the City of Greenville, North Carolina was held in the City Council Chamber at the City Hall in Greenville, North Carolina, the regular place of meeting, on September 10, 2012 at 6:00 p.m.

Present: Mayor Allen M. Thomas, presiding, and Council members _____

Absent: _____

* * * * *

Mayor Thomas introduced the following resolution, a copy of which had been provided to each Council member, and which was read by its title:

RESOLUTION NO. 2012 - __

RESOLUTION CALLING A PUBLIC HEARING AND MAKING CERTAIN FINDINGS CONCERNING A PROPOSED INSTALLMENT FINANCING AGREEMENT TO PROVIDE FOR (i) THE REFINANCING OF CERTAIN OUTSTANDING CERTIFICATES OF PARTICIPATION (CITY OF GREENVILLE PUBLIC FACILITIES AND EQUIPMENT PROJECT), SERIES 2004 AND (ii) THE REFINANCING OF AN INSTALLMENT FINANCING AGREEMENT DATED AS OF JUNE 9, 2009 BETWEEN THE CITY OF GREENVILLE AND BRANCH BANKING AND TRUST COMPANY AND AUTHORIZING THE DIRECTOR OF FINANCIAL SERVICES TO FILE APPLICATION FOR APPROVAL THEREOF WITH THE LOCAL GOVERNMENT COMMISSION

WHEREAS, the City of Greenville, North Carolina (the “City”) desires to (i) refinance outstanding Certificates of Participation (City of Greenville Public Facilities and Equipment Project), Series 2004 maturing June 1, 2013 – 2016 inclusive, June 1, 2018 – 2019 inclusive and June 1, 2021 to June 1, 2024 inclusive (the “2004 Refinancing”) and (ii) refinance an installment financing agreement, dated as of June 9, 2009 between the City and Branch Banking and Trust Company (the “Bank”) with a final installment payment date of December 1, 2024 (the “2009 Refinancing and together with the 2004 Refinancing, the “Refinancing”) by the use of an installment financing agreement authorized under North Carolina General Statute 160A, Article 3, Section 20 (the “Installment Financing Agreement”) by and between the City and Bank of America (the “Bank”); and

WHEREAS, the Installment Financing Agreement will comply in all respects with Section 160A-20 and Chapter 159, Article 8, of the General Statutes of North Carolina and the guidelines of the Local Government Commission of North Carolina for all financings undertaken pursuant to said Section and Article; and

WHEREAS, said Section 160A-20 requires that, before entering into an installment financing agreement involving real property, the City shall hold a public hearing on such agreement; and

WHEREAS, findings of fact by the City Council of the City must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE:

Section 1. A public hearing with respect to the Installment Financing Agreement is hereby directed to be held on September 13, 2012 in the Council Chambers of City Hall, 200 West Fifth Street, Greenville, North Carolina, at 7:00 p.m.

Section 2. The publication of notice of said public hearing on August 27, 2012, which was at least ten (10) days prior to the date of the public hearing as required by Section 160A-20(g) of the General Statutes of North Carolina, is hereby ratified.

Section 3. The City Council of the City of Greenville does hereby find, determine and declare as follows:

(a) The City proposes to finance the costs of the Refinancing pursuant to the Installment Financing Agreement, and the City will make installment payments in amounts sufficient to repay advances to be made by the Bank to finance the Project in an amount not to exceed \$20,250,000.

(b) The Refinancing is necessary or expedient for the City.

(c) The sums to fall due under the Installment Financing Agreement are not excessive for its stated purposes; and the estimated cost of the Project is not excessive.

(d) Counsel to the City has rendered an opinion that the proposed undertakings are authorized by law and are purposes for which public funds may be expended pursuant to the Constitution and laws of the State of North Carolina.

(e) Interest to accrue on the advances made under the Installment Financing Agreement shall be at a rate not to exceed 1.59% per annum. The Installment Financing Agreement, under the circumstances presently obtaining, is preferable to a general obligation bond issue for this purpose.

(f) The estimated cost of financing the Refinancing pursuant to the Installment Financing Agreement is less than an estimate of similar cost for general obligation bond financing therefor.

(g) The debt management policies of the City have been carried out in strict compliance with law, including the filing of all required audits and reports with the Local Government Commission (the "LGC"), and the City is within its statutory debt limit and is not in default with respect to any of its outstanding indebtedness.

(h) The City estimates that the savings generated by the Refinancing will exceed the estimated debt service to fall due under the Installment Financing Agreement.

