



Agenda

Greenville City Council

October 21, 2019

6:00 PM

City Hall Council Chambers

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 Bell**
- III. Pledge of Allegiance**
- IV. Roll Call**
- V. Approval of Agenda**
- VI. 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.

VII. Consent Agenda

1. Approval to purchase an upgrade for the DataDomain (backup solution) for the City's infrastructure
2. Memorandum of Understanding Regarding Involuntary Commitment (IVC) Custody and Transportation
3. New Position Requests for Engineering Department
4. Contract award for Task Order 1 (final design) for the Cedar Lane/Greenbriar Drainage Improvement Project

VIII. New Business

5. Acquisition of property for the future park project near the intersection of Old Pactolus Road and NE Greenville Boulevard
6. Resolution Authorizing the Execution and Delivery of a First Amendment to Installment Financing Agreement and Related Documents in Connection with the Refinancing of an Outstanding Installment Financing Agreement
7. Presentation of a Letter of Intent between the City of Greenville and Seacoast Communities related to the commercial development of the Imperial Tobacco property
8. Budget ordinance amendment #4 to the 2019-2020 Community Development Capital Projects Fund budget (Ordinance #17-024)

IX. City Manager's Report

X. Comments from Mayor and City Council

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 consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee

XII. Adjournment



City of Greenville, North Carolina

Meeting Date: 10/21/2019
Time: 6:00 PM

Title of Item: Approval to purchase an upgrade for the DataDomain (backup solution) for the City's infrastructure

Explanation: **Abstract:** The Information Technology Department is requesting to purchase an upgrade for the DataDomain (backup solution) using available funding (\$177,139.12).

Explanation: The City's current Data Domain (backup solution) is reaching maximum capacity. The City is seeing a continued increase in the volume of data backups due to additional functionality in applications as well as the requirement to retain seven (7) years of standard data and ten (10) years of Police data. In the immediate future, multiple new servers will require additional backup storage space for proper data retention. City staff, along with support vendors, have exhausted all methods to reclaim space in order to allow for future growth.

The City is currently at an 81% capacity threshold with an average increase of 3.06% per month. Industry standards recommend replacement or upgrade at the 85% level. Using remaining funds from the ERP project as well as additional monies from the hardware fund, an upgrade to the solution will be purchased. The upgraded solution will also enhance the City's capability to utilize a cloud backup solution during the next budget cycle. The pricing for this upgrade is from North Carolina's 204x Infrastructure Solutions Contract. This contract provides competitive priced solutions for State agencies and local municipalities.

Fiscal Note: Funding for this purchase will come from remaining ERP funding (\$162,844.12) and IT Hardware funding (\$14,295.00).

Recommendation: City Council approve the purchase of the upgrade utilizing available funding.

ATTACHMENTS:

- ▣ **Data Domain**

PROPOSAL QUOTE SHEET

1015 Aviation Parkway
Suite 100
Morrisville, NC 27560

919.653.4400 Phone
919.653.4401 Fax



DD6800 without CT 45 TB

Client:	City Of Greenville	Issue Date:	9/20/2019
Client Address 1:	.	Opportunity #:	OP092019
Client Address 2:	.	Account Exec:	Mike Kane
Client City, State, Zip:	Greenville NC		mkane@nwnit.com
Attn:	Jason Gurd		919-818-7100
Phone:	.	Version:	1.00
email:	.		

Product Number	Description	Qty	List Price	Unit Price	Extended Price
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Section 1 - Hardware and Software

DD6800 without CT 45 TB

DDOS-61	DD OS 6.1=IA	1		\$0.00	\$0.00
DD6800-CTL	SYSTEM DD6800 CTL NFS CIFS	1		\$12,857.11	\$12,857.11
C-DS60-3-90S-G3	OPT DS60 SHELF 30X3TB SAS HDD G3	1		\$22,982.42	\$22,982.42
M-PSP-HW-DD-DD1	PROSUPPORT PLUS 4HR/MC HARDWARE SUPPORT	1		\$15,052.70	\$15,052.70
DD6800	SYSTEM DD6800 NFS CIFS	1		\$0.00	\$0.00
C-DD6800SSDBASEKIT	DD6800 BASE KIT -SSD	1		\$0.00	\$0.00
C-FLDIN6800	DD6800 OPTION - FIELD INSTALL KIT	1		\$0.00	\$0.00
C-10GBTM4P-NF	DD 10GBASE T IO MODULE 4PORT	2		\$1,413.91	\$2,827.82
C-10GMOP4P-NF	DD 10GBE IO MOD OPTICAL SFP 4PORT OPTION	1		\$1,696.69	\$1,696.69
458-001-921	DD6800 SSD CAPACITY LICENSE	1		\$0.00	\$0.00
M-PSP-SW-DD-DD1	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1		\$0.00	\$0.00
456-111-330	FS 800GB 0.8TB RAW=CF	2		\$0.00	\$0.00
458-001-415	DD6800 OPERATING ENVIRONMENT SOFTWARE	1		\$0.00	\$0.00
456-109-724	LICENSE BASE DD OE DD6800=IA	1		\$5,655.62	\$5,655.62
M-PSP-SW-DD-DD1	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1		\$2,375.23	\$2,375.23
458-001-802	DD REPLICATION SOFTWARE OPTION=CB	90		\$27.93	\$2,513.70
M-PSP-SW-DD-DD1	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1		\$1,508.12	\$1,508.12
458-001-920	DD6800 RAW SHELF CAPACITY LICENSE	1		\$0.00	\$0.00
456-111-962	DS60 3TB ACT 45TB RAW=CB	2		\$0.00	\$0.00
M-PSP-SW-DD-DD1	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1		\$0.00	\$0.00
458-001-801	DD BOOST SOFTWARE OPTION=CB	90		\$20.95	\$1,885.50
M-PSP-SW-DD-DD1	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1		\$1,131.30	\$1,131.30
458-001-800	DD SOFTWARE=CB	90		\$424.16	\$38,174.40
M-PSP-SW-DD-DD1	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1		\$16,033.69	\$16,033.69
U-DS60-3-45S-G3	DS60 SHELF 15X3TB SAS HDD UPGRD G3	1		\$15,318.01	\$15,318.01
U-6300-SAS-SLIC-G2	ADD ES EXP KIT,DUAL PATH,DD6300,UPG	1		\$1,047.33	\$1,047.33
U-DD6300EXPKIT	UPGD DD6300 EXPANSION KIT DIMM SSD FIELD	1		\$2,984.91	\$2,984.91
M-PSP-HW-DD-DD1	PROSUPPORT PLUS 4HR/MC HARDWARE SUPPORT	1		\$626.94	\$626.94
458-001-826	DD SOFTWARE UPG=CB	45		\$530.65	\$23,879.25
M-PSP-SW-DD-DD1	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1		\$5,014.67	\$5,014.67
458-001-929	DD6300 SSD CAPACITY LICENSE	1		\$0.00	\$0.00
456-111-330	FS 800GB 0.8TB RAW=CF	1		\$0.00	\$0.00
M-PSP-SW-DD-DD1	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1		\$0.00	\$0.00
458-001-825	DD REPLICATION SOFTWARE OPT UPG=CB	45		\$34.91	\$1,570.95
M-PSP-SW-DD-DD1	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1		\$471.24	\$471.24
458-001-824	DD BOOST SOFTWARE OPTION UPG=CB	45		\$26.18	\$1,178.10
M-PSP-SW-DD-DD1	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1		\$353.42	\$353.42
458-001-928	DD6300 RAW SHELF CAPACITY LICENSE	1		\$0.00	\$0.00
456-111-962	DS60 3TB ACT 45TB RAW=CB	1		\$0.00	\$0.00
M-PSP-SW-DD-DD1	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1		\$0.00	\$0.00

Section 1 Hardware & Software Subtotal \$ 177,139.12

Section 2 - Manufacturing Maintenance

Section 2 Maintenance & SaaS Subtotal \$ -

Section 3 - Professional Services

NWN Professional Services, as defined in the related Statement of Work Proposal \$ -

NBlock Pre-paid funds on account for Product or Services purchases \$ -

Section 4 - Optional Products & Services

PROPOSAL QUOTE SHEET

Product Number	Description	Qty	List Price	Unit Price	Extended Price
Subtotal, Optional Items:					\$ -
Annual Managed Services/nCare Option:					\$ -
<i>Note: a signed nCare contract is required to establish new services</i>					\$ -
Subtotals					
			Hardware and Software Subtotal:	\$	177,139.12
			Manufacturer's Maintenance Subtotal:	\$	-
			nCare Managed Services Subtotal:	\$	-
			nCare Enablement Fee Subtotal:	\$	-
			Professional Services Subtotal:	\$	-
			Optional Products & Services Subtotal:	\$	-
			Total Project Investment	\$	177,139.12

Signature:

Print Name:

Title:

Date:

Total Project Investment including Taxes & Shipping \$ 177,139.12

Terms & Conditions

This quote is valid for 30 days from date of issue. Applicable taxes if any will be applied to the final invoice. NWN will invoice customer for hardware, software and maintenance upon shipment from Original Equipment Manufacturer.



City of Greenville, North Carolina

Meeting Date: 10/21/2019
Time: 6:00 PM

Title of Item: Memorandum of Understanding Regarding Involuntary Commitment (IVC) Custody and Transportation

Explanation: **Abstract:** The City of Greenville, Pitt County, and Pitt County Sheriff's Office desire to enter into a statutorily required Memorandum of Understanding Regarding Involuntary Commitment (IVC) Custody and Transportation.

Explanation: Session Law 2018-33, specifically the amendment to N.C.G.S. Section 122C-251(g), states that "the governing body of a city or county shall adopt a plan known as an 'involuntary commitment transportation agreement' or 'transportation agreement' for the custody and transportation of respondents in involuntary commitment proceedings" under Chapter 122C, Article 5 of the North Carolina General Statutes. In conformance with this statutory mandate, the City of Greenville, to include the Greenville Police Department (GPD), Pitt County, and the Office of the Pitt County Sheriff (PCSO), desire to enter into an Interlocal agreement with regard to custody and transportation of IVC respondents. This agreement does not change any statutorily prescribed responsibility regarding IVC custody and transportation; however, it better outlines the roles and responsibilities of each jurisdiction and law enforcement agency when it comes to the custody and transportation of individuals in IVC proceedings. Per the agreement, Vidant Medical Center will serve as the 24-hour facility and the commitment examiner for Pitt County.

Counsel for Pitt County, PCSO, and the City of Greenville have worked together to draft this agreement. Moreover, representatives from Vidant Health and Trillium Health Resources have participated in the development of this agreement. The MOU was presented to and approved by the Pitt County Board of Commissioners at the October 14, 2019, Pitt County Board of Commissioners meeting.

Fiscal Note: N/A

Recommendation: Staff recommends approval of the Memorandum of Understanding Regarding Involuntary Commitment (IVC) and Transportation

ATTACHMENTS:

- ▣ **COG-Pitt_Co.-PCSO--MOU_Regarding_IVC_Custody_and_Transportation--
IVC_Transportation_Plan_1115835**

**STATE OF NORTH CAROLINA
COUNTY OF PITT**

**MEMORANDUM OF UNDERSTANDING
REGARDING INVOLUNTARY COMMITMENT
("IVC") CUSTODY AND TRANSPORTION**

THIS MEMORANDUM OF UNDERSTANDING REGARDING INVOLUNTARY COMMITMENT ("IVC") CUSTODY AND TRANSPORTION ("Agreement"), which is an interlocal agreement in accordance with Chapter 160A, Article 20, Part 1 of the North Carolina General Statutes is, pursuant to N.C.G.S. § 160A-461, made and entered into the 1st day of October, 2019 (the "Effective Date"), by and between the City of Greenville, a municipal corporation in the State of North Carolina, which includes its police department, the Greenville Police Department ("GPD") and all of GPD's law enforcement officers as defined by N.C.G.S. § 122C-3(19) ("GPD LEOs") (collectively the "City"); the County of Pitt, a body politic and corporate (the "County"); and the Office of the Pitt County Sheriff (the "PCSO") and all of PCSO's law enforcement officers as defined by N.C.G.S. § 122C-3(19) ("PCSO LEOs") (individually "Party" and collectively the "Parties").

RECITALS:

WHEREAS, the Parties hereto desire to confirm their understanding regarding the custody and transportation of involuntarily commitment ("IVC") Respondents and the Parties' respective roles and responsibilities with respect to custody, commitment, supervision, and transportation of IVC Respondents in accordance with Chapter 122C, Article 5, Parts 6, 7, and 8 of the North Carolina General Statutes;

WHEREAS, specifically, pursuant to and in accordance with N.C.G.S. § 122C-251(g), the Parties intend and desire that this Agreement shall serve as the Parties' "Involuntary Commitment Transportation Agreement" or "Transportation Agreement" for the custody and transportation of individuals in IVC proceedings under Chapter 122C, Article 5, Parts 6, 7, and 8 of the North Carolina General Statutes, applicable to all GPD LEOs and PCSO LEOs; and

WHEREAS, the Parties desire to utilize this Agreement to comply with N.C.G.S. § 122C-251(g) and assure adequate safety and protections for both the public and Respondents.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the promises, covenants, representations, warranties, and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

ARTICLE I
DEFINED TERMS

1.0 Unless otherwise specified or defined herein, the following terms, wherever used herein, shall have the following meanings:

1.1 **LEO.** Law enforcement officer.

1.2 **NCDHHS.** North Carolina Department of Health and Human Services.

1.3 **Pitt County Local Area Crisis Services Plan.** The local area crisis services plan created and adopted pursuant to N.C.G.S. § 122C-202.2 specifically for Pitt County by Trillium, the Pitt County LME/MCO, and which is applicable to matters related to Chapter 122C, Article 5 of the North Carolina General Statutes. The Pitt County Local Area Crisis Services Plan complies with the provisions of N.C.G.S. § 122C-202.2(a)(1), N.C.G.S. § 122C-202.2(a)(2), and N.C.G.S. § 122C-202.2(a)(3) for Pitt County, which is the local area covered by the local plan. Furthermore, the Pitt County Local Area Crisis Services Plan complies with N.C.G.S. § 122C-202.2(b), and, pursuant to N.C.G.S. § 122C-202.2, is made a part of the Trillium Community Crisis Services Plan.

1.4 **Respondents.** Clients as defined by N.C.G.S. § 122C-3(6) who are subject to IVC proceedings pursuant to Chapter 122C, Article 5 of the North Carolina General Statutes, including IVC custody and transport.

1.5 **Trillium:** As defined by N.C.G.S. § 122C-3(1), N.C.G.S. § 122C-3(20b), and N.C.G.S. § 122C-3(20c) and pursuant to Chapter 122C of the North Carolina General Statutes, Trillium Health Resources is the area authority and Local Management Entity/Managed Care Organization (“LME/MCO”) for Pitt County. Trillium is designated by and functioning under the control of the NCDHHS to provide mental health, developmental disabilities, and substance abuse services in 26 eastern North Carolina counties; Trillium’s catchment area as defined by N.C.G.S. § 122C-3(5). Trillium’s services include reviewing and evaluating the area needs and programs in mental health, intellectual developmental disabilities, substance use and related fields, and developing jointly with the NCDHHS, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, an annual plan for the effective development, use and control of state and local facilities and resources in a comprehensive program of mental health service for the residents of the area. Trillium is governed by a 13 member board of directors appointed by the Boards of Commissioners from the catchment area. The Trillium board of directors is a policy-making body, which focuses on establishing and monitoring goals as well as the development of public policy. As an area authority pursuant to Chapter 122C, Trillium is empowered with the responsibility to oversee and control all activities related to mental health, developmental disabilities, and substance abuse services in its catchment area, which includes Pitt County. Trillium’s contact information is as follows:

Trillium Health Resources
201 West First Street
Greenville, NC 27858-1132
Telephone: 1-877-685-2415 (24-hour access to care)
Telephone: 1-866-998-2597 (Administrative Business Matters)
Website: <https://www.trilliumhealthresources.org/>

1.6 **Trillium Community Crisis Services Plan.** The community crisis services plan adopted pursuant to N.C.G.S. § 122C-202.2 by Trillium, the Pitt County LME/MCO, to facilitate

first examination in conjunction with a health screening at the same location required pursuant to Chapter 122C, Article 5, Parts 7 and 8 of the North Carolina General Statutes within Trillium’s catchment area. In accordance with N.C.G.S. § 122C-202.2, the Trillium Community Crisis Services Plan is comprised of separate plans, known as “local area crisis services plans” for each of the local areas or regions within Trillium’s catchment area that Trillium has identified as an appropriate local planning area, taking into consideration the available resources and interested stakeholders within a particular geographic area or region of the catchment area. Accordingly, the Trillium Community Crisis Services Plan specifically includes the Pitt County Local Area Crisis Services Plan.

1.7 **Vidant Medical Center**: As defined by N.C.G.S. § 122C-3(14) and pursuant to Chapter 122C of the North Carolina General Statutes, Pitt County Memorial Hospital, Incorporated d/b/a Vidant Medical Center, a non-stock, non-profit corporation under Chapter 55A of the General Statutes of North Carolina, which includes its inpatient units; its physicians, eligible psychologists, health professionals, and mental health professionals certified in accordance with Chapter 122C of the North Carolina General Statutes; is licensed under Chapter 122C and/or Chapter 131E of the North Carolina General Statutes, has been designated to provide treatment of psychiatric and/or chemical dependency issues, and is designated by the Secretary of NCDHHS as the Pitt County 24-hour facility as defined by Chapter 122C of the North Carolina General Statutes; the Pitt County commitment examiner, as defined by N.C.G.S. § 122C-3(8a); and otherwise as the facility in Pitt County responsible for the custody and treatment of Respondents in IVC proceedings pursuant to Chapter 122C, Article 5, Parts 6, 7, and 8 of the North Carolina General Statutes and 10A NCAC 26C.0100. Vidant Medical Center’s contact information is as follows:

Vidant Medical Center

- Acute Psychiatric Intensive Care Unit
- Adult Psychiatric Unit
- MI/IDD Unit
- Psychiatric/Medicine

2100 Stantonsburg Road

Greenville, North Carolina 27834

Telephone: (252) 847-8791

Telephone: (877) 718-1893

Telephone: (252) 847-4100

Website: <https://www.vidanthealth.com/Home>

ARTICLE II **APPLICABILITY**

2.0 To the extent required to provide all or parts of the custody and transportation required by IVC proceedings, the Parties shall follow the procedures in Chapter 122C, Article 5 of the North Carolina General Statutes. Moreover, the custody and transportation of individuals in IVC proceedings by GPD LEOs or PCSO LEOs under Chapter 122C, Article 5, Parts 6, 7, and 8 of the North Carolina General Statutes shall be in accordance with Chapter 122C, Article 5, Parts 6, 7, and 8 of the North Carolina General Statutes and this Agreement. This Agreement does not in any way change any statutorily prescribed responsibility for IVC custody and transport.

2.1 To the extent this Agreement does not address or incorrectly addresses any statutory obligation or procedure, or if any inconsistency exists between the Agreement and a corresponding statutory provision, the Parties understand that the statute shall control.

ARTICLE III
DESIGNATED PITT COUNTY
24-HOUR FACILITY AND COMMITMENT EXAMINER

3.0 Pursuant to the Pitt County Local Area Crisis Services Plan and the Trillium Community Crisis Services Plan; Chapter 122C, Article 5, specifically including but not limited to N.C.G.S. § 122C-3(8a), N.C.G.S. § 122C-252, N.C.G.S. § 122C-261, N.C.G.S. § 122C-262, N.C.G.S. § 122C-263, and N.C.G.S. § 122C-283; and as so designated by the Secretary of NCDHHS, Vidant Medical Center serves as the 24-hour facility and the commitment examiner for Pitt County.