(i) No increase in the property tax rate will be required to raise sums to pay the estimated debt service to fall due under the Installment Financing Agreement for all of its stated purposes.

(j) The City has made timely payment of all sums owed by it with respect to the payment of principal of and interest on all of its outstanding debt obligations and has received no notice from the LGC or any holder concerning the City's failure to make any required payment of debt service.

Section 4. The Director of Financial Services of the City and such other officers of the City as may be appropriate are hereby authorized to act on behalf of the City in filing an application with the LGC for approval of the Installment Financing Agreement and other actions not inconsistent with this resolution. The LGC is hereby requested to approve the proposed Installment Financing Agreement pursuant to the provisions of Article 8 of Chapter 159 of the General Statutes of North Carolina, and the selection of the following professionals who comprise the financing team, and such other professionals as may be required or useful and acceptable to the LGC, to assist the City in connection with such financing:

Special Counsel	Sidley Austin LLP
Financial Advisor	First Southwest Company

Section 5. All actions heretofore taken by the Director of Financial Services of the City and any other officers of the City in connection with the Installment Financing Agreement are hereby ratified and confirmed.

Section 6. This resolution shall take effect immediately upon its passage.

Adopted this the 10th day of September, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk

After consideration of the foregoing resolution, Council member _____
moved for the passage thereof, which motion was duly seconded by Council member
_____, and the foregoing resolution was passed by the following vote:

Ayes: _____
_____.

Noes: _____.

* * * * *

I, Carol L. Barwick, City Clerk of the City of Greenville, North Carolina, DO HEREBY
CERTIFY that the foregoing has been carefully copied from the recorded minutes of the City
Council of said City at a meeting held on September 10, 2012, said record having been made in
Minute Book No. ___ of the minutes of said City Council, beginning at page ___ and ending at
page ___, and is a true copy of so much of said proceedings of said City Council as relates in any
way to the passage of the resolution described in said proceedings.

WITNESS my hand and the official seal of said City, this ___ day of September, 2012.

City Clerk

[SEAL]

FINAL

\$12,013,516

City of Greenville, North Carolina
 Installment Purchase, Series 2009
 New Money & Refunding

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
12/01/2009	156,967.60	3.790%	217,538.08	374,505.68
06/01/2010	847,458.85	3.790%	224,681.60	1,072,140.45
12/01/2010	156,967.60 ✓	3.790%	208,622.25 ✓	365,589.85
06/01/2011	838,358.67 ✓	3.790%	205,647.71 ✓	1,044,006.38
12/01/2011	156,967.59 ✓	3.790%	189,760.82 ✓	346,728.41
06/01/2012	834,283.39 ✓	3.790%	186,786.28 ✓	1,021,069.67
12/01/2012	156,967.59 ✓	3.790%	170,976.61 ✓	327,944.20
06/01/2013	829,403.65 ✓	3.790%	168,002.07 ✓	997,405.72
12/01/2013	156,967.59 ✓	3.790%	152,284.87 ✓	309,252.46
06/01/2014	839,013.97 ✓	3.790%	149,310.34 ✓	988,324.31
12/01/2014	156,967.59 ✓	3.790%	133,411.02 ✓	290,378.61
06/01/2015	832,444.79 ✓	3.790%	130,436.49 ✓	962,881.28
12/01/2015	156,967.59 ✓	3.790%	114,661.66 ✓	271,629.25
06/01/2016	830,626.61 ✓	3.790%	111,687.12 ✓	942,313.73
12/01/2016	156,967.59 ✓	3.790%	95,946.75 ✓	252,914.34
06/01/2017	763,495.80 ✓	3.790%	92,972.21 ✓	856,468.01
12/01/2017	156,967.59 ✓	3.790%	78,503.97 ✓	235,471.56
06/01/2018	760,983.22 ✓	3.790%	75,529.43 ✓	836,512.65
12/01/2018	156,967.59 ✓	3.790%	61,108.80 ✓	218,076.39
06/01/2019	753,125.41 ✓	3.790%	58,134.26 ✓	811,259.67
12/01/2019	156,967.59 ✓	3.790%	43,862.53 ✓	200,830.12
06/01/2020	744,969.79 ✓	3.790%	40,888.00 ✓	785,857.79
12/01/2020	156,967.59 ✓	3.790%	26,770.82 ✓	183,738.41
06/01/2021	156,967.59 ✓	3.790%	23,796.29 ✓	180,763.88
12/01/2021	156,967.59 ✓	3.790%	20,821.75 ✓	177,789.34
06/01/2022	156,967.59 ✓	3.790%	17,847.21 ✓	174,814.80
12/01/2022	156,967.59 ✓	3.790%	14,872.68 ✓	171,840.27
06/01/2023	156,967.59 ✓	3.790%	11,898.14 ✓	168,865.73
12/01/2023	156,967.59 ✓	3.790%	8,923.61 ✓	165,891.20
06/01/2024	156,967.59 ✓	3.790%	5,949.07 ✓	162,916.66
12/01/2024	156,967.59 ✓	3.790%	2,974.54 ✓	159,942.13
Total	\$12,013,515.97	-	\$3,044,606.98	\$15,058,122.95