ARTICLE IV
GENERAL TRANSPORTATION OBLIGATIONS

4.0 Transportation of a Respondent within Pitt County under the IVC proceedings of Chapter 122C, Article 5, Parts 6, 7, and 8 of the North Carolina General Statutes shall be provided by the City or PCSO. However, a Respondent being discharged from a facility may use his or her own transportation at his or her own expense.

4.1 **The City.** The City has the duty to provide transportation of a Respondent who is a resident of the City or who is physically taken into custody in the City limits.

4.2 **PCSO.** PCSO has the duty to provide transportation for a Respondent who resides in unincorporated Pitt County or who is physically taken into custody in unincorporated Pitt County.

4.3 The County incorporates into this Agreement, and to the extent necessary reauthorizes, its resolution titled “Resolution Authorizing Involuntary Commitment Services With Vidant Health” adopted on November 3, 2014. That resolution authorizes Vidant Company Police Department to perform the all of following: Receive IVC Custody Orders from a Pitt County Magistrate, Serve IVC Custody Orders on Respondents who are Vidant Medical Center patients, and Transport Respondents who are Vidant Medical Center patients from the Vidant Medical Center emergency department to Vidant Medical Center inpatient behavioral health department.

ARTICLE V
TRANSPORTATION BETWEEN COUNTIES

5.0 Transportation between counties under the IVC proceedings of Chapter 122C, Article 5 of the North Carolina General Statutes for a first examination as described in N.C.G.S. § 122C-263(a) and N.C.G.S. § 122C-283(a) and for admission to a 24-hour facility shall be provided by the county where the Respondent is taken into custody.

5.1 Transportation between counties under the IVC proceedings of Chapter 122C, Article 5 of the North Carolina General Statutes for Respondents held in 24-hour facilities who have requested a change of venue for the district court hearing shall be provided by the county where the petition for involuntary commitment was initiated.

5.2 Transportation between counties under the IVC proceedings of Chapter 122C, Article 5 of the North Carolina General Statutes for discharge of a Respondent from a 24-hour facility shall be provided by the county of residence of the Respondent. However, a Respondent being discharged from a facility may use his own transportation at his own expense.

ARTICLE VI

SPECIFIC TRANSPORTATION OBLIGATIONS

6.0 **LEO Vehicles and Manner of Dress.** To the extent feasible GPD LEOs and PCSO LEOs transporting Respondents shall dress in plain clothes and shall travel in unmarked vehicles. Transportation of a Respondent by the City shall be in a City-owned vehicle and transportation of a Respondent by PCSO shall be in a County-owned vehicle.

6.1 **Advising Respondents.** To the extent possible GPD LEOs and PCSO LEOs transporting Respondents shall advise Respondents when taking them into custody that they are not under arrest and have not committed a crime, but are being taken into custody and transported to receive treatment and for the Respondent's own safety and that of others.

6.2 **Driver or Attendant of Same Sex as Respondent.** To the extent feasible, in providing transportation of a Respondent, the transporting agency, City or PCSO, shall provide a driver or attendant who is the same sex as the Respondent, unless the LEO allows a family member of the Respondent to accompany the Respondent in lieu of an attendant of the same sex as the Respondent.

6.3 **Use of Force to Restrain by LEO.** In taking custody and providing transportation as required, GPD LEOs and PCSO LEOs may use reasonable force to restrain the Respondent if it appears necessary to protect the LEO, the Respondent, or others. Any use of restraints shall be as reasonably determined by the LEO to be necessary under the circumstances for the safety of the Respondent, the LEO, and other persons. Every effort to avoid restraint of a child under the age of 10 shall be made by the transporting LEO unless the child's behavior or other circumstances dictate that restraint is necessary.

6.4 **LEO Response to Facility Inquiries.** The LEO shall respond to all inquiries from the facility concerning the Respondent's behavior and the use of any restraints related to the custody and transportation of the Respondent, except in circumstances where providing that information is confidential or would otherwise compromise a law enforcement investigation.

ARTICLE VII
CRIMINAL OR CIVIL LIABILITY

7.0 No GPD LEO, PCSO LEO, or other person designated or required to provide custody or transport of a Respondent under N.C.G.S. § 122C-251 may be held criminally or civilly liable for assault, false imprisonment, or other torts or crimes on account of reasonable measures taken under the authority of Chapter 122C, Article 5 of the North Carolina General Statutes.

7.1 Additionally, in accordance with N.C.G.S. § 122C-210.1, no facility, person, or entity, including an area facility, a facility licensed under Chapter 122C of the North Carolina General Statutes, an acute care hospital, a general hospital (including but not limited to Vidant Medical Center), an area authority (Trillium), an LEO (including GPD LEOs and PCSO LEOs), an LME, or an LME/MCO (Trillium), or any of their officials, staff, or employees, or any other physician or individual who is responsible for the custody, transportation, examination, admission, management, supervision, treatment, or release of a Respondent or client and who is not grossly negligent, is civilly or criminally liable, personally or otherwise, for that person's or entity's actions or omissions arising from the responsibilities of Chapter 122C of the North Carolina General Statutes or for the actions or omissions of a Respondent or client. This immunity is in addition to any other legal immunity from liability to which these persons, entities, facilities, agencies, or individuals may be entitled and applies to actions performed in connection with, or arising out of, the custody, transportation, examination, commitment, admission, management, supervision, treatment, or release of any individual pursuant to or under the authority of Chapter 122C, Article 5 of the North Carolina General Statutes or otherwise.

ARTICLE VIII
OTHER AUTHORIZED TRANSPORT

8.0 The Parties understand that pursuant to N.C.G.S. § 122C-251(f), a clerk, a magistrate, or a district court judge, where applicable, may authorize the family or immediate friends of the Respondent, if they so request, to transport the Respondent in accordance with the procedures of Chapter 122C, Article 5 of the North Carolina General Statutes. This authorization shall only be granted in cases where the danger to the public, the family, or friends of the Respondent, or the Respondent himself or herself is not substantial. The family or immediate friends of the Respondent shall bear the costs of providing this transportation.

ARTICLE IX
COST AND EXPENSES OF CUSTODY AND TRANSPORTATION

9.0 The cost and expenses of custody and transportation of a Respondent as required by the IVC procedures of Chapter 122C, Article 5, to the extent they are not reimbursed by a third-party insurer, are the responsibility of the county of residence of the Respondent, to the extent they are not reimbursed by a third-party insurer. The State (when providing transportation under N.C.G.S. § 122C-408(b)), a city, or a county is entitled to recover the reasonable cost of transportation from the county of residence of the Respondent. The county of residence of the Respondent shall reimburse the State, another county, or a city the reasonable transportation costs incurred as authorized by N.C.G.S. § 122C-251(h). The county of residence of the Respondent is

entitled to recover the reasonable cost of transportation it has paid to the State, a city, or a county. Provided that the county of residence provides the Respondent or other individual liable for the Respondent's support a reasonable notice and opportunity to object to the reimbursement, the county of residence of the Respondent may recover that cost from:

- A. The Respondent, if the Respondent is not indigent;
- B. Any person or entity that is legally liable for the resident's support and maintenance provided there is sufficient property to pay the cost;
- C. Any person or entity that is contractually responsible for the cost; or
- D. Any person or entity that otherwise is liable under federal, State, or local law for the cost.

ARTICLE X **TRAINING**

10.0 GPD LEOs and PCSO LEOs may, from time to time, in their convenience, participate in Crisis Intervention Training (CIT), as offered by Trillium as set forth in N.C.G.S. § 122C-202.2(a)(3).

ARTICLE XI **OTHER**

11.0 **Mutual Assistance.** Nothing herein shall change either Party's agreement to provide mutual assistance when necessary and upon request for any matter involving crime control and public safety.

11.1 **Termination of Agreement.** This Agreement may be terminated by any Party with or without cause (for convenience) upon sixty (60) days' written notice to the other Parties as provided in Section 11.2 herein. Termination of this Agreement may only be accomplished as provided herein. Regardless of any termination of this Agreement, the parties understand that the provisions of Chapter 122C control as to any respective statutory obligation.

11.2 **Notices.** Any notice or other communication provided for herein or given hereunder to a Party should be in writing, and should be sent by either or a combination of the following: (a) facsimile transmission, (b) electronic mail, (c) hand-delivery, (d) first class registered or certified mail, postage prepaid, or (e) Federal Express or other overnight courier of national reputation, in each case addressed to the address(es) noted on each Party's signature page hereto or to such other address with respect to a Party as such Party notifies the other Parties in writing provided herein and to the designated contact noted on each Party's signature page.

11.3 **Recitals Incorporated.** The recitals hereto are incorporated herein by reference and constitute an integral part hereof.

11.4 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

11.5 **Amendment or Modification.** This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by all Parties. If the City or County modifies this Agreement, the City and County will submit the modified agreement to the Pitt County Magistrate’s Office, the Pitt County Clerk of Superior Court’s Office, Trillium, and the NCDHHS, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services at least 10 days prior to the effective date of the new Agreement.

11.6 **Required Distribution of Agreement.** In accordance with N.C.G.S. § 122C-251(g)(3), this Agreement shall be submitted by the Parties to the Pitt County Magistrate’s Office, the Pitt County Clerk of Superior Court’s Office, to Trillium, and to the NCDHHS, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

11.7 **Inclusion of Agreement in Pitt County Local Area Crisis Services Plan and the Trillium Community Crisis Services Plan.** Pursuant to N.C.G.S. § 122C-202.2, the Pitt County Local Area Crisis Services Plan shall incorporate this Agreement, which therefore will be thereafter incorporated into the Trillium Community Crisis Services Plan.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

[THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

[THE SIGNATURE PAGES FOLLOW]

CITY OF GREENVILLE

GREENVILLE POLICE DEPARTMENT

By: _____
Name: P. J. Connelly
Title: Mayor

By: _____
Name: Mark R. Holtzman
Title: Chief of Police

Address for Notice:
City of Greenville
c/o Greenville Police Department
Attn: Chief of Police
Post Office Box 7207
Greenville, North Carolina 27835-7207
Fax: (252) 329-4792
Email: mholtzman@greenvillenc.gov

With a copy to (which shall not constitute notice):
City of Greenville
Attn: City Attorney
Post Office Box 7207
Greenville, North Carolina 27835-7207
Fax: (252) 329-4626
Email: emcgirt@greenvillenc.gov

Designated Contact:
Print Name: _____
Email: _____
Telephone: _____

APPROVED AS TO FORM:

BY: _____
Emanuel D. McGirt, City Attorney

CITY OF GREENVILLE: PRE-AUDIT CERTIFICATION:

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

Byron Hayes, Director of Financial Services

Date: _____

Account Number _____

Project Code (if applicable) _____

**PITT COUNTY
BOARD OF COMMISSIONERS**

OFFICE OF THE PITT COUNTY SHERIFF

By: _____
Name: Beth B. Ward
Title: Chairman

By: _____
Name: Paula S. Dance
Title: Sheriff of Pitt County

Address for Notice:

Office of the Pitt County Sheriff
Attn: Sheriff
Pitt County Courthouse
100 West 3rd Street
Greenville, North Carolina 27834
Fax: (252) 830-4166
Email: pdance@pittcountync.gov

With a copy to (which shall not constitute notice):

The County of Pitt, North Carolina
Attn: County Attorney
Pitt County Office Building
1717 West 5th Street
Greenville, North Carolina 27834
Fax: (252) 902-1872
Email: janis.gallagher@pittcountync.gov

The County of Pitt, North Carolina
Attn: County Manager
Pitt County Office Building
1717 West 5th Street
Greenville, North Carolina 27834
Fax: (252) 830-6311
Email: scott.elliott@pittcountync.gov

Designated Contact:

Print Name: _____
Email: _____
Telephone: _____

The undersigned certifies that this instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

By: _____
Name: _____
Title: _____
Date: _____

Agreement Participants

Pursuant to N.C.G.S. § 122C-251(g)(1), the following area authority and law enforcement and other affected agencies, including local acute care hospitals and other mental health providers participated in developing this Agreement.

No.	Name	Title	Agency Represented
1.	Donald K. Phillips	Assistant City Attorney	City of Greenville (Greenville Police Department)
2.	Mark R. Holtzman	Chief of Police	City of Greenville (Greenville Police Department)
3.	K. Jordan Smith	Assistant County Attorney	Pitt County (Pitt County Sheriff's Office)
4.	Paula S. Dance	Sheriff of Pitt County	Office of the Pitt County Sheriff
5.	Li-Ling W. Wilford	Associate General Counsel	Vidant Health
6.	Dave Peterson, MA	Central Regional Director	Trillium Health Resources

1115835



City of Greenville, North Carolina

Meeting Date: 10/21/2019
Time: 6:00 PM

Title of Item: New Position Requests for Engineering Department

Explanation: **Abstract:** In an effort to meet the priorities and initiatives set by City Council, the City Manager's Office has created an Engineering Department. To maximize the effectiveness of the new organizational structure, the City Manager's Office and the Engineering Department are proposing to create two additional positions.

Explanation: In an effort to meet the priorities and initiatives set by City Council, the City Manager's Office has created an Engineering Department. The Engineering Department will manage:

- Traffic Services
- Transportation Planning (MPO)
- Land Development
- Stormwater Management
- Capital Projects
- Asset Management.

An organizational chart for the Engineering Department is attached.

This departmental restructuring has resulted in a request for two additional positions. The two positions proposed are as follows:

New Position Title	Pay Grade
Civil Engineer I	116
Staff Support Specialist I	105

The Civil Engineer I will be assigned to the Land Development Division. Primary responsibilities include review of Erosion Control Plans, Stormwater Management Plans, Floodplain Management Plans, Site Plans, Construction Plans and Plats. The Staff Support Specialist I will assist with general office duties such as scanning, filing

and answering the main phone number for Engineering. In addition, this position will act as a point of contact for the development community with regards to plan submittals.

Fiscal Note:

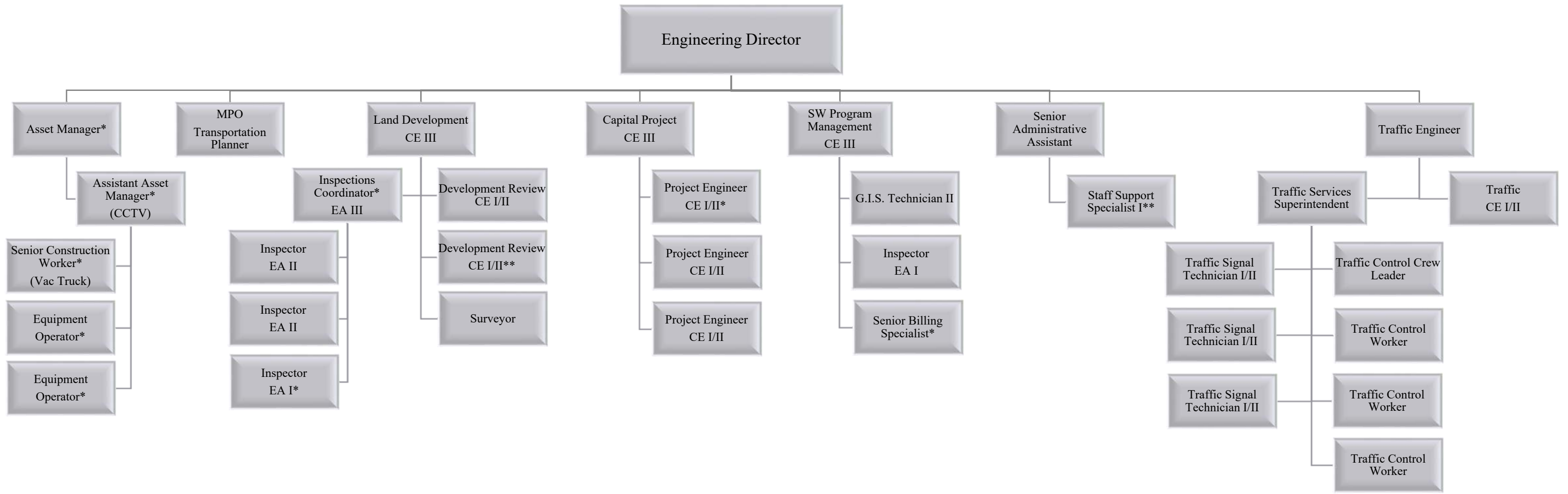
With the creation of the Engineering Department comes various changes to the duties related to various positions that had previously been part of the Public Works Department. As the duties change, so to does the funding sources of the positions. Therefore, various reallocations have been made to the funding sources of positions located within the Engineering and Public Works departments. The reallocations have been made between the General Fund and the Stormwater Fund. The two new positions being proposed will be part of this reallocation. Overall, the funding levels required by the General Fund will be unchanged after all reallocations have been completed.

Recommendation:

Approve the addition of a Civil Engineer I and Staff Support Specialist I to the newly created Engineering Department.

ATTACHMENTS:

- ▣ **Engineering Department Organization Chart**



* Notes new Stormwater positions approved by City Council
 **Notes new positions requests for reorganization.



City of Greenville, North Carolina

Meeting Date: 10/21/2019
Time: 6:00 PM

Title of Item: Contract award for Task Order 1 (final design) for the Cedar Lane/Greenbriar Drainage Improvement Project

Explanation: **Abstract:** The Cedar Lane/Greenbriar Drainage Improvement Project consists of three separate stormwater projects from the Greens Mill Run Watershed Master Plan. Hydraulic models indicate the majority of the Cedar Lane and Greenbriar systems operate below a 10-year level of service. The proposed Cedar Lane stream stabilization project has extensive bank erosion and has received requests for assistance from property owners. The Engineering Department is requesting City Council approve the fee for Task Order #1 and award a professional services contract to Hazen and Sawyer, D.P.C. in the amount of \$426,080.00 for the final design of the Cedar Lane/Greenbriar Drainage Improvement Project.

Explanation: The Cedar Lane/Greenbriar Drainage Improvement Project consists of three separate stormwater projects from the Greens Mill Run Watershed Master Plan. The Cedar Lane system is located along Cedar Lane between Jaycee Park and Tryon Drive. This system drains runoff along Cedar Lane, with deficiencies noted in the area of the Cedar Lane/Wright Road intersection, as well as the entrance to Eastern Elementary School and Jaycee Park. Hydraulic models indicate the majority of the system operates below a 10-year level of service which is consistent with the reports of roadway flooding by citizens and City staff. Portions of the drainage system are currently failing and have been repaired numerous times by Public Works. Due to the failing condition of the existing system and criticality of access to the school and park, this is a priority project.

The proposed Cedar Lane stream stabilization project is located along a confined section of Reedy Branch that runs parallel to East Wright Road at the southwestern corner of Jaycee Park. This site has extensive bank erosion and has received requests for assistance from property owners.

The Greenbriar Drive system includes both open channel and closed pipe systems draining approximately 186 acres from Hooker Road, Fairlane Road, and Greenville Boulevard. The main 60" RCP trunkline between Fairlane Road and Greenbriar

Drive was shown to be undersized and the double 42" RCP under Fairlane Road near Club Road also did not meet the required 10-year level of service. In addition, the open channel that runs parallel to Club Road is incised with erosion problems along the entire reach endangering the roadway.