Yield Statistics

Bond Year Dollars	\$80,332.64
Average Life	6.687 Years
Average Coupon	3.7900000%
Net Interest Cost (NIC)	3.7900000%
True Interest Cost (TIC)	3.7901319%
Bond Yield for Arbitrage Purposes	3.7901319%
All Inclusive Cost (AIC)	3.9311885%

IRS Form 8038

Net Interest Cost	3.7900000%
Weighted Average Maturity	6.687 Years

\$15,985,000
City of Greenville, North Carolina
Existing Certificates of Participation

Series 2004
Schedule of Debt Service

Interest Payment Date	Principal Repayment	Interest Rate	Interest per Maturity	Interest Payment	Period Total	Fiscal Total
December-12			0.00	218,929.38	218,929.38	
June-13	315,000.00	3.750%	5,906.25	218,929.38	1,033,929.38	\$1,252,858.75
	500,000.00	4.000%	10,000.00			
December-13			0.00	203,023.13	203,023.13	
June-14	815,000.00	3.750%	15,281.25	203,023.13	1,018,023.13	\$1,221,046.25
December-14			0.00	187,741.88	187,741.88	
June-15	815,000.00	3.625%	14,771.88	187,741.88	1,002,741.88	\$1,190,483.75
December-15			0.00	172,970.00	172,970.00	
June-16	815,000.00	3.750%	15,281.25	172,970.00	987,970.00	\$1,160,940.00
December-16			0.00	157,688.75	157,688.75	
June-17			0.00	157,688.75	157,688.75	\$315,377.50
December-17			0.00	157,688.75	157,688.75	
June-18	100,000.00	4.000%	2,000.00	157,688.75	1,787,688.75	\$1,945,377.50
	1,530,000.00	5.250%	40,162.50			
December-18			0.00	115,526.25	115,526.25	
June-19	810,000.00	4.000%	16,200.00	115,526.25	925,526.25	\$1,041,052.50
December-19			0.00	99,326.25	99,326.25	
June-20			0.00	99,326.25	99,326.25	\$198,652.50
December-20			0.00	99,326.25	99,326.25	
June-21	250,000.00	5.250%	6,562.50	99,326.25	349,326.25	\$448,652.50
December-21			0.00	92,763.75	92,763.75	
June-22	2,180,000.00	5.250%	57,225.00	92,763.75	2,272,763.75	\$2,365,527.50
December-22			0.00	35,538.75	35,538.75	
June-23	810,000.00	4.375%	17,718.75	35,538.75	845,538.75	\$881,077.50
December-23			0.00	17,820.00	17,820.00	
June-24	810,000.00	4.400%	17,820.00	17,820.00	827,820.00	\$845,640.00
December-24			0.00	0.00	0.00	
TOTALS	\$15,985,000.00			\$7,285,938.82	\$23,270,947.82	\$23,270,947.82

****On 6-1-2020 there is a Mandatory Sinking Fund (Redemption) of \$810,000 and 6-1-2021 of \$560,000. This will change the interest figures on the original amortization schedule causing it not to match the above ledger.**

City of Greenville, North Carolina
2012 Installment Purchase Financing Agreement

Summary of Bank Proposals
Proposals Received August 28, 2012 at noon
\$19,945,000 (estimated)

Banc of America Public				Wells Fargo		PNC		Suntrust	
Capital Corp		Page Hornaday		Casey Turner		Jeff Stoddard			
Contact Information	Chuck Maguire 804-788-3345	919-881-6471	919-881-6471	919-788-5763	919-381-3286				
Interest Rate	1.59%	1.76%*	1.83%	2.31%*/2.50%					
Bank Fees	7,500	*Indicative; Not locked 25,000	10,000	17,000					
Redemption Provisions	December 1, 2018 @ 101%	Make whole	Make whole	Non-callable*; December 1, 2018 @105%					
Other	-Casualty Insurance Credit Due diligence - 3 years financials - Current budget - Insurance -Tax opinion -Validity opinion -Environmental questionnaire	-Direct Placement structure to involve ratings, disclosure, CUSIP, etc. -Downgrade pricing -Corporate Tax Rate Gross-up	-Title Insurance -Environmental questionnaire -Evidence of hazard/ flood insurance	-Environmental Assessment -Title Insurance					