The Public Works Department solicited Requests for Qualifications (RFQ) in August 2019 from qualified engineering firms interested in providing professional services for the final design and construction administration for the Cedar Lane/Greenbriar Drainage Improvement Project. Eight (8) engineering firms/teams submitted proposals. The team led by Hazen and Sawyer, D.P.C. out of Raleigh, NC, was selected. The Cedar Lane/Greenbriar Drainage Improvement Project professional services contract will have two phases (or task orders). The task orders are as follows:

- Task Order #1 – Final Design Task Order #2 – Construction Administration
- Task Order #2 will be negotiated upon the completion of Task Order #1.

Task Order #1 for final design will involve surveying, updating the Watershed Master Plan drainage analysis, providing a recommendation for rehabilitation and/or replacement improvements, developing and preparing the necessary construction documents, obtaining all applicable permitting, and supporting the City through the bidding, selection, and award process. Attached is the fee proposal and the recommended scope of service for Task Order #1.

The second task order is to provide construction administration services through final completion of the Cedar Lane/Greenbriar Drainage Improvement Project. This will be scoped and negotiated upon completion of Task Order #1.

Fiscal Note: Design and construction administration services (Task Orders 1 and 2) will be funded by the Stormwater Utility Fund.

Recommendation: City Council approve the fee for Task Order #1 and award a professional services contract to Hazen and Sawyer, D.P.C. in the amount of \$426,080.00 for the design of the Cedar Lane/Greenbriar Drainage Improvement Project.

ATTACHMENTS:

- ▣ **Contract**

**Engineers Joint Documents Committee
Design and Construction Related Documents
Instructions and License Agreement**

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2. Similarly, your software may change the font specification if the font is not available in your system. It will choose a font that is close in appearance. In this event, the pagination may not match the control set.
3. If you modify the document, you must follow the instructions in the License Agreement about notification.
4. Also note the instruction in the License Agreement about the EJCDC copyright.

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The license is effective until terminated. You may terminate it at any time by destroying **EJCDC Design and Construction Related Documents** altogether with all copies, modifications and merged portions in any form. It will also terminate upon conditions set forth elsewhere in this Agreement or if you fail to comply with any term or condition of this Agreement. You agree upon such termination to destroy **EJCDC Design and Construction Related Documents** along with all copies, modifications and merged portions in any form.

Limited Warranty:

EJCDC warrants the CDs and diskettes on which **EJCDC Design and Construction Related Documents** is furnished to be free from defects in materials and workmanship under normal use for a period of ninety

(90) days from the date of delivery to you as evidenced by a copy of your receipt.

There is no other warranty of any kind, either expressed or implied, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose. Some states do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. This warranty gives you specific legal rights and you may also have other rights which vary from state to state.

EJCDC does not warrant that the functions contained in **EJCDC Design and Construction Related Documents** will meet your requirements or that the operation of **EJCDC Design and Construction Related Documents** will be uninterrupted or error free.

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1. the replacement of any document not meeting EJCDC's "Limited Warranty" which is returned to EJCDC's selling agent with a copy of your receipt, or
2. if EJCDC's selling agent is unable to deliver a replacement CD or diskette which is free of defects in materials and workmanship, you may terminate this Agreement by returning EJCDC Document and your money will be refunded.

In no event will EJCDC be liable to you for any damages, including any lost profits, lost savings or other incidental or consequential damages arising out of the use or inability to use **EJCDC Design and Construction Related Documents** even if EJCDC has been advised of the possibility of such damages, or for any claim by any other party.

Some states do not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to you.

General:

You may not sublicense, assign, or transfer this license except as expressly provided in this Agreement. Any attempt otherwise to sublicense, assign, or transfer any of the rights, duties, or obligations hereunder is void.

This Agreement shall be governed by the laws of the State of Virginia. Should you have any questions concerning this Agreement, you may contact EJCDC by writing to:

Arthur Schwartz, Esq.
General Counsel
National Society of Professional Engineers
1420 King Street
Alexandria, VA 22314

Phone: (703) 684-2845
Fax: (703) 836-4875
e-mail: aschwartz@nspe.org

You acknowledge that you have read this agreement, understand it and agree to be bound by its terms and conditions. You further agree that it is the complete and exclusive statement of the agreement between us which supersedes any proposal or prior agreement, oral or written, and any other communications between us relating to the subject matter of this agreement.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Laws and Regulations.

AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE



ENGINEERS JOINT CONTRACT
DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (EJCDC C-700, 2007 Edition). Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC User's Guide to the Owner-Engineer Agreement, EJCDC E-001, 2009 Edition.

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1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

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2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
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ENGINEERS JOINT CONTRACT
DOCUMENTS COMMITTEE

**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of Oct. 30 , 2019 ("Effective Date") between
City of Greenville ("Owner") and
Hazen and Sawyer, D.P.C. ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Cedar Lane Drainage Improvements, Cedar Lane Streambank Stabilization, and Greenbriar Drive
Drainage Improvements and Stream Relocation ("Project").

Engineer's services under this Agreement are generally identified as follows:
See Exhibit A

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Exhibit C.
- C. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to

Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

- A. Engineer is authorized to begin rendering services as of the Effective Date.

3.02 Time for Completion

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 Invoices

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 Payments

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:

amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and

Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

- C. *Disputed Invoices:* If Owner contests an invoice, Owner shall promptly advise Engineer of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.
- D. *Legislative Actions:* ~~If after the Effective Date any governmental entity takes a legislative action that imposes taxes, fees, or charges on Engineer's services or compensation under this Agreement, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse Engineer for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.~~

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, Owner must employ an independent cost estimator as provided in Exhibit B.

5.02 *Designing to Construction Cost Limit*

- A. ~~If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F, "Construction Cost Limit," to this Agreement.~~

5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same

- time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
 - C. *Consultants:* Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
 - D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
 - E. *Compliance with Laws and Regulations, and Policies and Procedures:*
 - 1. Engineer and Owner shall comply with applicable Laws and regulations.
 - 2. Prior to the Effective Date, Owner provided to Engineer in writing any and all policies and procedures of Owner applicable to Engineer's performance of services under this Agreement. provided to Engineer in writing. Engineer shall comply with such policies and procedures, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.
 - F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.
 - G. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (EJCDC C-700, 2007 Edition) unless both parties mutually agree to use other general conditions by specific reference in Exhibit J.
 - H. Engineer shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any

failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.

- I. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- J. Engineer shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- K. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.
- L. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, Paragraph A1.05. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction and Owner assumes all responsibility for the application and interpretation of the Contract Documents, review and response to Contractor claims, contract administration, processing Change Orders, revisions to the Contract Documents during construction, construction surety bonding and insurance requirements, construction observation and review, review of payment applications, and all other necessary Construction Phase engineering and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase engineering or professional services except for those services that are expressly required of Engineer in Exhibit A, Paragraph A1.05.

6.03 *Use of Documents*

- A. All Documents are instruments of service in respect to this Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.
- B. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between

the electronic files and the hard copies, the hard copies govern. If the parties agree to other electronic transmittal procedures, such are set forth in Exhibit J.

- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the Documents and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.
- F. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
- B. ~~Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies and as loss payees on any property insurance policies carried by Owner which are applicable to the Project.~~
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (other than to the Work itself), motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in

the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.

- D. ~~Owner and~~ Engineer shall ~~each deliver to the other~~ certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and its Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds, additional insureds, or loss payees thereunder.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to Owner and Engineer and to each other additional insured (if any) to which a certificate of insurance has been issued.
- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 *Suspension and Termination*

A. *Suspension:*

By Owner: Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.

By Engineer: Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Engineer's performance has been substantially delayed through no fault of Engineer.

B. *Termination:* The obligation to provide further services under this Agreement may be terminated:

1. For cause,

By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

By Engineer:

upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.

Engineer shall have no liability to Owner on account of such termination.

Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

For convenience,

By Owner effective upon Engineer's receipt of notice from Owner.

- C. *Effective Date of Termination:* The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- D. *Payments Upon Termination:*
1. In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.E.
 2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.06 *Controlling Law*

- A. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located.

6.07 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:

Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.

All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

6.08 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to ~~invoking the procedures of Exhibit H or other provisions of this Agreement,~~ or exercising their rights under law.
- B. ~~If the parties fail to resolve a dispute through negotiation under Paragraph 6.08.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights under law.~~

6.09 *Environmental Condition of Site*

- A. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
- B. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.

- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner" "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from reasonable claims, costs, losses, and damages arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. ~~This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."~~
- B. ~~*Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations and to the extent (if any) required in Exhibit I, Limitations of Liability.~~
- C. *Environmental Indemnification:* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

- D. ~~*Percentage Share of Negligence:* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.~~
- E. *Mutual Waiver:* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

6.11 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims:* To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:

Additional Services – The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.

Agreement – This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.

Asbestos – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

Basic Services – The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.

Construction Contract – The entire and integrated written agreement between Owner and Contractor concerning the Work.

Construction Cost – The cost to Owner of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner's costs for legal, accounting, insurance counseling or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

Constituent of Concern – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

Consultants – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.

Contract Documents – Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

Contractor – The entity or individual with which Owner has entered into a Construction Contract.

Documents – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.

Drawings – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

Effective Date – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.

Engineer – The individual or entity named as such in this Agreement.

Hazardous Waste – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

Laws and Regulations; Laws or Regulations – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

Owner – The individual or entity with which Engineer has entered into this Agreement and for which the Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.

PCBs – Polychlorinated biphenyls.

Petroleum – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-hazardous waste and crude oils.

Project – The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

Radioactive Material – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

Record Drawings – Drawings depicting the completed Project, prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, addenda, change orders, work change directives, field orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.

Reimbursable Expenses – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.

Resident Project Representative – The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.

Samples – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

Shop Drawings – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

Site – Lands or areas to be indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

Specifications – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

Subcontractor – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

Substantial Completion – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.

Supplier – A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.

Total Project Costs – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.

Work – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits Included:

- A. Exhibit A, Engineer’s Services.

- B. Exhibit B, Owner's Responsibilities.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative. – Not Applicable
- E. Exhibit E, Notice of Acceptability of Work. – Not Applicable
- F. Exhibit F, Construction Cost Limit.
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution. – Not Included
- I. Exhibit I, Limitations of Liability. – Not Included
- J. Exhibit J, Special Provisions. – Not Included
- K. Exhibit K, Amendment to Owner-Engineer Agreement.

[NOTE TO USER: If an exhibit is not included, indicate "not included" after the listed exhibit item]

8.02 *Total Agreement:*

- A. This Agreement, (together with the exhibits identified above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives:*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of the respective party whom the individual represents.

8.04 *Engineer's Certifications:*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:

"corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;

"fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;

"coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner:
City of Greenville

Engineer:
Hazen and Sawyer, P.C.

By: P. J. Connelly

By: Ronald L. Taylor, P.E.

Title: Mayor

Title: Sr. Vice President

Date:

Date: 10/14/19

Signed:

Signed: 

Engineer License or Firm's
Certificate No. C-0381

State of: North Carolina

Address for giving notices:

Address for giving notices:

Engineering Department

4011 Westchase Boulevard

1500 Beatty Street / PO Box 7207

Suite 500

Greenville, NC 27834

Raleigh, NC 27607

Designated Representative (Paragraph 8.03.A):

Designated Representative (Paragraph 8.03.A):

Lisa Kirby

J. Travis Crissman, P.E.

Title: Director of Engineering

Title: Project Manager

Phone Number: 252-329-4683

Phone Number: 919-863-9262

Facsimile Number: 252-329-3545

Facsimile Number: 919-833-1828

E-Mail Address: lkirby@
greenvillenc.gov

E-Mail Address: tcrissman@hazenandsawyer.c
om

This is **EXHIBIT A**, consisting of 17 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 2019.

Engineer's Services

Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

The following sections describe three (3) distinct Scopes of Services. Some fees are spread across the three; if any individual projects are reduced or eliminated, reallocation of some funds may be required.

Scope of Services 1: Cedar Lane Drainage Improvements

The City of Greenville desires to replace and upgrade the stormdrainage system within Cedar Lane, as shown on **Exhibit 1**. Approximately 1,300 linear feet of drainage system is planned for replacement. The City has directed Hazen to replace the entire drainage system due to issues related to conveyance capacity and system age/condition. The following Scope of Services describes project tasks:

Task 1. Field Survey and Subsurface Utility Engineering

Within the Project Area (see **Exhibit 1**), Hazen will obtain topographic (1-foot resolution) and feature survey, including trees >6" diameter, surface accessible utilities (as field located or marked out by NC811) and location information for drainage infrastructure. Data will include horizontal and vertical location attributes, with size and material of drainage and utility infrastructure identified where possible. Hazen will obtain property line information of sufficient accuracy to support recordation of easements (creation of easement exhibits, plats, documents, and legal descriptions is excluded from this Scope of Services).

Survey data will be referenced to the North Carolina State Plane Coordinate System (NAD83) for horizontal control and the North American Vertical Datum of 1988 (NAVD88) for vertical control. For surveying on private property, Hazen will notify citizens of surveying activities, assuming that notification is sufficient to gain right of entry.

SUE services will consist of "Quality Level A" (vacuum excavations) services for up to three (3) locations within the Project Area (we anticipate one (2) gas, and two (2) waterline). Subsurface utilities in the remainder of the Project Area will be located to "Quality Level C" (GIS and horizontal utility location services such as NC811).

Task 2. Geotechnical Investigations

Hazen will obtain geotechnical boring data at one (1) location adjacent to the improvements area to classify local soil material, determine groundwater elevation, and determine presence of bedrock. The boring depth shall be to auger refusal, or 10-foot depth. The proposed boring is located on school property, therefore Hazen will notify citizens of drilling activities, assuming that notification is sufficient to gain right of entry.

Task 3. Hydrologic and Hydraulic Analysis

Previous hydrologic and hydraulic analyses were conducted using EPA-SWMM software. EPA-SWMM hydrologic computational methods differ from the two approaches required in the City's design guidance: Rational Method and NRCS Part 630 (TR-55). Because of the relatively small drainage areas (generally less than 2 acres) and the fully closed nature of the drainage system, we recommend conversion of the EPA-SWMM model to Stormwater Studio, a software package which uses Rational Method and energy balance principles for hydrologic and hydraulic computations, respectively. This will simplify modeling and is appropriate because of drainage area sizes and the minimal attenuation within the system. Stormwater Studio analyzes pipe system hydraulics and inlet surface hydraulics (complete with intercept, bypass, and spread computations). Hazen will analyze spread at each existing inlet; efforts to meet the City's spread standard will include additional inlets within the limits of the Project Area. Computational steps are summarized as follows:

1. Convert SWMM model to Stormwater Studio model through automated export/import processes.
2. Verify transfer of data and update system dimensional data as necessary to match field conditions.
3. Consolidate drainage areas as appropriate.
4. Input Rational Method hydrologic parameters, including rainfall depths/intensities consistent with City Standard Detail 682.01 and the Greens Mill Run (GMR) Watershed Master Plan (WSMP). Time of concentrations for small watersheds (generally less than 2 acres) will be assumed to be the Rational Method minimum of 5-minutes.
5. Compare computed flows to flows from GMR WSMP.
6. Determine the level of service (LOS) of the existing drainage system and where City LOS requirements are not met. System boundary conditions will be based on either the capacity of the receiving stream or the inlet-controlled headwater on the downstream pipe system entrance at Jefferson Drive.
7. Design improvements to address LOS deficiencies to the maximum extent possible, with City approval for any LOS below published City standards.

A brief (approximately 10-15 pages) will be provided documenting computational methods and results.

Task 4. Utility Coordination and Design

As discussed below and shown on **Exhibit 1**, water and sewer utilities are within the Project Area. Gas, electric, and miscellaneous communication lines are also within the Project Area. Per **Task 1**, vacuum excavation location is proposed to identify potential impacts and possible stormdrainage design adjustments.

The following Greenville Utilities Commission (GUC) utilities exist within the Cedar Lane right of way:

- 6-inch asbestos cement (AC) waterline
- 10-inch vitrified clay (VC) sanitary sewer
- 2-inch polyethylene (PE) gas
- Electric

GUC desires to replace the 6-inch AC waterline with 6-inch ductile iron (DI). This Scope of Services includes removal of approximately 900 linear feet of 6-inch AC waterline and replacement with 6-inch DI waterline. The design assumes the existing AC waterline will be removed and the DI waterline installed at approximately the same location. Existing water services will then be tied into the new DI waterline. Waterline profile will be shown on the same profile view as stormdrain improvements.

Sanitary sewer appears to be on the opposite side of the road from drainage pipe replacement, with the exception of four (4) crossing locations. It is assumed that the existing VC sanitary sewer will not require vertical or horizontal realignment. If modification is required at a crossing due to inadequate horizontal or vertical clearance, a 20-foot section of sanitary sewer will be replaced with ductile iron, using couplings on each end to join VC and DI.

Hazen will conduct one (1) utility coordination meeting (to be scheduled and coordinated by City of Greenville staff, Hazen to lead project discussion) to discuss the proposed improvements with utility owners and related impacts.

Assumption: No water or sewer permits will be required since no changes in system demands are associated with the project.

Task 5. Design Documents

Final design documents will consist of construction drawings and specifications suitable for use by construction contractors to develop construction bids. As construction drawings are developed, digital PDF review sets will be delivered to the City of Greenville at the following percent complete milestones: 30%, 65%, and 90%. The final review milestone proposed is at 90%, after which City comments will be addressed and 100% complete construction drawings will be provided to the City for use in bidding the project.

NCDOT Standard Specifications and Provisions will be used where applicable and will serve as the overall technical specifications. Hazen will provide technical Project Special Provisions (PSP) for design items not included within the NCDOT standard specifications (up to 10 PSPs).

Construction detail drawings will be based on City of Greenville, GUC, and NCDOT standard detail drawings. Hazen will provide customized details as required by the design subject to the limitations discussed within this Scope of Services. Custom endwall design is not anticipated and is therefore excluded.

Deliverables for each of the above-mentioned milestones are outlined below:

5.1 30% Complete Milestone

- Drawings consisting of (number of anticipated sheets in parenthesis):
 - Cover (1)
 - General Notes (1)
 - Existing Conditions/Demolition Plan (1)
 - Drainage and Utility Improvements Plan and Profile (2)
- Preliminary cost opinion
- List of anticipated permits

5.2 65% Complete Milestone

- Drawings consisting of (number of anticipated sheets in parenthesis):
 - Sheets as described in **Task 5.1**.
 - Traffic Control Plan(s) (2)
 - Erosion Control Plan(s) (1)

- Standard Details (3)
- Detail sheets based on City of Greenville, GUC, and NCDOT Standard Details where applicable
- Draft hydrologic and hydraulic narrative report
- Draft Project Special Provisions
- Preliminary construction cost opinion including quantities, unit prices, and contingency
- List of required permits; permit application process to begin following milestone review by City of Greenville (application packages available for City staff review prior to sending by request) and GUC.

5.3 90% Complete Milestone

- Drawings consisting of (number of anticipated sheets in parenthesis):
 - Sheets as described in **Task 5.2**.
 - Custom Details (1)
- Draft hydrologic and hydraulic narrative report
- Project Special Provisions
- Updated construction cost opinion
- List of required permits and permit status

5.4 100% Complete Milestone (Bid Set)

- Fully developed drawings, including all plan, profile, and detail drawings
- Hydrologic and hydraulic narrative report
- Final Project Special Provisions and bid form
- Final construction cost opinion
- Status report on permits

Task 6. Permitting

Several permits must be considered for this type of project. Final determination of permitting requirements and application preparation will begin following the 65% milestone submittal. Anticipated applicable permits which are included are discussed below:

State Erosion and Sedimentation Control: Since this is a City of Greenville project, the land disturbing permit will be obtained from the Division of Energy, Mineral, and Land Resources (DEMLR) of NCDEQ. DEMLR's disturbance limit is one (1) acre. Based on currently anticipated improvements, this project is expected to exceed the one (1) acre limit therefore this Scope of Services includes submittal of a land disturbing permit application package to DEMLR. Hazen will also fill in the digital NPDES Notice of Intent (eNOI) and provide to the owner for signature and submittal.

Environmental Permitting: Work at the discharge of the system may require 401/404 permitting under a Nationwide (NW) 3 Permit for maintenance activities. In addition, we will obtain required authorization to work within the stream buffer in compliance with the Tar-Pamlico Buffer rules.

Water and Sanitary Sewer Permits: This Scope of Services excludes completion of the water distribution or sanitary sewer collection permit application package for GUC because no changes in demand are anticipated in association with the project.

Task 7. Design Phase Meetings

Hazen and Sawyer staff will be available to meet with City staff over the course of the project as follows:

- One (1) public meeting (expected to occur at around 65% design) – Hazen will present project overview and proposed solution. Public notification and coordination with interested parties shall be managed by the City of Greenville. This Scope of Services assumes only minor modifications not requiring changes in hydraulic modeling or basic improvements design resulting from the public meeting.
- Three (3) document review meetings following the 30%, 65%, 90% milestone discussed in **Task 5**.

Task 8. Bid Phase Services

After completion of the 100% submittal to the City of Greenville, Hazen will provide bid phase services as follows:

- Distribute Specifications and Construction Drawings to contractors and to plan rooms
- Attend pre-bid meeting
- Respond to contractor questions or RFIs
- Issue addenda if necessary
- Review bids for unbalanced or irregular bid
- Provide bid tabulation and award recommendation letter based on the bid review

Scope of Services 2: Cedar Lane Streambank Stabilization

The City of Greenville desires to repair and stabilize eroding streambanks along an approximately 650-foot segment of Reedy Branch, as shown on **Exhibit 2**. The City has directed Hazen to provide continuous bank stabilization on both sides of the stream. The following Scope of Services describes project tasks.

Task 1. Field Survey

Within the Project Area (see **Exhibit 2**), Hazen will obtain topographic (1-foot resolution) and feature survey, including trees >6" diameter, surface accessible utilities (as field located or marked out by NC811) and location information for drainage infrastructure. The stream will be surveyed at top and bottom of banks, thalweg, and edge of water approximately every 15-20 feet along the stream segment. Data will include horizontal and vertical location attributes, with size and material of drainage and utility infrastructure identified where possible. Hazen will obtain property line information of sufficient accuracy to support recordation of easements (creation of easement exhibits, plats, documents, and legal descriptions is excluded from this Scope of Services).

Survey data will be referenced to the North Carolina State Plane Coordinate System (NAD83) for horizontal control and the North American Vertical Datum of 1988 (NAVD88) for vertical control. For surveying on private property, Hazen will notify citizens of surveying activities, assuming that notification is sufficient to gain right of entry.

Task 2. Geotechnical Investigations

Hazen will obtain geotechnical boring data at one (1) location adjacent to the stream to classify local soil material, determine groundwater elevation, and determine presence of bedrock. The boring depth shall be to auger refusal, or 20-foot depth. The geotechnical report will make recommendations relevant to the bank stabilization design, such as stable sideslopes and suitability of soils for use as backfill as needed. The proposed boring is located on public park property, therefore Hazen assumes no special permission is required for testing activities. For geotechnical investigations on private property, Hazen will notify citizens of drilling activities, assuming that notification is sufficient to gain right of entry.

Task 3. Site Assessment

Hazen's fluvial geomorphologic field staff will visit the site to augment previously collected geomorphic information at the eroded area and collect new data along the extended stream segment. The stream's current dimensional characteristics will be compared to the previously collected geofluvial cross-section. Previously installed bank pins will be examined to gauge erosion rates and evaluate mitigation methods, allowing for more effective quantification of severity of erosion (and sediment load reduction as a positive outcome due to the completion of this project).

Measurements will be collected at the most stable riffle within the measured reach and will consist of one cross sectional measurement, one particle count at the riffle and the establishment of the average stream water surface slope along the stream profile. This information will be used to determine channel features, specifically the inner berm elevation (if present) and the bankfull elevation. If field indicators are not present, then the bankfull elevation and area will be estimated utilizing urban regression analysis based on current regional curves.

We anticipate providing City staff with emailed photographs of several types of bank stabilization practices along with pros and cons for each type and our recommended practice(s). With City approval, we will incorporate the preferred practice(s) into the Design Documents.

Task 4. Hydrologic and Hydraulic Analysis

Flows for the 2-, 10- and 100-year event will be based on the Reedy Branch model developed as part of the Greens Mill Run Watershed Master Plan. Hazen will estimate the bankfull and 1-year flow based on either 1) field observations of bankfull elevation or 2) regression analysis based on regional rainfall curves. Bankfull flow will be used in conjunction with the aforementioned storm flow values in determining critical design elevations. Estimates of proposed water surface elevation, stream velocity, and shear stresses will be made using the previously developed HEC-RAS model, modifying or adding sections as necessary to reflect designed channel dimensions.

A brief (approximately 10-15 pages) will be provided documenting computational methods and results.

Task 5. Forested Wetland Discharge Barrel Replacement

The pipe discharging from the existing forested wetland will be replaced as part of the project. A custom endwall design is included (if required). The pipes will be replaced in-kind with the same size and material. Slopes and inverts may be adjusted based on the stream stabilization design. No hydrologic or hydraulic computations will be performed either on the pipes or the forested wetland itself. Likewise, water quality computations associated with the forested wetland facility are excluded. This Scope of Services assumes that embankment material is structurally sound, and that the pipes can be removed and replaced with limited embankment excavation, backfilling, and compaction.

Task 6. Design Documents

Final design documents will consist of construction drawings and specifications suitable for use by construction contractors to develop construction bids. As construction drawings are developed, digital PDF review sets will be delivered to the City of Greenville at the following percent complete milestones: 30%, 65%, and 90%. The final review milestone proposed is at 90%, after which City comments will be addressed and 100% complete construction drawings will be provided to the City for use in bidding the project.

NCDOT Standard Specifications and Provisions will be used where applicable and will serve as the overall technical specifications. Hazen will provide technical Project Special Provisions (PSP) for design items not included within the NCDOT standard specifications (up to 10 PSPs).

Construction detail drawings will be based on City of Greenville, GUC, and NCDOT standard detail drawings. Hazen and Sawyer will provide customized details as required by the design subject to the limitations discussed within this Scope of Services.

Deliverables for each of the above-mentioned milestones are outlined below:

6.1 30% Complete Milestone

- Drawings consisting of (number of anticipated sheets in parenthesis):
 - Cover (1)
 - General Notes (1)
 - Existing Conditions Plan (1)

- Grading Plan (2)
- Stream Profile (2)
- Preliminary cost opinion
- List of anticipated permits

6.2 65% Complete Milestone

- Drawings consisting of (number of anticipated sheets in parenthesis):
 - Sheets as described in **Task 6.1**.
 - Stream Geometry (1)
 - Erosion Control Plan(s) (2)
 - Standard / Erosion Control Details (3)
 - Stream Section (2)
 - Stream Details (3)
- Detail sheets based on City of Greenville, GUC, and NCDOT Standard Details where applicable
- Draft hydrologic and hydraulic narrative report
- Draft Project Special Provisions
- Preliminary construction cost opinion including quantities, unit prices, and contingency
- List of required permits; permit application process to begin following milestone review by City of Greenville (application packages available for City staff review prior to sending by request).

6.3 90% Complete Milestone

- Drawings consisting of (number of anticipated sheets in parenthesis):
 - Sheets as described in **Task 6.2**.
 - Planting Plan (2)
 - Planting Details (1)
 - Custom Details (3)
- Draft hydrologic and hydraulic narrative report
- Project Special Provisions
- Updated construction cost opinion
- List of required permits and permit status

6.4 100% Complete Milestone (Bid Set)

- Fully developed drawings, including all plan, profile, and detail drawings
- Hydrologic and hydraulic narrative report
- Final Project Special Provisions and bid form
- Final construction cost opinion
- Status report on permits

Task 7. Permitting

Several permits must be considered for this type of project. Final determination of permitting requirements and application preparation will begin following the 65% milestone submittal. Anticipated applicable permits which are included are discussed below:

State Erosion and Sedimentation Control: Since this is a City of Greenville project, the land disturbing permit will be obtained from the Division of Energy, Mineral, and Land Resources (DEMLR) of NCDEQ. DEMLR's disturbance limit is one (1) acre. Based on currently anticipated improvements, this project is

expected to exceed the one (1) acre limit therefore this Scope of Services includes submittal of a land disturbing permit application package to DEMLR. Hazen will also fill in the digital NPDES Notice of Intent (eNOI) and provide to the owner for signature and submittal.

Environmental Permitting: 401/404 water quality permitting will be required. Hazen assumes coverage under nationwide permit NW27 (stream relocation/restoration). In addition, we will obtain required authorization to work within the stream buffer in compliance with the Tar-Pamlico Buffer rules.

Floodplain Permitting: Reedy Branch is a FEMA mapped stream (see Map #3720469700K for this location). Work within the floodway and floodplain requires that a hydrologic/hydraulic study be completed to either demonstrate that the project either 1) results in no increase in the flood elevation (known as a “no-rise” certification) or 2) results in acceptable changes in the flood elevation (via FEMA’s certified letter of map revision and letter of map revision, “CLOMR/LOMR” process). Effort will be focused on providing a design which can achieve a no-rise condition, resulting in significant permitting time savings versus a CLOMR/LOMR. This Scope of Services includes a no-rise certification. The CLOMR/LOMR process is excluded.

Task 8. Design Phase Meetings

Hazen and Sawyer staff will be available to meet with City staff over the course of the project as follows:

- One (1) public meeting (expected to occur at around 65% design) – Hazen will present project overview and proposed solution. Public notification and coordination with interested parties shall be managed by the City of Greenville. This Scope of Services assumes only minor modifications not requiring changes in hydraulic modeling or basic improvements design resulting from the public meeting
- Three (3) document review meetings following the 30%, 65%, 90% milestones discussed in **Task 6**

Task 9. Bid Phase Services

After completion of the 100% submittal to the City of Greenville, Hazen will provide bid phase services as follows:

- Distribute Specifications and Construction Drawings to contractors and to plan rooms
- Attend pre-bid meeting
- Respond to contractor questions or RFIs
- Issue addenda if necessary
- Review bids for unbalanced or irregular bid
- Provide bid tabulation and award recommendation letter based on the bid review

Scope of Services 3: Greenbriar Drive Drainage Improvements and Stream Relocation

The City of Greenville desires to upgrade the undersized stormdrainage system along Greenbriar Drive and restore/relocate the stream along Club Road to repair and prevent further damage to roadway pavement due to streambank undermining. **Exhibit 3** shows the Project Area. Approximately 500 linear feet of new drainage system and 320 linear feet of stream relocation is included. The following Scope of Services describes project tasks.

Task 1. Field Survey and Subsurface Utility Engineering

Within the Project Area (see **Exhibit 3**), Hazen will obtain topographic (1-foot resolution) and feature survey, including trees >6" diameter, surface accessible utilities (as field located or marked out by NC811) and location information for drainage infrastructure. The stream will be surveyed at top and bottom of banks, thalweg, and edge of water approximately every 10 feet along the stream segment. Data will include horizontal and vertical location attributes, with size and material of drainage and utility infrastructure identified where possible. Hazen will obtain property line information of sufficient accuracy to support recordation of easements (creation of easement exhibits, plats, documents, and legal descriptions is excluded from this Scope of Services).

Survey data will be referenced to the North Carolina State Plane Coordinate System (NAD83) for horizontal control and the North American Vertical Datum of 1988 (NAVD88) for vertical control. For surveying on private property, Hazen will notify citizens of surveying activities, assuming that notification is sufficient to gain right of entry.

SUE services will consist of "Quality Level A" (vacuum excavations) services for up to two (2) locations within the Project Area (we anticipate one (1) gas, and one (1) waterline). Subsurface utilities in the remainder of the Project Area will be located to "Quality Level C" (GIS and horizontal utility location services such as NC811).

Task 2. Geotechnical Investigations

Hazen will obtain geotechnical boring data at six (6) locations within the project area to classify local soil material, determine groundwater elevation, expected undercut depth, foundation soils bearing capacity, and presence of bedrock. The borings shall be taken with either hand augers or drill, with depth of approximately 10 feet below stream bottom. The geotechnical report will make recommendations relevant to the bank stabilization design, such as stable sideslopes, undercutting, foundation soils bearing capacity, and suitability of soils for use as backfill as needed. For geotechnical investigations on private property, Hazen will notify citizens of drilling activities, assuming that notification is sufficient to gain right of entry.

Task 3. Site Assessment and Stream Concept Preparation

Hazen's fluvial geomorphologic field staff will visit the site to collect geomorphic information along the stream segment. Measurements will allow for estimation of severity of erosion (and sediment load reduction as a positive outcome due to the completion of this project).

Measurements will be collected at the most stable riffle within the measured reach and will consist of one cross sectional measurement, one particle count at the riffle and the establishment of the average stream

water surface slope along the stream profile. This information will be used to determine channel features, specifically the inner berm elevation (if present) and the bankfull elevation. If field indicators are not present, then the bankfull elevation and area will be estimated utilizing urban regression analysis based on current regional curves.

We anticipate evaluating and presenting up to two (2) alternatives for the Club Road stream relocation portion of the project. Alternatives will be presented for the City's consideration and approval prior to moving forward with full design. Alternatives concepts (GIS figures) and conceptual cost opinions will be presented at the "Alternatives Meeting" discussed in **Task 8**. All alternatives will provide an assessment as to the applicability of possible grant opportunities to procure funding.

Task 4. Hydrologic and Hydraulic Analysis

Previous hydrologic and hydraulic analyses were conducted using EPA-SWMM software. EPA-SWMM hydrologic computational methods differ from the two approaches required in the City's design guidance: Rational Method and NRCS Part 630 (TR-55). Because of the system drains around 180 acres, we recommend conversion of the EPA-SWMM model to Autodesk Storm and Sanitary Analysis (SSA), a software package which uses NRCS hydrologic methodology and SWMM hydraulic methodology. Autodesk SSA allows for quantification of differences in watershed peak timing within subwatersheds throughout the overall basin. Our computational steps are summarized as follows:

1. Convert SWMM model to SSA model through automated export/import processes.
2. Verify transfer of data and update system dimensional data as necessary to match field conditions.
3. Consolidate drainage areas as appropriate.
4. Input NRCS hydrologic parameters, including rainfall depths/intensities consistent with City Standard Detail 682.01 and the GMR WSMP. Time of concentrations for small watersheds (generally less than 2 acres) will be assumed to be the NRCS minimum of 6-minutes.
5. Compare computed flows to flows from GMR WSMP.
6. Determine the LOS of the existing drainage system and where City LOS requirements are not met. System boundary conditions will be based on either the capacity of the receiving stream or tailwater conditions in Greens Mill Run (at the peak timing of the Greenbriar system).
7. Design improvements to address LOS deficiencies to the maximum extent possible, with City approval for any LOS below published City standards.

Additional hydrologic and hydraulic computations for the stream adjacent to Club Road may be performed using field observations, regional regression equations, and HEC-RAS (flow values will be obtained from the overall Autodesk SSA model) if stream design complexity requires.

A brief (approximately 10-15 pages) will be provided documenting computational methods and results.

Task 5. Utility Coordination and Design

As discussed below and shown on **Exhibit 3**, water and sewer utilities are within the Project Area. Gas, electric, and miscellaneous communication lines are also within the Project Area. As discussed in **Task 1**, vacuum excavation services are proposed to identify potential impacts and possible stormdrainage design adjustments.

The following Greenville Utilities Commission (GUC) utilities exist within the Greenbriar Drive and Club Road rights of way:

- 6-inch cast iron (CI) waterline
- 10-inch vitrified clay (VC) sanitary sewer (Club Road)
- 8-inch clay sanitary sewer (Greenbriar Drive)
- 2-inch polyethylene (PE) gas
- Electric

Based on GIS data, the CI waterline within Greenbriar Drive will likely be impacted by the drainage project due to its proximity to the proposed drainage pipes. Relocation or support during construction will likely be required.

Sanitary sewer is expected to remain in its current location therefore no design activities are proposed.

This Scope of Services includes replacement of approximately 230 linear feet of 6-inch CI waterline with 6-inch DI waterline. Existing water services will be reconnected to the new DI waterline. Waterline profile may be shown on the same profile view as stormdrain improvements.

Hazen will conduct one (1) utility coordination meeting (to be scheduled and coordinated by City of Greenville staff, Hazen to lead project discussion) to discuss the proposed improvements with utility owners and related impacts.

Assumption: No water or sewer permits will be required since no changes in system demands are associated with the project.

Task 6. Design Documents

Final design documents will consist of construction drawings and specifications suitable for use by construction contractors to develop construction bids. Development of design documents will begin after the preferred alternative has been selected. As construction drawings are developed, digital PDF review sets will be delivered to the City of Greenville at the following percent complete milestones: 30%, 65%, and 90%. The final review milestone proposed is at 90%, after which City comments will be addressed and 100% complete construction drawings will be provided to the City for use in bidding the project.

NCDOT Standard Specifications and Provisions will be used where applicable and will serve as the overall technical specifications. Hazen will provide technical Project Special Provisions (PSP) for design items not included within the NCDOT standard specifications (up to 15 PSPs).

Construction detail drawings will be based on City of Greenville, GUC, and NCDOT standard detail drawings. Hazen and Sawyer will provide customized details as required by the design subject to the limitations discussed within this Scope of Services. Custom endwall design is included for up to three (3) locations.

Deliverables for each of the above-mentioned milestones are outlined below:

6.1 30% Complete Milestone

- Drawings consisting of (number of anticipated sheets in parenthesis):
 - Cover (1)

- General Notes (1)
- Existing Conditions/Demolition Plan (1)
- Drainage and Utility Improvements Plan and Profile (2)
- Club Drive stream relocation grading plan (1)
- Stream Profile (1)
- Preliminary cost opinion
- List of anticipated permits

6.2 65% Complete Milestone

- Drawings consisting of (number of anticipated sheets in parenthesis):
 - Sheets as described in **Task 6.1**.
 - Traffic Control Plan(s) (2)
 - Erosion Control Plan(s) (2)
 - Stream Geometry (1)
 - Stream Section Views (1)
 - Standard / Erosion Control Details (3)
 - Stream Details (3)
- Detail sheets based on City of Greenville, GUC, and NCDOT Standard Details where applicable
- Draft hydrologic and hydraulic narrative report
- Draft Project Special Provisions
- Preliminary construction cost opinion including quantities, unit prices, and contingency
- List of required permits; permit application process to begin following milestone review by City of Greenville (application packages available for City staff review prior to sending by request) and GUC.

6.3 90% Complete Milestone

- Drawings consisting of (number of anticipated sheets in parenthesis):
 - Sheets as described in **Task 6.2**.
 - Planting Plan (1)
 - Planting Details (1)
 - Custom Details (6)
- Draft hydrologic and hydraulic narrative report
- Project Special Provisions
- Updated construction cost opinion
- List of required permits and permit status

6.4 100% Complete Milestone (Bid Set)

- Fully developed drawings, including all plan, profile, and detail drawings
- Hydrologic and hydraulic narrative report
- Final Project Special Provisions and bid form
- Final construction cost opinion
- Status report on permits

Task 7. Permitting

Several permits must be considered for this type of project. Final determination of permitting requirements and application preparation will begin following the 65% milestone submittal. Anticipated applicable permits which are included are discussed below:

State Erosion and Sedimentation Control: Since this is a City of Greenville project, the land disturbing permit will be obtained from the Division of Energy, Mineral, and Land Resources (DEMLR) of NCDEQ. DEMLR's disturbance limit is one (1) acre. Based on currently anticipated improvements, this project is expected to exceed the one (1) acre limit therefore this Scope of Services includes submittal of a land disturbing permit application package to DEMLR. Hazen will also fill in the digital NPDES Notice of Intent (eNOI) and provide to the owner for signature and submittal.

Environmental Permitting: Stabilization at the discharge of the system and stream relocation will likely require 401/404 permitting under a NW3 and NW27, respectively. Applicable permits will be determined by the US Corps of Engineers. In addition, we will obtain required authorization to work within the stream buffer in compliance with the Tar-Pamlico Buffer rules.

Water and Sanitary Sewer Permits: This Scope of Services excludes completion of the water distribution or sanitary sewer collection permit application package for GUC because no changes in demand are anticipated in association with the project.

Task 8. Design Phase Meetings

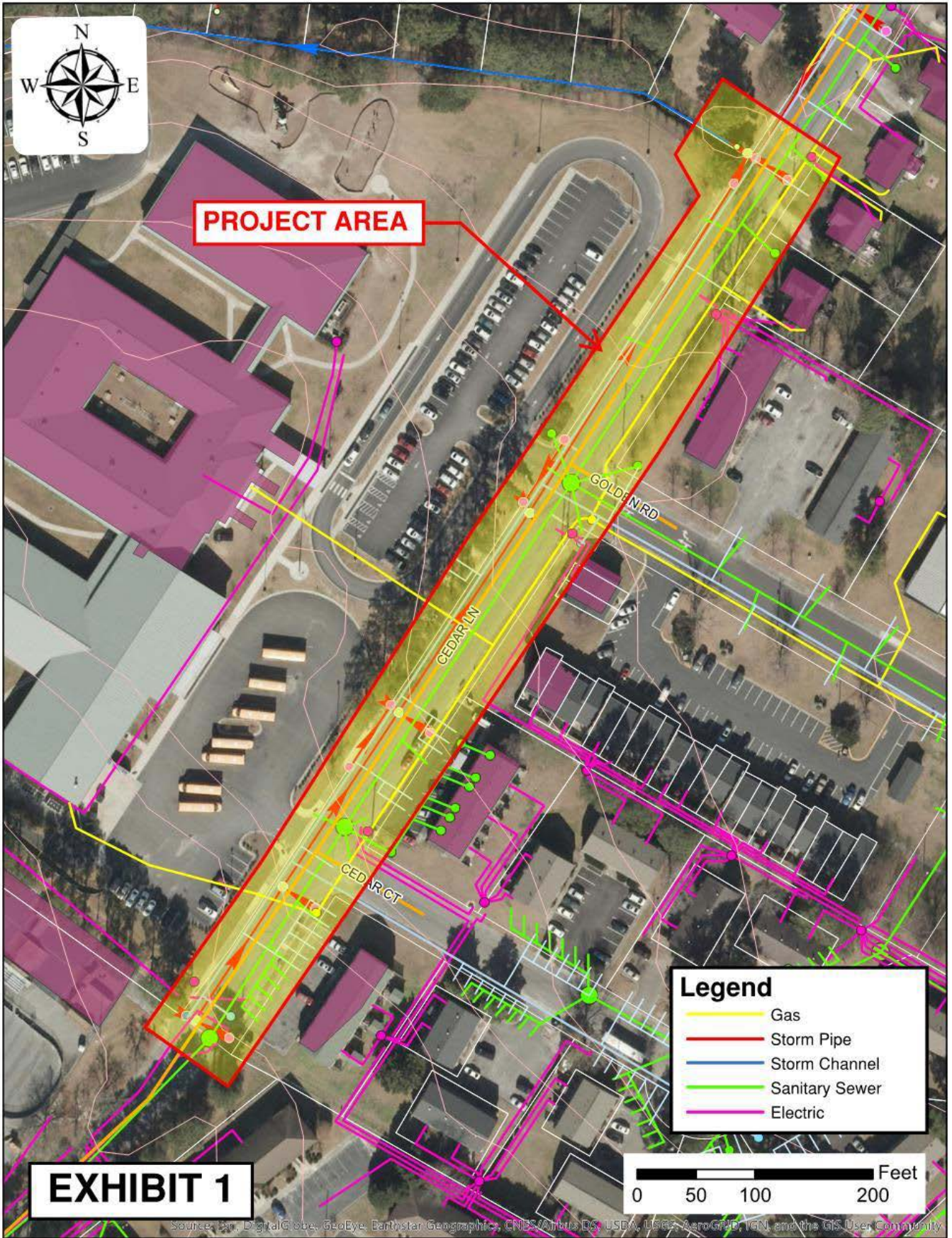
Hazen and Sawyer staff will be available to meet with City staff over the course of the project as follows:

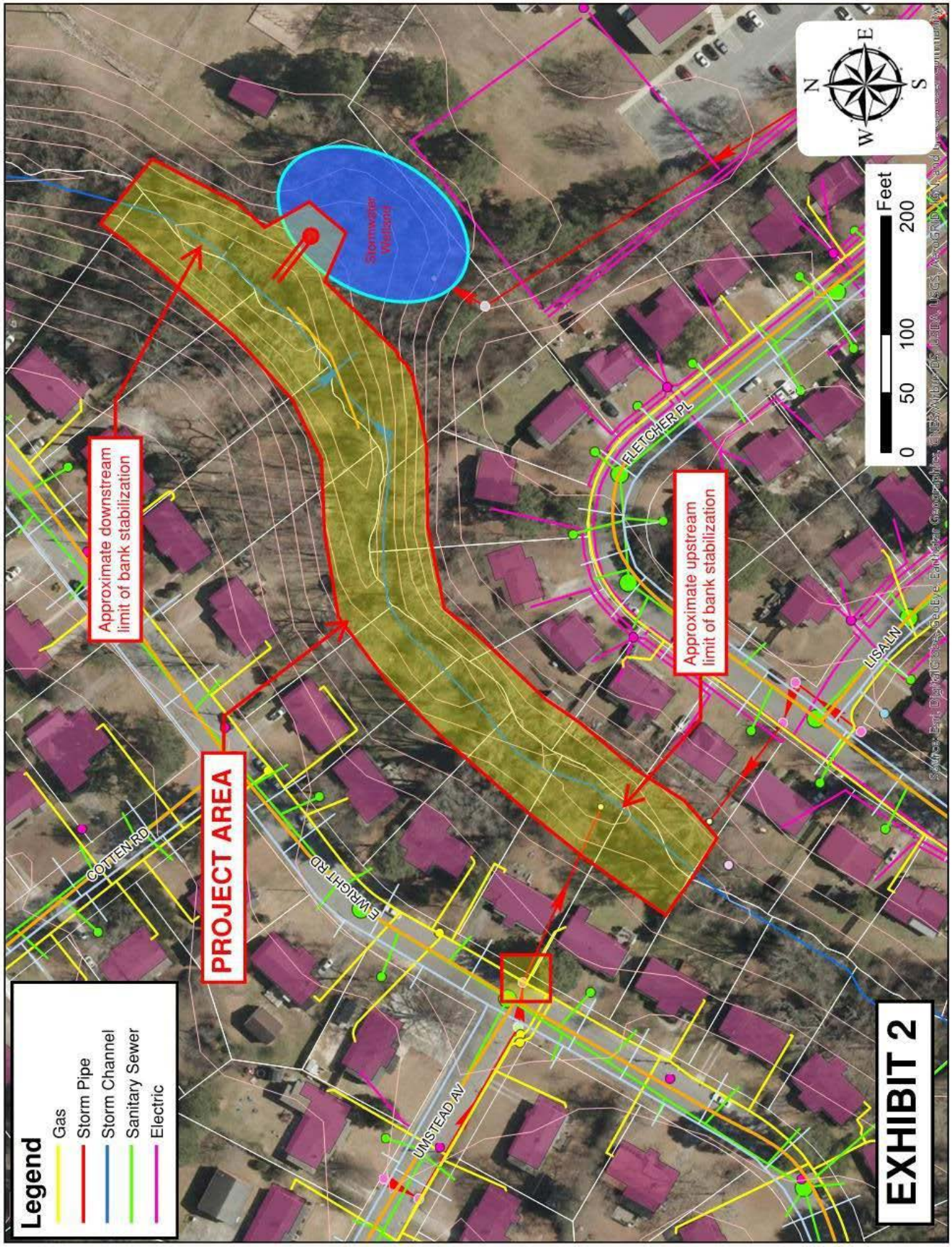
- One (1) alternatives meeting – Hazen staff will present alternatives considered and recommended design solution
- One (1) public meeting (expected to occur at around 65% design) – Hazen will present project overview and proposed solution. Public notification and coordination with interested parties shall be managed by the City of Greenville. This Scope of Services assumes only minor modifications not requiring changes in hydraulic modeling or basic improvements design resulting from the public meeting.
- Three (3) document review meetings following the 30%, 65% and 90% milestones discussed in **Task 6**.

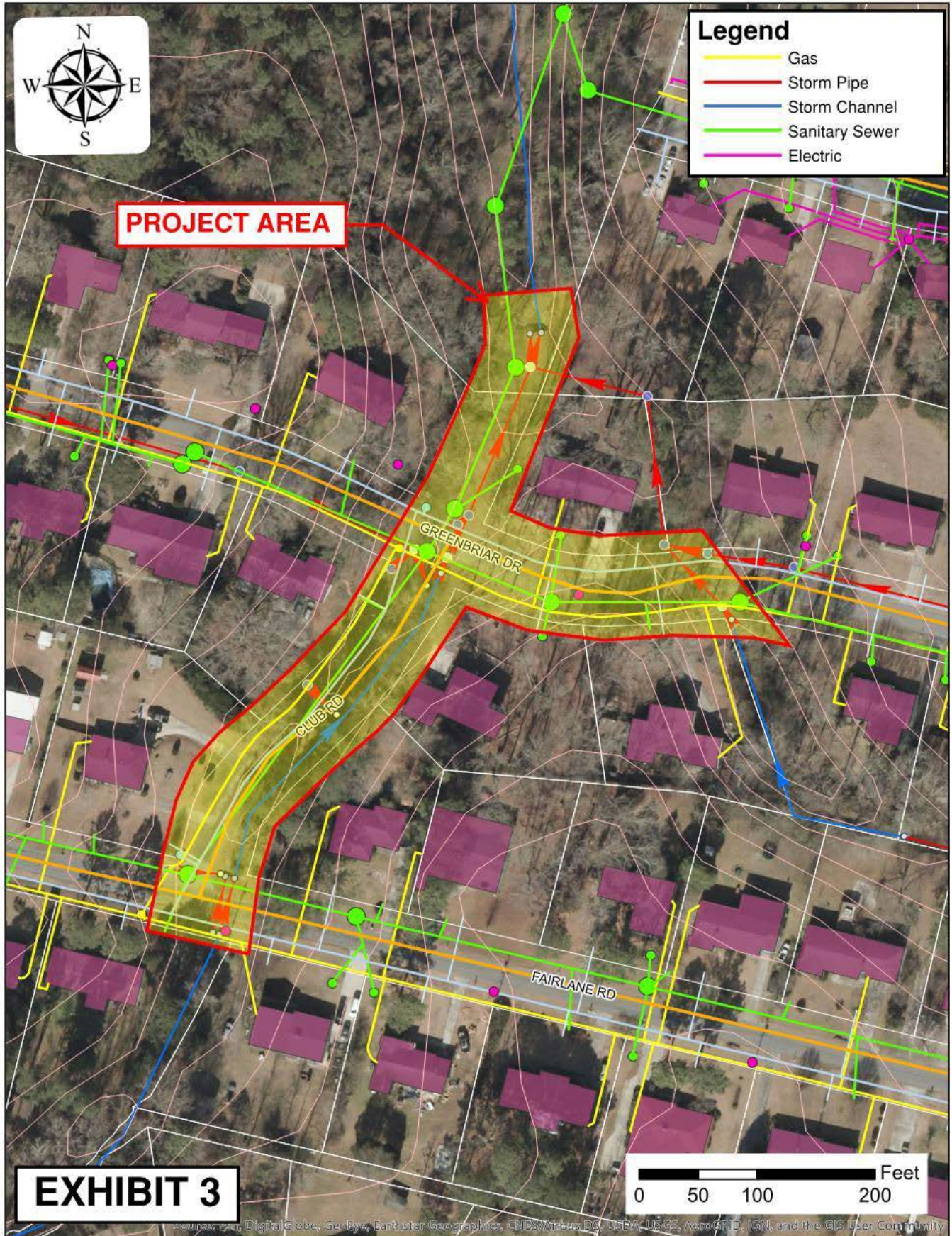
Task 9. Bid Phase Services

After completion of the 100% submittal to the City of Greenville, Hazen will provide bid phase services as follows:

- Distribute Specifications and Construction Drawings to contractors and to plan rooms
- Attend pre-bid meeting
- Respond to contractor questions or RFIs
- Issue addenda if necessary
- Review bids for unbalanced or irregular bid
- Provide bid tabulation and award recommendation letter based on the bid review







Owner's Responsibilities

Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.

Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.

Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:

Property descriptions.

Zoning, deed, and other land use restrictions.

Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.

Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions relating to existing surface or subsurface structures at the Site, or hydrographic surveys, with appropriate professional interpretation thereof.

Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.

Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.

Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.

Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.

Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.

Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:

Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.

Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.

Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the moneys paid.

Place and pay for advertisement for Bids in appropriate publications.

Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.

Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.

If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties,

responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment visits to the Project.

Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof.

Provide Engineer with the findings and reports generated by the entities providing services to Owner pursuant to this paragraph.

Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.

Perform or provide the following additional services: *[Here list any such additional services]*.

(for use with E-500, 2008 Edition)

This is **EXHIBIT C**, consisting of 3 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated _____, 2019.

Payments to Engineer for Services and Reimbursable Expenses
COMPENSATION PACKET BC-1: Basic Services – Lump Sum

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation for Basic Services (other than Resident Project Representative) – Lump Sum Method of Payment

- A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:
1. A Lump Sum amount of amount of \$426,080.00 based on the following estimated distribution of compensation (owner shall have ability to stop work on specific tasks at any time during project execution, with only portion completed to be invoiced):

Cedar Lane Drainage Improvements

Design Fees

Task	Description	Fee	Note/Comment
1	Field Survey and Subsurface Utility Engineering	\$626.00	
2	Geotechnical Investigations	\$416.00	
3	Hydrologic and Hydraulic Analysis	\$15,804.00	
4a	Utility Design	\$6,452.00	
4b	Utility Coordination	\$348.00	
5	Design Documents	\$31,110.00	
6	Permitting	\$9,109.00	
7	Design Phase Meetings	\$4,290.00	
8	Bid Phase Services	\$3,904.00	
	Subtotal	\$72,060.00	

Other Direct Costs

Description	Fee	Note/Comment
Field Surveying	\$8,830.00	
SUE	\$5,170.00	3 test holes
Geotechnical Expenses	\$670.00	
	\$1,000.00	
Subtotal	\$15,670.00	

Cedar Lane Drainage Total	\$87,730.00	
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Cedar Lane Streambank Stabilization

Design Fees

Task	Description	Fee	Note/Comment
1	Field Survey and Subsurface Utility Engineering	\$626.00	
2	Geotechnical Investigations	\$416.00	
3	Site Assessment	\$15,222.00	
4	Hydrologic and Hydraulic Analysis	\$12,812.00	
5	Forested Wetland Discharge Barrel Replacement	\$3,932.00	
6	Design Documents	\$71,217.60	
7	Permitting	\$14,097.00	
8	Design Phase Meetings	\$4,290.00	
9	Bid Phase Services	\$3,904.00	
	Subtotal	\$126,520.00	

Other Direct Costs

Description	Fee	Note/Comment
Field Surveying	\$13,510.00	
Geotechnical	\$5,400.00	
Expenses	\$1,000.00	
Subtotal	\$19,910.00	

Cedar Lane Streambank Stabilization Total	\$146,430.00	
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Greenbriar Drive Drainage Improvements and Stream Relocation

Design Fees

Task	Description	Fee	Note/Comment
1	Field Survey and Subsurface Utility Engineering	\$500.00	
2	Geotechnical Investigations	\$416.00	
3	Site Assessment and Stream Concept Preparation	\$24,404.00	
4	Hydrologic and Hydraulic Analysis	\$22,746.50	
5a	Utility Design	\$6,472.00	
5b	Utility Coordination	\$353.00	
6	Design Documents	\$88,123.50	
7	Permitting	\$9,109.00	
8	Design Phase Meetings	\$8,030.00	
9	Bid Phase Services	\$3,904.00	
	Subtotal	\$164,060.00	

Other Direct Costs

Description	Fee	Note/Comment
Field Surveying	\$11,920.00	
SUE	\$4,210.00	2 test holes
Geotechnical	\$10,730.00	
Expenses	\$1,000.00	
Subtotal	\$27,860.00	

Greenbriar Drive Drainage Total	\$191,920.00	
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2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by the Owner.
 3. The Lump Sum includes compensation for Engineer's services and services of Engineer's Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.
 4. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period.
- B. *Period of Service:* The compensation amount stipulated in Compensation Packet BC-1 is conditioned on a period of service not exceeding 18 months. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.

This is **EXHIBIT G**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 2019.

Insurance

Paragraph 6.04 of the Agreement is supplemented to include the following agreement of the parties.

G6.04 *Insurance*

A. The limits of liability for the insurance required by Paragraph 6.04.A and 6.04.B of the Agreement are as follows:

By Engineer:

Workers' Compensation:	Statutory
Employer's Liability --	
Each Accident:	<u>\$1,000,000.00</u>
Disease, Policy Limit:	\$ _____
Disease, Each Employee:	\$ _____
General Liability --	
Each Occurrence (Bodily Injury and Property Damage):	<u>\$1,000,000.00</u>
General Aggregate:	<u>\$2,000,000.00</u>
Excess or Umbrella Liability --	
Each Occurrence:	\$ _____
General Aggregate:	\$ _____
Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage):	
Each Accident	<u>\$1,000,000.00</u>
Professional Liability --	
Each Claim Made	<u>\$1,000,000.00</u>
Annual Aggregate	<u>\$1,000,000.00</u>
Other (specify):	\$ _____

~~By Owner:~~

Workers' Compensation: _____ Statutory

Employer's Liability —

Each Accident _____ \$ _____
Disease, Policy Limit _____ \$ _____
Disease, Each Employee _____ \$ _____

General Liability —

General Aggregate: _____ \$ _____
Each Occurrence (Bodily Injury and Property Damage): _____ \$ _____

Excess Umbrella Liability — _____`

Each Occurrence: _____ \$ _____
General Aggregate: _____ \$ _____

Automobile Liability — Combined Single Limit (Bodily Injury and Property Damage):

_____ Each Accident: _____
_____ \$ _____

Other (specify): _____ \$ _____

Additional Insureds:

The following persons or entities are to be listed on Owner's general liability policies of insurance as additional insureds, and on any applicable property insurance policy as loss payees, as provided in Paragraph 6.04.B:

- a. Hazen and Sawyer, 4011 Westchase Blvd., Suite 500, Raleigh, NC
27607

Engineer

- b. _____
Engineer's Consultant

- c. _____
Engineer's Consultant

During the term of this Agreement the Engineer shall notify Owner of any other Consultant to be listed as an additional insured on Owner's general liability and property policies of insurance.

The Owner shall be listed on Engineer's general liability policy as provided in Paragraph 6.04.A.

This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 2019.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. _____

1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: _____, 2019
- b. Owner: City of Greenville, NC
- c. Engineer: Hazen and Sawyer, D.P.C.
- d. Project: Cedar Lane Drainage Improvements, Cedar Lane Streambank Stabilization, and Greenbriar Drive Drainage Improvements and Stream Relocation

Description of Modifications:

[NOTE TO USER: Include the following paragraphs that are appropriate and delete those not applicable to this amendment. Refer to paragraph numbers used in the Agreement or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.]

- a. Engineer shall perform or furnish the following Additional Services:
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Agreement and previous amendments, if any, is modified as follows:
- c. The responsibilities of Owner are modified as follows:
- d. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:
- e. The schedule for rendering services is modified as follows:
- f. Other portions of the Agreement (including previous amendments, if any) are modified as follows:

[List other Attachments, if any]

5. Agreement Summary (Reference only)

- a. Original Agreement amount: \$ _____
- b. Net change for prior amendments: \$ _____
- c. This amendment amount: \$ _____
- d. Adjusted Agreement amount: \$ _____

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is _____.

OWNER:

ENGINEER:

By: _____

By: _____

Title: _____

Title: Vice President

Date
Signed: _____

Date Signed: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/15/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

Table with 2 main columns: PRODUCER (Ames & Gough) and CONTACT INFO (Hartford Fire Insurance Company A+, Hartford Casualty Insurance Company A+, Twin City Fire Insurance Company A+, Continental Casualty Company (CNA) A, etc.)

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Main table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liab, Excess Liab, Workers Compensation and Employers' Liability, Professional Liab.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) RE: DRAINAGE IMPROVEMENTS AND STREAM RELOCATION

The City of Greenville is included as additional insured with respect to General Liability and Automobile Liability when required by written contract. General Liability and Automobile Liability are primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured and when required by written contract.

CERTIFICATE HOLDER CANCELLATION

Table with 2 columns: CERTIFICATE HOLDER (City of Greenville, Public Works Department) and CANCELLATION (SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE signature)



ADDITIONAL REMARKS SCHEDULE

AGENCY Ames & Gough		NAMED INSURED Hazen and Sawyer, D.P.C. 498 Seventh Avenue New York, NY 10018	
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

**Description of Operations/Locations/Vehicles:
conditions.**

Pollution Liability coverage is provided and included within the Professional Liability policy noted above. It shares the limits of the Professional Liability policy.



City of Greenville, North Carolina

Meeting Date: 10/21/2019
Time: 6:00 PM

Title of Item: Acquisition of property for the future park project near the intersection of Old Pactolus Road and NE Greenville Boulevard

Explanation: **Abstract:** The City proposes to purchase a parcel of property totaling 21.66 acres located near the intersection of Old Pactolus Road and NE Greenville Boulevard for the development of a park, as recommended in the Tar River Legacy Plan. Approval by City Council to proceed with the purchase is requested.

Explanation: In 2014 City Council approved the Tar River Legacy Plan (TRLP), which provided a vision for the long-term environmental and recreational improvements needed to embrace the Tar River. The TRLP envisioned a transformation of the Tar River district focusing on art, culture, history, recreation, pedestrian walkways, and leisure facilities. Such elements were to be initiated in phases to preserve and respect the ecological and environmental constraints of the Tar River and its associated environment.

One of the recommendations of the TRLP was the development of a City park on lake lands situated in proximity to the river. This particular park was envisioned to be a hub for a variety of outdoor recreational activities such as watercraft-related activities, hiking, and camping. This was considered to be a transformational project that would expand lake-based and river recreation, while also promoting the general and physical well being of the environment and the well being of all residents of and visitors to Eastern North Carolina.

City staff identified approximately 185 acres of land on the north bank of the Tar River, just east of the US 264 Bypass, as appropriate acreage in support of this park. The property is comprised of ten tax parcels located near the intersection of Old Pactolus Road and NE Greenville Boulevard. Council previously approved nine of these parcels, all part of the Phil Carroll Estate, for acquisition.

The tenth parcel (#25421), in proximity to the other nine, is owned by the Rosa Wilson Heirs, and encompasses 21.66 acres.

The City contracted with The Appraisal Group to establish an “Opinion of Market Value” of all of the desired parcels. The Appraisal Group established the value of parcel #25421 as \$17,500. The City Manager’s Office has negotiated a contract to purchase the land for \$20,000.

Once all ten parcels are in City ownership, City staff will move forward with the phased development of the park, with the first phase focusing on primitive trails and making the property accessible to the public, as staff seek grants and partners for future development.

Fiscal Note: \$20,000.00 for the purchase of the property is available in the Recreation and Parks Capital Project Fund.

Recommendation: City Council approve purchase of the property for \$20,000.00.

ATTACHMENTS:

▣ **Map**

City of Greenville
 Acquisition of Property
 0 Old Pactolus Road



Field Name	Field Value
Parcel	25421
Physical Address	0 OLD PACTOLUS RD
Owner Name	WILSON ROSA B HEIRS
OwnerAddress1	1241 FLEMING SCHOOL RD
City / State / Zip	GREENVILLE NC 27834
NC PIN	4698719118
Prior Legal Description	STATON
Acres	21.66
Current Owner Deed/Document	00DC97 00169
Map Book	-
Deed / Document Date	01/2011
Deed / Document Sales Price	\$0
Building Type / Use	RESIDENTIAL(Rural Homesite)
Land Value	\$9,150
Total Current Market Value	\$9,150
Total 2015 Market Value	\$9,150



City of Greenville, North Carolina

Meeting Date: 10/21/2019
Time: 6:00 PM

Title of Item: Resolution Authorizing the Execution and Delivery of a First Amendment to Installment Financing Agreement and Related Documents in Connection with the Refinancing of an Outstanding Installment Financing Agreement

Explanation: The City is converting the current tax exempt installment financing agreement with Capital One for the parking deck to taxable financing. This will allow the City to have more flexibility regarding the use of the parking deck.

Fiscal Note: Will increase debt service by \$5,000 per year.

Recommendation: Staff recommends approval of the resolution.

ATTACHMENTS:

☐ [Approving_Resolution-Greenville_2019_IFA_Modification_2014__1117321](#)

The City Council of the City of Greenville, North Carolina met in a regular meeting in the Council Chambers of the City Hall located at 200 West 5th Street in Greenville, North Carolina, the regular place of meeting, at 6:00 p.m. on October 21, 2019.

Present: Mayor P.J. Connelly, presiding, and Council Members

Absent: Council Members

Also present: _____

* * * * *

_____ introduced the following resolution, the title of which was read and a copy of which had been distributed to each Council Member:

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF
A FIRST AMENDMENT TO INSTALLMENT FINANCING
AGREEMENT AND RELATED DOCUMENTS IN CONNECTION WITH
THE REFINANCING OF AN OUTSTANDING INSTALLMENT
FINANCING AGREEMENT**

BE IT RESOLVED by the City Council (the “City Council”) of the City of Greenville, North Carolina (the “City”):

Section 1. The City Council does hereby find and determine as follows:

(a) The City has heretofore entered into an Installment Financing Agreement, dated as of May 15, 2014 (the “Agreement”), between the City and Capital One Public Funding, LLC (the “Lender”), pursuant to which the Lender advanced to the City funds in the amount of \$4,997,546 for the purpose of financing the construction costs of a parking garage in the uptown district of the City located at E. Fourth Street, Greenville, North Carolina 27858 (the “Project”).

(b) As security for the performance by the City of its obligations under the Agreement, the City has executed and delivered a Deed of Trust, dated as of May 15, 2014, in favor of the Lender granting a lien on the site of the Project.

(c) The interest component of the installment payments payable by the City to the Lender under the Agreement has been and continues to be exempt from federal income taxation. The federal tax regulations related to tax-exempt obligations such as the Agreement limit the ability of the City to provide parking spaces in the Project to private parties.

(d) In order to achieve greater flexibility with respect to the leasing and allocation of parking spaces in the Project, the City has determined to refinance its payment obligations under the Agreement such that the interest component of the installment payments payable by the City to the Lender under the Agreement will become taxable for federal income taxation purposes. Such action will result in a modification of the interest rate payable under the Agreement from 3.25% to 3.50% and a reamortization of the outstanding principal amount of the Agreement, both effective November 15, 2019.

(e) In connection with the refinancing, the outstanding principal amount of the Agreement shall not be increased and the final maturity of the Agreement of June 1, 2029 shall not be extended.

(f) The above-described transactions will be evidenced by a First Amendment to Installment Financing Agreement, to be dated as of the date of delivery thereof (the "Amendment"), between the City and the Lender.

Section 2. In order to provide for the refinancing of the Agreement, the City is hereby authorized to enter into the Amendment. The City shall repay the aggregate amounts advanced under the Agreement, as amended by the Amendment, in installments due in the amounts and at

the times set forth in Agreement as amended by the Amendment. The payments of the Installment Payments shall be designated as principal and interest as provided in the Amendment.

Section 3. The City Council hereby approves the Amendment in substantially the form presented at this meeting. The Mayor, the City Manager and the Director of Financial Services of the City are each hereby authorized to execute and deliver on behalf of the City the Amendment in substantially the form presented at this meeting, containing such insertions, deletions and modifications as the person executing such document shall approve, such execution to be conclusive evidence of approval by the City Council of any such changes. The City Clerk or any Deputy or Assistant City Clerk is hereby authorized and directed to affix the official seal of the City to said document and to attest the same.

Section 4. No deficiency judgment may be rendered against the City in any action for breach of any contractual obligation authorized pursuant to the Agreement as amended by the Amendment, and the taxing power of the City is not and may not be pledged directly or indirectly to secure any moneys due under the Agreement as amended by the Amendment.

Section 5. The Mayor, the City Manager, the Director of Financial Services and the City Clerk of the City, and any other officers, agents and employees of the City, are hereby authorized and directed to execute and deliver such other documents, instruments, closing certificates, opinions and other items of evidence as shall be deemed necessary to consummate the transactions contemplated by this resolution.

Section 6. This resolution shall take effect immediately upon its passage.

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing resolution entitled "RESOLUTION AUTHORIZING THE

EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO INSTALLMENT FINANCING AGREEMENT AND RELATED DOCUMENTS IN CONNECTION WITH THE REFINANCING OF AN OUTSTANDING INSTALLMENT FINANCING AGREEMENT”

was adopted by the following vote:

Ayes: _____

Noes: _____

* * * * *

I, Carol Barwick, City Clerk of the City of Greenville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of the City Council of said City at a regular meeting held on October 21, 2019, as it relates in any way to the adoption of the foregoing resolution and that said proceedings are recorded in the minutes of said City Council.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and official seal of said City this 21st day of October, 2019.

[SEAL]

City Clerk



City of Greenville, North Carolina

Meeting Date: 10/21/2019
Time: 6:00 PM

Title of Item:

Presentation of a Letter of Intent between the City of Greenville and Seacoast Communities related to the commercial development of the Imperial Tobacco property

Explanation:

Abstract: City staff will present for Council approval a Letter of Intent between the City of Greenville and Seacoast Communities related to the commercial development of the Imperial Tobacco property. The Letter of Intent outlines the terms of the development project that are acceptable to both the City and Seacoast. Upon approval of the Letter of Intent, Seacoast will move forward with project design so as to bring a purchase agreement back to Council for the purchase of Phase One property.

Explanation: At the October 7, 2019 City Council meeting, Council received a presentation on the private development of the Imperial Tobacco property from Seacoast Communities. The proposed economic development project will consist of two phases with a total projected investment of approximately \$41 million on the six-acre property. A copy of Seacoast's presentation at the October 7th Council meeting is included as an attachment to this item.

Phase One of the project will consist of a minimum three-star boutique style hotel with approximately 100 rooms and a rooftop bar and lounge. The Imperial Tobacco site serves as a prime location for an uptown hotel, which is proposed to be located on the corner of Dickinson Avenue and Atlantic Street. Seacoast expressed plans to develop a contemporary boutique hotel and is currently considering Marriott and Hilton brands comparable to an A-Loft and AC Hotel. The total investment for Phase One is projected to be approximately \$16 million.

Phase Two of the project would consist of Greenville's first all conventional market rate housing property in uptown, which would add between 250 and 300 new residents. The project will target groups currently being underserved in the uptown residential market such as young professionals, working adults, and corporate employees. The project will also be designed with the application of strict leasing standards so as to minimize the potential of adding to the student housing market.

The market rate housing will not include any quad style suites and only one lease will be allowed per unit. In addition, leases will be established so as to not allow parents to co-sign on the lease. The total Phase Two project will include approximately 200 units, with 1,200 square feet of commercial space at a total projected investment of approximately \$25 million.

At the October 7th Council meeting, staff explained that it had been working with Seacoast Communities on a letter of intent (LOI) in relation to the project and would bring the LOI to Council for approval. The LOI outlines the terms of the project arrangement that are acceptable to both the City and to Seacoast Communities. A copy of the LOI is attached for consideration of Council. The following are the sections of the LOI:

- Project Location and Phases
- Phase 1: Boutique Style Hotel Component
- Phase 2: Market Rate Housing Units Component
- Imperial Historic Building
- Public Investment

The LOI includes a requirement related to both Phase One and Phase Two of the project that states that Seacoast shall include features within the project design that reflect and pay tribute to the history of the Imperial Tobacco Processing Plant and the citizens that both worked and lived in the surrounding West Greenville communities including Greenville Heights and the Higgs district. The LOI also includes a requirement whereby Seacoast shall conduct a series of public input meetings in West Greenville to receive input from the community regarding ways to integrate the area's history into the project.

Also included with this agenda item is a summary of the LOI components for Council's review.

Upon Council's approval of the LOI, Seacoast will begin moving forward with the design of the project. From there, City staff will work with Seacoast to bring forward a purchase agreement for the Phase One property to Council for approval.

Fiscal Note: No direct cost at this time.

Recommendation: Consider for approval the Letter of Intent between the City of Greenville and Seacoast Communities related to the commercial development of the Imperial Tobacco property

ATTACHMENTS:

- ❏ LOI Imperial Summary**
- ❏ LOI Imperial**
- ❏ October 7 Presentation**

City of Greenville
Letter of Intent with Seacoast Communities for the Development of the Imperial Property
Summary

Overview:

- The project shall be developed in 2 phases:
 - Phase 1: Boutique style hotel component
 - Phase 2: Market rate housing component
- For each phase of the project the Developer shall:
 - Include features that reflect and pay tribute to the history of the Imperial Tobacco Processing Plant and the citizens that both worked and lived in the surrounding West Greenville communities including Greenville Heights and the Higgs district.
 - Conduct a series of public input meetings in West Greenville to receive input from the community regarding ways to integrate the area's history into the project.
 - Provide an opinion from an agreed upon third party as to the fiscal capacity and experience of the Developer to accomplish the proposed development.
 - Purchase the property at fair market value as of the date of the purchase agreement.
 - Allow the City to approve the architectural design and all exterior materials and finishes.
 - Provide and fund all parking related to the project.
 - Include an art component in the project.
 - Conform and install streetscape improvements that are in compliance with the standards and specifications as included in the Dickinson Avenue streetscape master plan.

Phase 1: Boutique style hotel component:

- Closing on Phase 1 property shall occur within 12 months of the date of the purchase agreement.
- The Developer shall apply for a building permit within 12 months of the purchase agreement.
 - If the permit is not applied for within 12 months then ownership of property reverts back to the City. The City at its option may refund any payments made by Developer for purchase of property.
- The Project shall be completed within 20 months. The City and Developer may mutually agree to extend the completion date.
 - If the project is not completed within 20 months or by the extended date, the City shall access liquidated damages at a rate of \$500 per day.
- The following restrictions shall apply to the hotel:
 - The hotel shall be a boutique hotel with amenities, features, and character recognized by the hospitality industry as boutique in nature.
 - The hotel shall have a minimum of 90 rooms with a roof top bar and lounge.

City of Greenville
Letter of Intent with Seacoast Communities for the Development of the Imperial Property
Summary

- The hotel shall be located on the portion of the property having principal frontage along Dickinson Avenue.
- The hotel shall be a hospitality industry rated minimum of three stars.

Phase 2: Market Rate Housing Component:

- Closing on Phase 2 property shall occur no earlier than the point at which Phase 1 is 70-80% complete. Closing shall occur no later than six months after the completion of Phase 1.
- The Developer shall apply for a building permit within 12 months of the completion of Phase 1.
 - If the permit is not applied for within 12 months then ownership of property reverts back to the City. The City at its option may refund any payments made by Developer for purchase of property.
- The Project shall be completed within 24 months. The City and Developer may mutually agree to extend the completion date.
 - If the project is not completed within 24 months or by the extended date, the City shall access liquidated damages at a rate of \$500 per day.
- The following restrictions shall apply to the market rate housing:
 - The project shall include at least 175 non-student professional units.
 - The exterior façade of the project shall be no less than 50% masonry and not include any vinyl.
 - There shall be no “quad style” units included in the project. The units shall consist of a combination of studio, 1 bedroom, 2 bedroom and 3 bedroom units.
 - The Developer shall require only one lease per unit with longer term leases.
 - The Developer shall structure the leases so as not to allow parents of any residents to co-sign.
 - The Developer shall periodically supply the City with documentation of compliance with the requirements related to market rate housing.

Historic Office Building:

- The City shall convey to the Developer the Imperial historic building that currently resided on Pitt County tax parcel 34561.
- The Developer shall retain, stabilize and beautify the building to be consistent with the historic character of the building.

City of Greenville
Letter of Intent with Seacoast Communities for the Development of the Imperial Property
Summary

- The Developer shall restore the building and place it into service for an office or other commercial use contingent on the Developer’s ability to secure public funding to assist with the building’s renovation. Public funding may include, but not be limited to, federal and state historic tax credits, City of Greenville facade improvement grant(s), and potential local property tax incentives that may result from the Developer applying for and the building receiving the designation of a local historic landmark.

Public Investment:

- The City shall be responsible for funding the following public infrastructure improvements:
 - Removal of existing site infrastructure limited to the following locations:
 - Imperial Tobacco warehouse footprint
 - Waterworks maintenance shed footprint
 - Atlantic Avenue
 - Partial rebuilt of Atlantic Avenue from Dickinson Avenue to a point to be determined upon design, inclusive of all utilities, stormwater, and streetscape.
 - Construction of a public parking lot on Clark Street, inclusive of community plaza and public art.
- The City shall fund a survey of the property to determine the exact acreage available for development and exact acreage to be disposed by the City to the Developer under each phase of the project.
- The City shall award the Developer an annual Capital Investment Grant equal to 75% of the annual City property taxes paid by the Hotel Developer on the hotel property for a period of 12 fiscal years contingent on the following requirements:
 - The Developer shall complete Phase 1. The project shall be deemed complete with the issuance of a Certificate of Occupancy
 - The Hotel Developer’s investment in the hotel shall be greater than or equal to \$14 million.
 - The Hotel Developer shall apply for a building permit within 12 months of the approval date of the Agreement by City Council
 - The Hotel Developer must submit proof of payment of annual City property taxes before remittance of the annual grant to the Developer



Find yourself in good company®

October 14, 2019

Mr. Rick Banning
Seacoast Communities
3432 Henrietta Hartford Road
Mount Pleasant, SC 29466

Dear Mr. Banning:

Thank you for your interest in the development of the Imperial Tobacco site (the “Project”). The City of Greenville (the “City”) is interested in exploring further with you an arrangement for Seacoast Communities (“Seacoast”) to work with the City on this project.

To this end, please consider this nonbinding letter of intent (the “LOI”). This LOI outlines the terms for this arrangement which would be acceptable to the City. As stated, this LOI would be nonbinding, and any contractual terms of this arrangement would be set forth in a purchase agreement between the City and Seacoast and other documents (the “Definitive Documents”). However, for the sake of reaching an agreement in the most expeditious way possible, it is very important that the City and Seacoast have an understanding as to the basic terms of this arrangement. So if Seacoast does not agree with any of the following terms or needs to add any additional terms, please let the City know. Once we have an agreement to the basic terms of this arrangement and have an executed LOI, we will move forward with the preparation of the Definitive Documents.

The terms which the City thinks will work best for the Project are as follows:

Project Location and Phases:

- The location of the City properties designated as the project area shall consist of all or a portion of the following Pitt County tax parcels: 22418, 34561, 19875, 19874, 03938, 22175, 16548, and 11698. A map of the tax parcels are included in Attachment A. Project Phase plans are included in Attachment B.
- The project shall be developed in two phases with each phase consisting of the following:
 - Phase 1: Boutique Style Hotel Component
 - Phase 2: Market Rate Housing Units Component

- The City shall fund a survey of the property to determine the exact acreage to be disposed by the City to Seacoast under each phase of the project.
- The City and Developer shall mutually agree as to the exact tax parcels and acreage to be conveyed under each phase of the project.

Phase 1: Boutique Style Hotel Component:

- A closing conveying all Phase 1 properties shall occur within twelve months of the approval date of the purchase agreement by City Council.
- A deposit in the amount of \$25,000 will be made by Seacoast to the City related to the conveyance of the property. The deposit will be refundable within 120 days if Seacoast notifies the City within that period that it has determined not to purchase the property or the City notifies Seacoast it has determined not to convey the property. If Seacoast does not notify the City that it has determined to not purchase the property within that period, then Seacoast shall deposit an additional \$25,000 with the City. The \$50,000 deposit will be refundable only if there is a failure of the agreement related to the conveyance of the property (title issues, environmental, etc.) or the City notifies Seacoast that it has determined not to convey the property.
- Seacoast shall pay, at closing, the per acre fair market value as of the date of execution of the purchase agreement, for all properties as established by action of City Council, which will establish the fair market value through method of appraisal, performed and certified by a Member Appraisal Institute (MAI) appraiser contracted by the City.
- Seacoast shall apply for a building permit for the project within twelve months of the approval date of the purchase agreement by City Council. In the event a building permit for the project is not applied for within the twelve month period, the City at its option may refund any payments made by Seacoast less the amount of the deposit and the ownership of the property will revert to the City.
- Seacoast shall develop all properties in conformity with the purchase agreement and comply with governmental zoning or other regulatory requirements.
 - Seacoast shall provide the City with both preliminary and final plans for its review for consistency with the purchase agreement prior to the building permit being applied.
 - The City shall have the right to approve the architectural design and all exterior building materials and finishes for the project's development and site improvements to be constructed on the property which are consistent with surrounding properties and meet the City's architectural guidelines. Approval shall not be unreasonably denied, withheld or conditioned from the City.

- The architectural designs, site improvements and site plan submitted for construction shall be consistent in all aspects with the designs agreed to and approved by the City and considered as an element of the Agreement unless otherwise approved by the City.
- During construction, Seacoast will allow the City access onto all properties so that the City may conduct inspections of the work for consistency with the purchase agreement.
- Seacoast shall complete the project within twenty months of the issuance date of the building permit. The completion date may be extended to a date beyond twenty months only upon mutual agreement of the City and Seacoast (the “Extended Date”). The City shall not unreasonably deny an extension of the completion date requested by the Developer. The project shall be deemed complete upon issuance of a Certificate of Occupancy and issuance of a Statement of Acceptance and Completion to Seacoast by the City.
 - If the project is not completed within twenty months of the issuance date of the building permit, or the project is not completed by the Extended Date, then beginning 120 days following the end of the twenty month period, or 120 days following the Extended Date, Seacoast shall pay the City \$500 per day, as liquidated damages, until the project is completed. The City shall not issue the Certificate of Occupancy to Seacoast until all assessed liquidated damages have been paid by Seacoast to the City.
- The following restrictions shall apply to the hotel component:
 - The hotel brand, design, and quality to be located on the property shall be reviewed by the City and Seacoast.
 - The hotel shall be a boutique hotel with the amenities, features, and character recognized by the hospitality industry as boutique in nature.
 - The hotel shall have a minimum of 90 rooms with a roof top bar and lounge.
 - The hotel shall be located on the portion of the property having principal frontage along Dickinson Avenue.
 - The hotel shall be a hospitality industry rated minimum of three stars.
 - The hotel development company selected to manage the property must have documented references of successful operations in other cities.
 - Seacoast shall provide to an agreed upon third party the following deliverables:
 - Review of existing studies, reports, and plans for the project.
 - Opinion as to the fiscal capacity and experience of Seacoast and/or its development partners to accomplish the proposed development.
- Seacoast shall fund all parking required by the hotel, as required by City ordinance, for the project.
- Seacoast shall conform and install streetscape improvements with materials as specified in the adopted streetscape master plan for the areas that are located within the public street rights-of-way abutting the property. Streetscape improvements shall be in compliance with the City’s

standards and specifications and be compatible with the adopted streetscape master plan for the Dickinson Avenue Corridor.

- Seacoast shall include an art component in the project.
- The Developer shall include features in the Phase 1 design that reflect and pay tribute to the history of the Imperial Tobacco Processing Plant and the citizens that both worked and lived in the surrounding West Greenville communities including Greenville Heights and the Higgs district. The Developer shall conduct a series of public input meetings in West Greenville to receive input from the community regarding ways to integrate the area's history into the project.

Phase 2: Market Rate Housing Units Component:

- A closing conveying all Phase 2 properties to Seacoast shall occur no earlier than the point at which Phase 1 has been determined, in writing by the City's Inspections Division, to be between 70% and 80% complete, with Phase 1 construction rough-ins, insulation installation, and sheetrock installation being completed. A closing conveying all Phase 2 properties shall occur no later than six months after the completion of Phase 1.
- Seacoast shall pay, at closing, the per acre fair market value as of the date of execution of the purchase agreement, for the property as established by action of City Council, which will establish the fair market value through method of appraisal, performed and certified by a Member Appraisal Institute (MAI) appraiser contracted with by the City.
- Seacoast shall apply for a building permit for the project within twelve months of the completion of Phase 1. In the event a building permit for the project is not applied for within this period, the City at its option may refund any payments made by Seacoast less the amount of the deposit and the ownership of the property will revert to the City.
- Seacoast shall develop all properties in conformity with the purchase agreement and comply with governmental zoning or other regulatory requirements.
 - Seacoast shall provide the City with preliminary and final plans for its review for consistency with the purchase agreement prior to the building permit being applied.
 - The City shall have the right to approve the architectural design and all exterior building materials and finishes for the project's development and site improvements to be constructed on the property. Approval shall not be unreasonably denied, withheld or conditioned from the City.
 - The architectural design, site improvements and site plan submitted for construction shall be consistent in all aspects with the designs agreed to and approved by the City and considered as an element of the Agreement unless otherwise approved by the City.

- During construction, Seacoast will allow the City access onto all properties so that the City may conduct inspections of the work for consistency with the purchase agreement.
- Seacoast shall complete the project within twenty four months of the issuance date of the building permit. The completion date may be extended to a date beyond twenty four months only upon mutual agreement of the City and Seacoast. The City shall not unreasonably deny an extension of the completion date requested by the Developer. The project shall be deemed complete upon issuance of a Certificate of Occupancy and issuance of a Statement of Acceptance and Completion to Seacoast by the City.
 - If the project is not completed within twenty four months of the issuance date of the building permit, or the project is not completed by the Extended Date, then beginning 120 days following the end of the twenty four month period, or 120 days following the Extended Date, Seacoast shall pay the City \$500 per day, as liquidated damages, until the project is completed. The City shall not issue the Certificate of Occupancy to Seacoast until all assessed liquidated damages have been paid by Seacoast to the City.
- The following restrictions shall apply to the market rate housing component:
 - The project shall include at least 175 non-student market rate professional units.
 - The exterior façade of the project shall be no less than 50% masonry and shall not include any vinyl.
 - There shall be no “quad style” units included in the project.
 - The market rate units shall consist of a combination of studio, 1 bedroom, 2 bedroom and 3 bedroom units.
 - Seacoast shall require only one lease per unit with longer term leases.
 - Seacoast shall structure the market rate lease so as to not allow the parents of any resident to co-sign the lease.
 - Seacoast shall periodically supply to the City any relevant documentation requested for review as to Seacoast’s compliance with the requirements related to Market Rate Housing as included in the Agreement.
 - Seacoast shall provide to an agreed upon third party the following deliverables:
 - Review of existing studies, reports, and plans for the project.
 - Opinion as to the fiscal capacity and experience of Seacoast and/or its development partners to accomplish the proposed development.
- Seacoast shall fund all parking necessary for the market rate housing, as required by City ordinance, for the project.
- Seacoast shall include a minimum of 1,200 square feet of retail, office, and/or other commercial space located on the ground level of the market rate housing building(s) to serve both the general public and lessees of the market rate housing units.

- Seacoast shall conform and install streetscape improvements with materials as specified in the adopted streetscape master plan for the areas that are located within the public street rights-of-way abutting the property. Streetscape improvements shall be in compliance with the City’s standards and specifications and be compatible with the adopted streetscape master plan for the Dickinson Avenue Corridor.
- Seacoast shall include an art component in the project.
- The Developer shall include features in the Phase 2 design that reflect and pay tribute to the history of the Imperial Tobacco Processing Plant and the citizens that both worked and lived in the surrounding West Greenville communities including Greenville Heights and the Higgs district. The Developer shall conduct a series of public input meetings in West Greenville to receive input from the community regarding ways to integrate the area’s history into the project.

Imperial Historic Building:

- As part of the conveyance of the Phase 2 property, the City shall convey to the Developer the Imperial historic building that currently resided on Pitt County tax parcel 34561.
- The Developer shall retain, stabilize and beautify the building to be consistent with the historic character of the building.
- The Developer shall restore the building and place it into service for an office or other commercial use contingent on the Developer’s ability to secure public funding to assist with the building’s renovation. Public funding may include, but not be limited to, federal and state historic tax credits, City of Greenville facade improvement grant(s), and potential local property tax incentives that may result from the Developer applying for, and the building receiving, the designation of a local historic landmark.

Public Investment:

- The City shall be responsible for funding the following public infrastructure improvements:
 - Removal of existing site infrastructure to a point 18 inches below ground surface level, limited to the following locations:
 - Imperial Tobacco warehouse footprint
 - Waterworks maintenance shed footprint
 - Atlantic Avenue
 - Partial rebuild of Atlantic Avenue from Dickinson Avenue to a point to be determined upon design, inclusive of all utilities, stormwater, and streetscape related to the rebuild of Atlantic Avenue only. The City shall complete the partial rebuild prior to the completion of Phase 1.

- Construction of the public parking lot on Pitt County tax parcel 22175, inclusive of community plaza and public art. The City shall complete the public parking lot inclusive of the community plaza and public art prior to the completion of Phase 2.
- Subject to a public hearing and majority vote of the City Council, after consideration of all comments at the public hearing, the City shall award an annual Capital Investment Grant (the “Grant”) to the developer of the hotel (the “Hotel Developer”) equal to 75% of the annual City property taxes paid by the Hotel Developer on the hotel property for a period of twelve fiscal years, contingent upon the following requirements:
 - Phase 1 shall be complete with the issuance of a Certificate of Occupancy and issuance of a Statement of Acceptance and Completion to the Hotel Developer by the City.
 - The Hotel Developer’s investment in the hotel shall be greater than or equal to \$14 million.
 - The Hotel Developer shall submit an application for a building permit for the project within twelve months of the approval date of the purchase agreement by City Council.

Seacoast must submit proof of payment of annual City property taxes before remittance of the annual grant to the Hotel Developer.

If the above terms are acceptable, please sign below where indicated. We are excited about the opportunity to move forward with you to develop the Definitive Documents and to make this project become a reality.

Sincerely,

Ann Wall, City Manager
City of Greenville, NC

The above terms of this LOI are accepted, subject to the agreement of the terms as to all definition documents.

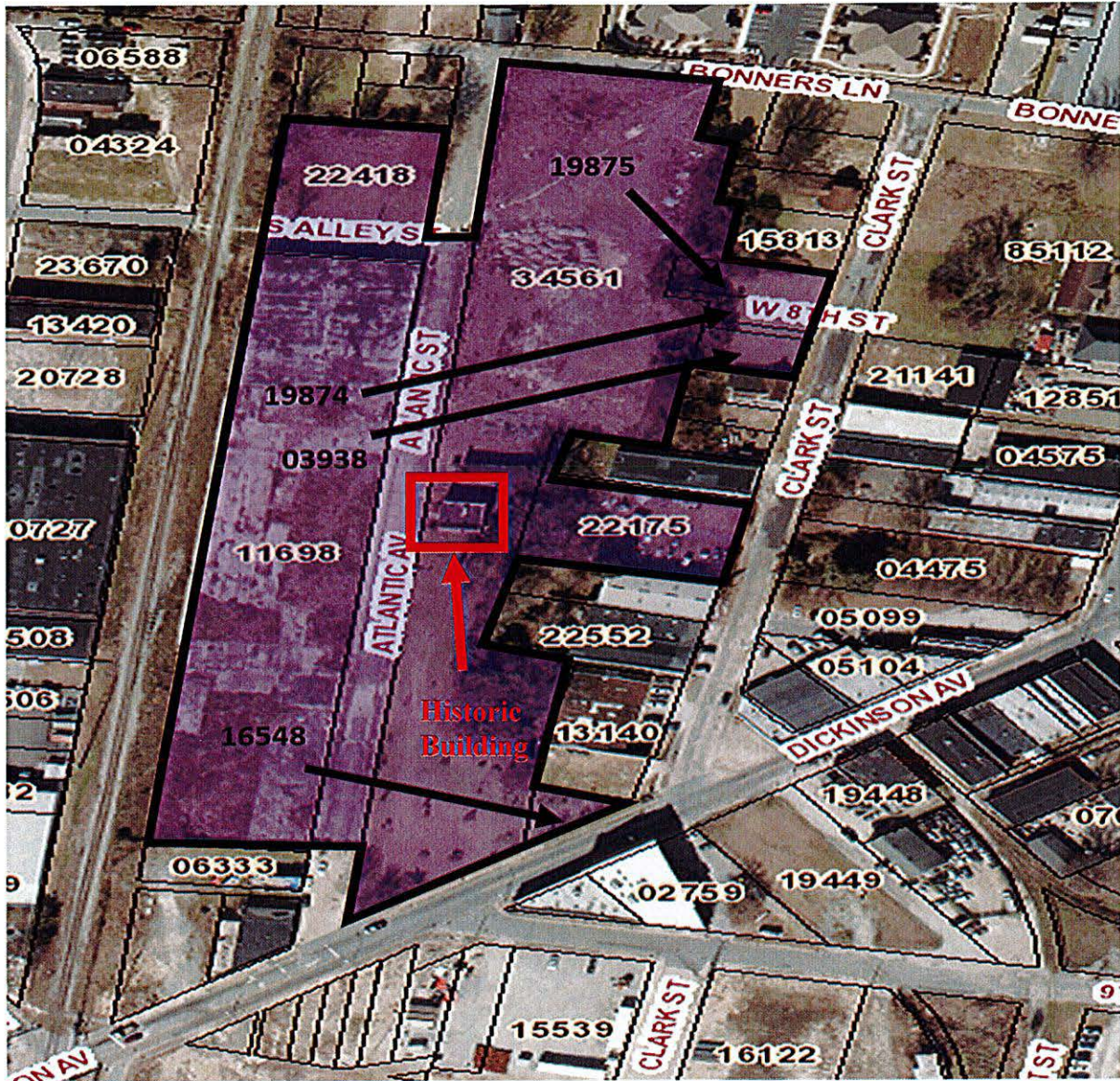
Signature

Date

Name: Rick Banning

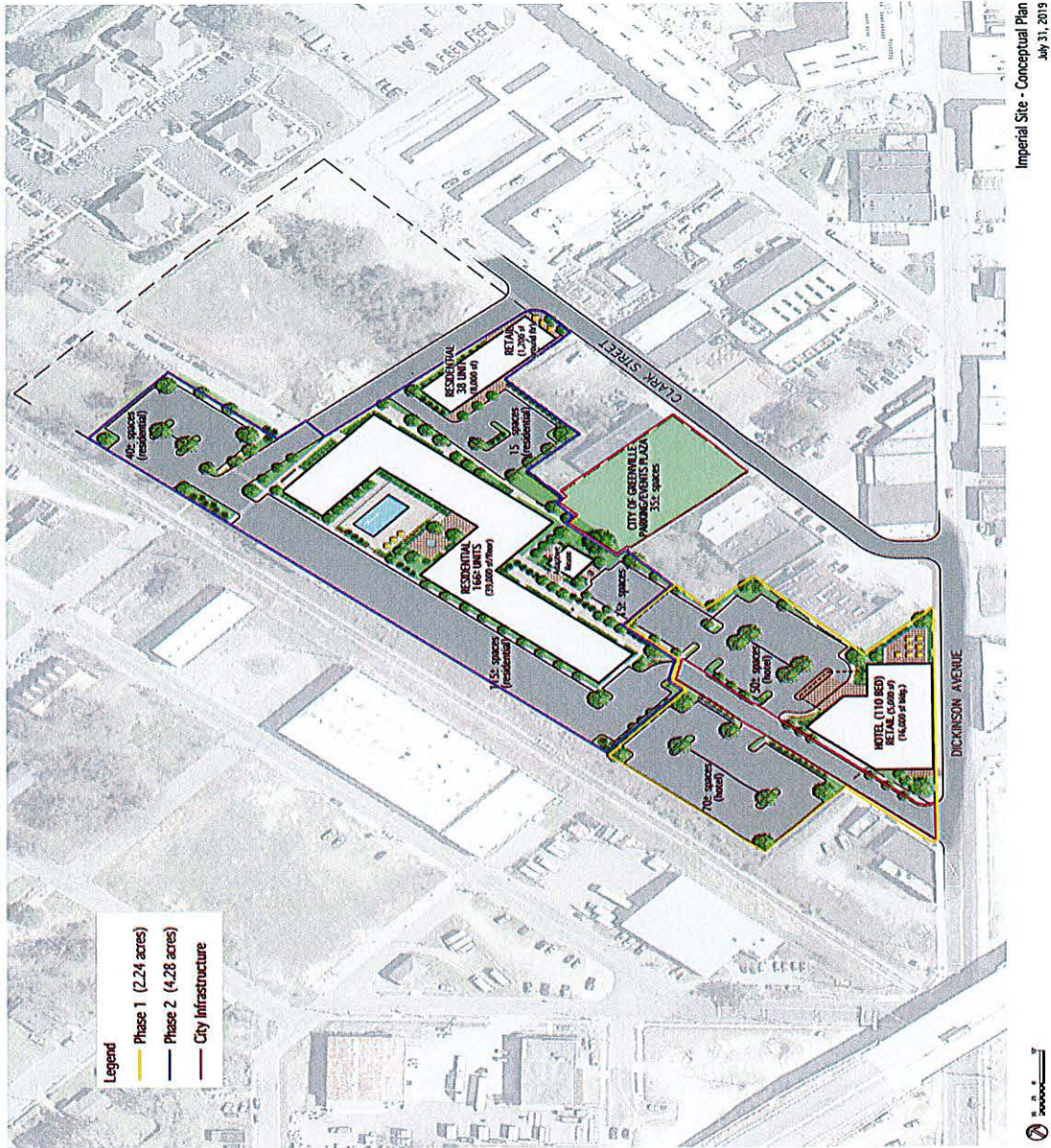
Title: Managing Member, Sponsor, Seacoast Communities

ATTACHMENT A



Tax Parcel	Owner
34561	City of Greenville
11698	City of Greenville
16548	City of Greenville
22175	City of Greenville
03938	City of Greenville
19874	City of Greenville
19875	City of Greenville
22418	Greenville NC Redevelopment Commission

ATTACHMENT B



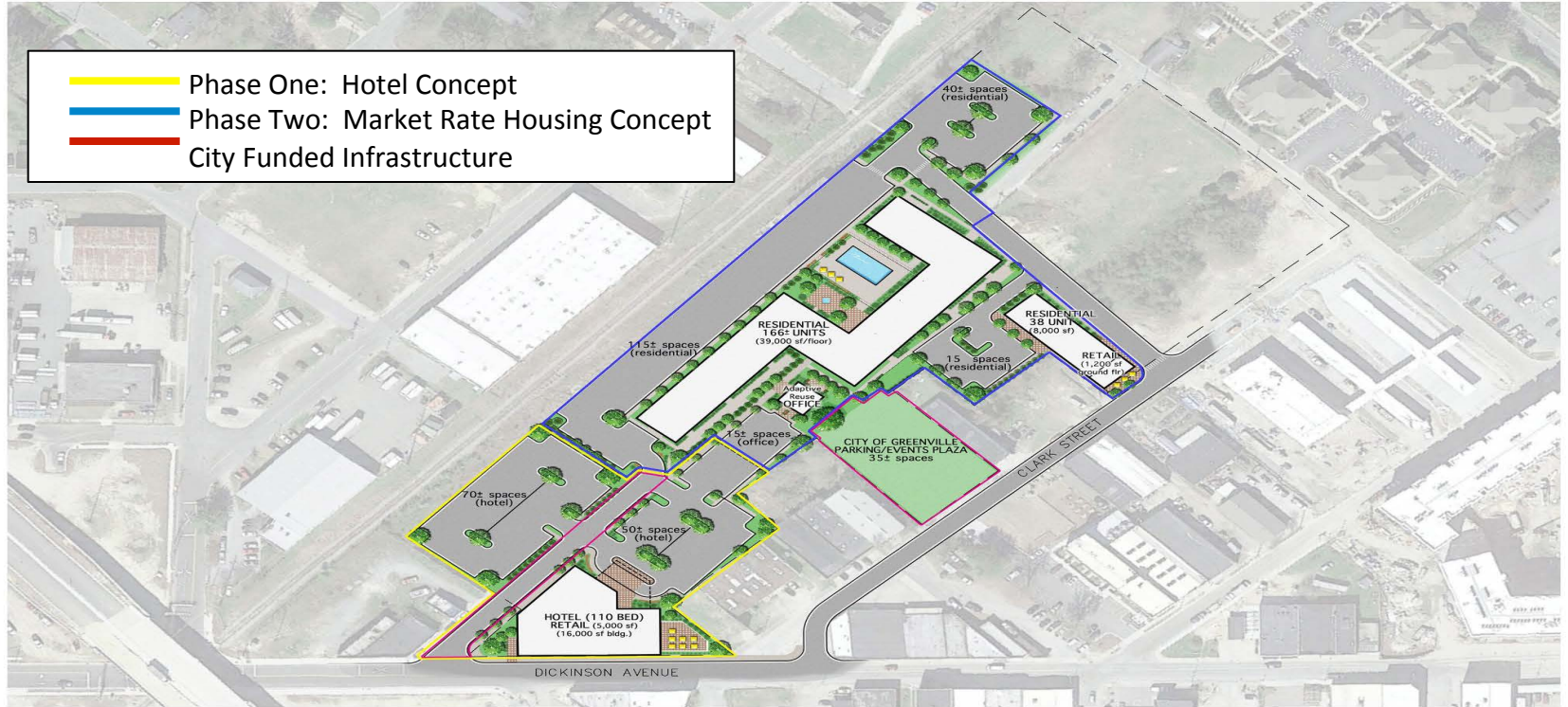
Imperial Site - Conceptual Plan
July 31, 2019



Submitted by:
Seacoast Communities October 7, 2019

Imperial Place

IMPERIAL PLACE CONCEPTUAL PLAN



Imperial Site - Conceptual Plan
 July 31, 2019

PHASE I – HOTEL CONCEPT



PHASE I – HOTEL CONCEPT

- Imperial Tobacco Site – Prime location for downtown Greenville’s first hotel that includes a symbolic view from the 10th Street Connector overpass
- Construction of a **\$16 million**, 100 room focused service **“Boutique Hotel”** on corner of Dickinson and Atlantic Avenue including rooftop lounge
- Seacoast plans to develop a contemporary boutique hotel and is currently considering **Marriott and Hilton brands comparable to an A-Loft and AC Hotel**



PHASE I – HOTEL CONCEPT

- A signature hotel property is essential for the success of the center city’s tourism efforts adding 80-100 nightly visitors in our downtown.
- Destination Perception:
 - Leisure Tourism Opportunities
 - Culinary Tourism
 - Walkability
 - Packaging
 - Supporting Infrastructure
 - Cross-Market Support
 - Competitive



PHASE II - MARKET RATE HOUSING CONCEPT



PHASE II - MARKET RATE HOUSING CONCEPT

- City's first all conventional market rate housing property in downtown adding between 250 and 300 new residents
- Will target groups currently being underserved in the downtown residential market:
 - young professionals
 - working adults
 - corporate employees and ECU faculty
- Kimley Horn study documented need for additional conventional market rate housing in the Uptown District
- A \$25 million investment consisting of 200 units



PHASE II - MARKET RATE HOUSING CONCEPT

Strict Leasing Standards Applied:

- No Quad Suite 4 BR Units - All Studio, 1 Bedroom, 2 Bedroom
- Lease restrictions:
 - Allow 1 lease per unit only, allow longer term leases
 - Parents not allowed to co-sign on lease
- Higher rental rates - conventional market rate housing is higher than student housing rental rates
- Developer to create conventional market rate community appealing to young professionals, working adults, corporate employees and ECU faculty
 - Higher end wall, electrical, plumbing fixtures, cabinetry, counter tops, flooring products
 - Unfurnished units



Community Gathering Place Located in the Heart of Dickinson Avenue



IMPERIAL COMMUNITY PLAZA

Imperial Plaza – Public Gathering Place for:

- Farmers market
- Art shows
- Concerts and movies

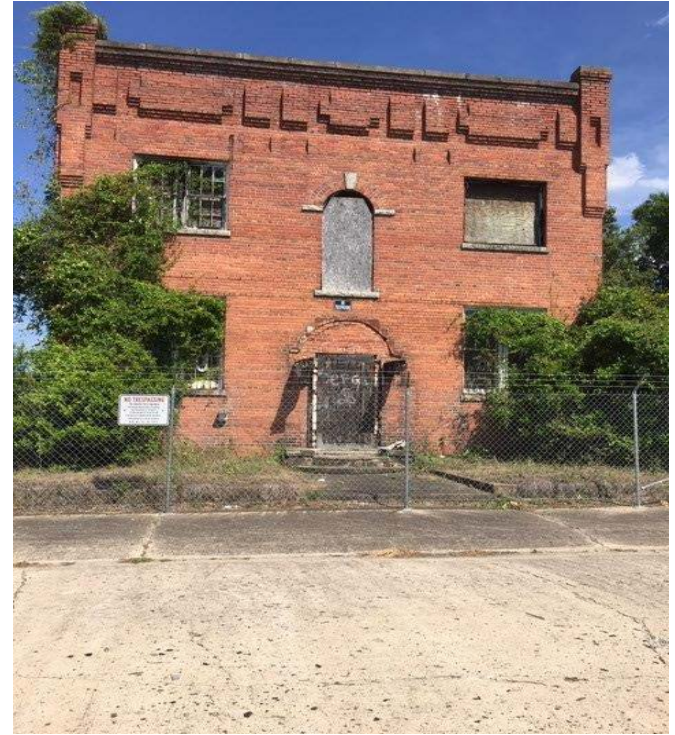


All Trails Lead to Imperial Place...



IMPERIAL HISTORIC BUILDING RE-USE

- Upon securing state and federal historic tax credits, Seacoast will renovate the historic building
- The historic building façade shall be renovated in a manner so as to maintain its historical character
- The historic office building shall be renovated with goal of residential, office, retail, nonprofit, artistic, or other public and/or private use that is mutually agreed upon by both the City and Seacoast



PROPOSED LAND ACQUISITION

- City will sell property to the Developer at appraised value
- City will survey the property to determine the exact acreage to be disposed
- Developer will purchase property in two phases:
 - Hotel Phase: approximately 2 acre
 - Housing Phase: approximately 4 acres
- City will certify the environmental cleanup that has been performed on the site as part of Brownfield grant
- Developer shall build the Phase I hotel with expected completion in 2021



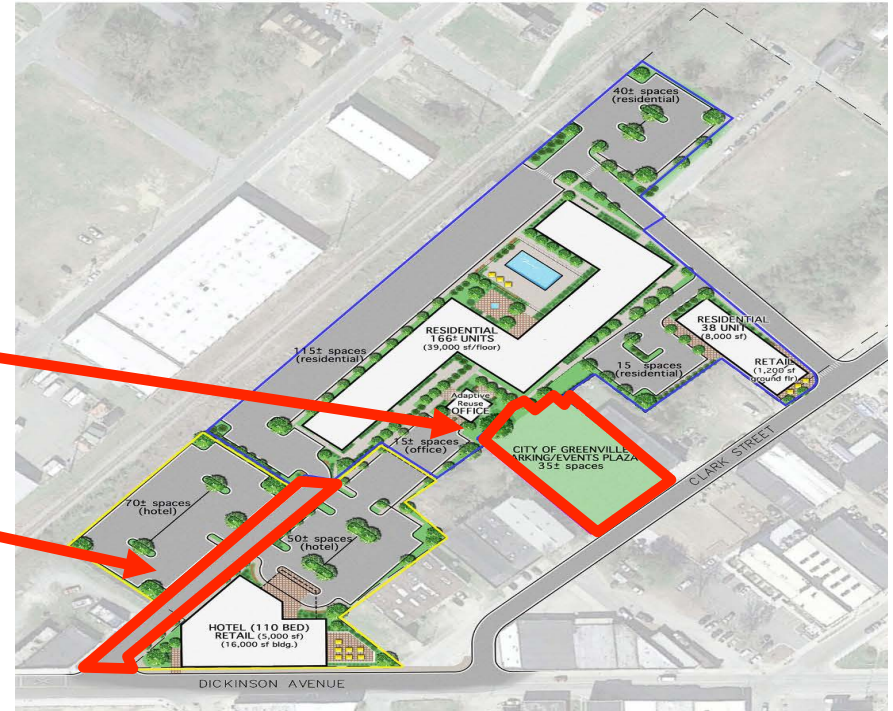
REQUESTED PUBLIC INVESTMENT

1. City Funded Public Infrastructure and Site Development:
 - Removal of Existing Imperial Infrastructure
 - Partial Rebuild of Atlantic Avenue
 - Clark Street Public Parking Lot and Events Plaza Inclusive of Public Art
2. City Capital Investment Grant on Hotel Investment:
 - 75% of Annual Property Tax for 12 Years



REQUESTED PUBLIC INVESTMENT

- City Funded Public Infrastructure and Site Development:
 - Removal of Existing Imperial Infrastructure
 - Clark Street Public Parking Lot and Events Plaza Inclusive of Public Art
 - Partial Rebuild of Atlantic Avenue





SEACOAST COMMUNITIES, LLC

Seacoast Communities focuses on development, acquisition, and management of multifamily rental and commercial properties along the coastal areas of the United States. Seacoast's principles currently own and/or manages nearly 1,400 apartment units throughout the United States along with over 450,000 SF of commercial retail property. Seacoast Communities has established strong investment partners and bank financing relationships which allows for our continued growth. With over 40 years' experience in real estate development and property management, our team has the vision and creativity to quickly assess a project's potential as well as develop and execute a best use plan from concept to completion.

PUBLIC/PRIVATE

Seacoast has joint ventured in public-private partnerships and has executed several master development initiatives which included master planning, master development agreements, Tax credit initiatives, brownfield programs, and TIF bonds. Seacoast understands the complexities of these partnerships and recognizes how to put together a successful venture that enhances the community as well as meets municipal and developers objectives.

PROPERTY MANAGEMENT

Seacoast's subsidiary company, Seacoast Community Management offers full service property management for apartment rental communities. Please visit www.seacoastcm.com for more information and services.

IMPACT TO THE CITY

STAFF COMMENTS



IMPACT TO THE CITY OF GREENVILLE

- **Proposed Development:**

Phase 1: Boutique Hotel:

- 100 Rooms with Rooftop Bar & Lounge

Phase 2: Market Rate Housing:

- Building One: 166 Residential Units
- Building Two: 32 Residential Units with 1,200 Square Feet of Office / Retail

- **Proposed Developer Investment:**

Hotel	\$ 16,000,000
Market Rate Housing	<u>25,000,000</u>
Total	<u>\$ 41,000,000</u>

- **Impact to the City:**

- Puts Imperial Site Property Back on the Tax Rolls
- Increases the Number of People in Uptown on Daily Basis by 300 to 400
- Increases Annual Tax Revenues by Approximately \$195,000
(Includes Property and Sales Tax)
- Enhances Opportunity for Future Economic Growth Uptown

Financial Impact Modeled Based on the Following:

1. City Funded Public Infrastructure & Site Development:
 - Removal of Existing Imperial Infrastructure
 - Partial Rebuild of Atlantic Avenue
 - Clark Street Public Parking Lot and Events Plaza Inclusive of Public Art

2. City Capital Investment Grant on Hotel Investment:
 - 75% of Annual Property Tax for 12 Years

IMPACT TO THE CITY OF GREENVILLE

15 Year Pro Forma

Revenue

Sale of Property to Developer:

Phase 1

\$ 1,000,000

Phase 2

2,000,000

Subtotal

3,000,000

Tax Revenues:

Property Tax

1,883,700

Sales Tax

262,800

Dickinson Avenue Property Tax

161,020

Subtotal

2,307,520

Total Revenue

\$ 5,307,520

Expense

Public Infrastructure / Site Development:

(1,500,000)

Capital Investment Grant (CIG)

Hotel

(561,600)

Total Expense

\$ (2,061,600)

Revenue Less Expense

\$ 3,245,920





IMPACT TO THE CITY OF GREENVILLE

15 Year Pro Forma

	Projected Revenue	Projected Expense	Net
Years 1 - 5	\$ 3,355,120	\$ 1,640,400	\$ 1,714,720
Years 6 - 10	976,200	234,000	742,200
Years 11 - 15	976,200	187,200	789,000
Total	<u>\$ 5,307,520</u>	<u>\$ 2,061,600</u>	<u>\$ 3,245,920</u>



- City Staff Work With Developer on Letter of Intent (in progress)
- Present Letter of Intent to City Council for Approval (Oct/Nov)



City of Greenville, North Carolina

Meeting Date: 10/21/2019
Time: 6:00 PM

Title of Item: Budget ordinance amendment #4 to the 2019-2020 Community Development Capital Projects Fund budget (Ordinance #17-024)

Explanation: **Abstract:** This budget amendment is for City Council to review and approve proposed changes to the Community Development Capital Project Fund.

Explanation: Attached for consideration at the October 21, 2019, City Council meeting is an ordinance amending the Community Development Capital Project Fund (Ordinance #17-024).

For ease of reference, a footnote has been added to each line item of the budget ordinance amendment, which corresponds to the explanation below:

<u>Item</u>	<u>Justification</u>	<u>Funds Amended</u>	<u>Net Adjustment</u>
A	Recognize lease funds received from Nathaniel Village.	Community Development Capital Project Funds	\$62,942

Fiscal Note:

<u>Fund Name</u>	<u>2019-20</u> <u>Budget per</u> <u>Amend #3</u>	<u>2019-20</u> <u>Budget per</u> <u>Amend #4</u>	<u>2019-20</u> <u>Budget per</u> <u>Amend #4</u>
Community Development Capital Project	\$ 18,591,285	\$ 62,942	\$ 18,654,227

Recommendation: Approve budget ordinance amendment #4 to the Community Development Capital Projects Fund (Ordinance #17-024).

ATTACHMENTS:

☐ **Budget_Amendment_Ord__4_1117572**

ORDINANCE NO. 19-
CITY OF GREENVILLE, NORTH CAROLINA
Ordinance (#4) Amending the Community Development Capital Projects Fund (Ordinance #17-024)

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA DOES ORDAIN:

Section I: Estimated Revenues and Appropriations. Community Development Capital Projects Fund, of Ordinance #17-024 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2019-20 Revised Budget	Budget Amendment #4		2019-20 Budget per Amend #4
		A.	Total Amend #4	
ESTIMATED REVENUES				
Transfers In / CD Small Business	\$ 4,997,546	\$ -	\$ -	\$ 4,997,546
Transfers / Ctr City Rev Project	160,500	-	-	160,500
Transfers / Trans from Energy Eff	275,000	-	-	275,000
Transfers from General Fund	1,040,000	-	-	1,040,000
Rstrc Intgv / Spec ST Fed Grant	550,000	-	-	550,000
Rstrc Intgv / Grant Proceeds	7,500	-	-	7,500
Investment Earnings	399,640	-	-	399,640
Bond Proceeds	10,048,747	-	-	10,048,747
Comm Dev / Sale of Property	422,088	-	-	422,088
Rental Income	253,175	62,942	62,942	316,117
Other Revenues	437,089	-	-	437,089
Total Revenues	\$ 18,591,285	\$ 62,942	\$ 62,942	\$ 18,654,227
APPROPRIATIONS				
GUC Energy Improvement Program	\$ 100,000	\$ -	\$ -	\$ 100,000
West Greenville Revitalization Proj	6,207,976	62,942	62,942	6,270,918
Center City Revitalization Project	5,349,156	-	-	5,349,156
Energy Efficient Revolving Loan Prog	700,000	-	-	700,000
4th Street Parking Garage Project	5,194,153	-	-	5,194,153
Imperial Site Purchase	957,035	-	-	957,035
Transfer to R&P Capital Project	82,965	-	-	82,965
Total Appropriations	\$ 18,591,285	\$ -	\$ -	\$ 18,654,227

Section II: All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed:

Adopted this 21st day of October, 2019

P. J. Connelly, Mayor

ATTEST:

Polly Jones, CMC