City of Greenville, North Carolina

Meeting Date: 9/10/2012
Time: 6:00 PM

Title of Item: Budget ordinance amendment #2 to the 2012-2013 City of Greenville budget (Ordinance #12-027) and amendments to the Special Revenue Grant Fund (Ordinance #11-003)

Explanation: Attached is an amendment to the 2012-2013 budget ordinance for consideration at the September 10, 2012, City Council meeting. For ease of reference, a footnote has been added to each line item of the budget ordinance amendment, which corresponds to the explanation below:

A To appropriate Supplemental Public/Educational/Government (PEG) funds received during prior year(s) into the current fiscal year (\$80,307).

B To appropriate a Governor's Crime Commission grant and Controlled Substance funds for a prescription fraud detective and educational activities to reduce prescription drug abuse. The total grant is for \$80,000, of which the City of Greenville has a 25% match of \$20,000 to be funded by Controlled Substance dollars (\$80,000).

C To appropriate funds for the Justice Assistance Grant 2012 (JAG) to acquire surveillance and police records equipment to assist with security around the City of Greenville (\$66,525).

D To carry over appropriated funds for Fire/Rescue grants approved in prior year(s), but whose funding remains available until the expiration of the grant, which overlaps multiple fiscal years (\$47,583).

E To carry over appropriated funds for Community Development grants approved in prior year(s), but whose funding remains available until the expiration of the grant, which overlaps multiple fiscal years (\$32,776).

F To carry over appropriated funds for Police grants approved in prior year(s), but whose funding remains available until the expiration of the grant, which overlaps multiple fiscal years (\$79,586).

G To appropriate funds in the Fleet Maintenance Fund to perform maintenance on an airport vehicle. These funds will be reimbursed once the project is complete, pending City Council approval of maintenance agreements (\$3,000).

H To carry over appropriated funds to complete work on the Evans Park Drainage Project (\$8,000).

Fiscal Note:

The budget ordinance amendment affects the following funds: increase General Fund by \$268,252; increase Sanitation Fund by \$97,044; increase Special Revenue Grant Fund by \$146,525; and increase Fleet Maintenance Fund by \$3,000. The original budget amounts have been adjusted for encumbrances that have rolled forward from open purchase orders from the prior year. This results in the addition to the General Fund's original budget of \$1,990,437.

<u>Fund Name</u>	<u>Original /Amended Budget</u>	<u>Proposed Amendment</u>	<u>Amended Budget 9/10/2012</u>
General	\$ 77,299,579	\$ 268,252	\$ 77,567,831
Special Revenue Grant	\$ 689,037	\$ 146,525	\$ 835,562
Fleet Maintenance	\$ 4,364,441	\$ 3,000	\$ 4,367,441

Recommendation: Approve budget ordinance amendment #2 to the 2012-2013 City of Greenville budget (Ordinance #12-027) and amendments to the Special Revenue Grant Fund (Ordinance #11-003)

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[Budget Amendment FY 2012 2013 932360](#)

ORDINANCE NO. -
CITY OF GREENVILLE, NORTH CAROLINA
Ordinance (#2) Amending the 2012-2013 Budget (Ordinance No. 12-027) and amendments
to the Special Revenue Grant Fund (Ordinance No.11-003)

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA , DOES ORDAIN:

Section 1: Estimated Revenues and Appropriations. **General Fund**, of Ordinance 12-027, is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	ORIGINAL 2012-2013 BUDGET		#2 Amended 9/10/12	Total Amendments		Amended 2012-2013 Budget
<u>ESTIMATED REVENUES</u>						
Property Tax	\$ 29,312,043		\$ -	\$ -		\$ 29,312,043
Sales Tax	14,611,439		-	-		14,611,439
Utilities Franchise Tax	5,540,166		-	-		5,540,166
Other Unrestricted Intergov't Revenue	2,739,598		-	-		2,739,598
Powell Bill	2,157,640		-	-		2,157,640
Restricted Intergov't Revenues	1,006,337	B,D,E,F	179,945	302,577		1,308,914
Privilege License	627,800		-	-		627,800
Other Licenses, Permits and Fees	4,118,755		-	-		4,118,755
Rescue Service Transport	3,062,835		-	-		3,062,835
Other Sales & Services	921,707		-	-		921,707
Other Revenues	397,449		-	-		397,449
Interest on Investments	1,768,922		-	-		1,768,922
Transfers In GUC	5,952,192		-	-		5,952,192
Other Financing Sources	404,920		-	-		404,920
Appropriated Fund Balance	4,480,238	A,H	88,307	163,213		4,643,451
TOTAL REVENUES	\$ 77,102,041		\$ 268,252	\$ 465,790		\$ 77,567,831
<u>APPROPRIATIONS</u>						
Mayor/City Council	\$ 308,647		\$ -	\$ -		\$ 308,647
City Manager	1,210,711	A	80,307	80,307		1,291,018
City Clerk	271,798		-	-		271,798
City Attorney	446,673		-	-		446,673
Human Resources	2,512,101		-	-		2,512,101
Information Technology	2,965,501		-	-		2,965,501
Fire/Rescue	13,364,981	D	47,583	47,583		13,412,564
Financial Services	2,352,946		-	-		2,352,946
Recreation & Parks	7,264,287		-	21,500		7,285,787
Police	22,675,599	F	79,586	155,218		22,830,817
Public Works	10,276,600		-	35,000		10,311,600
Community Development	1,698,394	E	32,776	44,776		1,743,170
OPEB	300,000		-	-		300,000
Contingency	181,871		-	(21,500)		160,371
Indirect Cost Reimbursement	(1,014,572)		-	-		(1,014,572)
Capital Improvements	6,293,123	H	8,000	(573,631)		5,719,492
Total Appropriations	\$ 71,108,660		\$ 248,252	\$ (210,747)		\$ 70,897,913
<u>OTHER FINANCING SOURCES</u>						
Debt Service	\$ 4,041,455		\$ -	\$ -		\$ 4,041,455
Transfers to Other Funds	1,951,926	B	20,000	676,537		2,628,463
	\$ 5,993,381		\$ 20,000	\$ 676,537		\$ 6,669,918
TOTAL APPROPRIATIONS	\$ 77,102,041		\$ 268,252	\$ 465,790		\$ 77,567,831

Section II.: Estimated Revenues and Appropriations. **Special Revenue Grant Fund**, of Ordinance 11-003, is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	ADJUSTED BUDGET		Amended 9/12/12	Total Amendments		Amended 2012-2013 Budget
ESTIMATED REVENUES						
Special Fed/State/Loc Grant	\$ 608,501	B,C	\$ 126,525	\$ 156,525	\$	765,026
Transfer from General Fund	50,536	B	20,000	20,000		70,536
TOTAL REVENUES	\$ 659,037		\$ 146,525	\$ 176,525	\$	835,562
APPROPRIATIONS						
Operating	\$ 399,255	B,C	\$ 118,688	\$ 148,688	\$	547,943
Capital Outlay	259,782	C	27,837	27,837		287,619
Total Expenditures	\$ 659,037		\$ 146,525	\$ 176,525	\$	835,562
TOTAL APPROPRIATIONS	\$ 659,037		\$ 146,525	\$ 176,525	\$	835,562

Section III.: Estimated Revenues and Appropriations. **Fleet Maintenance Fund**, of Ordinance 12-027, is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	ORIGINAL 2012-2013 BUDGET		#2 Amended 9/10/12	Total Amendments		Amended 2012-2013 Budget
ESTIMATED REVENUES						
Fees Markup	\$ 1,736,695		\$ -	\$ -	\$	1,736,695
Labor Fees	881,661	G	3,000	3,000		884,661
Other Revenue Sources	1,571,085		-	-		1,571,085
Transfer from Vehicle Replacement Fund	175,000		-	-		175,000
TOTAL REVENUES	\$ 4,364,441		\$ 3,000	\$ 3,000	\$	4,367,441
APPROPRIATIONS						
Fleet Maintenance	\$ 4,364,441		\$ 3,000	\$ 3,000	\$	4,367,441
Total Expenditures	\$ 4,364,441		\$ 3,000	\$ 3,000	\$	4,367,441
TOTAL APPROPRIATIONS	\$ 4,364,441		\$ 3,000	\$ 3,000	\$	4,367,441

Section IV: All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section V: This ordinance will become effective upon its adoption.

Adopted this 10th day of September, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk