



Agenda

Greenville City Council

June 9, 2022

6:00 PM

City Hall Council Chambers, 200 West 5th Street

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

- I. Call Meeting To Order**
- II. Invocation - Council Member Daniels**
- III. Pledge of Allegiance**
- IV. Swearing-In of City Council Member Will Bell**
- V. Roll Call**
- VI. Approval of Agenda**
- VII. 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.

- VIII. Special Recognitions**

1. 2021 Sustained Professional Purchasing Award

IX. Appointments

2. Appointments to Boards and Commissions
3. Appointment of City Council Members to Boards and Committees
4. Appointments to the Greenville ENC Alliance Board

X. Consent Agenda

5. Resolution Accepting Dedication of Rights-of-Way and Easements for Davenport Farms at Emerald Park Phase 6 – Cluster Development
6. Updates to Lease and Memorandum of Lease, and Execution of Termination of Memorandum of Agreement with Sidewalk Greenville, LLC
7. Subordination Agreement involving Sale of Hotel Property to support Greenville Convention Center
8. Resolution declaring the former Greenville Utilities Commission Operations Center property located on Mumford Road as surplus to the needs of Greenville Utilities Commission and the City of Greenville and authorizing its disposition by the upset bid method
9. Resolution declaring as surplus and authorizing the disposition of fourteen heavy-duty vehicles by electronic auction
10. Authorization to submit a 2022 COPS Technology and Equipment Program Application
11. Authorization to submit a COPS Office FY 2022 Community Policing Development Microgrant Application
12. Contract Award to Kimley-Horn for the Comprehensive Recreation and Parks Master Plan
13. Contract award for professional services for Mowing /Landscape Maintenance for Homestead Memorial Gardens Cemetery (PWD Contract #12)
14. Contract award for professional services for Mowing/Landscape Maintenance for Greenwood Cemetery (PWD Contract #3)
15. Third Year Renewal of Contract with Pitt County for Pitt Area Transit (PATs) to Provide Paratransit Services for Fiscal Year 2022-2023
16. Various tax refunds greater than \$100

XI. New Business

Public Hearings

17. Ordinance to annex Bobby W. Joyner property involving 5.84 acres located along the northern right-of-way of East Fire Tower Road and 200+/- feet west of Meeting Place
18. Ordinance to annex Congleton Funeral Home involving 3.66 acres located along the northern right-of-way of East 10th Street and 400+/- feet south of Port Terminal Road
19. Ordinance to annex the Kate Vincent Kittrell property involving 12.048 acres located along the southern right-of-way of Dickinson Avenue and 600+/- feet south of West Arlington Boulevard
20. Ordinance requested by BFC Allen Road, LLC to rezone 1.542+/- acres located along the southern right-of-way of the Norfolk & Southern Railroad between Allen Road and Spring Forest Road from RA20 (Residential-Agricultural) to R6 (Residential [High Density Multi-family])
21. Ordinance requested by Charles Blvd. 58 Acres, LLC to rezone a total of 48.101 acres located along the eastern right-of-way of Charles Boulevard and 200+/- feet south of Cantata Drive from R15S (Residential-Single-family [Low Density]), R9S (Residential-Single-family [Medium Density]), and R6S (Residential-Single-family [Medium Density]) to O (Office)
22. Ordinance requested by Greenbrier Realty Company, Inc. to rezone 0.238 acres located along the eastern right-of-way of Cromwell Drive and 200+/- feet south of Lynndale Court from OR (Office-Residential [High Density Multi-family]) and R6 (Residential [High Density Multi-family]) to R9S (Residential-Single-family [Medium Density])
23. Ordinance requested by K Sade Ventures, LLC to rezone a total of 8.722 acres located along the northern right-of-way of NC Hwy 43 (West 5th Street) and 240+/- feet west of Mattox Road from RA20 (Residential-Agricultural), MO (Medical-Office), and MRS (Medical-Residential [Single-family]) to MR (Medical-Residential [High Density Multi-family])
24. Ordinance requested by the FP Dickinson, LLC to amend Title 9, Chapter 4, Appendix A: Table of Uses of the City Code to add use code 14(c) Bakery; production, storage, and shipment facilities" as a permitted use in General Commercial (CG) zoning district
25. Ordinance requiring the demolition and removal of the dwelling located at 1303 West Third Street, Tax Parcel #23006
26. Ordinance amending the Flood Damage Prevention Ordinance text to amend the freeboard requirements for manufactured homes to align with the model ordinance

27. Resolution to Enter into a Grant Agreement with NC Biotechnology Center and Performance Agreement with Patheon Manufacturing Services LLC for Project Lucky
28. Resolution Approving Amendment No. 1 to the Economic Development Agreement with Patheon Manufacturing Services LLC for Project Lucky

Other Items of Business

29. Resolution to Authorize Loan Terms for Arlington Trace Development and to Authorize Execution of Loan Documents
30. Pitt County Arts Council at Emerge Fiscal Year 2022-23 Contract for Services
31. Budget Ordinance Amendment #11 to the 2021-22 City of Greenville Budget (Ordinance #21-035), the Engineering Capital Projects Fund (Ordinance #20-019), the Capital Projects Funds (Ordinance #17-024), the Special Revenue Grants Fund (Ordinance #11-003), and the Occupancy Tax Fund (Ordinance #11-003)

XII. City Manager's Report

XIII. Comments from Mayor and City Council

XIV. Adjournment



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Appointments to Boards and Commissions

Explanation: City Council appointments need to be made to the Affordable Housing Loan Committee, Board of Adjustment, Environmental Advisory Commission, Greenville Utilities Commission, Human Relations Council, Multimodal Transportation Commission, Pitt-Greenville Airport Authority, Police Community Relations Committee, Planning and Zoning Commission, Recreation and Parks Commission, and Youth Council.

The City Council updated the Boards and Commission Policy on October 9, 2017 to include a provision for extended vacancies: Nominations for Extended Vacancies "In the event there is a vacancy on a City board or commissions which has been on the City Council agenda for appointment by City Council for more than three (3) calendar months in which a regular City Council meeting has been held, then any Council Member may make a nomination to fill the vacancy without regard to any other provision relating to who has the authority to make the nomination. If there is more than one nomination, the appointment shall be conducted in accordance with the procedure for nomination and elections in Robert's Rules of Order." Under this provision, the following seats are open to nominations from the City Council:

- 7 seats on the Youth Council

Fiscal Note: No direct fiscal impact

Recommendation: Make appointments to the Affordable Housing Loan Committee, Board of Adjustment, Environmental Advisory Commission, Greenville Utilities Commission, Human Relations Council, Multimodal Transportation Commission, Pitt-Greenville Airport Authority, Police Community Relations Committee, Planning and Zoning Commission, Recreation and Parks Commission, and Youth Council.

ATTACHMENTS

 [June 2022 Appointments to Boards and Commissions.pdf](#)

Appointments to Boards and Commissions

June 2022

Affordable Housing Loan Committee

Council Liaison:

Name	District #	Current Term	Reappointment Status	Expiration Date
Judy Wagner	4	1-year term	Not seeking a second term	February 2022
Deborah Spencer	1	Second term	Resigned	February 2023

Board of Adjustment

Council Liaison:

Name	District #	Current Term	Reappointment Status	Expiration Date
Rodney Bullock <i>(Mayor Pro-Tem Rose Glover)</i>	2	Second term	Ineligible	June 2022
Nathan Brannon <i>(Council Member Marion Blackburn)</i>	2	Filling unexpired term	Eligible	June 2022

Environmental Advisory Commission

Council Liaison:

Name	District #	Current Term	Reappointment Status	Expiration Date
David Ames	4	Second term	Ineligible	April 2022

Greenville Utilities Commission

Council Liaison:

Name	District #	Current Term	Reappointment Status	Expiration Date
Minnie Anderson <i>(Council Member Monica Daniels)</i>	2	Second term	Ineligible	June 2022

Peter Geiger 4 First term Eligible June 2022
(Council Member Rick Smiley)

Lindsey Griffin 5 First term Eligible June 2022
(Council Member Les Robinson)

Human Relations Council

Council Liaison:

Name	District #	Current Term	Reappointment Status	Expiration Date
Mark Rasdorf	4	First term	Resigned	September 2022

Multimodal Transportation Commission

Council Liaison:

Name	District #	Current Term	Reappointment Status	Expiration Date
Traye Smith	4	First term	Resigned	January 2023
Robert Edwards	3	Filling unexpired term	Eligible	January 2022

Pitt-Greenville Airport Authority

Council Liaison:

Name	District #	Current Term	Reappointment Status	Expiration Date
Eric Clark <i>(Council Member Rick Smiley)</i>	4	Second term	Ineligible	June 2022

Pitt-Greenville Convention and Visitors Authority

Council Liaison:

Name	District #	Current Term	Reappointment Status	Expiration Date
Austin Hill	1	First term	Eligible	July 2022
Diane Taylor	5	First term	Eligible	July 2022
Dustin Mills	5	First term	Eligible	July 2022

(City recommendation; County Appointment)

Police Community Relations Committee

Council Liaison:

Name	District #	Current Term	Reappointment Status	Expiration Date
Kevon Gainer	1	Filling unexpired term	Resigned	October 2021

(Council Member Monica Daniels)

Planning and Zoning Commission

Council Liaison:

Name	District #	Current Term	Reappointment Status	Expiration Date
Michael Overton	5	Second term	Ineligible	June 2022

(Mayor Pro-Tem Rose Glover)

Billy Parker	1	First term	Eligible	June 2022
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(Council Member Monica Daniels)

Les Robinson	5	Second term	Ineligible	June 2024
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(Mayor PJ Connelly)

Alan Brock	4	First term	Eligible	June 2022
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(Council Member Les Robinson)

Recreation and Parks Commission

Council Liaison:

Name	District #	Current Term	Reappointment Status	Expiration Date
Derrick Clark <i>(Mayor PJ Connelly)</i>	4	Filling unexpired term	Eligible	May 2022
Michael Saad <i>(Council Member At-Large Will Bell)</i>	4	Second term	Ineligible	May 2022

Youth Council

Council Liaison:

Name	Current Term	Reappointment Status	Expiration Date
9 spots open			

Seats that are open to nominations from the City Council are highlighted.

Applicants for Affordable Housing Loan Committee

None.

Applicants for Board of Adjustment

None.

Applicants for Environmental Advisory Commission

Bill Redding
601 S. Elm St
Greenville, NC 27858

District #: 3

Application 3/17/2021

Home Phone: (252) 758-7292
Business Phone:
Email: billredding07@yahoo.com

Michael H Barnum
614 Maple St
Greenville, NC 27858

District #: 3

Application 12/11/2020

Home Phone: (252) 916-2608
Business Phone: (252) 916-2608
Email: mbarnum@suddenlink.net

Yoshi Newman
214 Quail Hollow Rd
Greenville, NC 27858

District #: 4

Application 5/1/2022

Home Phone: (563) 508-2377
Business Phone: (563) 508-2377
Email: dr.yoshi1000@gmail.com

Applicants for Greenville Utilities Commission

Reginald Watson
211 Pin Oak Court
Greenville, NC 27834

District #: 5

Application 7/27/2020

Home Phone: (252) 355-3380

Business Phone: (252) 328-6684

Email: walston.tyrone@gmail.com

Applicants for Human Relations Council

Reginald Watson
211 Pin Oak Court
Greenville, NC 27834

District #: 5

Application 7/27/2020

Home Phone: (252) 355-3380
Business Phone: (252) 328-6684
Email: walston.tyrone@gmail.com

Mark Ephriam Parker
1925 Tara Court
Greenville, NC 27858

District #: 4

Application 4/26/2022

Home Phone: (252) 558-6374
Business Phone:
Email: worshack67@gmail.com

Applicants for Multimodal Transportation Commission

None.

Applicants for Pitt-Greenville Airport Authority

None.

Applicants for Police Community Relations Committee

Mark Ephriam Parker
1925 Tara Court
Greenville, NC 27858
District #: 4

Application 4/26/2022
Home Phone: (252) 558-6374
Business Phone:
Email: worshack67@gmail.com

Applicants for Planning and Zoning Commission

Mark Ephriam Parker
1925 Tara Court
Greenville, NC 27858
District #: 4

Application 4/26/2022
Home Phone: (252) 558-6374
Business Phone:
Email: worshack67@gmail.com

Applicants for Recreation and Parks Commission

None.

Applicants for Youth Council

Kalif Dowell
D. H. Conley High School

Application

5/23/2022



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Appointment of City Council Members to Boards and Committees

Explanation: Appointments are needed for the following committees:

- Audit & Investment Committee - On October 14, 2020, the City Council consolidated the Investment Advisory Committee, OPEB Committee, and Audit Committee into one committee, the Audit & Investment Committee. The Audit & Investment Committee reviews all aspects of the independent audit process, evaluates investment strategies and options in line with the investment guidelines per the City's policy, and receives updates and reports on Other Post-Employment Benefits (OPEB). Mayor Pro-Tem Rose Glover and Council Member Rick Smiley currently serve. Three appointments need to be made by a vote of the City Council.
- Joint Pay & Benefits Committee - On September 8, 1992, a committee was established by the City Council and Greenville Utilities Commission (GUC) to jointly study the pay plans of the City and GUC. The Joint Pay & Benefits Committee consists of two City Council Members and two GUC Commissioners. Mayor Pro-Tem Rose Glover and Council Member Rick Smiley currently serve. Two appointments by vote of the City Council need to be made.
- Taxicab Appeal Board - Section 11-1-67 of the City Code of Ordinances establishes a Taxicab Appeal Board. Membership is composed of the City Manager or a designee, a member of the Greenville Taxicab Association, and a designated member of the City Council. The purpose of this board is to hear appeals of the Chief of Police to deny the issuance of or to revoke a taxi driver's permit. Mayor Pro-Tem Rose Glover currently serves. One appointment by vote of the City Council needs to be made.

Fiscal Note: No direct fiscal impact.

Recommendation: Make appointments to the Audit & Investment Committee, Joint Pay & Benefits Committee, and the Taxicab Appeal Board.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Appointments to the Greenville ENC Alliance Board

Explanation: In July 2019, the City of Greenville became a sustaining member of the Greenville ENC Alliance, a public-private partnership focused on economic development in Pitt County.

As a sustaining member, the City Council makes three appointments to the Greenville ENC Alliance Board, with at least one appointee being an elected official of the City of Greenville.

Members are appointed to one-year terms by a vote of the City Council that expire annually in June and are eligible for reappointment. Current members appointed by the City of Greenville include:

1. Council Member Will Bell
2. Ms. Alison Siebel
3. Mr. Robert Cherry

Fiscal Note: No direct fiscal impact.

Recommendation: Make three appointments to the Greenville ENC Alliance Board.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

<u>Title of Item:</u>	Resolution Accepting Dedication of Rights-of-Way and Easements for Davenport Farms at Emerald Park Phase 6 – Cluster Development
<u>Explanation:</u>	In accordance with the City's Subdivision regulations, rights-of-way and easements have been dedicated for Davenport Farms at Emerald Park Phase 6 (Map Book 3509 at Page 705). A resolution accepting the dedication of the aforementioned rights-of-way and easements is attached for City Council consideration. The final plat showing the rights-of-way and easements is also attached.
<u>Fiscal Note:</u>	Funds for the maintenance of these rights-of-way and easements are included within the fiscal year 2021-2022 budget.
<u>Recommendation:</u>	City Council adopt the attached resolution accepting dedication of rights-of-way and easements for Davenport Farms at Emerald Park Phase 6.

ATTACHMENTS

-  [Davenport Farms at Emerald Park Phase 6 Resolution.pdf](#)
-  [Rhinestone Dr Final Plat.pdf](#)

RESOLUTION NO.
A RESOLUTION ACCEPTING DEDICATION TO THE PUBLIC OF
RIGHTS-OF-WAY AND EASEMENTS ON SUBDIVISION PLATS

WHEREAS, G.S. 160D-806 authorizes any City Council to accept by resolution any dedication made to the public of land or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision-regulation jurisdiction; and

WHEREAS, the Subdivision Review Board of the City of Greenville has acted to approve the final plats named in this resolution, or the plats or maps that predate the Subdivision Review Process; and

WHEREAS, the final plats named in this resolution contain dedication to the public of lands or facilities for streets, parks, public utility lines, or other public purposes; and

WHEREAS, the Greenville City Council finds that it is in the best interest of the public health, safety, and general welfare of the citizens of the City of Greenville to accept the offered dedication on the plats named in this resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville, North Carolina:

Section 1. The City of Greenville accepts the dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes offered by, shown on, or implied in the following approved subdivision plats:

Davenport Farms at Emerald Park, Phase 6 Map Book 3509 at Page 705

Section 2. Acceptance of dedication of lands or facilities shall not place on the City any duty to open, operate, repair, or maintain any street, utility line, or other land or facility except as provided by the ordinances, regulations or specific acts of the City, or as provided by the laws of the State of North Carolina.

Section 3. Acceptance of the dedications named in this resolution shall be effective upon adoption of this resolution.

Adopted the 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

I, Camillia Smith, Notary Public for said County and State, certify that Valerie Shiuwegar personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing instrument was signed in its name by its Mayor, sealed with the corporate seal, and attested by herself as its City Clerk.

WITNESS my hand and official seal this the 9th day of June, 2022.

Notary Public

My Commission Expires:



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Updates to Lease and Memorandum of Lease, and Execution of Termination of Memorandum of Agreement with Sidewalk Greenville, LLC

Explanation: In 2015, the City, as seller, entered into an Agreement of Sale with Sidewalk Greenville, LLC, as buyer, which included the purchase of property located at 8th Street for mixed use development, including office, retail and residential. Additionally, in 2017 the parties entered into a Memorandum of Agreement, and a separate lease agreement for the lease of 200 parking spaces located in a City lot on Bonners Lane.

Sidewalk Greenville has completed the obligations under the Sales Agreement including building of the Property and has been issued a certificate of occupancy. Sidewalk Greenville is anticipating the sale of the Property, and must update an error in the legal description included in the lease and memorandum of lease, so it is properly captured and recorded. Additionally, Sidewalk Greenville is requesting to terminate the Memorandum of Agreement due to completion of post-closing obligations as allowable under section 4 of the Memorandum of Agreement.

Fiscal Note: The City will continue to receive rent payments due under the Lease from the new property owner upon closing of the sale.

Recommendation: City Council approve the Mayor and/or City Manager to sign the Lease Amendment and Memorandum of Lease, and Termination of Memorandum of Agreement. The City Attorney or City Manager is authorized to make other non-substantive revisions to the above documents so long as such revisions do not have a fiscal impact on the City.

ATTACHMENTS

- [EXECUTED - Agreement of Sale with City of Greenville \(4826-5243-3114.v1\).pdf](#)
- [memo of agreement.pdf](#)
- [Contract Number 2194 Leasing of 200 Parking Spaces on a Parcel of Land.pdf](#)
- [memo of lease.pdf](#)
- [Amendment_to_Lease.pdf](#)

 **Corrective Memorandum of Lease.pdf**

 **Termination of Memorandum of Agreement (4895-9050-5761.v4).pdf**

AGREEMENT OF SALE

Between

SIDEWALK GREENVILLE LLC, as Buyer

And

CITY OF GREENVILLE, N.C. as Seller

AGREEMENT OF SALE

THIS AGREEMENT OF SALE ("Agreement") is made this 13th day of November, 2015, by and between **SIDEWALK GREENVILLE LLC**, a Delaware limited liability company, ("Buyer") and **CITY OF GREENVILLE**, a municipal corporation organized and existing pursuant to the laws of the State of North Carolina ("Seller").

WITNESSETH: In consideration of the mutual covenants of Seller and Buyer contained herein, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Property. Subject to the terms and conditions of this Agreement, Seller agrees to sell to Buyer in fee simple, and Buyer agrees to purchase from Seller, all those parcels of land situate, lying and being in Greenville, North Carolina, known and designated as Lot one (1) described as 1.9006 acres and Lot two (2) described as .0706 acres on the map entitled Eighth Street Acres, which are located in the City of Greenville, North Carolina, as more particularly described on Exhibit A attached hereto and made a part hereof (the "Property"). Seller shall be responsible for, and shall pay any expenses incurred, to establish the Property as a properly subdivided legal parcel prior to the expiration of the Study Period. It is Buyer's intention to pursue the development of the Property in conformity with the Master Plan on Exhibit B attached hereto and made a part hereof (the "Master Plan"), as modified by the agreement of Buyer and Seller from time to time and to comply with governmental zoning or other regulatory requirements.

2. Purchase Price and Deposit. The purchase price for the Property (the "Purchase Price") shall be the amount of One Million Five Hundred Six Thousand Seven Hundred Forty Four and no/100ths Dollars (\$1,506,744.00). The Purchase Price shall be paid by Buyer to Seller at Closing (as hereafter defined) in cash or by certified check or wired funds.

Within five (5) days following the Effective Date, (as defined in Section 31 hereof, Buyer shall deliver, in escrow, to Steven R. Jones, The Jones Law Firm, P.A., as escrow agent ("Escrow Agent") the sum of Fifteen Thousand Dollars (\$15,000.00) (the "Initial Deposit"). Within five (5) business days following the end of the Study Period (hereafter defined), so long as Buyer has not terminated this Agreement, the amount of the deposit shall be increased by Buyer making an additional deposit with the Escrow Agent of Fifteen Thousand Dollars (\$15,000.00) (the "Additional Deposit"). The Initial Deposit and the Additional Deposit so made are hereafter collectively called the "Deposit." The Deposit shall be held in an interest-bearing FDIC insured account at a financial institution designated by Buyer. At Closing, the Deposit shall be paid by Escrow Agent to Seller and applied against the Purchase Price. All interest earned on the Deposit shall be deemed as part of, and applied in the same manner as, the Deposit. If the transaction contemplated by this Agreement does not close for any

reason, the Deposit shall be disbursed in accordance with the terms of this Agreement. Seller acknowledges that Buyer's entering into this Agreement to purchase the Property and undertaking to perform such tests and studies as Buyer, in its sole discretion, shall deem reasonable and advisable, is adequate and sufficient consideration for the right to terminate this Agreement for any reason or for no reason on or before the expiration of the Study Period and is also adequate and sufficient consideration for the inclusion in this Agreement of other conditions precedent to Buyer's obligations to perform any obligations under this Agreement that are subjective in nature and based upon the satisfaction of Buyer, in its sole discretion, and are not objective in nature or based upon any other standard.

3. Closing. Closing of the sale and purchase of the Property pursuant to this Agreement ("Closing") shall take place in Greenville, North Carolina at the offices of Buyer's attorney or the Escrow Agent during normal business hours on or before the date that is one (1) year following the Effective Date. The Closing shall take place on a regular business day.

At Closing, Seller shall execute and deliver to Buyer:

a. a duly executed and acknowledged special warranty deed, which form of deed provides to Buyer warranties limited to the term of Seller's ownership of the Property, conveying the Property to Buyer, in fee simple, subject to restrictive covenants, easements and rights-of-way of public record, noncompliance with local, county, state or federal governmental laws, ordinances, or regulations relative to zoning, subdivision, occupancy, use, construction or the development of the property, if any, and to all matters and things which a current accurate survey may reveal or disclose, which deed shall be in a form reasonably acceptable to Buyer;

b. a closing and settlement statement in form and substance mutually satisfactory to both parties;

c. a standard form affidavit and indemnification agreement to the title company showing that all labor and/or materials, if any, furnished to the property within one hundred twenty (120) days prior to the date of closing have been paid and by which the City agrees to indemnify a title insurance company pursuant to a standard form ALTA title affidavit against all loss, cost, claim and expense arising therefrom, including reasonable attorney's fees; and

d. any other document reasonably necessary to consummate the transactions contemplated by this Agreement, including but not limited to, such title affidavits or other instruments as Buyer's title insurance company may require as to any matters to the extent not inconsistent with Seller's obligations under this Agreement.

At Closing, Buyer shall execute and deliver to Seller:

- a. the approved settlement statement;
- b. the Deposit and the balance of the Purchase Price, adjusted as provided by the approved settlement statement; and
- c. any other document reasonably necessary to consummate the transactions contemplated by this Agreement.

4. Undertakings of Parties Pending Closing. Within ten (10) days following the Effective Date, Seller will deliver to Buyer, at no cost or expense to Buyer, copies of all tests, studies and surveys in Seller's possession, or in the possession of Seller's consultants or agents, relating to the Property and its operations, including, without limitation, surveys, agreements with adjacent landowners, agreements with governmental authorities, title information, topographic maps, engineering and environmental reports, soil reports, wetland surveys, licenses and permits, land plans, building plans and specifications, utility information, real estate tax bills and assessments, permits and permit applications, any service, maintenance or management contracts, warranties, maintenance and repair records, all currently operative leases, contracts and permits, all service, maintenance or management contracts, and any other documents or materials relating to the ownership, operations and maintenance of the Property. From the Effective Date until Closing (i) Seller shall give to Buyer, its agents and representatives, full and free access to all areas of the Property during normal business hours; (ii) Buyer, its agents and representatives, shall have the right, at Buyer's cost and risk, upon reasonable prior verbal or written notice to Seller, to enter upon the Property for the purpose of making physical inspections, environmental inspections, surveys, soil tests, including test borings, and other similar inspections and studies; and (iii) Seller shall render to Buyer all reasonable assistance requested by Buyer in obtaining any permits, consents or approvals which Buyer believes to be necessary in connection with Buyer's planned use of the Property. If Buyer exercises its rights under subsections (i) and/or (ii) of this Section 4, prior to any entry upon the Property, Buyer shall furnish Seller with a certificate of insurance, in form and content reasonably acceptable to Seller. If Buyer exercises its rights under subsections (i) and/or (ii) of this Section 4, Buyer shall keep the Property free and clear of any and all liens or claims resulting therefrom, shall defend, indemnify and hold harmless Seller, its partners, agents, representatives and affiliates from and against any cost, damage, liability or expense of any kind (including reasonable attorney's fees and litigation costs and expenses) for loss or damage to property and/or injuries to or death of persons arising therefrom, and, if Closing does not occur for any reason, Buyer shall restore any portion of the Property damaged by Buyer's activities on the Property to its condition immediately before such activities. The rights and obligations of the Buyer to indemnify Seller as aforesaid under the provisions of this Section 4 shall survive Closing or any termination of this Agreement.

5. Study Period; Conditions Precedent.

a. Study Period. Buyer's obligation to purchase the Property is contingent upon Buyer's completion of Buyer's review of the Property to Buyer's satisfaction on or before the date which is one hundred twenty (120) days following the Effective Date (the "Study Period"). Such review and investigation shall be conducted at Buyer's sole cost and expense. Buyer may terminate this Agreement at any time prior to 5:00 p.m. on the last day of the Study Period by written notice to Seller, which decision shall be made by Buyer in its sole discretion, for any reason or for no reason, and shall not be subject to objection by Seller for any reason whatsoever. If this Agreement is so terminated by Buyer prior to the end of the Study Period, the Deposit immediately shall be refunded to Buyer, this Agreement shall be of no further force or effect, and the parties shall have no further rights, duties, liabilities or obligations, at law or in equity, to each other of any kind or nature arising out of or relating to this Agreement, except for those obligations which are specified under this Agreement to survive termination.

b. Development Approvals Contingency. Buyer shall have an initial period of one (1) year following the Effective Date, (the "Approvals Period") to acquire all approvals and permits, including grading, foundation and building permits, that Buyer deems necessary or desirable for the development of the Property as set forth on the Master Plan (each hereinafter an "Approval," and collectively the "Approvals"). Seller agrees to cooperate with and affirmatively assist Buyer, to execute any and all applications/petitions/plats, attend and participate in any necessary hearings, and undertake all other reasonable acts necessary to assist Buyer to obtain any Approval, provided, however, that Buyer shall bear all of Seller's reasonable costs and expenses incidental thereto.

If at any time prior to Closing, Buyer determines that the desired Approvals have not been, or will not be, issued, then Buyer may terminate this Agreement by written notice to Seller. If this Agreement is terminated by Buyer pursuant to this Section 5(b) after the end of the Study Period, then the Deposit shall be disbursed to Seller, this Agreement shall be of no further force or effect, and the parties shall have no further rights, duties, liability or obligations, at law or in equity, to each other of any kind or nature arising out of or relating to this Agreement, except for those obligations which are specified under this Agreement to survive termination.

6. Title and Survey. Title to the Property shall be good and marketable, free and clear of all liens, encumbrances and encroachments, and free of all violation notices from any governmental authority having jurisdiction over the Property, except for the Permitted Exceptions, as hereinafter defined. For purposes hereof, "Permitted Exceptions" shall mean (a) restrictive covenants, easements and rights-of-way of public record, noncompliance with local, county, state or federal governmental laws, ordinances, or regulations relative to zoning, subdivision, occupancy, use, construction or the development of the property, if any, and to all matters and things which a current accurate survey may reveal or disclose; and (b) any

other matters which are not objected to by Buyer during the Study Period except for those matters hereinafter described to which Buyer may object following the Study Period. Title to the Property shall not be deemed good and marketable unless a national title insurance company, acceptable to Buyer, agrees to insure fee simple title to the Property and issue to Buyer an owner's title insurance policy, at standard rates, subject only to the Permitted Exceptions. Funds payable by Buyer at Closing may be used to pay off any existing liens, encumbrances or violation penalties, including accrued interest thereon.

During the Study Period Buyer may cause a title company to conduct a title examination of the Property and a surveyor to prepare an ALTA Survey of the Property. If Buyer finds title not to be as set forth in this Section 6, Buyer shall, no later than the last day of the Study Period, notify Seller in writing specifying the differences or survey objections. Buyer shall have the right to additionally object to any matters first appearing of record after the expiration of the Study Period, or during the gap from the last update of title to the expiration of the Study Period, unless such matters were caused by Buyer.

If, as provided above, Buyer has given Seller timely written notice of any such differences or survey objections, Seller shall use reasonable efforts to cause such objections to be resolved by the date of Closing. Seller agrees to remove any mortgage lien against the Property. Seller shall buy-out or settle any other claim or lien against the Property. Notwithstanding the foregoing, Seller shall not be required to expend more than One Hundred Thousand Dollars (\$100,000.00) in the aggregate, including reasonable attorney's fees and expenses, to remove any title or survey objections. At either party's option, the date of Closing may be extended for a period not to exceed ninety (90) days for purposes of eliminating any title or survey objections. In the event that Seller does not eliminate any title or survey objections as of the date of Closing as the same may be extended under the preceding sentence, Buyer shall have the option of either (i) proceeding with Closing and accepting the title "as is", without reduction in the Purchase Price and without claim against Seller therefor, or (ii) terminating this Agreement in which event the Escrow Agent shall return the Deposit and all interest earned thereon to Buyer and the parties shall have no further rights, duties, liabilities or obligations, at law or in equity to each other of any kind or nature arising out of or relating to this Agreement, except for those obligations which are specified under this Agreement to survive termination.

7. Delivery of Related Documents. Each party shall execute and acknowledge, seal and deliver, after the date hereof and at Closing, such further assurances, instruments and documents as the other may reasonably request in order to fulfill the intent of this Agreement and the transactions contemplated hereby.

8. Adjustments. At Closing, all rents, real estate taxes, utilities, charges for sewer and water, if any, and all other public or governmental charges or public or private assessments against the Property shall be adjusted and apportioned between

the parties as of 11:59 p.m. on the date of Closing and shall thereafter be assumed and paid by Buyer, whether or not assessments have been levied as of the date of Closing. All assessments imposed against the Property by any governmental agency or public utility for improvements resulting from work commenced or development activities undertaken on or before Closing shall be paid in full by Seller at Closing. All assessments for improvements to or for the benefit of the Property for work commenced after Settlement shall be paid by Buyer unless such work is required by or results from development activities undertaken on or before Closing by Seller in which case the assessment shall be paid by Seller. If at the time for the delivery of the deed, the Property is affected by an assessment that is or may become payable in annual installments, then for the purposes of this Agreement, all of the unpaid installments of any such assessment shall be deemed to be due and payable and shall be discharged at Closing by Seller.

The Buyer shall be responsible for the cost of its own title examination and title insurance premiums, any escrow fees or charges, the cost of its survey, and any recording charges on the deed and that the Seller shall be responsible for the cost of the preparation of the deed and all other documents necessary to perform the Seller's obligations pursuant to this Agreement and any and all excise tax (revenue stamps) required by law on the transaction. Each party shall be responsible for the cost of its own attorneys.

9. Representations and Warranties by Seller.

To induce Buyer to enter into this Agreement and to purchase the Property, Seller hereby represents and warrants to, and covenants and agrees with, Buyer, the following, with the understanding and intention that Buyer is relying upon the accuracy of such representations and warranties, and the agreement of Seller to comply with and perform such covenants and agreements, which representations, warranties, covenants and agreements shall be deemed to be made by Seller to Buyer as of the Effective Date and as of the Closing Date and thereafter (it being understood that such representations, warranties, covenants and agreements shall not be merged into the documents to be executed on the Closing Date), and this Agreement is contingent upon and subject to the truth and accuracy of such representations and warranties, and the full and complete satisfaction of such covenants and agreements, and if such representations and warranties are not true and accurate or if any such covenants and agreements are not satisfied, Buyer shall have the option prior to Closing, after giving the Seller the reasonable opportunity to cure as herein provided, of terminating this Agreement by written notice to Seller and receiving a return of its Deposit:

a. Seller is a municipal corporation which was duly formed and organized and is in good standing under the laws of the State of North Carolina. This Agreement constitutes the legal, valid and binding obligation of Seller enforceable in accordance with its terms, Seller has full power and authority to enter into and perform the terms and conditions of this Agreement, and the person executing this Agreement for Seller is fully and duly empowered and authorized to so act; to the best of Seller's

knowledge, entering into this Agreement does not, and the consummation of the acts contemplated by this Agreement shall not, violate any agreements, documents or instruments to which Seller is a party or by which it is bound, or any law, governmental regulation, order or decree to which Seller is subject;

b. To the best of Seller's knowledge, there are no laws, statutes, ordinances, building or use restrictions or zoning regulations now applicable to the Property which prohibit any of the uses presently being made thereof;

c. There are no pending or threatened condemnation or similar proceedings or assessments affecting the Property or any part thereof, nor to the best knowledge and belief of Seller, are any such assessments or proceedings contemplated by any governmental authority.

d. There are no actions, suits, proceedings or claims affecting any part of the Property, or affecting Seller with respect to the ownership, occupancy, use or operation of any part of the Property, pending or threatened in or before any court, agency, commission, or board;

e. Seller is not in breach of any law or regulation, or under any order of any court or federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, wherever located, with respect to the Property or the Seller's present use and operation of the Property;

f. Seller has not received any summons, citation, directive, notice, complaint, letter or other communication, written or oral, from the United States Environmental Protection Agency or other governmental authority concerning any alleged violation of any environmental law or rule or regulation at the Property and, to the best of Seller's knowledge, the Property is not currently under investigation for any such violation;

g. There is no actual, pending or threatened action, suit, claim, litigation, or proceeding by any entity, individual or governmental agency affecting Seller or the Property which would in any way constitute a lien, claim or obligation of any kind against the Property, and to the best of Seller's knowledge, there is no such action, suit, claim, litigation or proceeding contemplated;

h. There are no contracts, leases, licenses, or other agreements affecting the Property;

i. From the Effective Date until the Closing, Seller shall (i) maintain the Property in, or, if necessary, restore the Property to, its present condition, subject to reasonable wear and tear, damage and condemnation, and, (ii) continue to operate the Property in a good, businesslike manner;

j. Seller shall continue all such insurance policies relating to the Property in full force and effect through the Closing Date, and Seller shall neither cancel nor amend any of the same without Buyer's prior written consent;

k. Seller has not received, and has no knowledge of, any written notices or written requests from any mortgagee, insurance company, or Board of Fire underwriters, or any organization exercising functions similar thereto, requesting the performance of any work or alterations in respect to the Property, and has not received and has no knowledge of any such non-written notices or requests;

l. From the Effective Date through the Closing Date, Seller shall not enter into any new agreements affecting the Property ("Property Agreements") without the prior written consent of Buyer.

m. No person, firm, or entity, other than Buyer, has any rights in or right to acquire the Property or any part thereof, and as long as this Agreement remains in force, Seller will not, without Buyer's prior written consent, lease, transfer, mortgage, pledge, or convey its interest in the Property or any portion thereof nor any right therein, nor shall Seller enter into, or negotiate for the purpose of entering into, any agreement or amendment to agreement granting to any person or entity any right with respect to the Property or any part thereof;

n. There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, trespassers or otherwise;

o. There will be no outstanding mechanic's and materialmen's liens or claims of creditors against the Property on the Closing Date that will not be removed by Seller on the Closing Date;

p. To the best of Seller's knowledge, no petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending or threatened against or contemplated by Seller;

q. The Property is contiguous with a public road along all of its common boundary with such roadway, so that there are no strips or gores lying between such roadway and the Property. There is no pending or threatened governmental proceeding which would impair or curtail such access.

If Buyer discovers any breach of the foregoing representations and warranties prior to Closing, it shall afford Seller a reasonable opportunity to cure such breach. In the event Seller is unable to cure such breach within a reasonable time, Buyer shall be entitled to terminate this Agreement in which event the Escrow Agent shall return the Deposit to Buyer.

10. Conditions. Notwithstanding anything to the contrary contained herein, the Buyer's obligations pursuant to this Agreement are expressly conditioned upon the following conditions:

a. (i) The Property and its use shall not be or previously have been in violation of any law, rule, regulation, order or requirement pertaining to environmental regulations, contamination, or clean-up; and there shall not exist on the Property any hazardous substance, hazardous waste, pollutant, contaminant, toxic substance, asbestos, oil, other petroleum or chemical, biological or radioactive substance which is subject to regulation under any such law, rule, regulation, order or requirement or storage tank now or previously used for the storage thereof, whether above-ground or underground.

(ii) No portion of the Property shall be or shall have been used as a sanitary landfill, whether permitted or unpermitted, and no activity shall be or shall have been conducted thereon which is subject to regulation under the North Carolina Solid Waste Management Act.

Failure of any of the foregoing conditions of this Section 10 shall be evidenced and determined by written notice to the Seller from Buyer, which notice shall be given at least ten (10) days prior to Closing. Upon Buyer's provision of such notice of failure, all sums paid by Buyer hereunder shall be returned forthwith to Buyer, and thereafter neither Buyer nor Seller shall have any rights or liabilities hereunder. If notice of failure is not given at least ten (10) days prior to Closing, then Buyer shall be deemed to have waived the satisfaction of the foregoing conditions of this Section 10.

11. Development of the Property

a. After the Closing, Buyer shall develop the Property in conformity with the Master Plan, as modified by the agreement of Buyer and Seller from time to time and to comply with governmental zoning or other regulatory requirements. Seller shall have the right to approve, which approval shall not be unreasonably denied, withheld or conditioned, the architectural design and all exterior building materials and finishes for the improvements to be constructed upon the Property. The architectural design and site plan shall be consistent with the Master Plan, unless otherwise approved by Seller. Buyer shall provide to Seller with the final plans for its review for consistency with the Master Plan prior to a building permit being issued. During construction, Buyer will allow Seller access onto the Property so that Seller may conduct inspections of the work for consistency with the Master Plan. The development shall be completed and available for occupancy, as evidenced by the issuance of a certificate of occupancy, no later than twenty four (24) months after the issuance of a building permit.

b. After the Closing and prior to the issuance of a certificate of occupancy for the development, Buyer shall perform streetscape improvements within the public street rights-of-way abutting the Property, in compliance with City of Greenville standards and specifications and compatible with the streetscape plan for the Greenville Transportation Activity Center (GTAC) and the Dickinson Avenue Corridor.

c. Buyer covenants and agrees that all agreements with contractors to construct the improvements on the Property shall require the contractor to provide a performance bond insuring that the improvements will be completed in accordance with the plans, permits and approvals therefor. Buyer shall provide to Seller copies of all performance bonds for the construction of the improvements on the Property and shall require that Seller be added, if legally permissible, as an additional insured or beneficiary of all such performance bonds.

12. Representations and Warranties by Buyer.

Buyer represents and warrants to Seller as follows:

a. Buyer is a Delaware limited liability company which was validly formed and organized and is in good standing under the laws of the State of Delaware. This Agreement constitutes the legal, valid and binding obligation of Buyer enforceable in accordance with its terms; Buyer has full power and authority to enter into and perform the terms and conditions of this Agreement; and the person executing this Agreement for Buyer is fully and duly empowered and authorized to so act; and

b. There are no pending or, to the knowledge of Buyer, threatened legal actions, suits or other legal or administrative proceedings pending or threatened against Buyer that, if determined adversely to Buyer, would materially adversely affect Buyer's ability to perform its obligations under this Agreement or that would enjoin or prevent the consummation of the Closing.

If Seller discovers any breach of the foregoing representations and warranties prior to Closing, it shall afford Buyer a reasonable opportunity to cure such breach. In the event that Buyer is unable to cure such breach within a reasonable time, Seller shall be entitled, as its sole and only remedy, to receive and retain the Deposit.

13. Other Undertakings of the Parties.

a. Parking for the development under the Master Plan shall be provided at applicable ratios as required by the Greenville City Code. In order to accomplish compliance with parking ratios, Seller has agreed to construct a surface parking lot, including paving, striping, lighting and landscaping, consisting of at least two hundred (200) surface parking spaces on a parcel of land containing approximately 1.92 acres of land and bounded by Bonners Lane, Clark Street and Atlantic Street (the "Surface Parking Lot"), as more particularly

described on Exhibit C attached hereto and made a part hereof, and to lease two hundred (200) parking spaces in the Surface Parking Lot to Buyer for an initial term of forty (40) years, with one renewal term at the election of Buyer for up to an additional ten (10) years, at an annual rental for the initial year of One Hundred Fifteen Thousand Two Hundred and no/100ths Dollars (\$115,200.00). Annual rent adjustments will be based on the increase to the rental charged by Seller for parking spaces in Seller lots in the uptown area but not to exceed the cumulative US Consumer Price Index (CPI) increase since the last rent adjustment. Seller agrees to construct the parking lot within twelve (12) months after construction commences after issuance of a building permit as described in Section 13b of this agreement. The lease agreement for the two hundred (200) parking spaces in the Surface Parking Lot (the "Lease") shall be on terms and conditions mutually agreeable to Seller and Buyer.

At any time after the conclusion of the second year of the lease term, Seller may, after the provision of written notice to Buyer given at least one (1) year prior to the effective date of suspension, suspend the lease of the parking spaces at the Surface Parking Lot for a period of time, which shall not exceed a one (1) year period and shall begin no earlier than August 1 of a year and end no later than July 31 in the following year, for the purpose of allowing the construction of a parking deck upon the Surface Parking Lot. Seller shall employ its best efforts to provide alternative parking spaces to Buyer including relocation to other parking spaces in Seller lots in the uptown area, if available. Provided that alternative parking spaces are provided, Buyer shall continue to pay the annual rental on a pro rata basis based upon the number of alternative parking spaces provided. During the period that said suspension is in effect, said suspension shall be considered as a governmental action which relieves Buyer from the parking requirements for the development on the Property, as required by the Greenville City Code. After the construction of the parking deck is completed, Buyer shall be provided the two hundred (200) leased parking spaces in the parking deck constructed on the Surface Parking Lot in accordance with the Lease.

b. Buyer will apply for a building permit for the development of the Property under the Master Plan no later than twelve (12) months from the Effective Date of this Agreement. The construction of the improvements comprising the development of the Property under the Master Plan must be complete, as evidenced by the issuance of a certificate of occupancy, within twenty four (24) months of issuance of the building permit for such improvements. In the event a building permit for the Project is not applied for within twelve (12) months, Seller, at its option, may refund the payments made by Buyer less the Deposit and less any payments required to remove any mortgage or other liens imposed on the Property by Buyer, and, if the Property has been conveyed to Buyer, the ownership of the Property shall revert to Seller,

or, if the Property has not been conveyed to Buyer, the Agreement shall be terminated.

c. Seller shall have the right to utilize the Property for municipal employee parking during a period from the Effective Date of this Agreement and up until the one (1) year after the Effective Date or date construction starts after the issuance of a building permit at no charge to Seller, whichever is later. Seller shall be responsible for all costs and expenses of maintenance and insurance of the Property during this period. Seller shall accommodate reasonable requests of Buyer during this period to include partial closures of portions of the Property for predevelopment work such as survey, geotechnical and environmental exploration, tests and studies.

d. Buyer can utilize, during construction of the improvements under the Master Plan, the area to be retained by Seller for the Right of Way for parking and as a construction staging area until Seller begins construction of the Right of Way.

14. Condemnation. If after the date hereof and prior to Closing any part of the Property is taken or threatened to be taken by eminent domain or condemnation, Seller shall notify Buyer thereof, and Buyer may elect either (a) to terminate this Agreement, in which event the Deposit shall be refunded and the Agreement shall be of no further force or effect and the parties shall have no further rights, duties, liabilities or obligations, at law or in equity to each other of any kind or nature arising out of or relating to this Agreement, except for those obligations which are specified under this Agreement to survive Closing or termination; or (b) to consummate Closing as herein provided in which event all condemnation awards or payments shall be paid or assigned by Seller to Buyer at Closing.

15. Risk of Loss. The Property shall be held at the risk of Seller until Closing.

16. Possession. At Closing, Seller shall deliver exclusive possession of the Property to Buyer, free and clear of any tenancies, occupants or parties in possession, except as provided in section 13(c).

17. Termination. If Buyer fails to perform any of its obligations under this Agreement in any material respect and if such failure continues unremedied for more than ten (10) days following receipt by Buyer of written notice from Seller specifying the nature of such failure, then Seller may, elect to (a) terminate this Agreement, in which event the Escrow Agent shall pay the Deposit to Seller or (b) seek and obtain specific performance of any of Buyer's obligations under this Agreement.

If Seller shall fail to proceed to Closing under this Agreement, or if Seller fails to perform any of its other obligations under this Agreement and if such other failure by Seller continues on unremedied for more than ten (10) days following receipt

by Seller of written notice from Buyer specifying the nature of such failure, then Buyer may elect to (a) terminate this Agreement, in which event the Escrow Agent shall return the Deposit to Buyer or (b) seek and obtain specific performance of any of Seller's obligations under this Agreement.

18. Notices. Any notice to be given to any party hereto in connection with this Agreement shall be in writing and shall be deemed given if hand delivered with signed receipt, sent by electronic mail, sent by facsimile to the number provided hereunder (with transmittal confirmation), or sent by recognized overnight express delivery service, postage prepaid, and addressed as follows:

If to Seller: City of Greenville
 ATTN: City Manager
 P.O. Box 7207
 Greenville, NC 27835
 FAX # 252-329-4435

If to Buyer: Sidewalk Greenville LLC
 3432 Henrietta Hartford Rd.
 Mt. Pleasant, S.C. 29466
 FAX # 843-388-7695

Notices shall be deemed given upon receipt thereof by both the relevant party and persons to whom copies are to be provided for such party, provided that such actual receipt be prior to 3:00 PM on a business day (days other than Saturdays, Sundays, and State or Federal legal holidays). If such notices are not received by 3:00 PM on a business day as provided above, such notices shall be deemed received on the next subsequent business day. Upon not less than ten (10) days prior notice to the other parties listed above, the parties shall be entitled to change the name, address and/or facsimile number to which notices must be sent for their behalf.

19. Brokers. No real estate commissions or brokerage fees shall be paid by Buyer or Seller arising out of this Agreement and the consummation of the transactions contemplated hereby. Each of Buyer and Seller hereby agree to defend, indemnify and hold harmless the other Party, its partners, agents, representatives and affiliates from and against any cost, damage, liability or expense of any kind (including reasonable attorney's fees and litigation costs and expenses) arising out of claims of real estate agents, brokers or finders for a fee, commission or the like. The foregoing indemnification shall survive Closing or any termination of this Agreement.

20. FIRPTA. The Foreign Investment in Property Tax Act (FIRPTA), IRC Section 1445, requires that every purchaser of U.S. property must, unless an exemption applies, deduct and withhold from Seller's proceeds ten percent (10%) of the gross sales price. The primary exemptions which might be applicable are: (a) Seller provides

Buyer with an affidavit, under penalty of perjury, that Seller is not a "foreign person," as defined in FIRPTA, or (b) Seller provides Buyer with a "qualifying statement," as defined in FIRPTA, issued by the Internal Revenue Service. Seller and Buyer agree to execute and deliver as appropriate, any instrument, affidavit and statement, and to perform any acts reasonably necessary to carry out the provisions of FIRPTA and regulations promulgated thereunder.

21. Escrow Agent. Seller and Buyer agree to defend, indemnify and hold Escrow Agent harmless from and against any and all liability, loss, damage, cause of action, claim, cost and expense (including court costs and attorney's fees) sustained by Escrow Agent as a result of any activities of Escrow Agent except for acts of gross negligence or willful misconduct. Escrow Agent shall not be liable for any act or omission undertaken in good faith.

22. Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

23. Assignment. Nothing herein is intended to confer upon any person other than the parties and their respective legal representatives, successors and permitted assigns any rights or remedies under or by reason of this Agreement. Buyer may assign this Agreement only with prior written approval from the Seller; but any such assignment shall not release the Buyer named herein from any liability for the performance of Buyer's obligations under this Agreement.

24. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.

25. Exhibits and Schedules. Each writing or plat referred to herein as being attached hereto as an exhibit or schedule or otherwise designated herein as an exhibit or schedule is hereby made a part of this Agreement.

26. Applicable Law. This Agreement shall be given effect and construed by application of the laws of the State of North Carolina, and in particular the provisions of Section 160A-457 of the North Carolina General Statutes, without regard to principles of conflicts of laws, and any action or proceeding arising hereunder shall be brought in the courts of North Carolina. Each of the parties consent to jurisdiction and venue in the state court in Pitt County, North Carolina.

27. WAIVER OF JURY TRIAL. BUYER AND SELLER SHALL, AND THEY HEREBY DO, WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE

OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF SELLER AND BUYER OR ANY CLAIM FOR INJURY OR DAMAGE IN CONNECTION WITH THIS AGREEMENT OR THE PROPERTY.

28. Headings. The headings of the Sections, subsections, paragraphs and subparagraphs hereof are provided therein for and only for convenience of reference, and shall not be considered in construing their contents.

29. Survival. Each and every warranty, representation, covenant and agreement of Seller contained in this Agreement shall be deemed to have been made as of the Effective Date and as of the Closing Date and shall survive the Closing and shall not be merged into the deed or any other document executed and delivered at the Closing, but shall expressly survive and be binding thereafter on Seller. No inspections or examinations of the Property, or the books, records or information relative thereto by Buyer shall diminish or otherwise affect Seller's representations, warranties, covenants and agreements relative thereto and Buyer may continue to rely thereon.

30. Cumulative Rights. All rights, powers and privileges referred to under this Agreement upon the parties shall be cumulative and shall not be restrictive of those given by law except to the extent expressly provided to the contrary in this Agreement.

31. Effective Date. The term "Effective Date" as used in this Agreement shall mean the date that a fully executed original of this Agreement is delivered to and received by Buyer and the Escrow Agent.

32. No Waiver by Conduct. The failure of either party to exercise any power or given such party under this Agreement or to insist upon strict compliance by the other party with its obligations under this Agreement shall not, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of such party's rights to demand exact compliance with the terms hereof.

33. Pronouns. Pronouns, wherever used herein, and of whatever gender, shall include natural persons, and corporations and associations of every kind and character, and the singular shall include the plural wherever and as often as may be appropriate.

34. Holidays. Whenever the last day for the exercise of any right or discharge of any obligation under this Agreement is a Saturday, Sunday or statutory holiday, the party having such right or obligations shall have until 5:00 p.m. on the next day other than a Saturday, Sunday or statutory holiday to exercise such right or discharge such obligation.

35. Additional Obligations of Seller.

a. Existing Mortgages; Taxes. Until consummation of Closing, Seller shall keep any existing mortgage(s) against the Property current and not in default and shall pay all taxes and other public charges against the Property so as to avoid forfeiture of Buyer's rights under this Agreement.

b. Discovery of Additional Facts. Seller shall promptly advise Buyer in writing of any facts of which Seller becomes aware indicating the inaccuracy of any of the representations or warranties of Seller contained in this Agreement and shall promptly give to Buyer copies of any written notices which Seller receives relating to the Property.

c. No Waste. Seller shall keep the Property in its present physical condition and shall not excavate or commit any waste upon the Property.

36. Interpretation and Additional Definitions. Wherever in this Agreement provision is made for the doing of any act or performing any obligation by either party, such acts or performance shall be done by such party at its own cost and expense unless a contrary intent is expressed. Any pronoun shall be read in the singular or plural number and in such gender as the context may require. The words "including" or "includes" means "including, but not limited to". The word "any" means "any and all". The word "may" means "may, at its option, but shall not be obligated to". The phrase "laws and regulations" means any laws, ordinances, statutes, rules, regulations or other lawful requirements of any governmental authority. The phrase "governmental authority" means any federal, state or local government or quasi-governmental entity including any agency, department, division or bureau. The terms "person or entity" means and includes natural persons, firms, associations, corporations, partnership, ventures, trusts or any other type of organization. The use of the phrase "without prejudice" in any provision of this Agreement means that the exercise of any express rights or remedies shall not preclude or diminish such party's ability to exercise any other rights or remedies, at law, in equity or under this Agreement.

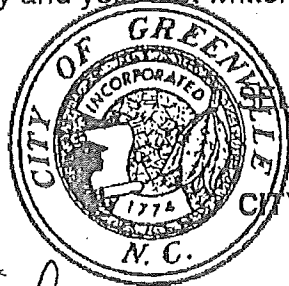
37. Acceptance; Counterparts. If Seller does not accept and execute this Agreement and deliver a fully executed copy of this Agreement to Buyer and the Escrow Agent on or before close of business on November 20, 2015, then the offer of Buyer set forth in this Agreement shall be deemed automatically withdrawn and of no further force or effect. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument.

38. Entire Agreement and Modifications. This Agreement constitutes the final and entire agreement between the parties hereto and they shall not be bound by any terms, covenants, conditions, representations or warranties not expressly contained

herein. This Agreement may not be amended except by written instrument executed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the day and year first written above.

ATTEST:



SELLER:

CITY OF GREENVILLE

Carol L. Barwick
Carol L. Barwick, City Clerk

By: Allen M. Thomas (SEAL)

Name: Allen M. Thomas

Title Mayor

Date: 11-13-15

WITNESS:

BUYER:

SIDEWALK GREENVILLE LLC

Jim I. Blount
Jim I. Blount

By: Tim Elliott (SEAL)
Tim Elliott, Manager

Date: 11/12/15

JOINDER OF ESCROW AGENT

The undersigned joins in the execution of the foregoing Agreement for the sole purpose of agreeing to hold and apply the Deposit subject to and in accordance with the terms of the foregoing Agreement.

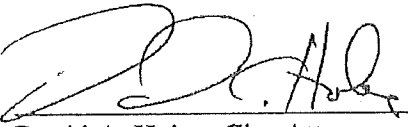
ESCROW AGENT:

Steven R. Jones, The Jones Law Firm, P.A.

By:  (SEAL)
Steven R. Jones

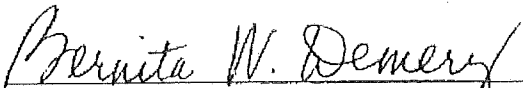
Date: 11/16/15

APPROVED AS TO FORM:

BY: 
David A. Holec, City Attorney

PRE-AUDIT CERTIFICATION:

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

BY: 
Bernita W. Demery, CPA, Director of Financial Services

Account Number _____

Project Code (if applicable) _____

EXHIBITS AND SCHEDULES

1. EXHIBIT A LEGAL DESCRIPTION OF PROPERTY
2. EXHIBIT B MASTER PLAN FOR DEVELOPMENT
Attachment B-1 - Market Rate Housing Apartment
versus Student Housing
3. EXHIBIT C DESCRIPTION OF SURFACE PARKING LOT

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lot One (1)

1.9006 ACRE LOT

Being that certain lot or parcel of land lying and being situate in the City of Greenville, Greenville Township, Pitt County, North Carolina, bounded on the northeast by NCSR 1610 (Pitt-Greene Connector), on the southeast by NCSR 1620 (Dickinson Avenue), on the southwest by the proposed eastern right of way of Eighth Street and by the property of Betty Haddock Hardee, on the west by the eastern right of way of Pitt Street and on the north by the south boundary of proposed Lot 3 and being more particularly described as follows:

Commencing at an existing North Carolina Department of Transportation (NCDOT) right of way disk located on the east right of way of Pitt Street at -L- station 12+81.724, 32.81 feet right as shown on the plans for NCDOT project number 8.2220601; thence S 16°02'40"W 213.09 feet to a point on the east right of way of Pitt Street; thence with the east right of way of Pitt Street S 13°00'19"W 184.02 feet to the POINT OF BEGINNING; thence from said beginning point so established along the south line of proposed Lot 3 N 55°07'12"E 29.15 feet to a point; thence continuing with the south line of proposed Lot 3 N 65°45'26"E 56.42 feet to a point; thence continuing with the south line of said Lot 3 S 75°30'20"E 4.27 feet to a point on the proposed new western right of way of NCSR 1610 (Pitt-Greene Connector); thence with the proposed new western right of way of NCSR 1610 along the arc of a curve to the left having a radius of 540.24 feet, a central angle of 10°34'07", an arc length of 99.65 feet and a chord of S 28°11'24"E 99.51 feet to a point; thence continuing with the proposed new west right of way of NCSR 1610 S 26°23'29"E 36.97 feet to a point on the existing west right of way line of NCSR 1610 as established by Deed Book 900, Page 40 of the Pitt County Registry; thence along and with said existing west right of way line of NCSR 1610 the following courses and distances; S 31°24'15"E 110.28 feet to a point, S 35°39'45"E 120.19 feet to a point and S 09°20'15"W 35.46 feet to a point on the north right of way of NCSR 1620 (Dickinson Avenue); thence with the north right of way of NCSR 1620 S 54°22'55"W 165.76 feet to a point on the proposed north right of way line of Eighth Street; thence with said proposed north right of way line along the arc of a curve to the left having a radius of 225.00 feet, a central angle of 34°34'00", an arc length of 135.74 feet and a chord of N 52°38'25"W 133.69 feet to a point on the east line of the property of Betty Haddock Hardee as recorded in Deed Book R-38, Page 663 and Deed Book D-43, Page 285, both of the Pitt County Registry; thence with the Hardee east line N 08°40'52"E 8.95 feet to the northeast corner of said Hardee property; thence with the Hardee north property line N 77°59'49"W 95.39 feet to a point on the east right of way of Pitt Street; thence with the east right of way of Pitt Street N 13°00'19"E 303.31 feet to the POINT OF BEGINNING containing 1.9006 acres and further being comprised of portions of Pitt County Tax Parcels 16544, 11307 and 06932. The bearings in this description are based on NC Grid North (NAD 83/2001) and all distances are horizontal field distances.

Lot Two (2)

0.0706 ACRE LOT

Being that certain lot or parcel of land lying and being situate in the City of Greenville, Greenville Township, Pitt County, North Carolina, bounded on the northeast by the proposed southern right of way of Eighth Street, on the southeast by NCSR 1620 (Dickinson Avenue), on the southwest by the property of Barbara Ann Creech Garris and by the property of Rayn Enterprises, LLC, on the northwest by the property of Betty Haddock Hardee and being more particularly described as follows:

Commencing at an existing North Carolina Department of Transportation (NCDOT) right of way disk located on the east right of way of Pitt Street at -L- station 12+81.724, 32.81 feet right as shown on the plans for NCDOT project number 8.2220601; thence S 16°02'40"W 213.09 feet to a point on the east right of way of Pitt Street; thence with the east right of way of Pitt Street S 13°00'19"W 487.33 feet to a point at the northwest corner of the property of Betty Haddock Hardee as described in Deed Book R-38, Page 663 and Deed Book D-43, Page 285, both of the Pitt County Registry; thence with the Hardee north line S 77°59'49"E 95.39 feet to the northeast corner of said Hardee property; thence with the Hardee east line the following courses and distances: S 08°40'52"W 30.24 feet to a point, S 37°05'08"E 39.40 feet to a point and S 54°10'06"W 12.56 feet to a point on the proposed southern right of way line of Eighth Street and being the POINT OF BEGINNING; thence from said beginning point so established along the proposed southern right of way line of Eighth Street with the arc of a curve to the right having a radius of 175.00 feet, a central angle of 24°40'53", an arc length of 75.39 feet and a chord of S 47°37'23"E 74.80 feet to a point on the northwest right of way of NCSR 1620 (Dickinson Avenue); thence with the northwest right of way of NCSR 1620 S 54°22'55"W 47.06 feet to a point on the northeast line of the property of Barbara Ann Creech Garris as recorded in Deed Book 2553, Page 93 of the Pitt County Registry; thence with said Garris northeast line and the northeast line of the property of Rayn Enterprises, LLC as recorded in Deed Book 2381, Page 536 of the Pitt County Registry

N 35°38'57"W 73.05 feet to a point at the southeast corner of the aforementioned Betty Haddock Hardee property; thence with said Hardee east property line N 54°10'06"E 31.54 feet to the POINT OF BEGINNING containing 0.0706 acre and being a portion of Pitt County Tax Parcel 16544. The bearings in this description are based on NC Grid North (NAD 83/2001) and all distances are horizontal field distances.

EXHIBIT B

MASTER PLAN FOR DEVELOPMENT

The development on the Property shall be herein referred to as the Project.

1. The exterior façade of the Project shall be no less than forty percent (40%) masonry and shall not include any vinyl.
2. The Property shall only be developed as a “mixed use” development incorporating office, retail, along with parking on the lower floors and residential development on upper floors. There shall be no less than 20,000 square feet of leasable office and retail space.
3. The Project shall include at least 120 total residential units and will contain student rental housing units and non-student market rate professional rental housing units. There shall be a minimum of 45 non-student market rate professional units in the first 120 residential units and a one to one ratio of student rental housing units and non-student market rate professional rental housing units for additional units above the first 120 residential units.
4. Residential units in the Project may include student oriented housing to include “quad style” suites with appropriate permitting in accordance with applicable provisions of the Zoning Ordinance, however student oriented housing units shall not exceed a ratio of five beds for every one bed of non-student market rate professional rental housing.
5. Student rental housing units and non-student market rate professional rental housing units must be separate distinct spaces and shall not have common access or share common areas or share common amenities.
6. The non-student market rate professional rental housing units will be different from the student rental housing units based upon the number of bedrooms in a unit, the amenities, and the interior finishes, as explained in the attachment entitled Market Rate Housing Apartments versus Student Housing, labelled as Attachment B-1, and incorporated herein by reference.
7. Sidewalk shall make its best reasonable efforts to include a sit-down, non-fast food restaurant in the Project and medium to high end retail in the Project.

ATTACHMENT B-1

Market Rate Housing Apartment versus Student Housing

There is a great need for young professional (21-29 year olds) urban lifestyle housing in Greenville, NC. Amenity-driven "Live/Work/Play" lifestyle is not prevalent in Greenville to serve this growing population who prefer less reliability on cars. This generation prefers a walkable community with shared cultural, retail, and housing opportunities.

Sidewalk Development takes its very name from this momentum shift in University Town living. Our motto is "Rebuilding the art of the stroll" where we merge the needs of Campus, Commerce, and Community. Communities who celebrate a more holistic view of real estate development product will be more apt to keep young professionals in town through job, cultural, and shopping growth.

Dickinson Avenue is the prime target for such a project. Retail opportunities are ripe here along with access to a new Transportation center, short walk to retail on 4th street, and other office buildings sure to come within the Uptown District. The University's planned Millennial Campus at 10th and Dickinson will celebrate future technology and biotech job opportunities.

As such, a mix of market rate professional apartment housing and more "urban-focused" walkable housing is also needed to keep the University and the city relevant to the next 3 decades of learners and young professionals.

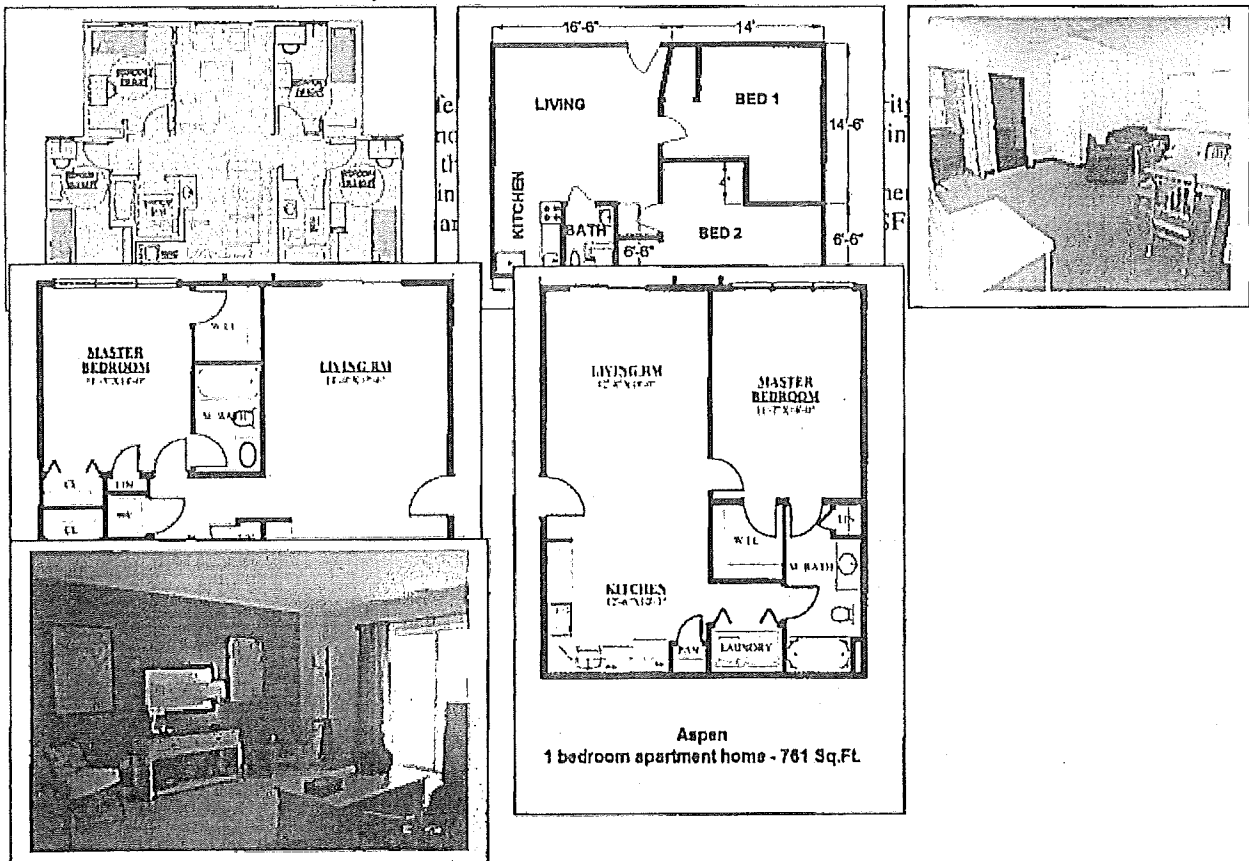
Differences between Market Rate housing and Student Housing:

1. Size & Mix of Unit

Student Housing: Typically, student housing product needs to be more efficient in its layout and generally offers a majority of 4 bedroom product with some 2 bedroom selection. Very few one-bedroom and 3 bedroom plans may be available, but this is more generated by the unique plan of the building (forced by site conditions) than by developer choice. A 4 bedroom 4-bath product will be 1,375 SF.

Example Student Housing Floor Plans:

4 Bedroom Unit at Rowan University, (NJ): 1,250 SF / 2 Bedroom unit; 630 SF (created by Owners of Sidewalk)



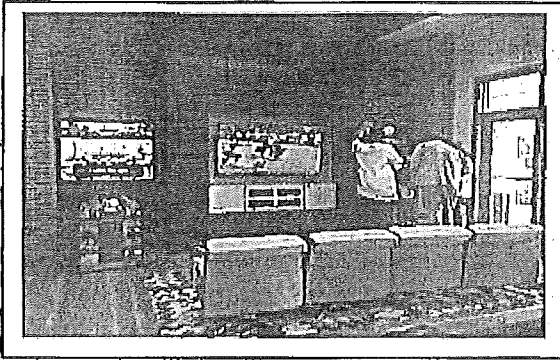
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2. Amenities:

Student Housing: University product will have shared amenities and would include a common "Lounge" within the building; a fitness center; exterior courtyard area. Student Lounges in Student Housing product tend to be in common "hallway" or Lobby areas, and not separate and distinct ornate spaces.

Example of University "Lounge" area:

West VA University Student Housing (Owner of Sidewalk's Daughter resides here). (Note in path of Exit door)



ing is typical of a common Living Room/Library area within
ing in Greenville at the corner of Reade Circle and
s such, the design will have corner balconies for the
m and Library space will have a balcony to enjoy the
urch steeple and Uptown. Also a Rooftop Pool will be
r roof garden will be available to apartment residents. A
in the apartment building will have balconies, whereas the

student product likely will not.

Example of Common Living Room area for market rate apartments:

The Village of Stonybrook apartments (Seaford, DE) , developed by Sidewalk Partner:



ousing building will not be as ornate. The appliances will not be as
cabinet selections will be less superior to the apartment building.

EXHIBIT C
DESCRIPTION OF SURFACE PARKING LOT

Being the property located in the City of Greenville, North Carolina, located within the area bounded by Bonners Lane, Clark Street, Atlantic Avenue, and the southern portion of Tax Parcel Number 034561 and other property to the south, consisting of approximately 1.92 acres, and being Pitt County Tax Parcel Numbers 005512, 006262, 013546, 001760, 015813, 019875, and 019874 and the northern portion of Tax Parcel Number 034561.

Doc ID: 013754320004 Type: CRP
Recorded: 02/16/2017 at 04:40:25 PM
Fee Amt: \$26.00 Page 1 of 4
Pitt County, NC
Lisa P. Nichols REG OF DEEDS
BK 3526 PG 68-71

FILE: THE JONES LAW FIRM, P.A.
NORTH CAROLINA
PITT COUNTY

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT ("Memorandum") is made this 15th day of February, 2017, by and between **SIDEWALK GREENVILLE LLC**, a Delaware limited liability company, ("Buyer") and **CITY OF GREENVILLE**, a municipal corporation organized and existing pursuant to the laws of the State of North Carolina ("Seller").

WITNESSETH:

WHEREAS, the Buyer and Seller entered into an Agreement of Sale dated November 13, 2015, (the "Agreement"), for the sale by Seller to Buyer of Lot Number 1 and Lot Number 2 of Eighth Street Acres as shown on the plat prepared by Spruill & Associates, Inc., and recorded in Map Book 79, Page 108, of the Pitt County Register of Deeds (the "Property");

WHEREAS, the Agreement also provided that after the sale and purchase of the Property pursuant to the Agreement ("Closing"), the Buyer would develop the Property and other undertakings by the Buyer and Seller would be performed; and

WHEREAS, the purpose of this Memorandum is to provide notice of the provisions of the Agreement relating to the development of the Property and the other undertakings to be performed by the Buyer and Seller;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller agree as follows:

- 1) After the Closing, Buyer shall develop the Property and perform the streetscape improvements in accordance with the provisions of section 11 of the Agreement.
- 2) The Buyer and Seller shall perform the other undertakings in accordance with the provisions of section 13 of the Agreement. Notwithstanding the foregoing and in acknowledgement that the Closing was extended for ninety (90) days in accordance

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with the provisions of section 6 of the Agreement, it is agreed that the option of the Seller set forth in section 13(b) relating to the failure of the Buyer to make an application for a building permit may not be exercised unless the Buyer does not make an application for a building permit within thirty (30) days following receipt by Buyer of written notice from Seller noting the requirement to apply for a building permit.

- 3) The provisions of section 11 and section 13 as set forth in the Agreement are hereby incorporated into this Memorandum as if set out in full herein. Except as specifically modified herein, the terms or provisions of section 11 and section 13 of the Agreement, and the rights, duties, obligations, conditions and agreements created thereby, remain in full force and effect. A copy of the Agreement is on file at the following location:

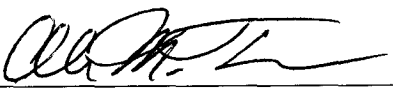
City Clerk's Office
 City of Greenville
 200 West Fifth Street
 Greenville, NC 27858

- 4) This Memorandum shall be recorded in the Office of the Pitt County Register of Deeds and shall be indexed in the name of the Buyer in the grantor index. Upon issuance of a certificate of occupancy for the Property, the parties shall execute a termination of this Memorandum in recordable form.

IN WITNESS WHEREOF, the Buyer and Seller hereto have caused this Memorandum of Agreement to be executed as of the day and year first above written.

SELLER:

CITY OF GREENVILLE

By: 
 Allen M. Thomas, Mayor

(SEAL)

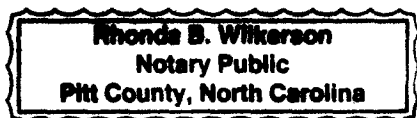
Date: 2/15/17

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**NORTH CAROLINA
PITT COUNTY**

I, Rhonda B. Wilkerson, Notary Public in and for the aforesaid County and State, do hereby certify that Allen M. Thomas, Mayor for the City of Greenville, personally appeared before me on this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal, this the 15 day of February, 2017.



Rhonda B. Wilkerson
Notary Public

Rhonda B. Wilkerson
Print Name

My Commission Expires: May 21, 2017

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BUYER:

SIDEWALK GREENVILLE LLC

By: *Richard Kirk* *mgr.*
Richard Kirk, Manager

(SEAL)

Date: Feb 14, 2017

OHIO
FRANKLIN COUNTY

I, Joanne Goldhand, Notary Public in and for the aforesaid County and State, do hereby certify that Richard Kirk, Manager of Sidewalk Greenville LLC, personally appeared before me on this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal, this the 14th day of February, 2017.



JOANNE I. GOLDHAND
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.

Joanne Goldhand
Notary Public

Joanne Goldhand
Print Name

My Commission Expires: NA

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**NORTH CAROLINA
PITT COUNTY**

**LEASE
AGREEMENT**

THIS LEASE AGREEMENT, made and entered into this the 15th day of February, 2017, by and between the City of Greenville, a North Carolina municipal corporation, Party of the First Part and hereinafter referred to as "LESSOR", and Sidewalk Greenville LLC, a Delaware limited liability company, Party of the Second Part and hereinafter referred to as "LESSEE";

Subject to the terms and conditions of this Lease Agreement and effective upon the date of the sale by the LESSOR to LESSEE of the Property (defined below) if any, LESSOR does hereby let and lease unto the LESSEE, and LESSEE does hereby lease from the LESSOR two hundred (200) parking spaces on a parcel of land containing approximately 2.2749 acres of land and bounded by Bonners Lane, Clark Street and Atlantic Street (the "Surface Parking Lot"), as more particularly described on Exhibit A attached hereto and made a part hereof.

The terms and conditions of this Lease Agreement are as follows:

1. Term.

The term of this Lease Agreement is for forty (40) years, commencing on the day that the Certificate of Occupancy for the LESSEE's development of the Property is issued or the day that is twenty four (24) months after the issuance of the building permit for the LESSEE's development of the Property, whichever is earlier, and continuing until the last day of the month containing the fortieth anniversary of the date of commencement of the term. The parties shall enter a confirmation of the term at the request of either of them. The term of this Lease Agreement may be extended for an additional ten (10) year period at the election of the LESSEE by the provision of at least one hundred eighty (180) days written notice to the LESSOR prior to the expiration of the initial lease term and in the event of such extension, all of the terms and conditions of this Lease Agreement shall continue in force and effect.

2. Rent.

The LESSEE shall pay rent to the LESSOR for the parking spaces as hereinafter provided. The annual rent shall be paid by the first day of September of each year. Rent payments shall be delivered to the Director of Financial Services of the City of Greenville, P.O. Box 7207, Greenville, NC 27835.

The annual rent for the initial year shall be One Hundred Fifteen Thousand Two Hundred and no/100ths Dollars (\$115,200.00). After the initial year, Lessor may increase the annual rent in the same amount, multiplied by 200, that LESSOR increases the rental charged by LESSOR for parking spaces in LESSOR lots in the uptown area (as defined below) provided in no event shall the percentage of any increase exceed the cumulative US Consumer Price Index (CPI)(All Urban Consumers) increase since the last rent adjustment. LESSOR shall give LESSEE at least 60 days prior written notice of any such increase.

For the purpose of this Agreement, the uptown area shall be the geographic area bounded by the following; on the north by First Street, on the east by Reade Street between First Street and Cotanche Street and by Cotanche Street between Reade Street and Tenth Street, on the south by Tenth Street, and on the west by Dickinson Avenue between Tenth Street and Pitt Street and by Pitt Street between Dickinson Avenue and First Street.

3. Use of Leased Spaces.

During the term of this Lease Agreement, the parking spaces shall be used by LESSEE for parking purposes only and shall be limited to use by the residents and the employees of the mixed use development developed by the LESSEE located on the 1.9006 acre lot adjacent to Pitt Street, Reade Circle and Dickinson Avenue which is Lot 2 on the map of Eighth Street Acres recorded in Map Book 79, Page 108, Pitt County Registry (hereinafter, the "Property"). The parking spaces specifically shall not be made available for the general use by a customer or patron of the development on the Property.

The parking spaces shall not be used for the following: (i) conducting vehicle repairs (unless an emergency); (ii) washing vehicles; (iii) servicing vehicles; (iv) storing, maintaining or otherwise introducing any hazardous substances or materials, whether inside or outside of any motor vehicle (provided gasoline, motor oil, anti-freeze, transmission fluid and other chemicals customarily (now or in the future) used in connection with the operation of motor vehicles are not prohibited inside the fuel tank or other receptacle of the motor vehicle); (v) storing, maintaining or otherwise introducing any combustible or inflammable substances or any material or substance prohibited by regulation, ordinance or law, whether inside or outside of a motor vehicle (other than gasoline in the fuel tank of the motor vehicle and other chemicals commonly used in a motor vehicle which are inside the fuel tank or other receptacle of the motor vehicle); and (vi) except with LESSOR's prior written consent parking more than one motor vehicle of any kind in a parking space.

4. Designation of Spaces

The LESSOR shall designate the parking spaces on the Surface Parking Lot which are leased to the LESSEE pursuant to this Lease Agreement. The LESSOR may, at any time and for any reason, change the location of any or all of the parking spaces to another location within the Surface Parking Lot.

5. Signage.

The LESSOR shall be responsible for providing and maintaining appropriate "Leased Parking Only" signs on the parking spaces. The LESSEE shall not in any way mark or sign the parking spaces.

6. Towing.

The LESSEE is responsible for initiating any towing of unauthorized vehicles from the parking spaces. LESSEE may hire licensed towers to remove unauthorized vehicles from the parking spaces and may permit such towers to charge the owners of the unauthorized vehicles, in accordance with law.

7. Repairs and Maintenance.

The LESSOR shall, at its expense, be responsible for the repair and maintenance of the Surface Parking Lot and shall keep the Surface Parking Lot striped to permit at least 200 motor vehicles and free of potholes or excessive alligating and other signs of wear and tear.

The LESSEE shall, at its expense, be responsible for keeping the parking spaces in a good, clean, neat, and usable condition at all times. The LESSEE shall not cause or knowingly permit any nuisance on the parking spaces.

8. Alterations and Improvements.

No alterations or improvements shall be made to the parking spaces or the Surface Parking Lot by the LESSEE.

9. Access.

The LESSEE shall have non-exclusive use of any driveways and drive lanes for vehicular and pedestrian ingress and egress over, on, and across the Surface Parking Lot, to obtain access to and from the parking spaces.

10. Temporary Closure.

The LESSOR reserves the right, in its sole discretion, to temporarily close off all or any portion of the Surface Parking Lot for alteration, repair, or maintenance. Except for any repair requiring immediate attention as determined by the LESSOR, LESSOR shall provide at least 30 days prior written notice of any such closure. LESSOR shall not close the Surface Parking Lot more than twice in any calendar year or for more than 3 consecutive days without providing alternative parking or rent abatement, whichever the LESSOR elects to provide.

11. Insurance.

The LESSEE will at all times during the term of this Lease Agreement, at its own cost and expense, insure and keep in effect insurance against claims for personal injury or property damage occurring on, in, or about the parking spaces on the Surface Parking Lot under a policy of general liability insurance with a combined single limit of not less than \$1,000,000 with the LESSOR named as an additional named insured, written by an insurance company or companies authorized to do business in the State of North Carolina. The LESSEE shall provide the LESSOR with a certificate of insurance evidencing said coverage.

12. Damage or Loss.

The LESSOR shall not be liable for any loss, damage or injury to the property of the LESSEE or to persons, property or effects of any other person, firm or corporation, incurred upon the parking spaces or on adjacent areas occupied by the LESSEE, caused by any present, future, latent or other defect in the form or condition of the parking spaces.

13. Security.

Except as provided herein, the LESSOR does not furnish, will not furnish and is under no obligation to furnish any security services or equipment whatsoever in, on, or around the Surface Parking Lot, including security guards or alarms. The LESSOR shall provide lighting at the Surface Parking Lot and any parking deck replacement as provided in Section 19 below and any security measures (such as but not by way or limitation or requirement, fences or telephones) provided in all city parking lots in the Uptown Area. LESSEE shall be permitted to install close circuit cameras and other security measures it deems necessary, subject to LESSOR's approval as to means, materials, and location of installation. Parkers shall be solely responsible for the safety, care, and protection of any vehicles parked in the Surface Parking Lot, and any property stored in or on such vehicles.

14. No Bailment.

The LESSOR will not be deemed to have or to have created a bailment of, custody of, care of or control over any motor vehicles on the Surface Parking Lot, or of and over any property located in or on those vehicles, and the LESSOR will not be deemed to have or to have created temporary or permanent dominion or control over any such vehicles or property.

15. Indemnity.

To the extent permitted and limited by the laws of North Carolina, the LESSEE agrees to indemnify and hold harmless the LESSOR and its officers and employees from and against any and all claims and demands arising out of the use of the leased parking spaces by LESSEE or its permittees whether from injury to person, loss of life, or damage to property,

16. Assignment and Subletting.

Except as hereinafter provided, the LESSEE may not assign or transfer this Lease Agreement without the prior written consent of the LESSOR and may not sublease or permit the use of the parking spaces leased hereby except as expressly permitted by Section 3 of this Lease. Notwithstanding the foregoing, the LESSEE shall have the right to assign this Lease Agreement to an entity concurrently with the conveyance to the identical entity of the development on the Property. Written notice of any assignment specifying the effective date of a conveyance of this Lease Agreement shall be given to the LESSOR at least twenty (20) days prior to the effective date.

17. Surrender on Termination.

Upon the termination of this Lease Agreement for any reason, the LESSEE shall yield and deliver peaceably to the LESSOR possession of the parking spaces free of all debris, garbage, and personal property.

18. Default.

If LESSEE shall neglect to pay any annual installment of rent when due, or shall neglect to do and perform any other matter agreed to be done pursuant to this Lease Agreement, and shall remain in default for a period of thirty (30) days after receiving written notice from LESSOR calling attention to the non-payment or default, LESSOR may declare this Lease Agreement terminated and take possession of the leased premises without prejudice to any other legal remedy it may have on account of such default. If LESSOR neglects to do or perform any matter agreed to be done by LESSOR in this Lease Agreement, and such failure prevents LESSEE's or its permittee's use of the parking spaces, and such prevention continues for a period of thirty (30) days after written notice from the LESSEE calling attention to such prevention the LESSEE may cure such prevention and offset the reasonable, actual costs of such cure against rent due or to become due in the future or declare this Lease Agreement terminated without prejudice to any other legal remedy it may have on account of such default.

19. Suspension of Lease

At any time after the conclusion of the second year of the lease term, LESSOR may, after the provision of written notice to LESSEE given at least one (1) year prior to the effective date of suspension, suspend the lease of the parking spaces at the Surface Parking Lot for a period of time, which shall not exceed a one (1) year period and shall begin no earlier than August 1 of a year and end no later than July 31 in the following year, for the purpose of allowing the construction of a parking deck upon the Surface Parking Lot. LESSOR shall employ its best efforts to provide alternative parking spaces for the parking provided hereunder to LESSEE during the suspension including relocation to other parking spaces in LESSOR lots in the uptown area, if available. Provided that alternative parking spaces are provided, LESSEE shall continue to pay the annual rental on a pro rata basis based upon the number of alternative parking spaces provided. After the construction of the parking deck is completed, LESSEE shall be provided the 200 spaces leased hereby in the parking deck constructed on the Surface Parking Lot in accordance with this Lease Agreement.

20. Parking Requirements for Development on the Property.

It is understood and agreed that the LESSEE is leasing the parking spaces pursuant to this Lease Agreement for the purpose of contributing to the number of parking spaces necessary to meet the parking requirements for the development on the Property, as required by the Greenville City Code.

The LESSOR and LESSEE understand and agree that, during the period that a suspension of the lease in accordance with Section 19 of this Lease Agreement is in effect, said suspension shall be considered as a governmental action which relieves LESSEE from the parking requirements for the development on the "Property", as required by the Greenville City Code and that therefore, the Property shall be deemed in compliance with all zoning and land use and parking requirements during the suspension.

21. Notices.

Any notice provided for herein shall be deemed to have been served sufficiently when presented personally or sent by first class mail addressed as follows:

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If to LESSOR:
City of Greenville
Attn: City Manager
P.O. Box 7207
Greenville, NC 27835

If to LESSEE:
Sidewalk Greenville LLC
Attn: Manager
3432 Henrietta Hartford Road
Mt. Pleasant, SC 29466

Addresses for the purpose of this section can be changed by written notice to the other party by certified mail with returned receipt requested.

22. Legal and Regulatory Duties.

The LESSEE shall observe all applicable local, state, and federal laws and regulations as they pertain to LESSEE's use of the parking spaces. LESSEE shall indemnify and hold harmless the LESSOR from and against any liability arising from LESSEE's failure to observe such laws or regulations.

23. Amendment.

This Lease Agreement shall not be altered, amended or modified except by an agreement in writing executed by the duly authorized officials of the LESSOR and LESSEE.

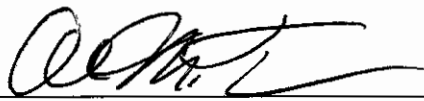
24. Entire Agreement.

This Lease Agreement incorporates all prior agreements regarding the subject matter hereof and is the only agreement between the parties hereto with respect to the subject matter hereof and contains all of the terms agreed upon, and there are no other agreements, oral or written, between the parties hereto with respect to the subject matter thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be executed in duplicate originals as of the day and year first above written.

LESSOR:

CITY OF GREENVILLE

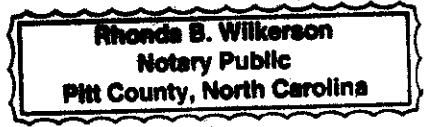
By:  (SEAL)
Allen M. Thomas, Mayor

Date: 2/15/17

**NORTH CAROLINA
PITT COUNTY**

I, Rhonda B. Wilkerson, Notary Public in and for the aforesaid County and State, do hereby certify that Allen M. Thomas, Mayor for the City of Greenville, personally appeared before me on this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal, this the 15th day of February, 2017.

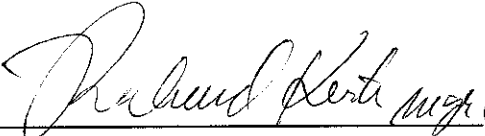


Rhonda B. Wilkerson
Notary Public
Rhonda B. Wilkerson
Print Name

My Commission Expires: May 21, 2017

LESSEE:

SIDEWALK GREENVILLE LLC

By:  (SEAL)
Richard Kirk, Manager

Date: _____

**OHIO
FRANKLIN COUNTY**

I, Joanne Goldhand, Notary Public in and for the aforesaid County and State, do hereby certify that Richard Kirk, Manager of Sidewalk Greenville LLC, personally appeared before me on this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal, this the 14th day of February, 2017.



JOANNE I. GOLDHAND
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.

[Signature]
Notary Public

Joanne Goldhand
Print Name

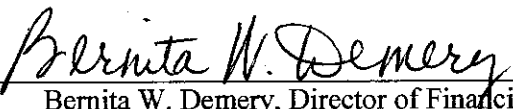
My Commission Expires: N/A

APPROVED AS TO FORM:

BY: 
David A. Holec, City Attorney

PRE-AUDIT CERTIFICATION:

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


Bernita W. Demery, Director of Financial Services

Date 2/14/2017

Account Number —

Project Code (if applicable) —

EXHIBIT A

DESCRIPTION OF SURFACE PARKING LOT

Situate in Greenville Township, Pitt County, North Carolina, being located on the south side of Bonners Lane and between Clark Street and Atlantic Avenue, being more completely described as follows:

BEGINNING at a point located at the intersection of the eastern right of way of Atlantic Avenue with the southern right of way line of Bonners Lane; thence running along the northern right of way of Bonners Lane being the back of curb, S 78°30'17" E – 133.90 feet to a point, thence continuing along the right of way, S 75°19'27" E – 47.60 feet to an iron pipe set; thence leaving the existing right of way line of Bonners Lane and running along a new right of way the following courses: S64°49'22"E – 104.28 feet to an iron pipe set, S 74°49'11"E – 44.64 feet to an iron pipe set at the point of curvature of a curve; thence running along the curved right of way being a curve to the right with a radius of 20.00 feet as measured along a chord of S 29°37'05" E – 28.38 feet to an iron pipe set in the western right of way of Clark Street; thence running along the western right of way line of Clark Street, S 15°35'02" W – 302.08 feet to a point at the intersection of the western right of way line of Clark Street with the northern line of a 10 foot alleyway recorded in Map Book 3, Page 106; thence running along the northern line of the alleyway and continuing along the projection of the northern line of the alleyway, N 76°50'25" E – 294.77 feet to an iron pipe set in the eastern right of way line of Atlantic Avenue; thence running along the eastern right of way line of Atlantic Avenue, N 10°00'00" E – 40.58 feet to an existing iron pipe; thence continuing along the eastern right of way line of Atlantic Avenue, N 09°27'16" E – 282.53 feet to the POINT OF BEGINNING, containing about 2.2749 acres.



Doc ID: 013754340004 Type: CRP
Recorded: 02/16/2017 at 04:41:11 PM
Fee Amt: \$26.00 Page 1 of 4
Pitt County, NC
Lisa P. Nichols REG OF DEEDS

BK 3526 PG 75-78

Prepared by and return to:

THE JONES LAW FIRM, P.A. *File.*

Joanne I. Goldhand, Esq.
Ice Miller LLP
250 West Street Suite 700
Columbus, OH 43215-7509

MEMORANDUM OF LEASE

This MEMORANDUM OF LEASE is entered into as of this 15 day of February, 2017, by and between the City of Greenville, a North Carolina municipal corporation, and Sidewalk Greenville LLC, a Delaware limited liability company, to set forth following information:

The parties hereto have entered into a Lease Agreement of even date herewith under the following terms:

a. **Name and Address of Lessor:**

City of Greenville
Attn: City Manager
P.O. Box 7207
Greenville, NC 27835

b. **Name and Address of Lessee:**

Sidewalk Greenville LLC
Attn: Manager
3432 Henrietta Hartford Road
Mt.Pleasant, SC 29466

With a copy to:

Sidewalk Greenville LLC
Attn: Manager
150 E. Broad Street
Second Floor
Columbus, OH 43215

CO\5492944.2


4

- c. **Date of Execution of Indenture of Lease:** February 15, 2017
- d. **Description of Leased Premises Including ORC §5301.011 Reference:** 200 parking spaces located on the property described on Exhibit A.
- e. **Term of Lease:** 40 years
- f. **Renewal or Extension Rights:** One (1) option to extend the term for ten (10) years commencing immediately upon the then effective expiration of the Lease Term.
- g. **Commencement Date:** The earlier of (a) date that a certificate of occupancy is issued for a mixed use development of land adjacent to Pitt Street, Reade Circle and Dickinson Avenue which is Lot 2 on the map of Eighth Street Acres recorded in Map Book 79, Page 108, Pitt County Registry (the Property) or (b) the day that is twenty four (24) months after the issuance of the building permit for the Lessee's development of the Property.

IN WITNESS WHEREOF, the parties hereto have duly executed this Memorandum of Lease as of the day and year first above referenced.

Lessor:

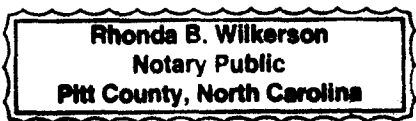
City of Greenville

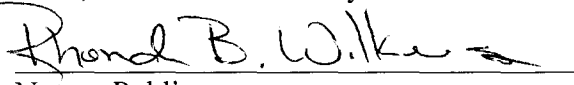
By: 
 Name: Allen M. Thomas
 Its: Mayor

ACKNOWLEDGMENT:

STATE OF NORTH CAROLINA)) SS:
 COUNTY OF PITT))

The foregoing instrument was acknowledged before me this 15th day of February, 2017, by Allen M. Thomas, the Mayor of the City of Greenville, on behalf of the City.




 Notary Public
Rhonda B. Wilkerson
 Printed Name

CO\5492944.2

*Commission expires
May 21, 2017*

Lessee:

Sidewalk Greenville, LLC

By: [Signature]
Name: Richard Kirk
Its: Manager

ACKNOWLEDGMENT:

STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN

The foregoing instrument was acknowledged before me this 14th day of February
2017 by Richard Kirk, manager of
Sidewalk Greenville, LLC on behalf of the limited liability company.



JOANNE I. GOLDHAND
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.

[Signature]
Notary Public
Joanne Goldhand

EXHIBIT A

DESCRIPTION OF SURFACE PARKING LOT

Situate in Greenville Township, Pitt County, North Carolina, being located on the south side of Bonners Lane and between Clark Street and Atlantic Avenue, being more completely described as follows:

BEGINNING at a point located at the intersection of the eastern right of way of Atlantic Avenue with the southern right of way line of Bonners Lane; thence running along the northern right of way of Bonners Lane being the back of curb, S 78°30'17" E – 133.90 feet to a point, thence continuing along the right of way, S 75°19'27" E – 47.60 feet to an iron pipe set; thence leaving the existing right of way line of Bonners Lane and running along a new right of way the following courses: S64°49'22"E – 104.28 feet to an iron pipe set, S 74°49'11"E – 44.64 feet to an iron pipe set at the point of curvature of a curve; thence running along the curved right of way being a curve to the right with a radius of 20.00 feet as measured along a chord of S 29°37'05" E – 28.38 feet to an iron pipe set in the western right of way of Clark Street; thence running along the western right of way line of Clark Street, S 15°35'02" W – 302.08 feet to a point at the intersection of the western right of way line of Clark Street with the northern line of a 10 foot alleyway recorded in Map Book 3, Page 106; thence running along the northern line of the alleyway and continuing along the projection of the northern line of the alleyway, N 76°50'25" E – 294.77 feet to an iron pipe set in the eastern right of way line of Atlantic Avenue; thence running along the eastern right of way line of Atlantic Avenue, N 10°00'00" E – 40.58 feet to an existing iron pipe; thence continuing along the eastern right of way line of Atlantic Avenue, N 09°27'16" E – 282.53 feet to the POINT OF BEGINNING, containing about 2.2749 acres.

A-1

CO\5492944.2

LEASE AMENDMENT

This Lease Amendment (this "**Amendment**") is made and entered into as of the ____ day of _____, 2022 (the "**Effective Date**"), by and between the City of Greenville, a North Carolina municipal corporation ("**Lessor**"), and Sidewalk Greenville LLC, a Delaware limited liability company ("**Lessee**").

RECITALS

A. The parties entered into that certain Lease Agreement dated as of February 15, 2017 (the "**Lease**"), whereby Lessor leased to Lessee two hundred (200) parking spaces on a parcel of land containing approximately 2.2749 acres of land and bounded by Bonners Lane, Clark Street and Atlantic Street in Greenville Township. All capitalized terms used herein shall have the meanings ascribed to such terms in the Lease.

The parties desire to amend the Lease in order to correct the legal description originally attached thereto.

NOW, THEREFORE, the parties hereby state as follows:

1. Recitals Incorporated. The foregoing recitals are incorporated into this Section as if set forth in this Section in full.
2. Legal Description. The Lease is hereby modified by deleting the legal description on Exhibit A attached thereto in its entirety and replacing the same with Exhibit A attached hereto.
3. No Amendment to Lease; Reference to Lease. This Amendment shall not be construed to limit, amend or modify the provisions of the Lease in any respect other than as specifically and expressly set forth herein. Reference is made to the Lease itself for a complete and definitive statement of the terms of the rights and obligations of Lessor and Lessee thereunder.
4. No Default. Lessor and Lessee hereby affirm that as of the Effective Date no breach, default, or other act, error, or omission which, with the giving of notice or passage of time or both, would constitute a breach or default by either party has occurred and is continuing under the Lease.

[The signature pages follow.]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date.

LESSOR:

CITY OF GREENVILLE

By: _____

Printed: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

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

WITNESS my hand and official seal this ___ day of _____, 2022.

Notary Public

Print Name

My Commission Expires: _____

LESSEE:

SIDEWALK GREENVILLE, LLC,
a Delaware limited liability company

By: _____

Printed: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

I, _____, Notary Public in and for the aforesaid County and State, do hereby certify that _____, the _____ of SIDEWALK GREENVILLE, LLC, a Delaware limited liability company, personally appeared before me on this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal this ____ day of _____, 2022.

Notary Public

Print Name

My Commission Expires: _____

APPROVED AS TO FORM:

BY: _____
Emanuel D. McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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

BY: _____
Byron Hayes, Director of Financial Services

EXHIBIT A

LEGAL DESCRIPTION

SITUATE IN GREENVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA, BEING LOCATED ON THE SOUTH SIDE OF BONNERS LANE AND BETWEEN CLARK STREET AND ATLANTIC AVENUE, BEING MORE COMPLETELY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED AT THE INTERSECTION OF THE EASTERN RIGHT OF WAY OF ATLANTIC AVENUE WITH THE SOUTHERN RIGHT OF WAY LINE OF BONNERS LANE; THENCE RUNNING ALONG THE NORTHERN RIGHT OF WAY OF BONNERS LANE BEING THE BACK OF CURB, S 78°30'17" E - 133.90 FEET TO A POINT, THENCE CONTINUING ALONG THE RIGHT OF WAY, S 75°19'27" E - 47.60 FEET TO AN IRON PIPE SET; THENCE LEAVING THE EXISTING RIGHT OF WAY LINE OF BONNERS LANE AND RUNNING ALONG A NEW RIGHT OF WAY THE FOLLOWING COURSES: S 64°49'22" E - 104.28 FEET TO AN IRON PIPE SET, S 74°49'11" E - 44.64 FEET TO AN IRON PIPE SET AT THE POINT OF CURVATURE OF A CURVE; THENCE RUNNING ALONG THE CURVED RIGHT OF WAY BEING A CURVE TO THE RIGHT WITH A RADIUS OF 20.00 FEET AS MEASURED ALONG A CHORD OF S 29°37'05" E - 28.38 FEET TO AN IRON PIPE SET IN THE WESTERN RIGHT OF WAY OF CLARK STREET; THENCE RUNNING ALONG THE WESTERN RIGHT OF WAY LINE OF CLARK STREET, S 15°35'02" W - 302.08 FEET TO A POINT AT THE INTERSECTION OF THE WESTERN RIGHT OF WAY LINE OF CLARK STREET WITH THE NORTHERN LINE OF A 10 FOOT ALLEYWAY RECORDED IN MAP BOOK 3, PAGE 106; THENCE RUNNING ALONG THE NORTHERN LINE OF THE ALLEYWAY AND CONTINUING ALONG THE PROJECTION OF THE NORTHERN LINE OF THE ALLEYWAY, N 76°50'25" W - 294.77 FEET TO AN IRON PIPE SET IN THE EASTERN RIGHT OF WAY LINE OF ATLANTIC AVENUE; THENCE RUNNING ALONG THE EASTERN RIGHT OF WAY LINE OF ATLANTIC AVENUE, N 10°00'00" E - 40.58 FEET TO AN EXISTING IRON PIPE; THENCE CONTINUING ALONG THE EASTERN RIGHT OF WAY LINE OF ATLANTIC AVENUE, N 09°27'16" E - 282.53 FEET TO THE POINT OF BEGINNING, CONTAINING ABOUT 2.2749 ACRES.

CORRECTIVE MEMORANDUM OF LEASE

This CORRECTIVE MEMORANDUM OF LEASE (this "**Memorandum**") is made and entered into as of the ____ day of _____, 2022 (the "**Effective Date**"), by and between the City of Greenville, a North Carolina municipal corporation ("**Lessor**"), and Sidewalk Greenville LLC, a Delaware limited liability company ("**Lessee**").

RECITALS

A. The parties entered into that certain Lease Agreement dated as of February 15, 2017 (the "**Lease**"), whereby Lessor leased to Lessee two hundred (200) parking spaces on a parcel of land containing approximately 2.2749 acres of land and bounded by Bonners Lane, Clark Street and Atlantic Street in Greenville Township. All capitalized terms used herein shall have the meanings ascribed to such terms in the Lease.

B. That certain Memorandum of Lease dated as of February 15, 2017, evidencing the Lease ("**Original Memorandum**") was recorded on February 16, 2017, with the incorrect legal description attached thereto, at Book 3526, Page 75, Pitt County, North Carolina Registry.

The parties desire to place this Memorandum of record in order to correct the legal description attached to the Original Memorandum.

NOW, THEREFORE, the parties hereby state as follows:

1. Recitals Incorporated. The foregoing recitals are incorporated into this Section as if set forth in this Section in full.
2. Legal Description. The Original Memorandum is hereby modified by deleting the legal description on Exhibit A attached thereto in its entirety and replacing the same with Exhibit A attached hereto.
3. No Amendment to Lease; Reference to Lease. This Memorandum shall not be construed to limit, amend or modify the provisions of the Lease in any respect other than as specifically and expressly set forth herein. Reference is made to the Lease itself for a complete and definitive statement of the terms of the rights and obligations of Lessor and Lessee thereunder.

4. No Default. Lessor and Lessee hereby affirm that as of the Effective Date no breach, default, or other act, error, or omission which, with the giving of notice or passage of time or both, would constitute a breach or default by either party has occurred and is continuing under the Lease.

[The signature pages follow.]

LESSEE:

SIDEWALK GREENVILLE, LLC,
a Delaware limited liability company

By: _____

Printed: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

I, _____, Notary Public in and for the aforesaid County and State, do hereby certify that _____, the _____ of SIDEWALK GREENVILLE, LLC, a Delaware limited liability company, personally appeared before me on this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal this ___ day of _____, 2022.

Notary Public

Print Name

My Commission Expires: _____

APPROVED AS TO FORM:

BY: _____
Emanuel D. McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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

BY: _____
Byron Hayes, Director of Financial Services

EXHIBIT A

LEGAL DESCRIPTION

SITUATE IN GREENVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA, BEING LOCATED ON THE SOUTH SIDE OF BONNERS LANE AND BETWEEN CLARK STREET AND ATLANTIC AVENUE, BEING MORE COMPLETELY DESCRIBED AS FOLLOWS:

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TERMINATION OF MEMORANDUM OF AGREEMENT

THIS TERMINATION OF MEMORANDUM OF AGREEMENT (this "**Termination**") is made this ___ day of _____, 2022, by and between the City of Greenville, a North Carolina municipal corporation ("**Greenville**"), and Sidewalk Greenville LLC, a Delaware limited liability company ("**Sidewalk**").

RECITALS:

- A. A Memorandum of Agreement (the "**Memorandum**") was made and entered into on February 15, 2017, by and between Sidewalk, as buyer, and Greenville, as seller, was recorded on February 16, 2017, at Book 3526, Page 68, Pitt County, North Carolina Registry.
- B. The Memorandum evidenced certain post-closing obligations of Sidewalk under the Agreement of Sale by and between Greenville and Sidewalk for Lot Number 1 and Lot Number 2 of Eighth Street Acres as shown on the plat prepared by Spruill & Associates, Inc., and recorded in Map Book 79, Page 108, of the Pitt County Register of Deeds (the "**Property**").
- C. The obligations have been completed and a certificate of occupancy for the Property has been issued.
- D. Pursuant to Section 4 of the Memorandum, Greenville and Sidewalk desire to terminate the Memorandum. This Termination does not impact the duties of the Parties set forth in the Agreement of Sale dated November 13, 2015, including conditions in the Master Plan for Development set forth in Exhibit B, except as otherwise agreed by Greenville and Sidewalk, and its successors and assigns.

NOW, THEREFORE, in consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agree as follows.

- 1. The Recitals set forth above are incorporated herein by reference.
- 2. The Memorandum is hereby terminated in its entirety.

3. The parties shall cause this Termination to be recorded in the Office of the Pitt County Register of Deeds.

IN WITNESS WHEREOF, the undersigned have executed this Termination as of the date first above written.

GREENVILLE:

CITY OF GREENVILLE

By: _____

Printed: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

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

WITNESS my hand and official seal this ___ day of _____, 2022.

Notary Public

Print Name

My Commission Expires: _____



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Subordination Agreement involving Sale of Hotel Property to support Greenville Convention Center

Explanation: On April 12, 2007, the City Council authorized the sale of City-owned real property to Greenville Prime Investors II, LLC (Buyer), of which Tom Glennon is a principal. The property is adjacent to and/or near the Greenville Convention Center, and the property was sold by private negotiation pursuant to State law for economic development purposes. Buyer constructed a Hampton Inn branded hotel at this location to support the Convention Center's tourism and economic development activities. The parcel is described in a deed recorded in Deed Book 2305, pages 695-697, Pitt County Registry, and bears a parcel ID of 27755.

Paragraph 34 of the Purchase and Sale Agreement dated April 16, 2007, between the City and Buyer included a grant by Buyer to the City of "Repurchase Rights" ("right of first refusal") if Buyer elects to sell the property and so long as the Convention Center is operated upon the current Convention Center property. In 2013, Buyer borrowed money from Goldman Sachs Mortgage Company ("Lender") and conveyed a security interest to Lender, including a deed of trust to a trustee for the benefit of the Lender. At the request of Lender, the City executed a partial subordination of the Purchase and Sale Agreement, whereby should the Lender foreclose, the City's right of first refusal is inapplicable to interfere with the foreclosure and should the Lender be the high bidder at the foreclosure sale, with the Lender's sale of the property to a third party.

Now, Buyer is seeking a loan to refinance the hotel property with Pinnacle Bank and requests the City again enter into an identical partial subordination of the Purchase and Sale Agreement, this time in favor of Buyer's new lender, Pinnacle Bank. The existing loan will be paid off in full by the proceeds from the new Pinnacle Bank loan.

With the execution of the requested partial subordination, the City's right of first refusal will be affected only and to the same extent that it was modified in connection with the 2013 loan. All other sales of the property will continue to be subject to the City's right of first refusal.

Fiscal Note: This Partial Subordination of Purchase and Sale Agreement has no financial impact on the City.

Recommendation: It is recommended that the City Council approve the Partial Subordination of

Purchase and Sale Agreement included as attachment.

ATTACHMENTS

 [Partial_Subordination_Agreement_-_Greenville_Prime_II #2.pdf](#)

(For Recording Data)

Prepared by and return to after recording:

Steven I. Reinhard, Esq.

Reinhard Law, PLLC

5213 Deergass Court

Raleigh, North Carolina 27613

PARTIAL SUBORDINATION OF PURCHASE AND SALE AGREEMENT

This Partial Subordination of Purchase and Sale Agreement (the “*Subordination Agreement*”) is made and entered into as of this ____ day of June, 2022, by the **CITY OF GREENVILLE**, a North Carolina municipal corporation (“*City*”) to **PINNACLE BANK**, a Tennessee banking corporation, and its successors and assigns (“*Lender*”).

RECITALS

- A. Greenville Prime Investors II, LLC, a North Carolina limited liability company (“*GPI*”), as buyer, and the City, as seller, entered into that certain Purchase and Sale Agreement dated April 16, 2007 (the “*P&S Agreement*”), with regard to the conveyance of a parcel of real property described in a deed dated April 27, 2007, by the City to GPI recorded in Book 2305, page 695, Pitt County Registry (the “*Property*”).
- B. The P&S Agreement included certain agreements and covenants between GPI and the City and certain conditions, requirements and restrictions rights and conditions in favor of the City, all with regard to the operation and subsequent conveyance of the Property after the conveyance by the City to GPI.
- C. To provide record notice of the aforesaid conditions, requirements and restrictions contained in the P&S Agreement in favor of the City, GPI executed that certain Memorandum of Option dated April 27, 2007, and recorded in Book 2305, page 698, Pitt County Registry (the “*Memorandum*”).
- D. In connection with the consummation of a loan to GPI by Lender, GPI executed to _____, as trustee, for the benefit of Lender that certain [title of deed of trust instrument] dated June __, 2022, and recorded in Book _____, page _____, Pitt County Registry (the “*Security Instrument*”).
- E. As a requirement for the consummation of the aforesaid loan, Lender requires that the City subordinate in part certain conditions, requirements and restrictions contained in the P&S Agreement to certain rights of Lender under the Deed of Trust and the lien and priority thereof, all in accordance with the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the sum of \$1.00 in hand paid and other good and valuable considerations paid to the City, the receipt and sufficiency of which are hereby acknowledged, the City's purchase options to purchase the Property under paragraph 34 of the P&S Agreement, evidenced by the Memorandum, and any and all of the City's rights, title and interest in and to the Property in relation to such options shall be, and the same are hereby expressly made subject, subordinate and inferior to the Security Instrument, and the lien thereof to the extent and only to the extent that the City hereby agrees and acknowledges that the purchase options and requirement of City consent under aforesaid paragraph 34 shall not be exercisable in connection with any of the following: (i) a foreclosure and sale or other suit, sale or proceeding under the Security Instrument, whether judicial or non-judicial, (ii) any deed in lieu of foreclosure that may be given to Lender or its designee or (iii) to the extent Lender or its designee obtains title to the Property pursuant to clause (i) or (ii) above, any subsequent transfer of the Property to the immediate transferee of Lender or its designee.

Such subordination shall not affect the priority of the lien of the Security Instrument in any manner except as hereinabove set forth.

IN WITNESS WHEREOF, the City has hereunto set its hand and seal the day and year first above written.

CITY OF GREENVILLE

By: _____
P.J. Connelly
Mayor

ATTEST:

Valerie Shiuwegar
City Clerk

STATE OF NORTH CAROLINA
COUNTY OF PITT

I , _____, a Notary Public of Pitt County, North Carolina, do hereby certify that Valerie Shiuwegar, personally appeared before me this day and acknowledged that she is the City Clerk of the City of Greenville, North Carolina, a municipal corporation, and by authority duly given and as the act of the City of Greenville, the foregoing instrument was signed in its name by Mayor P.J. Connelly, sealed with its corporate seal, and attested by herself as its City Clerk.

Witness my hand and official stamp or seal, this the ___ day of June, 2022.

My Commission Expires: _____, 20____

Name: _____
Notary Public

[notary seal]



City of Greenville, North Carolina

Meeting Date: 06/09/2022

-
- Title of Item:** Resolution declaring the former Greenville Utilities Commission Operations Center property located on Mumford Road as surplus to the needs of Greenville Utilities Commission and the City of Greenville and authorizing its disposition by the upset bid method
- Explanation:** Prior to the construction of the new Operations Center, Greenville Utilities Commission owned and operated an Operations Center located at 801 Mumford Road which consists of twelve (12) separate parcels of land acquired over a period of time denominated as Tax Parcel No. 28948, Tax Parcel No. 16494, Tax Parcel No. 16145, Tax Parcel No. 01791, Tax Parcel No. 23655, Tax Parcel No. 23656, Tax Parcel No. 16882, Tax Parcel No. 16878, Tax Parcel No. 16884, Tax Parcel No. 32669, Tax Parcel No. 22579, and Tax Parcel No. 49156. These parcels are currently titled in the name of the City of Greenville for the use and benefit of Greenville Utilities Commission. It is anticipated that all operations at the old Operations Center will cease during the first week in June 2022, and this property will no longer be in governmental use. This low-lying area has been prone to flooding, and it is currently surplus to the needs of GUC and not generating any revenue for GUC. A possible future sale of the property could generate substantial revenue, but in order for a sale to take place, a determination will have to be made by the GUC Board of Commissioners and the Greenville City Council that this property is no longer needed by GUC or the City. At the GUC regular Board Meeting on May 19, 2022, the GUC Board of Commissioners met and deemed such property to be surplus to the needs of GUC and requests approval of such a declaration by the City and authorization of a possible sale of the subject property.
- Fiscal Note:** No costs to the City.
- Recommendation:** Approve the resolution declaring the former GUC Operations Center property on Mumford Road to be surplus to the needs of GUC and the City and authorize a possible future sale of the subject property by the upset bid process in accordance with Chapter 160A of the General Statutes of North Carolina, including any associated documentation necessary to consummate the transaction
-

ATTACHMENTS

 [Resolution \(Mumford Road Site\) Final.pdf](#)

RESOLUTION

RESOLUTION DECLARING THE FORMER
GREENVILLE UTILITIES COMMISSION OPERATIONS CENTER PROPERTY
AS SURPLUS AND AUTHORIZING ITS DISPOSITION BY THE UPSET BID METHOD

WHEREAS, the City of Greenville, for the use and benefit of Greenville Utilities Commission, owned and operated an Operations Center at 801 Mumford Road which consists of twelve (12) separate parcels of land acquired over a period of time denominated Tax Parcel No. 28948, Tax Parcel No. 16494, Tax Parcel No. 16145, Tax Parcel No. 01791, Tax Parcel No. 23655, Tax Parcel No. 23656, Tax Parcel No. 16882, Tax Parcel No. 16878, Tax Parcel No. 16884, Tax Parcel No. 32669, Tax Parcel No. 22579, and Tax Parcel No. 49156; and

WHEREAS, said parcels of land are currently titled in the name of the City of Greenville for the use and benefit of Greenville Utilities Commission; and

WHEREAS, it is anticipated that all operations at the Old Operations Center will cease during the first week in June 2022, and such parcels of land will no longer be in governmental use; and

WHEREAS, this low-lying area has been prone to flooding and is currently surplus to the needs of Greenville Utilities Commission and the City of Greenville and not generating any revenue for Greenville Utilities Commission; and

WHEREAS, a future sale of said parcels of land could generate substantial revenue for Greenville Utilities Commission; and

WHEREAS, according to the UNC School of Government since the enactment of Chapter 160A of the General Statutes of North Carolina, the upset bid process has become the most common method used by local governments selling real property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that the City Council hereby deems said parcels of land to be surplus to the needs of Greenville Utilities Commission and the City of Greenville and authorizes such property to be sold by the upset bid process in accordance with Chapter 160A of the General Statutes of North Carolina.

Adopted this the 9th day of June 2022.

CITY OF GREENVILLE

By: _____
P.J. Connelly, Mayor

ATTEST:

VALERIE SHIUWEGAR, Clerk

(SEAL)



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Resolution declaring as surplus and authorizing the disposition of fourteen heavy-duty vehicles by electronic auction

Explanation: The Public Works Department has determined that fourteen (14) heavy-duty vehicles are surplus. The vehicles have been removed from the fleet, and staff is requesting that City Council declare these items as surplus and authorize the sale of the vehicles via GovDeals, the City's on-line auction service. All assets are obsolete, experiencing multiple repairs, and/or beyond their useful lives.


The Financial Services Manager has authority to dispose of surplus property with an estimated value of less than \$30,000. The items listed for surplus may each have a value in excess of \$30,000; therefore, City Council is asked to declare these items as surplus and authorize their disposition.

Asset#	Year	Make	Model	Type	VIN#
5929	2003	GMC	C8500	Leaf Collector	1GDM7C1EX4F501114
6565	2005	International	4300	Bucket Truck	1HTMMAANX6H211581
6728	2008	International	4300	Dump Truck	1HTJSKL68H644441
6783	2011	Mack	MRU613	Front Loader	1M2AV02C08M002330
6795	2008	GMC	C7500	Knuckle Boom	1GDP7C1B48F411644
6877	2008	International	4300	Dump Truck	1HTJTSKL59H135071
6844	2009	International	4300	Rescue Truck	1HTMNAAL79H112152
6892	2009	International	4300-SBA	Knuckle Boom	1HTMMAARX9H163152
7025	2011	MACK	MRU613	Front Loader	1M2AV02C6BM007829
7042	2011	Freightliner	M2	Leaf Collector	1FVHCYBS5BDAZ8758
7048	2011	International	7400	Rear Loader	1HTWGAAT4BJ345763
7049	2011	International	7400	Rear Loader	1HTWGAAT6BJ345764
8134	2013	Isuzu	NRR-NU1	Sweeper	JALE5W165D7301422
8267	2015	Freightliner	M2106	Sweeper	1FVACXDT5FHFY8097

Fiscal Note: The sale of each item may produce revenue of \$30,000 or more. The revenue received will be returned to the Vehicle Replacement Fund.

Recommendation: Approve the resolution declaring the fourteen vehicles as surplus and authorize the Financial Services Manager to proceed with the sale of the equipment via electronic auction.

ATTACHMENTS

 [COG-#1164227-v1-Resolution_for_14_Surplus_Vehicles_-_June_2022.pdf](#)

RESOLUTION NO. _____ - 22
 RESOLUTION DECLARING CERTAIN PROPERTY TO BE SURPLUS
 AND AUTHORIZING ITS DISPOSITION BY ELECTRONIC AUCTION

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

Asset#	Year	Make	Model	Type	VIN#
5929	2003	GMC	C8500	Leaf Collector	1GDM7C1EX4F501114
6565	2005	International	4300	Bucket Truck	1HTMMAANX6H211581
6728	2008	International	4300	Dump Truck	1HTJSKL68H644441
6783	2011	Mack	MRU613	Front Loader	1M2AV02C08M002330
6795	2008	GMC	C7500	Knuckle Boom	1GDP7C1B48F411644
6877	2008	International	4300	Dump Truck	1HTJTSKL59H135071
6844	2009	International	4300	Rescue Truck	1HTMNAAL79H112152
6892	2009	International	4300-SBA	Knuckle Boom	1HTMMAARX9H163152
7025	2011	MACK	MRU613	Front Loader	1M2AV02C6BM007829
7042	2011	Freightliner	M2	Leaf Collector	1FVHCYBS5BDAZ8758
7048	2011	International	7400	Rear Loader	1HTWGAAT4BJ345763
7049	2011	International	7400	Rear Loader	1HTWGAAT6BJ345764
8134	2013	Isuzu	NRR-NU1	Sweeper	JALE5W165D7301422
8267	2015	Freightliner	M2106	Sweeper	1FVACXDT5FHFY8097

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that the above listed property is hereby declared as surplus and the Financial Services Manager is hereby authorized to sell the above listed property to the highest bidder on June 21, 2022 at 3:00 p.m. via electronic auction on GovDeals - www.govdeals.com, said electronic address being where the information about the property to be sold can be found and where electronic bids may be posted.

BE IT FURTHER RESOLVED that the property listed above will be sold in accordance with the electronic auction procedure utilized by the Financial Services Manager to sell surplus property and shall be sold on an "as is" basis with the sale being final and that the City of Greenville reserves the right to reject any and all bids.

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

This 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

Doc#1164227v1



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Authorization to submit a 2022 COPS Technology and Equipment Program Application

Explanation: The US Department of Justice, Office of Community Oriented Policing Services (COPS) is seeking applications to support projects designated for funding in the Consolidated Appropriations Act, 2022, that expand the implementation of community policing and crime prevention through the development and procurement of equipment, technologies and interoperable communications.

The City of Greenville is eligible to receive funding through this program in the amount of \$3,000,000. Although the COPS Technology and Equipment program is not a competitive program, all funding recipients are required to complete an application, providing a detailed budget and narrative information outlining the agency's project. GPD's project is replacement of police radios.

The goal of the program is to increase the community policing capacity and crime prevention efforts of law enforcement agencies. The objective is to provide funding for projects which improve police effectiveness and the flow of information among law enforcement agencies, local government service providers, and the communities they serve. Equipment funded under this program should meet any applicable requirements of the National Institute of Standards and Technology's Office of Law Enforcement Standards.

GPD asks that City Council approve the Department going forward with the application process so it may start a Request for Proposal for the selection and purchase of radios and equipment to complete and fully realize this opportunity to bring our communications equipment in line with the needs of our community.

Fiscal Note: GPD anticipates being awarded \$3,000,000. This program does not include a cost sharing or a local match requirement.

Recommendation: Authorize GPD Staff to submit the 2022 COPS Technology and Equipment Program application for police radios.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Authorization to submit a COPS Office FY 2022 Community Policing Development Microgrant Application

Explanation: The US Department of Justice, Office of Community Oriented Policing Services (COPS) is seeking applications for funding for the COPS Office FY 2022 Community Policing Development Microgrants program.

The goal is to propose demonstration or pilot projects to be implemented in the agency that offer creative ideas to advance crime fighting, community engagement, problem solving, or organizational changes to support community policing in one of five engagement areas, one of which is officer recruitment and retention. Attracting and retaining the best law enforcement candidates who represent a diversity of backgrounds, knowledge, and experiences is essential to supporting the implementation of community policing. In addition to reflecting the communities they serve, new officers must have strong analytical and problem-solving skills, good communication skills, adaptability, an understanding of agency policies and procedures, and training. GPD is developing a Police Officer Candidate Program ("Program") that would be a contender for this grant.

The Program would be an employment and tuition assistance program for college juniors and seniors seeking full-time employment as law enforcement officers. The Program is intended to ease the burden of recruiting well qualified and educated individuals seeking a career in law enforcement by recruiting college juniors or seniors and committing them to GPD well before they are considered eligible for hire as full-time police officers by other police departments.

Although East Carolina University would be a primary driver of students for the Program, efforts will be made to establish the Program at historically black colleges and universities (HBCUs) within North Carolina to further support the Police Department's diversity recruiting goals.

The period of performance duration for the microgrant is 12 months, beginning September 1, 2022. The application deadline is June 21, 2022.

Fiscal Note: The anticipated maximum award amount is \$175,000. There is no requirement for cost sharing or a local match for these awards.

The anticipated implementation cost of the Program is \$200,000. Current personnel savings would fund the difference in expenses, if awarded the grant.

Recommendation: Authorize GPD staff to submit the COPS Office FY 2022 Community Policing Development Microgrant application.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Contract Award to Kimley-Horn for the Comprehensive Recreation and Parks Master Plan

Explanation: The City of Greenville Recreation and Parks Department is in need of a new Comprehensive Recreation and Parks Master Plan. The current plan was completed in 2008 and is outdated. These plans are typically updated every 10 years and drive decision making, planning, and resources toward a clearly defined vision for the recreation and parks system. The plan will also assist Recreation and Parks staff when completing various grant applications, which often require up to date master plans. The master plan will be paramount in helping the Recreation and Parks Department carry out its goal to develop quality parks and recreational facilities throughout the City of Greenville that will best serve its citizens.

After a competitive Request for Qualifications (RFQ) process, Kimley-Horn was the firm selected to complete the plan for the City of Greenville. During the RFQ review, five (5) submittals were reviewed and scored by City staff.

The planning process, which will begin once a contract is executed, will consist of the following components: needs assessment, visioning, recreation program assessment, parks and facilities evaluations, level of service analysis, survey of recreational needs, transparent public engagement, and an implementation plan that provides actionable recommendations for organizational structure, partnerships, operations and maintenance, facility development, phasing, and potential acquisitions. This planning process will be guided by a steering committee and is expected to be complete in nine months and will result in a comprehensive document to help guide the future direction of the Recreation and Parks Department.

Fiscal Note: The contract cost is \$146,650.00 and is funded through previously approved budget amendments and departmental funds.

Recommendation: Award a contract for the Comprehensive Recreation and Parks Master Plan project to Kimley-Horn and authorize staff to negotiate the contract

ATTACHMENTS

 [KH_GreenvilleNC_RPMP_DraftScopefee_v2.pdf](#)

 **Contract - Comprehensive Recreation and Parks Master Plan**

Scope of Work

Phase I – Needs and Priorities Assessment

1.0 Monthly Project Administration – In addition to the following specific services, Kimley-Horn will facilitate a monthly coordination call with the City’s Project Team. We will also monitor the project schedule as it relates to this scope contained herein and provide timely invoicing and reporting of project progress.

1.1 Project Staff and Steering Committee Kickoff Meetings – Kimley-Horn will conduct a kickoff/orientation meeting with City Staff and project leadership to review and discuss:

- Project purpose, scope, and schedule
- Project roles and expectations
- Overview of the City’s recreation and parks system attributes
- Needs, priorities, obstacles, opportunities, and implementation goals
- Comprehensive Plan, City’s Strategic Plan, and other guiding documents
- Focus Group participants; and
- Final document format.

Following the kickoff meeting with City staff, the Consultant team will conduct an orientation meeting with Steering Committee (SC) members. SC members will be identified by City staff and the City will be responsible for invites, meeting facilities and any food/beverages.

1.2 Guiding Documents and Data Review – Kimley-Horn will review guiding documents and data provided by the City and compile an analysis of relevance to existing efforts. Sources may include the following:

- Prior Comprehensive Recreation and Parks Master Plan (2008)
- Horizons 2026: Greenville’s Community Plan (2016 Comprehensive Plan)
- Greenville City Council Goals and Priorities (2022 Update)
- Greenville Urban Area MPO’s 2045 Metropolitan Transportation Plan
- Greenville Flood Land Reuse Plan (2004)
- Bicycle & Pedestrian Master Plan; Greenville Urban Area MPO
- Active Transportation Plan; Greenville Area MPO
- Neuse River Basin Regional Hazard Mitigation Plan (2020)
- Pitt County 2015 Comprehensive Recreation and Park Master Plan
- Pitt County Greenway Plan 2025
- Pitt County Open Space Management Study (2001)
- Comprehensive Parks and Recreation Master Plan for Town of Winterville (2016)

- Winterville Greenway Master Plan
- Census 2020 data and city approved population projects figures for 2030+
- List of planned (through 2027) park capital projects
- Prior five (5) years of Department budgets
- Contacts for partner organizations, vendors, and concessioners
- Division organization chart, policies, and procedures
- List of joint-use agreements
- List of current partnerships, community special events, current recreation programs and sports leagues (both adult and youth), program levels and schedules; and
- Other relevant studies, data, and information as available from such sources as the State of North Carolina, Pitt County, and Pitt County Schools.

Kimley-Horn will coordinate with city staff for the development and transfer of a digital GIS base file in the MXD file format for the project study area (the study area is determined by expanding the City limits by one mile in each direction) which shall include relevant City layers and those of containing information regarding adjacent municipal/county facilities that may be used by residents. Data for a 50-mile radius from the City will be provided by the City for park site and recreation facilities. Kimley-Horn will use data obtained to prepare a graphic map suitable for use in the Master Plan report and for public display. Data to be provided by City should include vacant or undeveloped City-owned parcels in addition to existing City owned or managed park sites and facilities, school sites, joint-use sites. Sources for the GIS data shall be public and may include:

- Pitt County data
- Municipal data
- Private
- Non-Profit
- HOA

1.3 Demographic Analysis – Kimley-Horn will evaluate the latest public 2020 US Census data and projected population trends in population size, character, ages, gender, ethnicity, income level and education level. Kimley-Horn will review, identify and summarize trends, and graphically depict key findings in charts, graphs or maps that have specific relevance for park and recreation planning.

1.4 Recreation Programs Assessment and Analysis – The City’s recreation programs and services will be evaluated through a recreation assessment process and inventory. In support of the City’s efforts in developing high quality programs, the recreation assessment will provide best practice approaches to recreation program development. In coordination with the kickoff meetings, a series of up to two (2) Recreation and Parks Dept. staff focus groups via online format (Zoom or MS Teams) will be completed to gather additional information regarding existing conditions and community needs. Recommendations will be made for a refined approach to the recreation program assessment to effectively utilize resources.

Elements of the assessment may include:

- Review of programs and services offered during the last year. Programs and services will be analyzed according in order to determine adequacy of current offerings to current and future service needs. Specific areas of analyses will include:
 - Program inventory
 - Core program identification
 - Age segment analysis
 - User fee analysis
 - Connection to community need
 - Program lifecycle analysis
 - Market potential
 - Program development processes; and
 - Applicable trends data
- Review of similar providers to identify:
 - Inventory of other providers
 - Opportunities for partnerships, and
 - Duplication of services with other providers

1.4 Parks Evaluation – Kimley-Horn will conduct a series of site evaluations to observe city-owned and managed parks (estimated at 36 existing park locations). Using criteria adapted from Project for Public Spaces (PPS) methodology for *evaluating the effectiveness and performance of the public space*, the criteria emphasize elements that promote placemaking and high-quality lifestyles for communities. The specific criteria used for the City will be developed with input from City staff. Elements may include:

- ***Design and Materials:*** Includes observations of the quality of design, materials, use of standards and the durability of a space.
- ***Use and Effectiveness:*** Includes the observation of users or evidence of users of a space, range of offerings, balance of activities and contextual consistency.
- ***Maintenance:*** Includes observations of the quality of upkeep of a space, evidence of pride of users and maintenance, and presence of deferred improvements.
- ***Comfort:*** Includes observation of a space’s first impression, comfort of users, visual attractiveness, and perception of safety.
- ***Access and Connectivity:*** Includes observation of ***universal accessibility barriers***, multi-modal connectivity, dominance of the space by a transportation use other than pedestrian and bicycles and ease of access from surrounding areas.
- ***Sustainability:*** As a three-part category, observations focus on social interactions and connections to surrounding neighborhoods, environmental considerations and promotion that result in net positive contributions, and economic viability and contributions.

The evaluation will use observational-based information collected to rate the performance of each park or open space, providing summaries of key successes, and opportunities for improvements.

Existing conditions of park amenities will be identified and combined with observations to

outline recommended capital and operational improvements tied to documented needs and community priorities.

NOTE: This evaluation is not intended to be an engineering review of the viability, integrity, or structural condition of existing facilities.

- 1.6 Level of Service Analysis and Benchmarking** – Kimley-Horn will work with City staff to verify park level of service goals in coordination with current NRPA and SCORP standards as well as with the Objective from the City’s Horizon Plan. The existing Level of Service (LOS) analysis will include acreage and facility level of service comparisons with peer communities selected in coordination with City staff. Using demographic projections analyzed before, Kimley-Horn will prepare estimated park acreage and facility needs for 5, 10 and 15-year increments.

Kimley-Horn will also conduct a GIS-based Access service area analysis for each existing park based on county-wide provision of access. Drive-to (5 miles), bike-to (2 miles) and walk-to (1/2 mile) distances (based on available GIS data for roads and streets within the City) will be identified, allowing the team to identify gaps in overall service area and help advance the City’s Objectives stated in the Comprehensive Plan regarding access to parks and trails.

Benchmarking will be coordinated with findings from Task 2.3 to include comparison with up to three (3) peer communities, and/or national/state benchmarks. Categories may include budget expenditures and revenues per capita, staffing levels, capital budgets per capita, acreage of parkland, and number of facilities.

- 1.7 Public Engagement** – Kimley-Horn will conduct a series of focus group meetings, stakeholder interviews, and community meeting to gather qualitative information regarding needs and priorities from residents. In coordination with the City, efforts will be made to reach diverse segments of the community including underserved populations, youth, elderly, and disabled park users and non-users to obtain input for the Strategic Plan. The public involvement task may include the following events:

- a) Stakeholder Interviews (10):** Each interview will be approximately 45 minutes in length. Interview notes will be provided. Stakeholder interviews will be formatted using virtual MS Teams. Interviews may include the following:
 - City elected officials and leaders (up to 12 interviews): Mayor, Council members, City Manager and key Department leads.
- b) Focus Group (6):** Each virtual Focus Group will be approximately 60 minutes and include between 6-10 participants. All meetings will be held virtually through either MS Teams or Zoom and hosted by Kimley-Horn. Focus Group topics may include:
 - **Seniors/Active Adults:** Participants and staff leads for senior programs
 - **Parents, Youth and Teens:** 12 and under representatives and parent participants in department programs, representatives from the City’s public high school student governments and private schools, and Public Schools representative(s)

- **Sports and Athletics:** sports organizations/leagues, little league, youth football, kickball leagues, etc.)
 - **Sustainability & Connectivity:** local advocates and organizations from the environmental community
 - **Equity:** Community stakeholders and residents
 - **City Staff:** Staff from other departments/division that support or interact with Recreation and Parks
- c) **Community Meetings (2):** one (1) online meeting and one (1) in-person meeting (pending safety protocols).
- d) **Handouts and Other Media:** Kimley-Horn will provide a set of announcements for social media postings (Facebook, Instagram and Twitter) for public engagement events. Graphic flyers and posters will be provided for posting at park and City facilities.

Kimley-Horn will engage residents via the project website (see Task 1.8) through a series of leadup questions and mapping exercises for those that may not be able to participate in the community meetings or focus groups. For each public meeting, City staff will be responsible for the arrangement of meeting logistics such as identification of focus group participants, invites, and meeting space for the in-person community meeting.

- 1.8 Statistically Valid Survey** – Kimley-Horn will work with City Staff to develop a statistically valid mail/telephone city-wide survey focusing on parks, facility and trail demands/needs, usage and priorities of residents. Kimley-Horn and subconsultant ETC Institute will detail the methodology of the survey and work with the City in the development of the questions. A draft survey instrument of the statistically valid survey will be provided to the City for review prior to administration of the survey and may not exceed five-pages in length.

Techniques utilized for administration of survey will include mail, telephone and a website. The statistically valid survey will have a minimum guaranteed sample size of 300 with a level of confidence of 95% and margin of error of $\pm 5.5\%$. Survey will include a set of priority investment charts and national benchmarking, tailored to the questions of the survey.

- 1.9 Online Survey** – Kimley-Horn will prepare a web-based survey (via Survey Monkey) which will allow for the cross-checking of public input results with statistically valid and online responses. Though not statistically valid itself, the on-line survey results will help identify and verify trends within the City for residents and other users of services, usage of parks, importance, barriers to use or participation, communications, funding, priorities and demographics.

- 1.10 Needs and Priorities Assessment Summary** – Based on the tasks outlined above, Kimley-Horn will establish recommendations based on the analysis of existing conditions, public survey, stakeholder interviews, and analysis of data. This information, along with the results of the survey and public input will provide the basis for determining the priority for provision of parks and recreation programs and services in the City.

- 1.11 Steering Committee and R&PC Presentations** - Kimley-Horn will facilitate one (1) presentation to the project Steering Committee and the City’s Recreation and Parks Commission in coordination with City staff. Presentations are assumed to be coordinated for a single-trip or virtual. The purpose of the presentation is to review key findings of the Needs Assessment prior to advancing to Strategic Plan development. Submittals will include a draft and final PowerPoint presentation. City staff will be responsible for meeting logistics such as facility arrangements and meeting invite, and agenda coordination.

Phase I – Deliverables include:

- *Kickoff meeting notes (Task 1.1)*
- *Guiding Documents Summary (Task 1.2)*
- *Base Map(s) (Task 1.2)*
- *Demographic Analysis (Task 1.3)*
- *Recreation Programs Assessment and Analysis Summary (Task 1.4)*
- *Park and Facilities Evaluation Summary (Task 1.5)*
- *Level of Service Analysis Maps (Task 1.6)*
- *Existing/Future Level of Service Benchmarks (Task 1.6)*
- *Community meetings notes (Task 1.7)*
- *Stakeholder Interview notes (Task 1.7)*
- *Focus Group notes (Task 1.7)*
- *Statistically Valid Survey (Task 1.8)*
- *Online Survey results (Task 1.9)*
- *Needs and Priorities Assessment Summary (Task 1.10)*
- *Steering Committee and R&PC Presentation (Task 1.11)*

Part II – Long-Range Vision and Strategic Plan

Visioning allows us to identify future capital projects based upon residents’ needs and priorities and through a goal of continuing to make Greenville a premier place to live, work and play. This phase of work strives to align community goals with action items, funding sources, and recommendations. Our primary goal during this phase is to provide the City with an implementable plan that captures the community’s input and generates enthusiasm.

- 2.1 Vision and Implementation Workshop** – Kimley-Horn will conduct a two-part, full-day workshop with City staff. The purpose of the workshop will be two-fold; review of long-range vision needs and priorities gathered during the Needs Assessment; and initial discussion of funding priorities, goals and objectives of the Strategic Plan. A preliminary agenda for the workshop includes:

- Review of the vision themes from Needs Assessment
- Identification of underserved areas of the City
- Review of vision goals and objectives; development of a vision statement

- Coordination with other long-term goals of the City
- Identification of sport tourism goals and long-range opportunities
- Identification of priorities for sub-systems:
 - Parks/Greenways and nature preserves
 - Recreation centers and facilities
 - Inclusive recreation
 - Lake/Rivers access
 - Recreational Programming
- Preliminary target areas of acquisition for new parks and expansion opportunities for existing parks
- Review of current 5-year CIP
- Review of funding projections
- Initial new park priorities and recommendations
- Determination of top spending priorities, and
- Development of funding, phasing strategies for 5, 10, and 15+ year periods for existing and proposed system.

2.2 Order of Magnitude Estimate of Probable Construction Costs – Kimley-Horn will prepare an “order-of-magnitude” opinion of probable construction costs (Excel) to implement each of the parks and/or other improvements identified during the Vision Workshop and the, including:

- Land Acquisition (based on costs/acre provided by the City)
- Park/Facility Development (based on comparable facilities)
- Operations and Maintenance for proposed system (based on historic data provided by the City)

2.3 Operations and Maintenance Practices Analysis – Kimley-Horn and subconsultants Ballard*King and Dr. Debbie Jordan will assess the City’s staff organization and operations to determine strengths and weaknesses in procedures, and ability to adequately maintain parks and facilities. Specific tasks may include elements such as:

- Organization structure and staffing levels, benchmark comparisons
- Organizational structure best practices
- Maintenance/work order management system
- Key performance indicators (KPIs)

The consultant team will complete the assessment by review of reports, budgets, and other information provided by the City as well as a series of up to two (2) staff focus groups with Division or other department staff (individual or group). Interviews will be conducted online via MS Teams or Zoom. The outcome of the analysis will be a set of immediate, short- and long-term operational recommendations.

2.4 Strategic Plan – Kimley-Horn will develop a Strategic Plan with a concentration on recommendations for the next five-years that will include strategies for improvements to the

parks system, open spaces, trails and recreation facilities. The plan will include, but not be limited to, the following:

- a) Documentation of plan goals and objectives
- b) Key findings of demographic and needs and priorities assessments
- c) An order of magnitude estimate of overall implementation and O&M costs for full Vision.
- d) Funding and Phasing Strategies:
 - a. A prioritized list of capital projects (parks and facilities) based on established goals, performance evaluations, community input and trends for the parks and recreation into a 10-YR+ Capital Improvement Program (CIP) including suggested timelines. Projects must meet the City's criteria for inclusion in the CIP
 - b. Identification of short-term (1-5 years); mid-term (6-10 years) and long-term (10+ years) recommendations and priorities into five-year increments through 2033+
 - c. Identification of potential funding alternative tied to project type and funding sources requirements.
- e) Identification of future potential expansion opportunities for existing parks
- f) Level of Service (LOS) recommendations, including acreage, facilities and access standards and definitions
- g) Recommendations for sports tourism goals and opportunities
- h) Recommendations for operations, maintenance, DEI, and technology
- i) Recommendations for programming based upon needs assessment findings
- j) Development of policies for public, private, and non-profit partnerships opportunities
- k) Identification of park land for possible acquisition of new park sites (target areas) and open spaces to meet future needs for potential acquisition or partnership strategies, guidelines for ideal park sites, and development of criteria for site future site acquisition considerations.
- l) Development of an Action Plan with Priority Next Steps and short-term policy recommendations.

2.5 Draft Master Plan Document – Kimley-Horn will prepare a draft Master Plan document and PowerPoint for review by City staff. Staff will provide Kimley-Horn with consolidated written comments which Kimley-Horn will incorporate into a final report document. Kimley-Horn will provide two (2) printed copies and one (1) digital version in .pdf format of the draft Master Plan for City review. City staff will provide consolidated written comments to Kimley-Horn for incorporation into a Final Master Plan document.

Following completion of revisions, Kimley-Horn will post the final Strategic Plan document to the project website for review and comment by residents for a two (2) week period in lead up to presenting the plan to the Recreation and Parks Commission.

2.6 R&PC and Public Presentation - Kimley-Horn will present the Draft Plan to the City's Recreation and Parks Commission (R&PC) and the general public for review, discussion, and approval. City staff will be responsible for distribution of materials to R&PC members for review and coordination of agenda. Members of the Steering Committee will be invited to the presentation to provide feedback.

2.7 City Council Presentation - Kimley-Horn will present the Master Plan to City Council for review, discussion, and approval. City staff will be responsible for distribution of materials to City Council for review and coordination of agenda.

2.8 Final Plan and Website Materials – Kimley-Horn will provide the final report in .pdf format for posting to the City’s website. Ten (10) printed color copies of the final report will be provided to the City. Kimley-Horn will provide up to three (3) flash drives with project files to include GIS, InDesign, MS Word, and PDF files of the report, meeting notes, and graphic files.

Phase II – Deliverables include:

- *Meeting notes of Vision and Implementation Workshop (Task 2.1)*
- *Estimate of Probable Costs (Task 2.2)*
- *Operations and Maintenance Assessment memo (Task 2.3)*
- *Two (2) color printed copies of Draft Master Plan (Task 2.5)*
- *One (1) digital PDF format of Draft Master Plan (Task 2.5)*
- *One (1) digital PDF format of Draft PowerPoint (Task 2.5)*
- *One (1) digital R&PC and Council Presentation PowerPoint (Task 2.6)*
- *One (1) digital PDF format Final Master Plan report (Task 2.8)*
- *Ten (10) color printed and bound copies of Final Plan (Task 2.8)*
- *Three (3) Flash drives with project files (Task 2.8)*

Greenville Comprehensive Recreation and Parks Master Plan
Work Task - Lump Sum Schedule of Fees

Task	Task Lum Sum
Part 1 Needs & Priorities Assessment	
1.0 Project Administration	\$4,150.00
1.1 Project Kickoff Meetings (2)	\$6,000.00
1.2 Guiding Docs and Base Map	\$4,400.00
1.3 Demographic Analysis	\$2,150.00
1.4 Recreation Program Assessment	\$22,150.00
1.5 Parks and Facilities Evaluations	\$15,600.00
1.6 LOS Analysis / Benchmarking	\$4,800.00
1.7 Public Engagement	
a)Stakeholder Interviews (10)	\$2,400.00
b)Focus Group meetings (6)	\$3,600.00
c)Community meetings (2)	\$6,050.00
d)Engagement Materials	\$1,950.00
1.8 Statistically Valid Survey	\$12,950.00
1.9 Online Survey	\$2,350.00
1.10 Needs & Priorities Assessment Summary	\$5,500.00
1.11 SC and R&PC Presentations	\$2,450.00
Subtotal	\$96,500.00
Part 2 Long-Range Vision & Action Plan	
2.1 Vision and Implementation Workshop	\$12,000.00
2.2 Order of Magnitude Est. of Probable Const. Costs	\$3,250.00
2.3 O&M Analysis	\$15,200.00
2.4 Strategic Plan	\$4,200.00
2.5 Draft Master Plan Document	\$6,400.00
2.6 R&PC & Public Presentation	\$2,650.00
2.7 City Council Presentation	\$1,300.00
2.9 Final Plan and Website Materials	\$1,450.00
Subtotal	\$46,450.00
Expenses	\$3,700.00
Total Fee (inclusive of expenses)	\$146,650.00



AGREEMENT FOR CONTRACTOR SERVICES

Comprehensive Recreation and Parks Master Plan

This Agreement is made and entered into as of the _____ day of _____, 2022, by and between the City of Greenville, a municipal corporation organized and existing under the laws of the State of North Carolina, Party of the First Part, and hereinafter referred to as the “City”, with a primary address of 200 W. Fifth Street, Greenville, NC 27858, and Kimley-Horn and Associates, *a limited liability company* who is organized and existing under the laws of the State of *North Carolina*, party of the Second Part and hereinafter referred to as the “Contractor”, whose primary offices are located at *421 Fayetteville Street, Suite 600, Raleigh, NC 27601*

GENERAL RECITALS

WHEREAS, the City desires the assistance of a Contractor in the performance of certain professional services; and

WHEREAS, the Contractor has exhibited evidence of experience, ability, competence, and reputation to perform such professional services; and

WHEREAS, the City is authorized by North Carolina General Statute § 160A-20.1 to enter into an Agreement for performance of such services;

NOW THEREFORE, the City and the Contractor, for consideration hereinafter stipulated, mutually agree as follows:

The Contractor agrees to perform the assigned professional services.

ARTICLE I – SCOPE OF WORK

I.A. DESCRIPTION OF WORK REQUIRED

The Contractor shall prepare a Comprehensive Recreation and Parks Master Plan using the Plan Specifications as defined in the Request for Qualifications and the Scope of Work provided by Kimley-Horn, said work being hereinafter referred to as the “Work”. The Request for Qualifications and Scope of Work are hereby incorporated by reference herein and made a part hereof as fully as if herein set forth. Unless otherwise specified herein, the Contractor is to furnish all necessary labor, materials, tools, equipment, superintendence, delivery and perform all necessary services to complete the Work at no additional costs to the City.

I.B. ORDER OF PRECEDENCE

For the resolution and interpretation of any inconsistencies in this Agreement and/or the documents attached hereto and included herein by this reference, the precedence of these documents shall be given the following order:

1. This Agreement with any Attachments, including Addendum(s) and Amendment(s) hereto;
2. If applicable, negotiated Amendments or clarification to the Contractor’s Proposal which have been incorporated by reference to the final Agreement;
3. City’s Bid Advertisement; and
4. Contractor’s Bid Package.

I.C. SUBCONTRACTS

The Contractor and/or subcontractor will not sublet any portion of the work covered by this Agreement without prior written approval by the City.

- I.C.1. The Contractor will be responsible for the schedule of any work sublet to others so as to assure the overall schedule of the project is maintained.
- I.C.2. The Contractor will be responsible for the completeness, accuracy and presentation of all data, and for the review of any work sublet to others.
- I.C.3. The Contractor shall notify all subcontractors under this contract of ALL new work assignments made by the City to the Contractor regardless of any particular subcontractors engagement level under a particular task order. This notification information may be requested by the City in the form of a report.

ARTICLE II – DATA AND SERVICES TO BE PROVIDED BY THE CITY

II.A. DATA AND SERVICES

- II.A.1. The City’s supervisor who will be overseeing the Contractor in order to ensure that the requirements of this contract are met is the Parks Planner. If assistance or further information is needed, the Contractor shall contact the Parks Planner at (252) 329-4242. All directions and communications from the City to the Contractor shall be through the Parks Planner or their designee unless otherwise stated herein.
- II.A.2. The City shall provide available data and information, as applicable to the Work to be performed under this Agreement.

II.A.3. Any City property, information, data, instruments, documents, studies or reports given to or prepared or assembled by or provided to the Contractor under this Agreement shall be kept as confidential, used only for the purpose(s) required to perform the Agreement and not divulged or made available to any individual or organization without the prior written approval of the City. The City's data and property in the hands of the Contractor shall be protected from unauthorized disclosure, loss, damage, destruction by a natural event or another eventuality. The Contractor agrees to reimburse the City for loss or damage of City property while in Contractor's custody. Such City Data shall be returned to the City in a form acceptable to the City upon the termination or expiration of this Agreement. The Contractor shall notify the City of any security breaches within 24 hours as required by G.S. § 143B-1379.

ARTICLE III – TIME OF BEGINNING AND COMPLETION

III.A. PERIOD OF PERFORMANCE

Work will begin no later than ten (10) calendar days following written Notice to Proceed to begin work on specified deliverables. The work shall be completed within nine months from the date of the issuance of a Notice to Proceed.

This Agreement will expire *nine months* from the issuance of a Notice to Proceed.

This Agreement may be extended if mutually agreed upon by the City and the Contractor.

III.B. DELIVERABLES

If additional deliverables beyond the agreed-upon scope of work for the project are required to complete the assignment then a new written amended scope of work will be developed for the additional services. The Contractor shall notify the City's Project Manager as soon as additional services beyond agreed upon scope of work appear to be warranted. The Contractor must never under any circumstance exceed the approved cost estimate without prior written authorization from the City.

No new assignment will be issued after *nine months* from the date of execution or after the not-to-exceed amount has been depleted, whichever occurs first.

No additional work may be assigned under this Agreement after that date unless appropriate supplemental Agreements are in place.

ARTICLE IV – COMPENSTATION AND PAYMENTS

IV.A. FEES AND COSTS

As compensation for the Contractor services as outlines in ARTICLE I, a maximum fee amount will be established. The maximum fee amount for the services covered under this Agreement shall not exceed *\$146,650.00 One hundred and forty six thousand and six hundred and fifty dollars*. The construction services will be performed as individual tasks with lump sum or cost-plus compensation negotiated

for each task. The lump sum amount negotiated for each task will be full compensation for all direct salary costs, overhead, direct non-salary costs, and operating margin incurred for the duration of the task. The City shall not be obligated to pay the Contractor any payments, fees, expenses, or compensation other than those authorized by this section.

IV.B. **PAYMENT**

Upon receipt of invoices and appropriate supporting documentation by the City, the invoices are payable within thirty (30) days from receipt, provided they have first been approved by the City. The City does not agree to the payment of late charges or finance charges assessed by the Contractor for any reason. Invoices are payable in U.S. funds.

The Contractor shall pay subcontractors for work performed within seven (7) days after Contractor receives payment from the City for work performed by the subcontractor. This requirement must be incorporated into all subcontractor agreements. Failure to comply with the seven (7) day requirement may cause the City to withhold payments to the Contractor and the City may suspend work until the subcontractor is paid.

All invoices shall be directed to: ***Recreation and Parks Department, Mark Nottingham, Parks Planner, 2000 Cedar Ln Greenville NC 27858, mnottingham@greenvillenc.gov.***

It shall be the responsibility of the Contractor and all subcontractors to keep records of all payments requested and the dates received. The STATE may request copies of this information in the form of a report.

ARTICLE V - GENERAL TERMS AND CONDITIONS

V.A. **TERMINATION**

The City may terminate this Agreement at any time upon any of the following grounds:

- V.A.1. **DEFAULT.** The Contractor fails to perform, provides unacceptable performance, fails to comply with the provisions of the contract, or fails to follow safety regulations as required in this Agreement. Under this provision only, the City shall provide written notice to the Contractor regarding the condition(s) and the Contractor shall have five (5) calendar days to rectify. In the event the condition(s) identified are not rectified to the satisfaction of the City, the City will give the Contractor written notice of termination, which will be effective as of the date of notice unless otherwise stated in the notice of termination.
- V.A.2. **CONVENIENCE.** The City may terminate this agreement by giving seven (7) calendar days written notice. Contractor shall be paid for services provided up to the date of termination. The City shall not be liable to

Contractor for any additional compensation, or for any consequential or incidental damages.

V.A.3. FUNDING. In accordance with paragraph V.G.14, this agreement shall automatically terminate should funding cease to be available.

V.A.4. FORCE MAJEURE. This includes but is not limited to any acts of God; acts of the public enemy; insurrections; riots; embargoes; labor disputes, including strikes, lockouts, job actions, or boycotts; shortages of materials or energy; fires; explosions; floods; any curtailment, order, regulation, or restriction imposed by governmental, military or lawfully established civilian authorities, including, without limitation any of the foregoing which occur as a result of epidemic or pandemic; changes in laws governing this type of Work of facility; or other unforeseeable causes beyond the reasonable control and without the fault or negligence of the City. Reasonable extension of time for unforeseen delays may be made by mutual written consent of all parties involved.

V.A.5. EXPIRATION. Upon expiration of this Agreement, this Agreement is terminated, if not extended, in accordance with the terms and conditions of this Agreement.

V.B. CONTRACTOR’S RESPONSIBILITY

V.B.1. Contractor shall perform the Work under this Agreement as an independent contractor and not as City’s agent or employee. Contractor shall be solely responsible for the compensation, benefits, contributions and taxes, if any, of its employees and agents.

V.B.2. The standard of care applicable to Contractor’s performance will be the degree of skill and diligence normally employed by professional Contractors performing the same or similar services at the time and location said services are performed. Contractor will re-perform any services not meeting this standard without additional compensation.

V.B.3. Contractor will provide all equipment including but not limited to computer, recording equipment, long distance telephone and facsimile service, cellular service, and any clerical supplies necessary to perform the Work required under this Agreement. Contractor shall be responsible for all travel and related expenses.

V.B.4. Contractor shall be responsible for all federal, state and local taxes incurred, owed or payable as a result of the performance of the Work.

V.B.5. In the performance of the Work under this Agreement, Contractor shall comply with all federal, state, county and City statutes, ordinances, regulations, and rules, which are applicable.

V.C. INDEMNIFICATION AND INSURANCE

V.C.1. INDEMNITY AND HOLD HARMLESS REQUIREMENTS:

- a. To the maximum extent allowed by law, the Contractor shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of this contract to the extent caused by negligent acts or omissions of the Contractor or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. In performing its duties under this subsection “a,” the Contractor shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to City.
- b. Definitions. As used in subsections “a” above and “c” below -- “Charges” means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, and expenses (included without limitation within “Charges” are (1) interest and reasonable attorneys' fees assessed as part of any such item, and (2) amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders -- including but not limited to any such alleged violation that arises out of the handling, transportation, deposit, or delivery of the items that are the subject of this contract). “Indemnitees” means City and its officers, officials, independent contractors, agents, and employees, excluding the Contractor.
- c. Other Provisions Separate. Nothing in this section shall affect any warranties in favor of the City that are otherwise provided in or arise out of this contract. This section is in addition to and shall be construed separately from any other indemnification provision that may be in this contract.
- d. Survival. This section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Contractor under this contract.
- e. Limitations of the Contractor's Obligation. If this section is in, or is in connection with, a contract relative to the design, planning, construction, alteration, repair or maintenance of a building, structure, highway, road, appurtenance or appliance, including moving, demolition and excavating connected therewith, then subsection “a” above shall not require the Contractor to indemnify or hold harmless Indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.
- f. It is understood and agreed by the parties that the City will assume no liability for damages, injury, or other loss to the **Contractor**, its employees or property, tools or equipment, or to other persons or properties located on City facilities resulting from the **Contractor’s** activities and operations while performing services under this contract. The **Contractor** shall assume full and complete liability for any and all damages to City or private properties caused by or from its activities, operations, and that of its employees, agents, and officers.
- g. **Contractor** will promptly notify the City of any Civil or Criminal Actions filed against the **Contractor** or of any notice of violation from any Federal or State Agency or of any claim as soon as practical as relates to the services provided. The City, upon receipt of such notice, shall have the right, at its election, to defend any and all actions or suits or join in defense.

V.C.2. INSURANCE:

The Contractor agrees to purchase at its own expense insurance coverages to satisfy the following minimum requirements. Work under this contract shall not commence until all insurance required as listed has been obtained. Insurance required shall remain in effect through the life of this contract.

- a. Workers' Compensation Insurance:** No contractor or subcontractor may exclude executive officers. Workers Compensation must include all employees

Limits:

Workers Compensation: Statutory for the State of North Carolina.

Employers Liability: Bodily Injury by Accident \$1,000,000 each accident.

Bodily Injury by Disease \$1,000,000 policy limit.

Bodily Injury by Disease \$1,000,000 each employee.

- b. Commercial General Liability:**

Limits:

Each Occurrence:	\$1,000,000
Personal and Advertising Injury	\$1,000,000
General Aggregate Limit	\$2,000,000
Products and Completed Operations Aggregate	\$2,000,000

The aggregate limit must apply per project. The form of coverage must be the ISO CG 00 01 policy as approved by the State of North Carolina Department of Insurance. If a form of coverage other than the CG 00 01 is used it must be approved **Contractor**. Any endorsed exclusions or limitations from the standard policy must be clearly stated in writing and attached to the Certificate of Insurance. Completed Operations coverage must be maintained for the period of the applicable statute of limitations. Additionally, the **Contractor** must be added as an Additional Insured to the Commercial General Liability policy.

- c. Commercial Automobile Liability:**

Limits: \$1,000,000 combined single limit.

- d. Cancellation:**

Each certificate of insurance shall bear the provision that the policy cannot be altered or canceled in less than ten (10) days after mailing written notice to the assured of such alteration or cancellation, sent registered mail.

e. Proof of Carriages:

- i. The **Contractor** shall provide the City with insurance industry standard ACCORD form Certificate(s) of Insurance on all policies of insurance and renewals thereof in a form(s) acceptable to the City prior to the commencement of services. Said policies shall provide that the City be an additional named insured.
- ii. The City shall be notified in writing of any reduction, cancellation, or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.
- iii. All insurance policies shall be issued by responsible companies who are acceptable to the City and licensed and authorized to do business under the laws of North Carolina.

V.D. CORRECTION OF WORK

The Contractor shall promptly correct all Work rejected by the City as failing to conform to this Agreement. The Contractor shall bear all costs of correcting such rejected work. Rejected work shall consist of that Work which is deemed ineligible by the City's representative.

V.E. RELATIONSHIP WITH OTHERS

The Contractor will cooperate fully with the City with other municipalities and local government officials, Federal and state environmental resource and regulatory agencies, and with any others as may be directed by the City. This shall include attendance at meetings, workshops, and hearings and also includes provision of project development, human and natural environmental and engineering information to all parties as may be requested by the City. The Contractor will also cooperate fully with the STATE and other agencies on adjacent projects, as necessary.

V.F. NOTICE

Any notice or communication required or permitted by this Agreement shall be deemed sufficiently given if in writing and when delivered personally or three (3) days after deposit with a receipted commercial courier service or the U.S. Postal Service as registered or certified mail, postage prepaid, and addressed as follows:

City:

City of Greenville
P.O. Box 7207
Greenville, NC 27835
Attn: Mark Nottingham

Contractor:

Kimley-Horn and Associates
421 Fayetteville St, Suite 600
Raleigh, NC 27601
Attn: Nick Kuhn

V.G. ADDITIONAL PROVISIONS

V.G.1. TIME IS OF THE ESSENCE

The parties agree that time is of the essence in the completion of the Work to be performed pursuant to this Agreement.

The Contractor agrees that all Work shall be executed regularly, diligently, and uninterrupted at such a rate of progress as will ensure full completion thereof within the time specified.

V.G.2. **OWNERSHIP OF DOCUMENTS**

All tracings, documents, technical reports, charts, plans, specifications, photographic negatives, survey notes, computations, and maps and other data or documents prepared or obtained under the terms of the this Agreement shall be delivered to and become the property of the City without restriction or limitation on their use. However, in the event of any reuse or alteration of any documents furnished to the City, such alteration or reuse shall be at the City's sole risk. In the case of an Agreement involving preliminary plans only, no commitment is stated or implied that would constitute a limitation on the subsequent use of the plans or ideas incorporated therein for preparation of construction plans. These items could become the property of the City, if the City so elects.

V.G.3. **MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM**

The City has adopted an Affirmative Action and Minority and Women Business Enterprise Plan (M/WBE) Program. The Contractor attests that it also shall take affirmative action to insure equality of opportunity in all aspects of employment and to utilize MWBE suppliers of materials and labor when available.

Contractor further agrees that in the performance of these services that it will not discriminate in its hiring, employment, and contracting practices with reference to political affiliation, genetic information, sexual orientation, age, sex, race, color, religion, national origin, handicap or disability.

V.G.4. **IRAN DIVESTMENT ACT CERTIFICATION**

The Contractor hereby certifies that, it is not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. § 147-86.58. The Contractor shall not utilize in the performance of the Agreement any subcontractor that is identified on the Iran Final Divestment List.

V.G.5. **E-VERIFY**

The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further if the Contractor utilizes a Subcontractor, the Contractor shall require the Subcontractor to comply

with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Contractor represents that the Contractor and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

V.G.6. **ASSIGNMENT**

There shall be no assignment, subletting or transfer of the interest (including payments) of the Contractor in any of the work covered by the Agreement without the written consent of the City. Unless the City agrees otherwise in writing, the Contractor and all assignees shall be subject to all of the City's defenses and shall be liable for all of the Contractor's duties that arise out of this Agreement and all of the City's claims that arise out of this Agreement. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

V.G.7. **GENERAL COMPLIANCE WITH LAWS**

The Contractor shall comply with all applicable Federal, State, and local laws, ordinances, rules, regulations and program guidelines pertaining to the performance of Work under this Agreement.

V.G.8. **AMENDMENTS AND WAIVER**

No waiver, alterations, consent or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the City or his designee.

V.G.9. **PERMITS, LICENSES, AND CERTIFICATES**

The Contractor is to procure all permits, licenses, and certificates, as required by any such laws, ordinances, rules and regulations, for proper execution and completion of the Work under this Agreement.

V.G.10. **CHOICE OF LAW AND VENUE**

This Agreement is deemed to be under and shall be governed by and construed according to the laws of the State of North Carolina and the ordinances of the City of Greenville. The exclusive forum and venue for all actions, suits or proceedings arising out of or related to this Agreement shall be the North Carolina General Courts of Justice, in Pitt County, or if in federal court, in the Eastern District of North Carolina.

V.G.11. **AUTHORITY TO CONTRACT**

The undersigned hereby certifies that this Agreement is made without prior understanding, agreement, or connection with any corporation, firm, or person who submitted bids for the Work covered by this Agreement and is in all respects fair and without collusion or fraud. As to Contractor, the

undersigned hereby warrants and certifies that they are authorized to enter into this Agreement and to execute same on behalf of the Contractor as the act of the said Contractor.

V.G.12. **DISPUTE RESOLUTION**

In the event of any dispute arising out of or relating to this agreement, the affected party shall notify the other party, and the parties shall attempt in good faith to resolve the matter within thirty (30) days after the date such notice is received by the other party (the "Notice Date") prior to exercising their rights under law.

V.G.13. **CONFLICT OF INTERESTS**

- a. Contractor is aware of the conflict of interest laws of the City of Greenville, of the State of North Carolina (as set forth in North Carolina General Statutes), and agrees that it will fully comply in all respects with the terms thereof and any future amendments.
- b. Contractor covenants that no person or entity under its employ, presently exercising any functions or responsibilities in connection with this Agreement has any personal financial interests, direct or indirect, with the City. Contractor further covenants that, in the performance of this Agreement, no person or entity having such conflicting interest shall be utilized in respect to the Scope of Work or services provided hereunder. Any such conflict of interest(s) on the part of Contractor, its employees or associated persons or entities shall be disclosed to the City.
- c. Contractor shall disclose any possible conflicts of interest or apparent improprieties of any party under or in connection with the Legal Requirements, including the standards for procurement.
- d. Contractor shall make any such disclosure to the City in writing and immediately upon the Contractor's discovery of such possible conflict. The City's determination regarding the possible conflict of interest shall be binding on all parties.
- e. No employee, agent, Contractor, elected official or appointed official of the City, exercising any functions or responsibilities in connection with this Agreement, or who is in a position to participate in the decision-making process or gain inside information regarding activities, has any personal financial interest, direct or indirect, in this Agreement, the proceeds hereunder, the Project or Contractor, either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

V.G.14. **NON-APPROPRIATION OF FUNDS**

Contractor acknowledges that funding for this Agreement is conditioned upon appropriation and allocation by the governing body of sufficient funds to support the activities described in this Agreement. By written notice to Contractor at the earliest possible date, City may terminate this Agreement, in whole or in part, at any time for lack of appropriation of funds, or other withdrawal, reduction or limitation in any way of the City's budget, funding or financial resources. Such termination is in addition to the City's rights to terminate for convenience or cause. If this Agreement is terminated for non-appropriation: The City will be liable only for payment in accordance with the terms of this Agreement for Work completed and expenses incurred prior to the effective date of termination. The Contractor will not be compensated for any other costs in connection with a termination for non-appropriation. The Contractor will not be entitled to recover any damages in connection with a termination for non-appropriation, including, but not limited to, lost profits. Contractor shall be released from any further obligation to provide Work affected by such termination; and Termination shall not prejudice any other right or remedy available to the City.

V.G.15 **RECORD RETENTION**

All records required to be kept on the project shall be maintained for at least five (5) years after final payments and until all other pending matters for this project have been closed. However, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the five (5) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the five (5) year period, whichever is later.

V.G.16 **CONFIDENTIALITY**

Proprietary or confidential information ("confidential information") developed or disclosed by either party under this agreement shall be clearly labeled and identified as confidential information by the disclosing party at the time of disclosure. Confidential Information shall not be disclosed to the extent allowable by law by the receiving party to any other person except to those individuals who need access to such Confidential Information as needed to ensure proper performance of the Services.

Neither party shall be liable for disclosure or use of Confidential Information which: (1) is or was known by the receiving party at the time of disclosure due to circumstances unrelated to this agreement; (2) is generally available to the public without breach of this agreement; (3) is disclosed with the prior written approval of the disclosing party; or (4) is required to be released by applicable law or court order.

Each party shall return all Confidential Information relating to this agreement to the disclosing party upon request of the disclosing party or upon termination of this agreement, whichever occurs first. Each party shall

have the right to retain a copy of the Confidential Information for its internal records and subject to ongoing compliance with the restrictions set forth in this Section. This Section shall survive termination of this agreement.

V.G.17 **SEVERABILITY**

No waiver of any breach of this agreement shall operate as a waiver of any similar subsequent breach or any breach of any other provision of this agreement. If any provision of this agreement is held invalid by a court of competent jurisdiction, such provision shall be severed from this agreement and to the extent possible, this agreement shall continue without affecting the remaining provisions.

V.G.18 **COUNTERPARTS**

This agreement may be executed in counterparts, and the counterparts, taken together, shall constitute the original.

V.G.19 **THIRD PARTY RIGHTS**

No Third Party Rights Created. This contract is intended for the benefit of the City and the Contractor and not any other person.

V.G.20 **PRINCIPLES OF INTERPRETATION AND DEFINITIONS.**

(1) The singular includes the plural and the plural the singular. The pronouns “it” and “its” include the masculine and feminine. References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words “include,” “including,” etc. mean include, including, etc. without limitation. (2) References to a “Section” or “section” shall mean a section of this contract. (3) “Contract” and “Agreement,” whether or not capitalized, refer to this instrument. (4) “Duties” includes obligations. (5) The word “person” includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (6) The word “shall” is mandatory. (7) The word “day” means calendar day. (8) The word “Work” is defined in Section I.A. (9) A definition in this contract will not apply to the extent the context requires otherwise.

V.G.21. **ENTIRE AGREEMENT**

This Agreement, including any Exhibits hereto, contains all the terms and conditions agreed upon by the parties. No promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this contract shall be deemed to exist or to bind either party hereto.

V.G.22. **HEADINGS**

The headings of the various Articles and Sections herein are for convenience of reference only and shall not form part of this Agreement or define or limit any of the terms or provisions hereof.

V.G.23 **DISCHARGE OF MECHANICS AND MATERIALMEN'S LIEN**

The Contractor's shall use its best efforts to prevent any liens that arise from the performance of the Work from being filed against the City or Property. If any liens are filed, the Contractor's shall prevent any liens from becoming delinquent. Upon completion of the Work and prior to payment by the City, the Contractor's shall execute and provide to the City a Release of Liens and Waiver of Claims form.

V.G.24 **CITY MANAGERS AUTHORITY**

To the extent, if any, the City has the power to suspend or terminate this contract or the Contractor's services under this Agreement, that power may be exercised by the City Manager or their designee.

V.G.25 SECTION RESERVED FOR FUTURE USE.

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IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first written above:

EXECUTED by the City this DATE: _____

CITY OF GREENVILLE

BY: _____

TITLE: _____

APPROVED AS TO FORM:

BY: _____

Emanuel McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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

BY: _____

Date: _____

Byron Hayes, Director of Financial Services

Account Number _____

Project Code (if applicable) MASTER PLAN

Contractor SIGNATURE PAGES FOLLOW –

TO BE COMPLETED, AS APPLICABLE TO EACH SIGNATORY ENTITY.

SIGNATURE OF Contractor – (PROFESSIONAL) LIMITED LIABILITY CORPORATION (COMPANY)

EXECUTED by the Contractor this DATE _____.

Full name of (Professional) Limited Liability Corporation (Company)

Signature of Witness

Signature of Member/Manager/Authorized Agent

(Select Appropriate Title Above)

Print or type Signer's name

Print or type Signer's name



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Contract award for professional services for Mowing /Landscape Maintenance for Homestead Memorial Gardens Cemetery (PWD Contract #12)

Explanation: The City advertised for professional services for a Landscape Maintenance Contract on March 30, 2022. The solicitation included a Landscape Maintenance Contract for Homestead Memorial Gardens Cemetery (PWD Contract #12). The mowing scope of work consists of litter removal, finish mowing, weed trimming, and clippings/debris removal during each cycle. Mowing cycles are based on weekly schedules with mowing beginning on April 1st and lasting through December 31st.

On April 14, 2022 staff, received (2) proposals in response to the invitation to bid. Precision Lawn Care, Inc. was the qualified low bidder.

Fiscal Note: The City will enter into a contract with Precision Lawn Care, Inc. in the amount of \$1250 per mowing cycle at an estimated cost of \$37,500 annually and \$112,500 for a three (3) year period beginning FY 2023 and ending FY 2025. Funding for this contract is provided through the Public Works operational budget.

Recommendation: City Council award a landscape maintenance contract to Precision Lawn Care, Inc. in the amount of \$112,500 (3 year amount).

ATTACHMENTS

- [📄 CC AGENDA 2022 -HOMESTEAD MEM. CEMETERY MOWING CONTRACT #12 - PRECISION LAWN CARE.pdf](#)
- [📄 Homestead Contract #12 BidTab Revised Signed 05032022.pdf](#)

Precision Lawn Care and Landscaping, Inc.

Contract # _____

Vendor Number: 5604



AGREEMENT FOR CONSULTANT/CONTRACTOR SERVICES

Homestead Memorial Gardens Cemetery Mowing/Landscape Maintenance Contract #12

THIS Agreement made and entered into as of the ____ day of _____ 2022 by and between the City of Greenville, a municipal corporation organized and existing under the laws of the State of North Carolina, Party of the First Part, and hereinafter referred to as the “City” and has a primary address of 200 W. Fifth Street, Greenville, NC 27858 and Precision Lawn Care and Landscaping, Inc., a corporation, organized and existing under the laws of the State of North Carolina, Party of the Second Part and hereinafter referred to as the “Contractor” whose primary offices are located at 5118 Country Lane, Grifton, NC 28530.

GENERAL RECITALS

WHEREAS, the City desires the assistance of a Consultant/Contractor in the performance of certain professional services; and

WHEREAS, the Consultant/Contractor has exhibited evidence of experience, ability, competence, and reputation to perform such services; and

WHEREAS, the City is authorized by North Carolina General Statute § 160A-20.1 to enter into an Agreement for performance of such services;

NOW THEREFORE, the City and the Consultant/Contractor, for consideration hereinafter stipulated, mutually agree as follows:

The Consultant/Contractor agrees to perform the assigned services.

ARTICLE I – SCOPE OF WORK

I.A. **DESCRIPTION OF WORK REQUIRED**

The Consultant/Contractor shall provide mowing services for Mowing/Landscape Maintenance Contract #12, Homestead Memorial Gardens Cemetery, as designated by the Buildings & Grounds Superintendent within the Public Works Department and defined in the Invitation for Bid (“IFB”) and amendments, if any, said work being hereinafter referred to as the “Work”. The IFB and amendments, if any, are hereby incorporated by reference herein and made a part hereof as fully as if herein set forth. Unless otherwise specified herein, the Consultant/Contractor is to furnish all necessary labor, materials, tools, equipment, superintendence, delivery and perform all necessary services to complete the Work at no additional costs to the City.

I.B. **WORK STANDARDS**

The Consultant/Contractor will perform Mowing and Landscape Maintenance with the highest of standards in accordance with all applicable federal, state and local laws, regulations and safety guidelines.

I.C. **ORDER OF PRECEDENCE**

For the resolution and interpretation of any inconsistencies in this Agreement and/or the documents attached hereto and included herein by this reference, the precedence of these documents shall be given the following order:

1. This Agreement with any Attachments, including Addendum(s) and Amendment(s) hereto;
2. If applicable, negotiated Amendments or clarification to the Consultant/Contractor’s Proposal which have been incorporated by reference to the final Agreement;
3. City’s IFB attached hereto as Exhibit A; and
4. Consultant/Contractor’s Proposal attached hereto as Exhibit B.

I.D. **SUBCONTRACTS**

The Consultant/Contractor and/or sub-consultant will not sublet any portion of the work covered by this Agreement without prior written approval by the City.

- I.D.1. The Consultant/Contractor will be responsible for the schedule of any work sublet to others so as to assure the overall schedule of the project is maintained.
- I.D.2. The Consultant/Contractor will be responsible for the completeness, accuracy and presentation of all data, and for the review of any work sublet to others.
- I.D.3. The Consultant/Contractor shall notify all sub-consultants under this contract of ALL new work assignments made by the City to the Consultant/Contractor

regardless of any particular sub-consultant's engagement level under a particular task order. This notification information may be requested by the City in the form of a report.

ARTICLE II – DATA AND SERVICES TO BE PROVIDED BY THE CITY

II.A. DATA AND SERVICES

- II.A.1. The City's project manager who will be overseeing the Contractor/Consultant in order to ensure that the requirements of this contract are met is the Building and Grounds Superintendent or their designee. If assistance or further information is needed, the Contractor/Consultant shall contact the Building and Grounds Superintendent or their designee at (252) 329-4522 or the Public Works Complex, 1500 Beatty Street, Greenville, NC. All directions and communications from the City to the Contractor/Consultant shall be through the Building and Grounds Superintendent or their designee unless otherwise stated herein.
- II.A.2. The City shall provide available data and information, as applicable to the detailed SCOPE OF WORK develop for all tasks, which may include, but is not limited to the following:
- II.A.3. Any City property, information, data, instruments, documents, studies or reports given to or prepared or assembled by or provided to the Consultant/Contractor under this Agreement shall be kept as confidential, used only for the purpose(s) required to perform the Agreement and not divulged or made available to any individual or organization without the prior written approval of the City. The City's data and property in the hands of the Consultant/Contractor shall be protected from unauthorized disclosure, loss, damage, destruction by a natural event or another eventuality. The Consultant/Contractor agrees to reimburse the City for loss or damage of City property while in Consultant/Contractor's custody. Such City Data shall be returned to the City in a form acceptable to the City upon the termination or expiration of this Agreement. The Consultant/Contractor shall notify the City of any security breaches within 24 hours as required by G.S. § 143B-1379.

ARTICLE III – TIME OF BEGINNING AND COMPLETION

III.A. PERIOD OF PERFORMANCE

Work will begin no later than ten (10) days following written a Notice to Proceed to begin work on specified deliverables. The work will be completed according to a written schedule provided by the City. The Consultant/Contractor will be responsible for implementing and monitoring the schedule.

This Agreement will expire ***December 31, 2022.***

This Agreement may be extended by the City in its sole discretion, annually for up to a total of two (2) additional years, starting on January 1st and ending on December 31st of the same year.

III.B. DELIVERABLES

If additional deliverables beyond the agreed-upon scope of work for the project are required to complete the assignment then a new written amended scope of work/description of goods will be developed for the additional Work. This amendment will not become effective until completed as required herein. The Consultant/Contractor shall notify the City's Project Manager as soon as additional services beyond agreed upon scope of work appear to be warranted. The Consultant/Contractor must never under any circumstance exceed the approved cost estimate without prior written authorization from the City.

No additional work may be assigned under this Agreement after that date unless appropriate supplemental Agreements are in place.

Performance of Work by City. If Contractor/Consultant fails to perform the Work in accordance with the schedule required by this Agreement, the City may, in its discretion, perform or cause to be performed some or all of the Work, and doing so shall not waive any of the City's rights and remedies. Before doing so, the City shall give Contractor/Consultant notice of its intention. Contractor/Consultant shall reimburse the City for additional costs incurred by the City in exercising its right to perform or cause to be performed some or all of the Work pursuant to this section.

ARTICLE IV – COMPENSTATION AND PAYMENTS

IV.A. FEES AND COSTS

As compensation for the Consultant/Contractor services as outlined in ARTICLE I, a monthly pay at the rate of \$1,250.00 per mowing cycle for Mowing/Landscape Maintenance Contract #12, Homestead Memorial Gardens Cemetery will be established and payment shall be based upon the areas completed by the Consultant/Contractor during the previous month.. The City shall not be obligated to pay the Contractor any payments, fees, expenses, or compensation other than those authorized by this section.

IV.B. PAYMENT

Upon receipt of invoices and appropriate supporting documentation by the City, the invoices are payable within thirty (30) days from receipt, provided they have first been approved by the City. The City does not agree to the payment of late charges or finance charges assessed by the Consultant/Contractor for any reason. Invoices are payable in U.S. funds.

The Consultant/Contractor shall pay subcontractors for work performed within seven (7) days after Consultant/Contractor receives payment from the City for work performed by the subcontractor. This requirement must be incorporated into all

subcontractor agreements. Failure to comply with the seven (7) day requirement may cause the City to withhold payments to the Consultant/Contractor and the City may suspend work until the subcontractor is paid.

All invoices shall be directed to: *Public Works Department, Cemetery Supervisor, 1500 Beatty Street, Greenville, NC 27834* or emailed to wcannaday@greenvillenc.gov.

It shall be the responsibility of the Consultant/Contractor and all sub-consultants to keep records of all payments requested and the dates received. The STATE may request copies of this information in the form of a report.

ARTICLE V - GENERAL TERMS AND CONDITIONS

V.A. TERMINATION

The City may terminate this Agreement at any time upon any of the following grounds:

V.A.1. DEFAULT. The Consultant/Contractor fails to perform, provides unacceptable performance, fails to comply with the provisions of the contract, or fails to follow safety regulations as required in this Agreement. Under this provision only, the City shall provide written notice to the Contractor/Consultant regarding the condition(s) and the Contractor/Consultant shall have ten (10) calendar days to rectify. In the event the condition(s) identified are not rectified to the satisfaction of the City, the City will give the Contractor/Consultant written notice of termination, which will be effective as of the date of notice unless otherwise stated in the notice of termination. Upon receipt, the Contractor/Consultant is expected to remove all employees and equipment from the premises immediately.

V.A.2. CONVENIENCE. Without limiting either party's right to terminate for breach, the parties agree the City may terminate this agreement, without cause and in its discretion, by giving (thirty) 30 calendar days written notice. Seller shall be paid for services provided up to the date of termination except to the extent previously paid for under the Agreement. Work shall be paid for in accordance with the method (unit prices, hourly fees, etc.) to be used for payment had the Work been completed except to the extent it would be inequitable to either party, and if Work was to be paid for on a lump-sum basis, the City shall pay the part of the lump sum that reflects the percentage of completion attained for that Work. The City shall not be liable to Consultant/Contractor for any additional compensation, or for any consequential or incidental damages, including but not limited to overhead, profit, damages, other economic loss or otherwise, and all obligations under the Agreement shall be discharged except that any right based on prior breach or performance survives and any other provisions expressly cited to survive termination. At the time of TFC or as soon afterwards as is practical,

Consultant/Contractor shall give the City all Work, including partly completed Work.

- V.A.3. FUNDING. In accordance with paragraph V.G.14, this agreement shall automatically terminate should funding cease to be available.
- V.A.4. FORCE MAJEURE. This includes but is not limited to any acts of God; acts of the public enemy; insurrections; riots; embargoes; labor disputes, including strikes, lockouts, job actions, or boycotts; shortages of materials or energy; fires; explosions; floods; any curtailment, order, regulation, or restriction imposed by governmental, military or lawfully established civilian authorities, including, without limitation any of the foregoing which occur as a result of epidemic or pandemic; changes in laws governing this type of Work of facility; or other unforeseeable causes beyond the reasonable control and without the fault or negligence of the City. Reasonable extension of time for unforeseen delays may be made by mutual written consent of all parties involved.
- V.A.5. EXPIRATION. Upon expiration of this Agreement, this Agreement is terminated, if not extended, in accordance with the terms and conditions of this Agreement.

V.B. CONSULTANT/CONTRACTOR'S RESPONSIBILITY

- V.B.1. Consultant/Contractor shall perform the Work under this Agreement as an independent contractor and not as City's agent or employee. Consultant/Contractor shall be solely responsible for the compensation, benefits, contributions and taxes, if any, of its employees and agents.
- V.B.2. The standard of care applicable to Consultant/Contractor's performance will be the degree of skill and diligence normally employed by professional Consultant/Contractors performing the same or similar services at the time and location said services are performed. Consultant/Contractor will re-perform any services not meeting this standard without additional compensation.
- V.B.3. Consultant/Contractor will provide all equipment including but not limited to computer, recording equipment, long distance telephone and facsimile service, cellular service, and any clerical supplies necessary to perform the Work required under this Agreement. Consultant/Contractor shall be responsible for all travel and related expenses.
- V.B.4. Consultant/Contractor shall be responsible for all federal, state and local taxes incurred, owed or payable as a result of the performance of the Work.
- V.B.5. In the performance of the Work under this Agreement, Consultant/Contractor shall comply with all federal, state, county and City statutes, ordinances, regulations, and rules, which are applicable.

- V.B.6. The Contractor/Consultant shall furnish a competent project manager who shall be available to the Buildings and Grounds Superintendent or their designee at all times that the Contractor/Consultant is performing the Work under this Agreement. The Contractor/Consultant's supervisor shall have full authority over the Contractor/Consultant's employees, agents, subcontractors, or otherwise and shall monitor them and direct them responsibly. The Contractor/Consultant's supervisor shall have a mobile telephone number to be contacted as needed. This number shall be provided to the City within five (5) days of the date of this contract.

V.C. **INDEMNIFICATION, INSURANCE AND WARRANTIES**

V.C.1. **INDEMNITY AND HOLD HARMLESS REQUIREMENTS:**

- a. To the maximum extent allowed by law, the Contractor shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of this contract as a result of acts or omissions of the Contractor or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. In performing its duties under this subsection "a," the Contractor shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to City.
- b. Definitions. As used in subsections "a" above and "c" below -- "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, and expenses (included without limitation within "Charges" are (1) interest and reasonable attorneys' fees assessed as part of any such item, and (2) amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders -- including but not limited to any such alleged violation that arises out of the handling, transportation, deposit, or delivery of the items that are the subject of this contract). "Indemnitees" means City and its officers, officials, independent contractors, agents, and employees, excluding the Contractor.
- c. Other Provisions Separate. Nothing in this section shall affect any warranties in favor of the City that are otherwise provided in or arise out of this contract. This section is in addition to and shall be construed separately from any other indemnification provision that may be in this contract.
- d. Survival. This section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Contractor under this contract.
- e. Limitations of the Contractor's Obligation. If this section is in, or is in connection with, a contract relative to the design, planning, construction, alteration, repair or maintenance of a building, structure, highway, road, appurtenance or appliance, including moving, demolition and excavating connected therewith, then subsection "a" above shall not require the Contractor to indemnify or hold harmless Indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.

- f. It is understood and agreed by the parties that the City will assume no liability for damages, injury, or other loss to the **Consultant/Contractor**, its employees or property, tools or equipment, or to other persons or properties located on City facilities resulting from the **Consultant/Contractor's** activities and operations while performing services under this contract. The **Consultant/Contractor** shall assume full and complete liability for any and all damages to City or private properties caused by or from its activities, operations, and that of its employees, agents, and officers.
- g. **Consultant/Contractor** will promptly notify the City of any Civil or Criminal Actions filed against the **Consultant/Contractor** or of any notice of violation from any Federal or State Agency or of any claim as soon as practical as relates to the services provided. The City, upon receipt of such notice, shall have the right, at its election, to defend any and all actions or suits or join in defense.

V.C.2. **INSURANCE:**

The Consultant/Contractor agrees to purchase at its own expense insurance coverages to satisfy the following minimum requirements. Work under this contract shall not commence until all insurance required as listed has been obtained. Insurance required shall remain in effect through the life of this contract.

- a. **Workers' Compensation Insurance:** No contractor or subcontractor may exclude executive officers. Workers Compensation must include all employees

Limits:

Workers Compensation: Statutory for the State of North Carolina.

Employers Liability: Bodily Injury by Accident \$1,000,000 each accident.

Bodily Injury by Disease \$1,000,000 policy limit.

Bodily Injury by Disease \$1,000,000 each employee.

- b. **Commercial General Liability:**

Limits:

Each Occurrence:	\$1,000,000
Personal and Advertising Injury	\$1,000,000
General Aggregate Limit	\$2,000,000
Products and Completed Operations Aggregate	\$2,000,000

The aggregate limit must apply per project. The form of coverage must be the ISO CG 00 01 policy as approved by the State of North Carolina Department of Insurance. If a form of coverage other than the CG 00 01 is used it must be approved **Consultant/Contractor**. Any

endorsed exclusions or limitations from the standard policy must be clearly stated in writing and attached to the Certificate of Insurance. Completed Operations coverage must be maintained for the period of the applicable statute of limitations. Additionally, the **Consultant/Contractor** must be added as an Additional Insured to the Commercial General Liability policy.

c. Commercial Automobile Liability:

Limits: \$1,000,000 combined single limit.

d. Cancellation:

Each certificate of insurance shall bear the provision that the policy cannot be altered or canceled in less than ten (10) days after mailing written notice to the assured of such alteration or cancellation, sent registered mail.

e. Proof of Carriages:

- i. The **Consultant/Contractor** shall provide the City with insurance industry standard ACCORD form Certificate(s) of Insurance on all policies of insurance and renewals thereof in a form(s) acceptable to the City prior to the commencement of services. Said policies shall provide that the City be an additional named insured.
- ii. The City shall be notified in writing of any reduction, cancellation, or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.
- iii. All insurance policies shall be issued by responsible companies who are acceptable to the City and licensed and authorized to do business under the laws of North Carolina.

V.C.3 **WARRANTIES (APPLICABLE TO CONTRACTS FOR SALE OF GOODS)**

In addition to other warranties made in this transaction, Seller represents and warrants that all of the products (which includes goods, items, and other things) furnished under this contract, the process by which those products are made, and their use will not infringe any patent, trademark, or other rights of any other person, firm, or corporation, and Seller shall defend, indemnify, and hold harmless the City and its officers, officials, agents, contractors, and employees from and against any and all claims, judgments, costs, damages, losses, demands, liabilities, obligations, fines, penalties, royalties, settlements, and expenses (including interest and reasonable attorney's fees assessed as part of any such item) arising out of any:

- (i) actual or alleged infringement of any such patent, trademark, or other rights; or
- (ii) (except to the extent that the personal injury, death, or property damage is caused solely by negligent or intentional acts or omissions of the City) personal injury, death, or property damage allegedly caused by or resulting

from the delivery to the City of, or the manufacture, construction, design, formulation, development of standards, preparation, processing, assembly, testing, listing, certifying, warning, instructing, marketing, selling, advertising, packaging, or labeling of any product furnished to the City under this Agreement.

Without reducing the City's rights under this section, Seller, in case of an actual or threatened claim, may at Seller's option and expense procure for the City the right to continue using the products furnished under this contract. (However, the preceding sentence does not pertain to part "(ii)" of the first sentence of this section.)

In addition to other warranties made in this transaction, Seller warrants that all of the products (which includes goods, items, and other things) furnished under this contract must:

- (i) Be in conformity with applicable NC and federal statutes and regulations; except to the extent other contract documents provide otherwise,
- (ii) not have been used; and
- (iii) must be at least such as:
 - a. pass without objection in the trade under the contract description;
 - b. in the case of fungible goods, are of fair average quality within the description;
 - c. are fit for the ordinary purposes for which such goods are used;
 - d. run, within the variations permitted by the contract, of even kind, quality and quantity within each unit and among all units involved;
 - e. are adequately contained, packaged, and labeled as the contract may require; and
 - f. conform to the promises or affirmations of fact made on the container or label if any.

V.D. **CORRECTION OF WORK**

The Consultant/Contractor shall promptly correct all Work rejected by the City as failing to conform to this Agreement. The Consultant/Contractor shall bear all costs of correcting such rejected work. Rejected work shall consist of that Work which is deemed ineligible by the City's representative.

V.E. **RELATIONSHIP WITH OTHERS**

The Consultant/Contractor will cooperate fully with the City with other municipalities and local government officials, Federal and state environmental resource and regulatory agencies, and with any others as may be directed by the City. This shall include attendance at meetings, workshops, and hearings and also includes provision of project development, human and natural environmental and engineering information to all parties as may be

requested by the City. The Consultant/Contractor will also cooperate fully with the STATE and other agencies on adjacent projects, as necessary.

V.F. **NOTICE**

Any notice or communication required or permitted by this Agreement shall be deemed sufficiently given if in writing and when delivered personally or three (3) days after deposit with a receipted commercial courier service or the U.S. Postal Service as registered or certified mail, postage prepaid, and addressed as follows:

City:

City of Greenville
P.O. Box 7207
Greenville, NC 27835
Attn: Building and Grounds Superintendent

Consultant/Contractor:

Precision Lawn Care and Landscaping, Inc.
5118 Country Lane
Grifton, NC 28530
Attn: David S. Rogerson

V.G. **ADDITIONAL PROVISIONS**

V.G.1. **TIME IS OF THE ESSENCE**

The parties agree that time is of the essence in the completion of the Work to be performed pursuant to this Agreement.

The Consultant/Contractor agrees that all Work shall be executed regularly, diligently, and uninterrupted at such a rate of progress as will ensure full completion thereof within the time specified.

V.G.2. **OWNERSHIP OF DOCUMENTS**

All tracings, documents, technical reports, charts, plans, specifications, photographic negatives, survey notes, computations, and maps and other data or documents prepared or obtained under the terms of the this Agreement shall be delivered to and become the property of the City without restriction or limitation on their use. However, in the event of any reuse or alteration of any documents furnished to the City, such alteration or reuse shall be at the City's sole risk. In the case of an Agreement involving preliminary plans only, no commitment is stated or implied that would constitute a limitation on the subsequent use of the plans or ideas incorporated therein for preparation of construction plans. These items could become the property of the City, if the City so elects.

V.G.3. **MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM**

The City has adopted an Affirmative Action and Minority and Women Business Enterprise Plan (M/WBE) Program. The Consultant/Contractor attests that it also shall take affirmative action to insure equality of opportunity in all aspects of employment and to utilize MWBE suppliers of materials and labor when available.

Consultant/Contractor further agrees that in the performance of these services that it will not discriminate in its hiring, employment, and contracting practices with reference to political affiliation, genetic information, sexual orientation, age, sex, race, color, religion, national origin, handicap or disability.

V.G.4. **IRAN DIVESTMENT ACT CERTIFICATION**

The Consultant/Contractor hereby certifies that, it is not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. § 147-86.58. The Consultant/Contractor shall not utilize in the performance of the Agreement any subcontractor that is identified on the Iran Final Divestment List.

V.G.5. **E-VERIFY**

The Consultant/Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further if the Consultant/Contractor utilizes a Subcontractor, the Consultant/Contractor shall require the Subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Consultant/Contractor represents that the Consultant/Contractor and its

Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

V.G.6. **ASSIGNMENT**

There shall be no assignment, subletting or transfer of the interest (including payments) of the Consultant/Contractor in any of the work covered by the Agreement without the written consent of the City. Unless the City agrees otherwise in writing, the Consultant/Contractor and all assignees shall be subject to all of the City's defenses and shall be liable for all of the Consultant/Contractor's duties that arise out of this Agreement and all of the City's claims that arise out of this Agreement. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

V.G.7. **GENERAL COMPLIANCE WITH LAWS**

The Consultant/Contractor shall comply with all applicable Federal, State, and local laws, ordinances, rules, and regulations pertaining to the performance of Work under this Agreement.

V.G.8. **AMENDMENTS AND WAIVER**

No waiver, alterations, consent or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the City or his designee.

V.G.9. **PERMITS, LICENSES, AND CERTIFICATES**

The Consultant/Contractor is to procure all permits, licenses, and certificates, as required by any such laws, ordinances, rules and regulations, for proper execution and completion of the Work under this Agreement.

V.G.10. **CHOICE OF LAW AND VENUE**

This Agreement is deemed to be under and shall be governed by and construed according to the laws of the State of North Carolina and the ordinances of the City of Greenville. The exclusive forum and venue for all actions, suits or proceedings arising out of or related to this Agreement shall be the North Carolina General Courts of Justice, in Pitt County, or if in federal court, in the Eastern District of North Carolina.

V.G.11. **AUTHORITY TO CONTRACT**

The undersigned hereby certifies that this Agreement is made without prior understanding, agreement, or connection with any corporation, firm, or person who submitted bids for the Work covered by this Agreement and is in all respects fair and without collusion or fraud. As to Consultant/Contractor, the undersigned hereby warrants and certifies that they are authorized to enter into this Agreement and to execute same on

behalf of the Consultant/Contractor as the act of the said Consultant/Contractor.

V.G.12. **DISPUTE RESOLUTION**

In the event of any dispute arising out of or relating to this agreement, the affected party shall notify the other party, and the parties shall attempt in good faith to resolve the matter within thirty (30) days after the date such notice is received by the other party (the "Notice Date") prior to exercising their rights under law.

V.G.13. **CONFLICT OF INTERESTS**

- a. Consultant/Contractor is aware of the conflict of interest laws of the City of Greenville, of the State of North Carolina (as set forth in North Carolina General Statutes), and agrees that it will fully comply in all respects with the terms thereof and any future amendments.
- b. Consultant/Contractor covenants that no person or entity under its employ, presently exercising any functions or responsibilities in connection with this Agreement has any personal financial interests, direct or indirect, with the City. Consultant/Contractor further covenants that, in the performance of this Agreement, no person or entity having such conflicting interest shall be utilized in respect to the Scope of Work or services provided hereunder. Any such conflict of interest(s) on the part of Consultant/Contractor, its employees or associated persons or entities shall be disclosed to the City.
- c. Consultant/Contractor shall disclose any possible conflicts of interest or apparent improprieties of any party under or in connection with the Legal Requirements, including the standards for procurement.
- d. Consultant/Contractor shall make any such disclosure to the City in writing and immediately upon the Consultant/Contractor's discovery of such possible conflict. The City's determination regarding the possible conflict of interest shall be binding on all parties.
- e. No employee, agent, Consultant/Contractor, elected official or appointed official of the City, exercising any functions or responsibilities in connection with this Agreement, or who is in a position to participate in the decision-making process or gain inside information regarding activities, has any personal financial interest, direct or indirect, in this Agreement, the proceeds hereunder, the Project or Consultant/Contractor, either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

V.G.14.

NON-APPROPRIATION OF FUNDS

Consultant/Contractor acknowledges that funding for this Agreement is conditioned upon appropriation and allocation by the governing body of sufficient funds to support the activities described in this Agreement. By written notice to Consultant/Contractor at the earliest possible date, City may terminate this Agreement, in whole or in part, at any time for lack of appropriation of funds, or other withdrawal, reduction or limitation in any way of the City's budget, funding or financial resources. Such termination is in addition to the City's rights to terminate for convenience or cause. If this Agreement is terminated for non-appropriation: The City will be liable only for payment in accordance with the terms of this Agreement for Work completed and expenses incurred prior to the effective date of termination. The Consultant/Contractor will not be compensated for any other costs in connection with a termination for non-appropriation. The Consultant/Contractor will not be entitled to recover any damages in connection with a termination for non-appropriation, including, but not limited to, lost profits. Consultant/Contractor shall be released from any further obligation to provide Work affected by such termination; and Termination shall not prejudice any other right or remedy available to the City.

V.G.15

RECORD RETENTION

All records required to be kept on the project shall be maintained for at least five (5) years after final payments and until all other pending matters under this project have been closed. However, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the five (5) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the five (5) year period, whichever is later.

V.G.16

CONFIDENTIALITY

Proprietary or confidential information ("confidential information") developed or disclosed by either party under this agreement shall be clearly labeled and identified as confidential information by the disclosing party at the time of disclosure. Confidential Information shall not be disclosed to the extent allowable by law by the receiving party to any other person except to those individuals who need access to such Confidential Information as needed to ensure proper performance of the Services.

Neither party shall be liable for disclosure or use of Confidential Information which: (1) is or was known by the receiving party at the time of disclosure due to circumstances unrelated to this agreement; (2) is generally available to the public without breach of this agreement; (3) is disclosed with the prior written approval of the disclosing party; or (4) is required to be released by applicable law or court order.

Each party shall return all Confidential Information relating to this agreement to the disclosing party upon request of the disclosing party or upon termination of this agreement, whichever occurs first. Each party shall have the right to retain a copy of the Confidential Information for its internal records and subject to ongoing compliance with the restrictions set forth in this Section. This Section shall survive termination of this agreement.

V.G.17

SEVERABILITY

No waiver of any breach of this agreement shall operate as a waiver of any similar subsequent breach or any breach of any other provision of this agreement. If any provision of this agreement is held invalid by a court of competent jurisdiction, such provision shall be severed from this agreement and to the extent possible, this agreement shall continue without affecting the remaining provisions.

V.G.18

COUNTERPARTS

This agreement may be executed in counterparts, and the counterparts, taken together, shall constitute the original.

V.G.19

THIRD PARTY RIGHTS

No Third Party Rights Created. This contract is intended for the benefit of the City and the Contractor and not any other person.

V.G.20

PRINCIPLES OF INTERPRETATION AND DEFINITIONS.

(1) The singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words "include," "including," etc. mean include, including, etc. without limitation. (2) References to a "Section" or "section" shall mean a section of this contract. (3) "Contract" and "Agreement," whether or not capitalized, refer to this instrument. (4) "Duties" includes obligations. (5) The word "person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (6) The word "shall" is mandatory. (7) The word "day" means calendar day. (8) The word "Work" is defined in Section I.A. (9) A definition in this contract will not apply to the extent the context requires otherwise.

V.G.21.

ENTIRE AGREEMENT

This Agreement, including any Exhibits hereto, contains all the terms and conditions agreed upon by the parties. No promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or

referenced in this contract shall be deemed to exist or to bind either party hereto.

V.G.22. **HEADINGS**

The headings of the various Articles and Sections herein are for convenience of reference only and shall not form part of this Agreement or define or limit any of the terms or provisions hereof.

V.G.23 **DISCHARGE OF MECHANICS AND MATERIALMEN'S LIEN**

If applicable, the Consultant/Contractor's shall use its best efforts to prevent any liens that arise from the performance of the Work from being filed against the City or Property. If any liens are filed, the Consultant/Contractor's shall prevent any liens from becoming delinquent. Upon completion of the Work and prior to payment by the City, the Consultant/Contractor's shall execute and provide to the City a Release of Liens and Waiver of Claims form.

V.G.24 **PERFORMANCE OF GOVERNMENT FUNCTIONS**

Nothing contained in this Agreement shall be deemed or construed so as to in any way estop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

V.G.25 **E-SIGNATURE AUTHORITY**

The parties hereto consent and agree that this agreement may be signed and/or transmitted by facsimile, e-mail of a .pdf document or using electronic signature technology (e.g., via DocuSign or similar electronic signature technology), and that such signed electronic record shall be valid and as effective to bind the party so signing as a paper copy bearing such party's hand written signature. The parties further consent and agree that (1) to the extent a party signs this document using electronic signature technology, by clicking "sign", such party is signing this Agreement electronically, and (2) the electronic signatures appearing on this Agreement shall be treated for purposes of validity, enforceability and admissibility, the same as hand-written signatures.

V.G.26 **CITY MANAGERS AUTHORITY**

To the extent, if any, the City has the power to suspend or terminate this contract or the Consultant/Contractor's services under this Agreement, that power may be exercised by the City Manager or their designee.

(REMAINDER OF) THIS PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first written above:

EXECUTED by the City this DATE: _____

CITY OF GREENVILLE

BY: _____

TITLE: _____

APPROVED AS TO FORM:

BY: _____
Emanuel McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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

BY: _____ Date: _____
Byron Hayes, Director of Financial Services

Account Number 010-01-55-61-000-000-528385-

Project Code (if applicable) N/A

**Consultant/Contractor SIGNATURE PAGES FOLLOW –
TO BE COMPLETED, AS APPLICABLE TO EACH SIGNATORY ENTITY.**

SIGNATURE OF Consultant/Contractor – (PROFESSIONAL) CORPORATION

EXECUTED by the Consultant/Contractor this DATE _____.

Precision Lawn Care and Landscaping, Inc.

Full name of (Professional) Corporation

Attest Maria Rogerson
Secretary/Assistant Secretary

By David Rogerson
President/Vice President/Assistant Vice President

Secretary
(Select Appropriate Title Above)

President
(Select Appropriate Title Above)

Maria Rogerson
Print or type Signer's name

David Rogerson
Print or type Signer's name

**INVITATION TO BID
Informal BID # 21-22-34**

**CITY OF GREENVILLE PUBLIC WORKS DEPARTMENT
BUILDING AND GROUNDS DIVISION
MOWING/LANDSCAPE MAINTENANCE CONTRACT # 12
HOMESTEAD MEMORIAL GARDENS CEMETERY**

**CITY OF GREENVILLE
NORTH CAROLINA**



**PUBLIC WORK DEPARTMENT
1500 BEATTY STREET, GREENVILLE, NC**

BID DUE DATE: THURSDAY APRIL 14, 2022 @ 2:00 PM

CONTACT PERSONS

QUESTIONS REGARDING THE BID PACKAGE:

*Mrs. Angelene E. Brinkley
Interim Financial Services Manager
Telephone: (252) 329-4862
Fax: (252) 329-4464
Email: aebrinkley@greenvillenc.gov*

QUESTIONS REGARDING THE SPECIFICATIONS:

*Mr. Devin Thompson
Building and Grounds Superintendent
Telephone: (252) 329-4522
Fax: (252) 329-4535
Email: dthompson@greenvillenc.gov*

CITY OF GREENVILLE
ADVERTISEMENT FOR BIDS FOR CONTRACT # 12

Sealed bids will be received by the City of Greenville until Thursday, April 14, 2022@ 2:00 p.m. at the Public Works Department located at 1500 Beatty Street, Greenville, NC 27834 for Contract # 12 (Mowing of Homestead Memorial Gardens Cemetery). All bids will be marked with the date and time they are received by reception staff. Bids will not be opened and read aloud at this time. Bids will be evaluated and awarded at a later date.

A pre-bid conference will not be held.

The City of Greenville reserves the right to reject any or all bids, waive any informality and award contracts that appear to be in its best interest. The right is reserved to hold any or all proposals for a period of ninety (90) days from the bid opening thereof.

From the date of this advertisement until the date and time bids are due, the specifications of the proposed work and/or a complete description of the apparatus, supplies, materials or equipment are and will continue to be on file in the office of the **City of Greenville Interim Financial Services Manager, 201 W. 5th Street, Greenville, NC 27834**, or the Public Works Department, 1500 Beatty Street, Greenville N.C. during regular business hours, and available to prospective bidders. Inquiries should be directed to the Financial Services -Manager at the above address --- **Telephone (252) 329-4862**. Minority/Women owned businesses are encouraged to submit proposals.

Angelene E. Brinkley
Interim Financial Services Manager
City of Greenville
201 W. 5th Street
Greenville, NC 27834

**ADVERTISEMENT FOR BIDS
LANDSCAPE MAINTENANCE FOR
HOMESTEAD MEMORIAL GARDENS CEMETERY
GREENVILLE, NORTH CAROLINA**

INTRODUCTION

The City of Greenville desires to enter into a Landscape Maintenance Contract for Homestead Memorial Gardens Cemetery (PWD Mowing/Landscape Maintenance Contract #12). All aspects of cemetery management are very sensitive and detail oriented including mowing and the general appearance of Homestead Cemetery. The successful **BIDDER** will be challenged to complete the terms of the contract while ensuring these sensitivities and details are respected and met with the highest standards.

SECTION I

- (1) Bids for Contract # 12 shall be submitted to the Public Works Department, 1500 Beatty St., Greenville, North Carolina, 27834, **no later than Thursday, April 14, 2022 by 2:00 PM.** The words "**Mowing/Landscape Maintenance for Homestead Memorial Gardens Cemetery**" and Attn. Devin Thompson shall appear on the outside of the sealed envelope. The bids will not be opened at this time but will be reviewed and contracts will be awarded at a later date.
- (2) The proposal shall be bid as a per cycle price for mowing/landscape maintenance per specifications
- (3) No charge will be allowed for Federal Excise and Transportation tax from which the City is exempt.
- (4) **No bid proposal may be changed or withdrawn after April 14, 2022 @ 2:00 PM.** Any modifications or withdrawals requested before this time shall be acceptable only when such request is made in writing to Angelene E. Brinkley, Interim Financial Services Manager of the City of Greenville.
- (5) **ACCEPTANCE OF PROPOSALS:** The City of Greenville reserves the right to award to the Firm who will best serve the interests of the City. The City also reserves the right to waive minor variations in the specifications and in the bidding process, as well as to accept in whole or in part such proposal(s) where it deems it advisable in protection of the best interests of the City. The City further reserves the right to accept or reject any or all bids/proposals, and to award or not award a contract based on this proposal.

- (6) Contract is expected to begin as directed approximately April 1, 2022 and end on December 31, 2022 for the first year. The contract can be extended annually for up to 2 additional years with written agreement by the City and the Contractor starting annually on January 1st and ending December 31st.
- (7) Firms submitting a bid are attesting that no official or employee of the City of Greenville is directly or indirectly interested in this proposal for any reason of personal gain.
- (8) By submitting a proposal, the firm is attesting that it is an Equal Opportunity Employer.
- (9) Firms submitting a proposal are attesting that they have taken affirmative action to ensure equality of opportunity in all aspects of employment.
- (10) Minority and Women Business Enterprise (M/WBE):

It is the policy of the City of Greenville to provide minorities and woman equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchase, and professional and personal service contracts. In accordance with this policy, the City has adopted a Minority and Woman Business Enterprise (MWBE) Plan and subsequent program, outlining verifiable goals.

The City established a 4% Minority Business Enterprise (MBE) and 4% Women Business Enterprise (WBE) goal for the participation of MWBE firms in supplying goods and services for the completion of this project. All firms submitting bids agree to utilize minority and women-owned suppliers and service providers whenever possible.

Questions regarding the City's MWBE Program should be directed MWBE Office at (252) 329-4862

- (11) The **BIDDER** is specifically advised that any person, firm, or other party, to whom it is proposed to award a subcontract under this contract, must be acceptable to the City of Greenville, hereinafter referred to as the **OWNER**. See also Section III, Number 16.
- (12) The **OWNER** shall make such investigations as he sees necessary to determine the ability of the **BIDDER** to perform the work, and the **BIDDER** shall furnish to the **OWNER** all such information and data for this purpose as the **OWNER** may request. The **OWNER** reserves the right to reject any Bid if the evidence submitted by, or investigation of such **BIDDER** fails to satisfy the **OWNER** that each **BIDDER** is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.

(13) The **BIDDER'S** attention is directed to the fact that all applicable State law, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

(14) The **CONTRACTOR** shall not commence work under this contract until he has obtained all insurance required nor shall the **CONTRACTOR** allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been obtained and approved.

a. Worker's Compensation:

The **CONTRACTOR** shall acquire and maintain during the life of this contract, Worker's Compensation Insurance for all employees employed at the site of the project under this contract, or as otherwise required by North Carolina General Statutes.

b. Public Liability and Property Damage:

The **CONTRACTOR** shall acquire and maintain during the life of this contract such Public Liability and Property Damage Insurance as shall protect from claims for damage for personal injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operation be by himself or by any subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall not be less than \$500,000 for injuries, subject to the same limits per person and \$1,000,000 for property damage or otherwise needed to protect the interests of the **OWNER**. The City of Greenville shall be named as an additional insured on all coverage.

c. Other Insurance:

The **CONTRACTOR** shall furnish such additional insurance as may be required by the General Statutes of North Carolina, including motor vehicle insurance in amounts not less than statutory limits.

d. Cancellation:

Each certificate of insurance shall bear the provision that the policy cannot be altered or canceled in less than ten (10) days after mailing written notice to the assured of such alteration or cancellation, sent registered mail.

e. Proof of Carriages:

The **CONTRACTOR** shall furnish the **OWNER** with satisfactory proof of carriage of the insurance required prior to beginning work on this contract.

(15) The City of Greenville has adopted a Local Preference Policy, Resolution No. 056-13, and a Professional and other Services Policy, Resolution No. 057-13 that will pertain to this project. For more information, please see www.greenvillenc.gov/financialservices/purchasingdivision on the City of Greenville's webpage.

(16) E-Verify Compliance

- a) The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Contractor utilizes a Subcontractor, the Contractor shall require the Subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Contractor represents that the Contractor and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
- b) BIDDER acknowledges that compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes is required by the Contractor and its Subcontractors by North Carolina law and the provisions of the Contract Documents. The BIDDER represents that the BIDDER and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Article 2 of Chapter 64 of the North Carolina General Statutes requires employers, that transact business in the State of North Carolina and employ 25 or more employees in the State of North Carolina, to electronically verify the legal employment status of an employee through the federal E-Verify program after hiring the employee to work in the State of North Carolina.
- c) All firms submitting bids are required to complete a new Vendor Self-Service Profile, and associated documents as required upon acceptance of mowing contract.

(17) IRAN DIVESTMENT ACT:

IRAN DIVESTMENT ACT: Vendor certifies that it is not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58. The vendor will not utilize on the contract any subcontractor that is listed on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58.

- (18) NON-DISCRIMINATION: The City of Greenville does not discriminate on the basis of race, color, sex, national origin, religion, age or disability. Any contractors or vendors who provide services, programs or goods to the City are expected to fully comply with the City's non-discrimination policy.
- (19) NON-COLLUSION: Respondents, by submitting a signed proposal, certify that the accompanying submission is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under North Carolina or United States law.
- (20) FEDERAL LAW: Federal law (Rehabilitation Act and ADA) prohibits handicapped discrimination by all governmental units. By submitting a proposal, the vendor is attesting to its policy of nondiscrimination regarding the handicapped.
- (21) WITHDRAWAL OF PROPOSALS: No bid/proposal may be changed or withdrawn after the stated time and date for submittal. Bids/proposals submitted shall be binding for ninety (90) days after the date of submittal.
- (22) Executed contract documents, insurance certifications, invoices and other information requested, are to be sent to:
Devin Thompson
Building and Grounds Superintendent
Public Works Department
1500 Beatty Street
Greenville, NC 27834
- (23) Questions relative to technical aspects of the work to be done should be directed to **Devin Thompson by email at dthompson@greenvillenc.gov**

Grounds Maintenance Scope of Work

The City of Greenville intends to enter into a Grounds Maintenance Service Agreement with a responsible company for the locations listed below.

Homestead Memorial Gardens Cemetery – 4251 E 10th St.

The services to be provided by the qualified successful **BIDDER** awarded the contract are for the entire cemetery area and shall include:

- (1) It will be mandatory that the **LANDSCAPE MAINTENANCE CONTRACTORS** provide full protection for the safety of the company employees, general public, grounds, and adjacent public thoroughfares thereof while performing the maintenance work.
- (2) Removing and disposing all litter from the cemetery prior to mowing. Mow all grass, and weed trim other vegetation on *Homestead Cemetery* properties once a week or as directed for the duration of the contract between March and December, or as directed.
- (3) Edge all curbs, sidewalks, and roadways at Homestead Cemetery with a mechanical rotary edger three (3) times as directed by the Building and Grounds Superintendent or designee during each year of the contract period.

Estimated Dates for edging are between May 15th-30th, August 10th-25th, and November 1st -20th.

- (4) After completing mowing and trimming at Homestead Cemetery, the successful **BIDDER** must clean parking areas, paved areas, and markers of clippings, leaves, limbs and debris, and ensure that clippings, leaves, limbs and debris is not dispersed in the adjacent streets.
- (5) General public must be referred to the Cemetery Office at the Public Works Department for all work order requests to include placement of markers, monuments, borders, trees, shrubbery and/or live plantings.
- (6) The Successful **BIDDER**, his supervisory personnel and employees shall not drive across cemetery lots with vehicles. All vehicles must be parked on vehicle paths and not on any cemetery lots or cement curbing. The vehicles and equipment shall not block any roadways at any time.
- (7) Although the above Successful **BIDDER**'s tasks to be performed identify specific levels of service, there are certain periods of the year when ALL City cemeteries must be freshly groomed irrespective of their position in the maintenance cycle. These special holidays are: Easter, Mother's Day, Father's Day, Memorial Day, July 4th, Labor Day. *Homestead Cemetery*

must be cut and groomed at least by the day prior to these specific holiday(s).

- (8) The disposal of all debris, limbs, grass, leaves, trash, etc. is to be done in accordance with all Federal, State and Local regulations.
- (9) Successful **BIDDER** shall provide solely at his/her expense any and all materials, equipment, labor, supplies, etc. needed to perform the required services.
- (10) The Successful **BIDDER** shall be solely responsible for any damages to any monument (headstone, foot marker), coping mausoleums, buildings, trees, shrubs, paved roads, curbs and gutters caused by the Successful **BIDDER** or his/her representative. All damages must be immediately reported to the Cemetery Supervisor by the successful **BIDDER**.
- (11) After having been awarded the contract and prior to beginning work, the successful **BIDDER** shall furnish documentation to the Building & Grounds Division of Public Works; a Certificate of Insurance indicating coverage as required herein, and to include liability. These certificates shall remain in effect through the duration of this contract.
- (12) The City of Greenville reserves the right to reduce or add the number of mowing cycles for any reason it deems necessary during the contract period. Any elimination or addition of cycles will be communicated to the CONTRACTOR in a timely manner. The per cycle bid price will not be adjusted in the event of any elimination or addition of cycles.
- (13) Contractor must comply with all local, state, or federal laws and ordinances associated or governing the work within this contract including Occupational Safety and Health and Health Regulations.
- (14) The Contractor shall not have the right to subcontract any part of its obligations and service requirements without the prior written authorization of the City. This authorization may be given by the Director of Public Works or designee. If any part of this work under this agreement is sublet, the subcontractor shall be required to meet all insurance requirements set forth in the Agreement. The parties stipulate that the Company will maintain each type of insurance set forth in the Agreement at a coverage equal to the amount set forth for each type of insurance. However, nothing contained herein shall relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

SECTION III GENERAL REQUIREMENTS

(1) General Intent:

It is the intent of this Agreement to provide the City with landscape maintenance of the *Homestead Cemetery* at a level normally associated with a well-run, public and privately owned cemetery. All duties are to be performed in a respectful, safe and courteous manner.

(2) Scope:

Landscape Maintenance: The landscape maintenance contract involves litter removal, mowing, string trimming, edging, mechanical blowing, raking, limb and debris removal, and related landscape maintenance services described more fully in Section II of this bid request.

(3) Pricing:

Landscape Maintenance: **BIDDERS** are asked to provide price per mowing cycle for Homestead Cemetery to include all work specified. The per mowing cycle price will be inclusive of all items such as edging three (3) times per contract year.

(4) Award:

Landscape Maintenance: The landscape maintenance contracts will be awarded on the basis of a successively qualified bidder from approximately April 1, 2022 until December 31, 2022. This contract can be extended for 2 additional one year periods with written agreement of the City and the Contractor.

(5) Term:

The contract shall be awarded for 2022 beginning approximately April 1, 2022 and ending December 31, 2022. This contract can be extended for two (2) additional one year periods beginning January 1 and ending December 31 each year of extension with mutual agreement of the City and Contractor.

(6) Billing and Payment:

The City will render payment within thirty (30) days of receipt of an approved monthly invoice for the previous month. The invoice is expected by the 10th of each month.

(7) **Termination:**

The City may terminate the contract for nonperformance, unacceptable performance, or for any other reason as determined by the Public Works Director or his Designee. The City will give written notice to the **CONTRACTOR** specifying areas of nonperformance or unacceptable performance and the **CONTRACTOR** shall have 10 days to rectify. In the event the condition(s) identified in any future written notice to the **CONTRACTOR** are not rectified, the City will give the **CONTRACTOR** a written notice of termination. Upon receipt, the **CONTRACTOR** is expected to remove all employees and equipment from the premises immediately.

(8) Cemetery Supervisor:

The City employs a full time supervisor responsible for all of the City's cemeteries who will assist with overseeing that the requirements of this contract are met. If assistance or further information is needed, please contact Devin Thompson, Building and Grounds Superintendent at (252) 329-4522. The **CONTRACTOR(s)** is expected to keep the City informed of work progress and plans.

(9) Contractor's Supervisor:

The **CONTRACTOR** shall furnish a competent supervisor who shall be on the jobsite and available to the City's Cemetery Supervisor or Building and Grounds Superintendent or designee at all times for the location of the **CONTRACTOR's** work crew on cemetery property. The **CONTRACTOR's** supervisor shall have full authority over the **CONTRACTOR's** work crews and shall monitor and direct them responsibly. **CONTRACTOR's** Supervisor shall have a telephone number to be contacted as needed.

(10) Labor, Equipment and Supplies:

The **CONTRACTOR** shall furnish all labor, equipment, and supplies needed to fulfill its obligation under this contract. The City will furnish no equipment, supplies, or fuel under this contract.

The **CONTRACTOR** shall cease all work within or near the cemetery when funeral or memorial services are in progress. Contact the Buildings and Grounds Superintendent or the Cemetery Supervisor at (252) 329-4522 for funeral schedules.

(11) Licenses:

The **CONTRACTOR** shall have and maintain all necessary and legally required licenses and permits to enable performance of the services.

(12) Addendum and questions:

Addendum: Any changes to the specifications will be issued as a written addendum. No oral statements, explanations, or commitments by whosoever shall be of any effect. Any issued addenda will be posted on the City's bid advertisement site. The contractor must acknowledge reading each addenda on the bid sheet.

Any questions regarding these bid specifications must be sent by email to dthompson@greenvillenc.gov.

Schedule for questions and addenda:

Last date to submit a question: Wednesday, April 6, 2022 by 5 p.m.

Questions will be answered by: Friday, April 8, 2022 by 5 p.m.

Last addenda will be posted by: Friday, April 8, 2022 by 5 p.m.

(13) Amendment:

The Contract may be amended from time to time through written agreement by both parties.

(14) Damage to Contractor's Property:

The City of Greenville shall be under no obligation to replace or in any way compensate the **CONTRACTOR** for fire, theft, vandalism or other casualty, injury or damage to equipment or property belonging to the **CONTRACTOR** while on City Property.

(15) Insurance:

- a. The successful **BIDDER** agrees to indemnify, and hold harmless the City of Greenville from and against any liability, loss, cost, damage suit, claim, or expense arising occurrence on the part of the Successful **BIDDER** to include its officers, servants, agents or employees arising from its activities, operations, and performance of services while on City property and further agrees to release and discharge the City and its Agents from all claims or liabilities arising from or caused by the Successful **BIDDER** in fulfilling its obligations under this Agreement.
- b. It is understood and agreed by the parties that the City of Greenville will assume no liability for damages, injury, or other loss to the Successful **BIDDER**, its employees or property, tools or equipment, or to other persons or properties located on City facilities resulting from the successful **BIDDER**'s activities and operations while performing those service enumerated herein. The

Successful **BIDDER** shall assume full and complete liability for any and all damages to tombstones, markers, building improvements, fences, or any other City or private properties caused by or resulting from its activities, operations, and that of its employees, agents and officers.

(16) Assignment:

The Contractor shall not have the right to subcontract any part of its obligations and service requirements without the prior written authorization of the City. This authorization may be given by the Director of Public Works or designee. If any part of this work under this agreement is sublet, the subcontractor shall be required to meet all insurance requirements set forth in the Agreement. The parties stipulate that the Company will maintain each type of insurance set forth in the Agreement at a coverage equal to the amount set forth for each type of insurance. However, nothing contained herein shall relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

SECTION IV Reference Information

All **BIDDERS** are to provide the names of three (3) references. The reference information is to include the company's name, a contract person's name with his or her title and their telephone number. This information must be included with the bid sheet.

1. Company name: _____
Contact person: _____
Title: _____ Phone No. _____

2. Company name: _____
Contact person: _____
Title: _____ Phone No. _____

3. Company name: _____
Contact person: _____
Title: _____ Phone No. _____

SECTION V Contractor Information

Please provide the information below with the bid sheet.

PROSPECTIVE CONTRACTOR DATA FORM

**CITY OF GREENVILLE
NORTH CAROLINA**

Company Name: _____

Address: _____

Phone Number: _____ Mobile Phone Number: _____

Company Owner: _____

Company Owner Phone Number: _____

Authorized Company Representative: _____

Title: _____

Authorized Company Representative Phone Number:

List the tools and/or equipment you would utilize to perform this contract:

Attach additional sheet or continue on back if needed:

SECTION VI: Bid Sheet for

Homestead Memorial Gardens Cemetery

Mowing/Landscape Maintenance Contract #12

**CITY OF GREENVILLE
BID PROPOSAL AGREEMENT**

DESCRIPTION

BID

Landscape maintenance in *Homestead Cemetery* per cycle

One Cycle at: _____

Note: Award will be considered based on Total for Homestead per cycle line item.

Addendum Acknowledgement:
Please record each Addendum Number
Received for Contract # 12:

Signed: _____

Date: _____

Print Name: _____

Title: _____

I, _____ (the individual attesting below), being duly authorized by and on behalf of _____ (the entity bidding on project hereinafter "Employer") after first being duly sworn hereby swears or affirms as follows:

- 1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
- 2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).
- 3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. (Mark- Yes or No)
 - a. YES _____, or
 - b. NO _____
- 4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer. This ___ day of _____, 2022.

Signature of Affiant
Print or Type Name: _____

State of North Carolina City of Greenville

Signed and sworn to (or affirmed) before me, this the _____ day of _____, 2022.

My Commission Expires:

Notary Public

(Affix Official/Notarial Seal)

**INVITATION TO BID
Informal BID # 21-22-34**

**CITY OF GREENVILLE PUBLIC WORKS DEPARTMENT
BUILDING AND GROUNDS DIVISION
MOWING/LANDSCAPE MAINTENANCE CONTRACT # 12
HOMESTEAD MEMORIAL GARDENS CEMETERY**

**CITY OF GREENVILLE
NORTH CAROLINA**



**PUBLIC WORK DEPARTMENT
1500 BEATTY STREET, GREENVILLE, NC**

BID DUE DATE: THURSDAY APRIL 14, 2022 @ 2:00 PM

CONTACT PERSONS

QUESTIONS REGARDING THE BID PACKAGE:

*Mrs. Angelene E. Brinkley
Interim Financial Services Manager
Telephone: (252) 329-4862
Fax: (252) 329-4464
Email: aembrinkley@greenvillenc.gov*

QUESTIONS REGARDING THE SPECIFICATIONS:

*Mr. Devin Thompson
Building and Grounds Superintendent
Telephone: (252) 329-4522
Fax: (252) 329-4535
Email: dthompson@greenvillenc.gov*

**CITY OF GREENVILLE
ADVERTISEMENT FOR BIDS FOR CONTRACT # 12**

Sealed bids will be received by the City of Greenville until Thursday, April 14, 2022@ 2:00 p.m. at the Public Works Department located at 1500 Beatty Street, Greenville, NC 27834 for Contract # 12 (Mowing of Homestead Memorial Gardens Cemetery). All bids will be marked with the date and time they are received by reception staff. Bids will not be opened and read aloud at this time. Bids will be evaluated and awarded at a later date.

A pre-bid conference will not be held.

The City of Greenville reserves the right to reject any or all bids, waive any informality and award contracts that appear to be in its best interest. The right is reserved to hold any or all proposals for a period of ninety (90) days from the bid opening thereof.

From the date of this advertisement until the date and time bids are due, the specifications of the proposed work and/or a complete description of the apparatus, supplies, materials or equipment are and will continue to be on file in the office of the **City of Greenville Interim Financial Services Manager, 201 W. 5th Street, Greenville, NC 27834**, or the Public Works Department, 1500 Beatty Street, Greenville N.C. during regular business hours, and available to prospective bidders. Inquiries should be directed to the Financial Services -Manager at the above address -- **Telephone (252) 329-4862**. Minority/Women owned businesses are encouraged to submit proposals.

Angelene E. Brinkley
Interim Financial Services Manager
City of Greenville
201 W. 5th Street
Greenville, NC 27834

**ADVERTISEMENT FOR BIDS
LANDSCAPE MAINTENANCE FOR
HOMESTEAD MEMORIAL GARDENS CEMETERY
GREENVILLE, NORTH CAROLINA**

INTRODUCTION

The City of Greenville desires to enter into a Landscape Maintenance Contract for Homestead Memorial Gardens Cemetery (PWD Mowing/Landscape Maintenance Contract #12). All aspects of cemetery management are very sensitive and detail oriented including mowing and the general appearance of Homestead Cemetery. The successful **BIDDER** will be challenged to complete the terms of the contract while ensuring these sensitivities and details are respected and met with the highest standards.

SECTION I

- (1) Bids for Contract # 12 shall be submitted to the Public Works Department, 1500 Beatty St., Greenville, North Carolina, 27834, **no later than Thursday, April 14, 2022 by 2:00 PM**. The words "**Mowing/Landscape Maintenance for Homestead Memorial Gardens Cemetery**" and Attn. Devin Thompson shall appear on the outside of the sealed envelope. The bids will not be opened at this time but will be reviewed and contracts will be awarded at a later date.
- (2) The proposal shall be bid as a per cycle price for mowing/landscape maintenance per specifications
- (3) No charge will be allowed for Federal Excise and Transportation tax from which the City is exempt.
- (4) **No bid proposal may be changed or withdrawn after April 14, 2022 @ 2:00 PM**. Any modifications or withdrawals requested before this time shall be acceptable only when such request is made in writing to Angelene E. Brinkley, Interim Financial Services Manager of the City of Greenville.
- (5) **ACCEPTANCE OF PROPOSALS:** The City of Greenville reserves the right to award to the Firm who will best serve the interests of the City. The City also reserves the right to waive minor variations in the specifications and in the bidding process, as well as to accept in whole or in part such proposal(s) where it deems it advisable in protection of the best interests of the City. The City further reserves the right to accept or reject any or all bids/proposals, and to award or not award a contract based on this proposal.

- (6) Contract is expected to begin as directed approximately April 1, 2022 and end on December 31, 2022 for the first year. The contract can be extended annually for up to 2 additional years with written agreement by the City and the Contractor starting annually on January 1st and ending December 31st.
- (7) Firms submitting a bid are attesting that no official or employee of the City of Greenville is directly or indirectly interested in this proposal for any reason of personal gain.
- (8) By submitting a proposal, the firm is attesting that it is an Equal Opportunity Employer.
- (9) Firms submitting a proposal are attesting that they have taken affirmative action to ensure equality of opportunity in all aspects of employment.
- (10) Minority and Women Business Enterprise (M/WBE):

It is the policy of the City of Greenville to provide minorities and woman equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchase, and professional and personal service contracts. In accordance with this policy, the City has adopted a Minority and Woman Business Enterprise (MWBE) Plan and subsequent program, outlining verifiable goals.

The City established a 4% Minority Business Enterprise (MBE) and 4% Women Business Enterprise (WBE) goal for the participation of MWBE firms in supplying goods and services for the completion of this project. All firms submitting bids agree to utilize minority and women-owned suppliers and service providers whenever possible.

Questions regarding the City's MWBE Program should be directed MWBE Office at (252) 329-4862

- (11) The **BIDDER** is specifically advised that any person, firm, or other party, to whom it is proposed to award a subcontract under this contract, must be acceptable to the City of Greenville, hereinafter referred to as the **OWNER**. See also Section III, Number 16.
- (12) The **OWNER** shall make such investigations as he sees necessary to determine the ability of the **BIDDER** to perform the work, and the **BIDDER** shall furnish to the **OWNER** all such information and data for this purpose as the **OWNER** may request. The **OWNER** reserves the right to reject any Bid if the evidence submitted by, or investigation of such **BIDDER** fails to satisfy the **OWNER** that each **BIDDER** is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.

- (13) The **BIDDER'S** attention is directed to the fact that all applicable State law, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.
- (14) The **CONTRACTOR** shall not commence work under this contract until he has obtained all insurance required nor shall the **CONTRACTOR** allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been obtained and approved.
- a. Worker's Compensation:
- The **CONTRACTOR** shall acquire and maintain during the life of this contract, Worker's Compensation Insurance for all employees employed at the site of the project under this contract, or as otherwise required by North Carolina General Statutes.
- b. Public Liability and Property Damage:
- The **CONTRACTOR** shall acquire and maintain during the life of this contract such Public Liability and Property Damage Insurance as shall protect from claims for damage for personal injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operation be by himself or by any subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall not be less than \$500,000 for injuries, subject to the same limits per person and \$1,000,000 for property damage or otherwise needed to protect the interests of the **OWNER**. The City of Greenville shall be named as an additional insured on all coverage.
- c. Other Insurance:
- The **CONTRACTOR** shall furnish such additional insurance as may be required by the General Statues of North Carolina, including motor vehicle insurance in amounts not less than statutory limits.
- d. Cancellation:
- Each certificate of insurance shall bear the provision that the policy cannot be altered or canceled in less than ten (10) days after mailing written notice to the assured of such alteration or cancellation, sent registered mail.

e. Proof of Carriages:

The **CONTRACTOR** shall furnish the **OWNER** with satisfactory proof of carriage of the insurance required prior to beginning work on this contract.

(15) The City of Greenville has adopted a Local Preference Policy, Resolution No. 056-13, and a Professional and other Services Policy, Resolution No. 057-13 that will pertain to this project. For more information, please see www.greenvillenc.gov/financialservices/purchasingdivision on the City of Greenville's webpage.

(16) E-Verify Compliance

- a) The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Contractor utilizes a Subcontractor, the Contractor shall require the Subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Contractor represents that the Contractor and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
- b) BIDDER acknowledges that compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes is required by the Contractor and its Subcontractors by North Carolina law and the provisions of the Contract Documents. The BIDDER represents that the BIDDER and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Article 2 of Chapter 64 of the North Carolina General Statutes requires employers, that transact business in the State of North Carolina and employ 25 or more employees in the State of North Carolina, to electronically verify the legal employment status of an employee through the federal E-Verify program after hiring the employee to work in the State of North Carolina.
- c) All firms submitting bids are required to complete a new Vendor Self-Service Profile, and associated documents as required upon acceptance of mowing contract.

(17) IRAN DIVESTMENT ACT:

IRAN DIVESTMENT ACT: Vendor certifies that it is not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58. The vendor will not utilize on the contract any subcontractor that is listed on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58.

- (18) NON-DISCRIMINATION: The City of Greenville does not discriminate on the basis of race, color, sex, national origin, religion, age or disability. Any contractors or vendors who provide services, programs or goods to the City are expected to fully comply with the City's non-discrimination policy.
- (19) NON-COLLUSION: Respondents, by submitting a signed proposal, certify that the accompanying submission is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under North Carolina or United States law.
- (20) FEDERAL LAW: Federal law (Rehabilitation Act and ADA) prohibits handicapped discrimination by all governmental units. By submitting a proposal, the vendor is attesting to its policy of nondiscrimination regarding the handicapped.
- (21) WITHDRAWAL OF PROPOSALS: No bid/proposal may be changed or withdrawn after the stated time and date for submittal. Bids/proposals submitted shall be binding for ninety (90) days after the date of submittal.
- (22) Executed contract documents, insurance certifications, invoices and other information requested, are to be sent to:
- Devin Thompson**
Building and Grounds Superintendent
Public Works Department
1500 Beatty Street
Greenville, NC 27834
- (23) Questions relative to technical aspects of the work to be done should be directed to **Devin Thompson by email at dthompson@greenvillenc.gov**

Grounds Maintenance Scope of Work

The City of Greenville intends to enter into a Grounds Maintenance Service Agreement with a responsible company for the locations listed below.

Homestead Memorial Gardens Cemetery – 4251 E 10th St.

The services to be provided by the qualified successful **BIDDER** awarded the contract are for the entire cemetery area and shall include:

- (1) It will be mandatory that the **LANDSCAPE MAINTENANCE CONTRACTORS** provide full protection for the safety of the company employees, general public, grounds, and adjacent public thoroughfares thereof while performing the maintenance work.
- (2) Removing and disposing all litter from the cemetery prior to mowing. Mow all grass, and weed trim other vegetation on *Homestead Cemetery* properties once a week or as directed for the duration of the contract between March and December, or as directed.
- (3) Edge all curbs, sidewalks, and roadways at Homestead Cemetery with a mechanical rotary edger three (3) times as directed by the Building and Grounds Superintendent or designee during each year of the contract period.

Estimated Dates for edging are between May 15th-30th, August 10th-25th, and November 1st -20th.

- (4) After completing mowing and trimming at Homestead Cemetery, the successful **BIDDER** must clean parking areas, paved areas, and markers of clippings, leaves, limbs and debris, and ensure that clippings, leaves, limbs and debris is not dispersed in the adjacent streets.
- (5) General public must be referred to the Cemetery Office at the Public Works Department for all work order requests to include placement of markers, monuments, borders, trees, shrubbery and/or live plantings.
- (6) The Successful **BIDDER**, his supervisory personnel and employees shall not drive across cemetery lots with vehicles. All vehicles must be parked on vehicle paths and not on any cemetery lots or cement curbing. The vehicles and equipment shall not block any roadways at any time.
- (7) Although the above Successful **BIDDER**'s tasks to be performed identify specific levels of service, there are certain periods of the year when ALL City cemeteries must be freshly groomed irrespective of their position in the maintenance cycle. These special holidays are: Easter, Mother's Day, Father's Day, Memorial Day, July 4th, Labor Day. *Homestead Cemetery*

must be cut and groomed at least by the day prior to these specific holiday(s).

- (8) The disposal of all debris, limbs, grass, leaves, trash, etc. is to be done in accordance with all Federal, State and Local regulations.
- (9) Successful **BIDDER** shall provide solely at his/her expense any and all materials, equipment, labor, supplies, etc. needed to perform the required services.
- (10) The Successful **BIDDER** shall be solely responsible for any damages to any monument (headstone, foot marker), coping mausoleums, buildings, trees, shrubs, paved roads, curbs and gutters caused by the Successful **BIDDER** or his/her representative. All damages must be immediately reported to the Cemetery Supervisor by the successful **BIDDER**.
- (11) After having been awarded the contract and prior to beginning work, the successful **BIDDER** shall furnish documentation to the Building & Grounds Division of Public Works; a Certificate of Insurance indicating coverage as required herein, and to include liability. These certificates shall remain in effect through the duration of this contract.
- (12) The City of Greenville reserves the right to reduce or add the number of mowing cycles for any reason it deems necessary during the contract period. Any elimination or addition of cycles will be communicated to the CONTRACTOR in a timely manner. The per cycle bid price will not be adjusted in the event of any elimination or addition of cycles.
- (13) Contractor must comply with all local, state, or federal laws and ordinances associated or governing the work within this contract including Occupational Safety and Health and Health Regulations.
- (14) The Contractor shall not have the right to subcontract any part of its obligations and service requirements without the prior written authorization of the City. This authorization may be given by the Director of Public Works or designee. If any part of this work under this agreement is sublet, the subcontractor shall be required to meet all insurance requirements set forth in the Agreement. The parties stipulate that the Company will maintain each type of insurance set forth in the Agreement at a coverage equal to the amount set forth for each type of insurance. However, nothing contained herein shall relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

SECTION III GENERAL REQUIREMENTS

(1) General Intent:

It is the intent of this Agreement to provide the City with landscape maintenance of the *Homestead Cemetery* at a level normally associated with a well-run, public and privately owned cemetery. All duties are to be performed in a respectful, safe and courteous manner.

(2) Scope:

Landscape Maintenance: The landscape maintenance contract involves litter removal, mowing, string trimming, edging, mechanical blowing, raking, limb and debris removal, and related landscape maintenance services described more fully in Section II of this bid request.

(3) Pricing:

Landscape Maintenance: **BIDDERS** are asked to provide price per mowing cycle for Homestead Cemetery to include all work specified. The per mowing cycle price will be inclusive of all items such as edging three (3) times per contract year.

(4) Award:

Landscape Maintenance: The landscape maintenance contracts will be awarded on the basis of a successively qualified bidder from approximately April 1, 2022 until December 31, 2022. This contract can be extended for 2 additional one year periods with written agreement of the City and the Contractor.

(5) Term:

The contract shall be awarded for 2022 beginning approximately April 1, 2022 and ending December 31, 2022. This contract can be extended for two (2) additional one year periods beginning January 1 and ending December 31 each year of extension with mutual agreement of the City and Contractor.

(6) Billing and Payment:

The City will render payment within thirty (30) days of receipt of an approved monthly invoice for the previous month. The invoice is expected by the 10th of each month.

(7) **Termination:**

The City may terminate the contract for nonperformance, unacceptable performance, or for any other reason as determined by the Public Works Director or his Designee. The City will give written notice to the **CONTRACTOR** specifying areas of nonperformance or unacceptable performance and the **CONTRACTOR** shall have 10 days to rectify. In the event the condition(s) identified in any future written notice to the **CONTRACTOR** are not rectified, the City will give the **CONTRACTOR** a written notice of termination. Upon receipt, the **CONTRACTOR** is expected to remove all employees and equipment from the premises immediately.

(8) Cemetery Supervisor:

The City employs a full time supervisor responsible for all of the City's cemeteries who will assist with overseeing that the requirements of this contract are met. If assistance or further information is needed, please contact Devin Thompson, Building and Grounds Superintendent at (252) 329-4522. The **CONTRACTOR(s)** is expected to keep the City informed of work progress and plans.

(9) Contractor's Supervisor:

The **CONTRACTOR** shall furnish a competent supervisor who shall be on the jobsite and available to the City's Cemetery Supervisor or Building and Grounds Superintendent or designee at all times for the location of the **CONTRACTOR's** work crew on cemetery property. The **CONTRACTOR's** supervisor shall have full authority over the **CONTRACTOR's** work crews and shall monitor and direct them responsibly. **CONTRACTOR's** Supervisor shall have a telephone number to be contacted as needed.

(10) Labor, Equipment and Supplies:

The **CONTRACTOR** shall furnish all labor, equipment, and supplies needed to fulfill its obligation under this contract. The City will furnish no equipment, supplies, or fuel under this contract.

The **CONTRACTOR** shall cease all work within or near the cemetery when funeral or memorial services are in progress. Contact the Buildings and Grounds Superintendent or the Cemetery Supervisor at (252) 329-4522 for funeral schedules.

(11) Licenses:

The **CONTRACTOR** shall have and maintain all necessary and legally required licenses and permits to enable performance of the services.

(12) Addendum and questions:

Addendum: Any changes to the specifications will be issued as a written addendum. No oral statements, explanations, or commitments by whosoever shall be of any effect. Any issued addenda will be posted on the City's bid advertisement site. The contractor must acknowledge reading each addenda on the bid sheet.

Any questions regarding these bid specifications must be sent by email to dthompson@greenvillenc.gov.

Schedule for questions and addenda:

Last date to submit a question: Wednesday, April 6, 2022 by 5 p.m.

Questions will be answered by: Friday, April 8, 2022 by 5 p.m.

Last addenda will be posted by: Friday, April 8, 2022 by 5 p.m.

(13) Amendment:

The Contract may be amended from time to time through written agreement by both parties.

(14) Damage to Contractor's Property:

The City of Greenville shall be under no obligation to replace or in any way compensate the **CONTRACTOR** for fire, theft, vandalism or other casualty, injury or damage to equipment or property belonging to the **CONTRACTOR** while on City Property.

(15) Insurance:

- a. The successful **BIDDER** agrees to indemnify, and hold harmless the City of Greenville from and against any liability, loss, cost, damage suit, claim, or expense arising occurrence on the part of the Successful **BIDDER** to include its officers, servants, agents or employees arising from its activities, operations, and performance of services while on City property and further agrees to release and discharge the City and its Agents from all claims or liabilities arising from or caused by the Successful **BIDDER** in fulfilling its obligations under this Agreement.
- b. It is understood and agreed by the parties that the City of Greenville will assume no liability for damages, injury, or other loss to the Successful **BIDDER**, its employees or property, tools or equipment, or to other persons or properties located on City facilities resulting from the successful **BIDDER**'s activities and operations while performing those service enumerated herein. The

Successful **BIDDER** shall assume full and complete liability for any and all damages to tombstones, markers, building improvements, fences, or any other City or private properties caused by or resulting from its activities, operations, and that of its employees, agents and officers.

(16) Assignment:

The Contractor shall not have the right to subcontract any part of its obligations and service requirements without the prior written authorization of the City. This authorization may be given by the Director of Public Works or designee. If any part of this work under this agreement is sublet, the subcontractor shall be required to meet all insurance requirements set forth in the Agreement. The parties stipulate that the Company will maintain each type of insurance set forth in the Agreement at a coverage equal to the amount set forth for each type of insurance. However, nothing contained herein shall relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

SECTION IV Reference Information

All **BIDDERS** are to provide the names of three (3) references. The reference information is to include the company's name, a contract person's name with his or her title and their telephone number. This information must be included with the bid sheet.

1. Company name: Town of Ayden
Contact person: Stephen Smith
Title: Interim Public Works Director Phone No. 252-481-5828

2. Company name: Town of Winterville
Contact person: Ben Williams
Title: Assistant Town Manager Phone No. 252-756-2412

3. Company name: City of Greenville
Contact person: Frank Livesay
Title: Parks Facilities Supervisor Phone No. 252-329-4556

SECTION V Contractor Information

Please provide the information below with the bid sheet.

PROSPECTIVE CONTRACTOR DATA FORM
CITY OF GREENVILLE
NORTH CAROLINA

Company Name: Precision Lawn Care and Landscaping, Inc

Address: 5118 Country Lane, Grifton, NC 28530

Phone Number: 252-746-2202 Mobile Phone Number: 252-531-1841

Company Owner: David Rogerson

Company Owner Phone Number: 252-531-1841

Authorized Company Representative: Maria Rogerson

Title: Secretary

Authorized Company Representative Phone Number:
252-341-7953

List the tools and/or equipment you would utilize to perform this contract:

Attach additional sheet or continue on back if needed:

3-Grasshopper 400D, 3-Grasshopper 430D, 3-Grasshopper 322D

30-Stihl FS111 Weedeater, 5-Stihl FR111 Edgers, 4-Stihl BR600 Blowers

2 Ventrac 4500

SECTION VI: Bid Sheet for
Homestead Memorial Gardens Cemetery
Mowing/Landscape Maintenance Contract #12

CITY OF GREENVILLE
BID PROPOSAL AGREEMENT

<u>DESCRIPTION</u>	<u>BID</u>
Landscape maintenance in Homestead Cemetery per cycle	One Cycle at: <u>1250.00</u>

Note: Award will be considered based on Total for Homestead per cycle line item.

Addendum Acknowledgement:
Please record each Addendum Number
Received for Contract # 12:

Signed: Maria A. Rogerson
Date: 04/13/2022
Print Name: Maria A. Rogerson
Title: Secretary

STATE OF NORTH CAROLINA

AFFIDAVIT

CITY OF GREENVILLE

I, Maria A. Rogerson (the individual attesting below), being duly authorized by and on behalf of Precision Lawn Care and Landscaping Inc. (the entity bidding on project hereinafter "Employer") after first being duly sworn hereby swears or affirms as follows:

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).
3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. (Mark- Yes or No)
 - a. YES , or
 - b. NO
4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer. This 13th day of April, 2022.

Signature of Affiant _____
Print or Type Name: Maria A. Rogerson

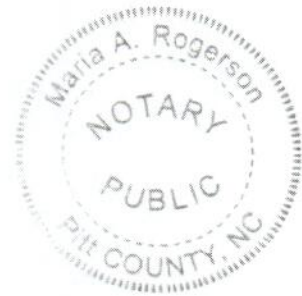
State of North Carolina City of Greenville

Signed and sworn to (or affirmed) before me, this the 13th day of April, 2022.

My Commission Expires:
6-24-23

Maria A. Rogerson
Notary Public

(Affix Official/Notarial Seal)



City of Greenville Public Works Department
Bid Tab

Company Name	Reference Sheet	Contractor Information Sheet	E-Verify Form	Addendum Acknowledged	Bid Sheet Price
Precision Lawn Care and Landscaping, Inc.	Included	Included	Included Completed	N/A	\$1,250.00/ Cycle
Shiver's Lawn Care Svc	Non Responsive due to Improper Bid submittal				\$3,800.00 / Cycle
					No Other Bids Received
					**
					**
					**
					**
					**
					**
Bid Certified by: D. Thompson					**
Buildings And Grounds Superintendent					**
Signature	Date				**
<i>Devin Thompson</i>	05/03/2022				**



City of Greenville, North Carolina

Meeting Date: 06/09/2022

-
- Title of Item:** Contract award for professional services for Mowing/Landscape Maintenance for Greenwood Cemetery (PWD Contract #3)
- Explanation:** On March 4, 2022, the City advertised for professional services for Landscape Maintenance Contracts for the four (4) City cemeteries. The mowing scope of work consists of litter removal, finish mowing, weed trimming, and clippings/debris removal during each cycle. Mowing cycles are based on weekly schedules with mowing beginning on April 1st and lasting through December 31st.
- The City received no bids for Greenwood Cemetery. Therefore, a re-bid was scheduled on March 30, 2022. On April 14, 2022, staff received one (1) proposal in response to the invitation to bid, and Precision Lawn Care, Inc. was the qualified low bidder.
- Fiscal Note:** The City will enter into a contract with Precision Lawn Care, Inc. in the amount of \$2,400 per mowing cycle at an estimated cost of \$79,200 annually and \$237,600 for a three (3) year period beginning FY 2023 and ending 2025. Funding for this contract is provided through the Public Works operational budget.
- Recommendation:** City Council award a landscape maintenance contract to Precision Lawn Care, Inc. in the amount of \$237,600 (3 year amount).
-

ATTACHMENTS

- [📄 CC AGENDA 2022 GREENWOOD MOWING-LANDSCAPE - PRECISION LAWN CARE Signed Contract.pdf](#)
- [📄 Greenwood #3 Bid Tab 04182022.pdf](#)



Find yourself in good company

AGREEMENT FOR CONSULTANT/CONTRACTOR SERVICES

Greenwood Cemetery Mowing/Landscape Maintenance Contract #3

THIS Agreement made and entered into as of the ____ day of _____ 2022 by and between the City of Greenville, a municipal corporation organized and existing under the laws of the State of North Carolina, Party of the First Part, and hereinafter referred to as the “City” and has a primary address of 200 W. Fifth Street, Greenville, NC 27858 and Precision Lawn Care and Landscaping, Inc., a corporation, organized and existing under the laws of the State of North Carolina, Party of the Second Part and hereinafter referred to as the “Contractor” whose primary offices are located at 5118 Country Lane, Grifton, NC 28530.

GENERAL RECITALS

WHEREAS, the City desires the assistance of a Consultant/Contractor in the performance of certain professional services; and

WHEREAS, the Consultant/Contractor has exhibited evidence of experience, ability, competence, and reputation to perform such services; and

WHEREAS, the City is authorized by North Carolina General Statute § 160A-20.1 to enter into an Agreement for performance of such services;

NOW THEREFORE, the City and the Consultant/Contractor, for consideration hereinafter stipulated, mutually agree as follows:

The Consultant/Contractor agrees to perform the assigned services.

ARTICLE I – SCOPE OF WORK

I.A. DESCRIPTION OF WORK REQUIRED

The Consultant/Contractor shall provide mowing services for Mowing/Landscape Maintenance Contract #3, Greenwood Cemetery, as designated by the Buildings & Grounds Superintendent within the Public Works Department and defined in the Invitation for Bid (“IFB”) and amendments, if any, said work being hereinafter referred to as the “Work”. The IFB and amendments, if any, are hereby incorporated by reference herein and made a part hereof as fully as if herein set forth. Unless otherwise specified herein, the Consultant/Contractor is to furnish all necessary labor, materials, tools, equipment, superintendence, delivery and perform all necessary services to complete the Work at no additional costs to the City.

I.B. WORK STANDARDS

The Consultant/Contractor will perform Mowing and Landscape Maintenance with the highest of standards in accordance with all applicable federal, state and local laws, regulations and safety guidelines.

I.C. ORDER OF PRECEDENCE

For the resolution and interpretation of any inconsistencies in this Agreement and/or the documents attached hereto and included herein by this reference, the precedence of these documents shall be given the following order:

1. This Agreement with any Attachments, including Addendum(s) and Amendment(s) hereto;
2. If applicable, negotiated Amendments or clarification to the Consultant/Contractor’s Proposal which have been incorporated by reference to the final Agreement;
3. City’s IFB attached hereto as Exhibit A; and
4. Consultant/Contractor’s Proposal attached hereto as Exhibit B.

I.D. SUBCONTRACTS

The Consultant/Contractor and/or sub-consultant will not sublet any portion of the work covered by this Agreement without prior written approval by the City.

- I.D.1. The Consultant/Contractor will be responsible for the schedule of any work sublet to others so as to assure the overall schedule of the project is maintained.
- I.D.2. The Consultant/Contractor will be responsible for the completeness, accuracy and presentation of all data, and for the review of any work sublet to others.
- I.D.3. The Consultant/Contractor shall notify all sub-consultants under this contract of ALL new work assignments made by the City to the Consultant/Contractor

regardless of any particular sub-consultant's engagement level under a particular task order. This notification information may be requested by the City in the form of a report.

ARTICLE II – DATA AND SERVICES TO BE PROVIDED BY THE CITY

II.A. DATA AND SERVICES

- II.A.1. The City's project manager who will be overseeing the Contractor/Consultant in order to ensure that the requirements of this contract are met is the Building and Grounds Superintendent or their designee. If assistance or further information is needed, the Contractor/Consultant shall contact the Building and Grounds Superintendent or their designee at (252) 329-4522 or the Public Works Complex, 1500 Beatty Street, Greenville, NC. All directions and communications from the City to the Contractor/Consultant shall be through the Building and Grounds Superintendent or their designee unless otherwise stated herein.
- II.A.2. The City shall provide available data and information, as applicable to the detailed SCOPE OF WORK develop for all tasks, which may include, but is not limited to the following:
- II.A.3. Any City property, information, data, instruments, documents, studies or reports given to or prepared or assembled by or provided to the Consultant/Contractor under this Agreement shall be kept as confidential, used only for the purpose(s) required to perform the Agreement and not divulged or made available to any individual or organization without the prior written approval of the City. The City's data and property in the hands of the Consultant/Contractor shall be protected from unauthorized disclosure, loss, damage, destruction by a natural event or another eventuality. The Consultant/Contractor agrees to reimburse the City for loss or damage of City property while in Consultant/Contractor's custody. Such City Data shall be returned to the City in a form acceptable to the City upon the termination or expiration of this Agreement. The Consultant/Contractor shall notify the City of any security breaches within 24 hours as required by G.S. § 143B-1379.

ARTICLE III – TIME OF BEGINNING AND COMPLETION

III.A. PERIOD OF PERFORMANCE

Work will begin no later than ten (10) days following written a Notice to Proceed to begin work on specified deliverables. The work will be completed according to a written schedule provided by the City. The Consultant/Contractor will be responsible for implementing and monitoring the schedule.

This Agreement will expire ***December 31, 2022***.

This Agreement may be extended by the City in its sole discretion, annually for up to a total of two (2) additional years, starting on January 1st and ending on December 31st of the same year.

III.B. DELIVERABLES

If additional deliverables beyond the agreed-upon scope of work for the project are required to complete the assignment then a new written amended scope of work/description of goods will be developed for the additional Work. This amendment will not become effective until completed as required herein. The Consultant/Contractor shall notify the City's Project Manager as soon as additional services beyond agreed upon scope of work appear to be warranted. The Consultant/Contractor must never under any circumstance exceed the approved cost estimate without prior written authorization from the City.

No additional work may be assigned under this Agreement after that date unless appropriate supplemental Agreements are in place.

Performance of Work by City. If Contractor/Consultant fails to perform the Work in accordance with the schedule required by this Agreement, the City may, in its discretion, perform or cause to be performed some or all of the Work, and doing so shall not waive any of the City's rights and remedies. Before doing so, the City shall give Contractor/Consultant notice of its intention. Contractor/Consultant shall reimburse the City for additional costs incurred by the City in exercising its right to perform or cause to be performed some or all of the Work pursuant to this section.

ARTICLE IV – COMPENSTATION AND PAYMENTS

IV.A. FEES AND COSTS

As compensation for the Consultant/Contractor services as outlined in ARTICLE I, a monthly pay at the rate of \$2,400 per mowing cycle for Mowing/Landscape Maintenance Contract #3, Greenwood Cemetery will be established and payment shall be based upon the areas completed by the Consultant/Contractor during the previous month.. The City shall not be obligated to pay the Contractor any payments, fees, expenses, or compensation other than those authorized by this section.

IV.B. PAYMENT

Upon receipt of invoices and appropriate supporting documentation by the City, the invoices are payable within thirty (30) days from receipt, provided they have first been approved by the City. The City does not agree to the payment of late charges or finance charges assessed by the Consultant/Contractor for any reason. Invoices are payable in U.S. funds.

The Consultant/Contractor shall pay subcontractors for work performed within seven (7) days after Consultant/Contractor receives payment from the City for work performed by the subcontractor. This requirement must be incorporated into all subcontractor agreements. Failure to comply with the seven (7) day requirement may

cause the City to withhold payments to the Consultant/Contractor and the City may suspend work until the subcontractor is paid.

All invoices shall be directed to: *Public Works Department, Cemetery Supervisor, 1500 Beatty Street, Greenville, NC 27834* or emailed to wcannaday@greenvillenc.gov.

It shall be the responsibility of the Consultant/Contractor and all sub-consultants to keep records of all payments requested and the dates received. The STATE may request copies of this information in the form of a report.

ARTICLE V - GENERAL TERMS AND CONDITIONS

V.A. TERMINATION

The City may terminate this Agreement at any time upon any of the following grounds:

- V.A.1. **DEFAULT.** The Consultant/Contractor fails to perform, provides unacceptable performance, fails to comply with the provisions of the contract, or fails to follow safety regulations as required in this Agreement. Under this provision only, the City shall provide written notice to the Contractor/Consultant regarding the condition(s) and the Contractor/Consultant shall have ten (10) calendar days to rectify. In the event the condition(s) identified are not rectified to the satisfaction of the City, the City will give the Contractor/Consultant written notice of termination, which will be effective as of the date of notice unless otherwise stated in the notice of termination. Upon receipt, the Contractor/Consultant is expected to remove all employees and equipment from the premises immediately.
- V.A.2. **CONVENIENCE.** Without limiting either party's right to terminate for breach, the parties agree the City may terminate this agreement, without cause and in its discretion, by giving (thirty) 30 calendar days written notice. Seller shall be paid for services provided up to the date of termination except to the extent previously paid for under the Agreement. Work shall be paid for in accordance with the method (unit prices, hourly fees, etc.) to be used for payment had the Work been completed except to the extent it would be inequitable to either party, and if Work was to be paid for on a lump-sum basis, the City shall pay the part of the lump sum that reflects the percentage of completion attained for that Work. The City shall not be liable to Consultant/Contractor for any additional compensation, or for any consequential or incidental damages, including but not limited to overhead, profit, damages, other economic loss or otherwise, and all obligations under the Agreement shall be discharged except that any right based on prior breach or performance survives and any other provisions expressly cited to survive termination. At the time of TFC or as soon afterwards as is practical,

Consultant/Contractor shall give the City all Work, including partly completed Work.

- V.A.3. FUNDING. In accordance with paragraph V.G.14, this agreement shall automatically terminate should funding cease to be available.
- V.A.4. FORCE MAJEURE. This includes but is not limited to any acts of God; acts of the public enemy; insurrections; riots; embargoes; labor disputes, including strikes, lockouts, job actions, or boycotts; shortages of materials or energy; fires; explosions; floods; any curtailment, order, regulation, or restriction imposed by governmental, military or lawfully established civilian authorities, including, without limitation any of the foregoing which occur as a result of epidemic or pandemic; changes in laws governing this type of Work of facility; or other unforeseeable causes beyond the reasonable control and without the fault or negligence of the City. Reasonable extension of time for unforeseen delays may be made by mutual written consent of all parties involved.
- V.A.5. EXPIRATION. Upon expiration of this Agreement, this Agreement is terminated, if not extended, in accordance with the terms and conditions of this Agreement.

V.B. CONSULTANT/CONTRACTOR'S RESPONSIBILITY

- V.B.1. Consultant/Contractor shall perform the Work under this Agreement as an independent contractor and not as City's agent or employee. Consultant/Contractor shall be solely responsible for the compensation, benefits, contributions and taxes, if any, of its employees and agents.
- V.B.2. The standard of care applicable to Consultant/Contractor's performance will be the degree of skill and diligence normally employed by professional Consultant/Contractors performing the same or similar services at the time and location said services are performed. Consultant/Contractor will re-perform any services not meeting this standard without additional compensation.
- V.B.3. Consultant/Contractor will provide all equipment including but not limited to computer, recording equipment, long distance telephone and facsimile service, cellular service, and any clerical supplies necessary to perform the Work required under this Agreement. Consultant/Contractor shall be responsible for all travel and related expenses.
- V.B.4. Consultant/Contractor shall be responsible for all federal, state and local taxes incurred, owed or payable as a result of the performance of the Work.
- V.B.5. In the performance of the Work under this Agreement, Consultant/Contractor shall comply with all federal, state, county and City statutes, ordinances, regulations, and rules, which are applicable.

- V.B.6. The Contractor/Consultant shall furnish a competent project manager who shall be available to the Buildings and Grounds Superintendent or their designee at all times that the Contractor/Consultant is performing the Work under this Agreement. The Contractor/Consultant's supervisor shall have full authority over the Contractor/Consultant's employees, agents, subcontractors, or otherwise and shall monitor them and direct them responsibly. The Contractor/Consultant's supervisor shall have a mobile telephone number to be contacted as needed. This number shall be provided to the City within five (5) days of the date of this contract.

V.C. **INDEMNIFICATION, INSURANCE AND WARRANTIES**

V.C.1. **INDEMNITY AND HOLD HARMLESS REQUIREMENTS:**

- a. To the maximum extent allowed by law, the Contractor shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of this contract as a result of acts or omissions of the Contractor or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. In performing its duties under this subsection "a," the Contractor shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to City.
- b. Definitions. As used in subsections "a" above and "c" below -- "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, and expenses (included without limitation within "Charges" are (1) interest and reasonable attorneys' fees assessed as part of any such item, and (2) amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders -- including but not limited to any such alleged violation that arises out of the handling, transportation, deposit, or delivery of the items that are the subject of this contract). "Indemnitees" means City and its officers, officials, independent contractors, agents, and employees, excluding the Contractor.
- c. Other Provisions Separate. Nothing in this section shall affect any warranties in favor of the City that are otherwise provided in or arise out of this contract. This section is in addition to and shall be construed separately from any other indemnification provision that may be in this contract.
- d. Survival. This section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Contractor under this contract.
- e. Limitations of the Contractor's Obligation. If this section is in, or is in connection with, a contract relative to the design, planning, construction, alteration, repair or maintenance of a building, structure, highway, road, appurtenance or appliance, including moving, demolition and excavating connected therewith, then subsection "a" above shall not require the Contractor to indemnify or hold harmless Indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.

- f. It is understood and agreed by the parties that the City will assume no liability for damages, injury, or other loss to the **Consultant/Contractor**, its employees or property, tools or equipment, or to other persons or properties located on City facilities resulting from the **Consultant/Contractor's** activities and operations while performing services under this contract. The **Consultant/Contractor** shall assume full and complete liability for any and all damages to City or private properties caused by or from its activities, operations, and that of its employees, agents, and officers.
- g. **Consultant/Contractor** will promptly notify the City of any Civil or Criminal Actions filed against the **Consultant/Contractor** or of any notice of violation from any Federal or State Agency or of any claim as soon as practical as relates to the services provided. The City, upon receipt of such notice, shall have the right, at its election, to defend any and all actions or suits or join in defense.

V.C.2. **INSURANCE:**

The Consultant/Contractor agrees to purchase at its own expense insurance coverages to satisfy the following minimum requirements. Work under this contract shall not commence until all insurance required as listed has been obtained. Insurance required shall remain in effect through the life of this contract.

- a. **Workers' Compensation Insurance:** No contractor or subcontractor may exclude executive officers. Workers Compensation must include all employees

Limits:

Workers Compensation: Statutory for the State of North Carolina.

Employers Liability: Bodily Injury by Accident \$1,000,000 each accident.

Bodily Injury by Disease \$1,000,000 policy limit.

Bodily Injury by Disease \$1,000,000 each employee.

- b. **Commercial General Liability:**

Limits:

Each Occurrence:	\$1,000,000
Personal and Advertising Injury	\$1,000,000
General Aggregate Limit	\$2,000,000
Products and Completed Operations Aggregate	\$2,000,000

The aggregate limit must apply per project. The form of coverage must be the ISO CG 00 01 policy as approved by the State of North Carolina Department of Insurance. If a form of coverage other than the CG 00 01 is used it must be approved **Consultant/Contractor**. Any

endorsed exclusions or limitations from the standard policy must be clearly stated in writing and attached to the Certificate of Insurance. Completed Operations coverage must be maintained for the period of the applicable statute of limitations. Additionally, the **Consultant/Contractor** must be added as an Additional Insured to the Commercial General Liability policy.

c. Commercial Automobile Liability:

Limits: \$1,000,000 combined single limit.

d. Cancellation:

Each certificate of insurance shall bear the provision that the policy cannot be altered or canceled in less than ten (10) days after mailing written notice to the assured of such alteration or cancellation, sent registered mail.

e. Proof of Carriages:

- i. The **Consultant/Contractor** shall provide the City with insurance industry standard ACCORD form Certificate(s) of Insurance on all policies of insurance and renewals thereof in a form(s) acceptable to the City prior to the commencement of services. Said policies shall provide that the City be an additional named insured.
- ii. The City shall be notified in writing of any reduction, cancellation, or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.
- iii. All insurance policies shall be issued by responsible companies who are acceptable to the City and licensed and authorized to do business under the laws of North Carolina.

V.C.3 **WARRANTIES (APPLICABLE TO CONTRACTS FOR SALE OF GOODS)**

In addition to other warranties made in this transaction, Seller represents and warrants that all of the products (which includes goods, items, and other things) furnished under this contract, the process by which those products are made, and their use will not infringe any patent, trademark, or other rights of any other person, firm, or corporation, and Seller shall defend, indemnify, and hold harmless the City and its officers, officials, agents, contractors, and employees from and against any and all claims, judgments, costs, damages, losses, demands, liabilities, obligations, fines, penalties, royalties, settlements, and expenses (including interest and reasonable attorney's fees assessed as part of any such item) arising out of any:

- (i) actual or alleged infringement of any such patent, trademark, or other rights;
or
- (ii) (except to the extent that the personal injury, death, or property damage is caused solely by negligent or intentional acts or omissions of the City) personal injury, death, or property damage allegedly caused by or resulting

from the delivery to the City of, or the manufacture, construction, design, formulation, development of standards, preparation, processing, assembly, testing, listing, certifying, warning, instructing, marketing, selling, advertising, packaging, or labeling of any product furnished to the City under this Agreement.

Without reducing the City's rights under this section, Seller, in case of an actual or threatened claim, may at Seller's option and expense procure for the City the right to continue using the products furnished under this contract. (However, the preceding sentence does not pertain to part "(ii)" of the first sentence of this section.)

In addition to other warranties made in this transaction, Seller warrants that all of the products (which includes goods, items, and other things) furnished under this contract must:

- (i) Be in conformity with applicable NC and federal statutes and regulations; except to the extent other contract documents provide otherwise,
- (ii) not have been used; and
- (iii) must be at least such as:
 - a. pass without objection in the trade under the contract description;
 - b. in the case of fungible goods, are of fair average quality within the description;
 - c. are fit for the ordinary purposes for which such goods are used;
 - d. run, within the variations permitted by the contract, of even kind, quality and quantity within each unit and among all units involved;
 - e. are adequately contained, packaged, and labeled as the contract may require; and
 - f. conform to the promises or affirmations of fact made on the container or label if any.

V.D. **CORRECTION OF WORK**

The Consultant/Contractor shall promptly correct all Work rejected by the City as failing to conform to this Agreement. The Consultant/Contractor shall bear all costs of correcting such rejected work. Rejected work shall consist of that Work which is deemed ineligible by the City's representative.

V.E. **RELATIONSHIP WITH OTHERS**

The Consultant/Contractor will cooperate fully with the City with other municipalities and local government officials, Federal and state environmental resource and regulatory agencies, and with any others as may be directed by the City. This shall include attendance at meetings, workshops, and hearings and also includes provision of project development, human and natural environmental and engineering information to all parties as may be

requested by the City. The Consultant/Contractor will also cooperate fully with the STATE and other agencies on adjacent projects, as necessary.

V.F.

NOTICE

Any notice or communication required or permitted by this Agreement shall be deemed sufficiently given if in writing and when delivered personally or three (3) days after deposit with a receipted commercial courier service or the U.S. Postal Service as registered or certified mail, postage prepaid, and addressed as follows:

City:

City of Greenville
P.O. Box 7207
Greenville, NC 27835
Attn: Building and Grounds Superintendent

Consultant/Contractor:

Precision Lawn Care and Landscaping, Inc.
5118 Country Lane
Grifton, NC 28530
Attn: David S. Rogerson

V.G.

ADDITIONAL PROVISIONS

V.G.1.

TIME IS OF THE ESSENCE

The parties agree that time is of the essence in the completion of the Work to be performed pursuant to this Agreement.

The Consultant/Contractor agrees that all Work shall be executed regularly, diligently, and uninterrupted at such a rate of progress as will ensure full completion thereof within the time specified.

V.G.2. **OWNERSHIP OF DOCUMENTS**

All tracings, documents, technical reports, charts, plans, specifications, photographic negatives, survey notes, computations, and maps and other data or documents prepared or obtained under the terms of the this Agreement shall be delivered to and become the property of the City without restriction or limitation on their use. However, in the event of any reuse or alteration of any documents furnished to the City, such alteration or reuse shall be at the City's sole risk. In the case of an Agreement involving preliminary plans only, no commitment is stated or implied that would constitute a limitation on the subsequent use of the plans or ideas incorporated therein for preparation of construction plans. These items could become the property of the City, if the City so elects.

V.G.3. **MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM**

The City has adopted an Affirmative Action and Minority and Women Business Enterprise Plan (M/WBE) Program. The Consultant/Contractor attests that it also shall take affirmative action to insure equality of opportunity in all aspects of employment and to utilize MWBE suppliers of materials and labor when available.

Consultant/Contractor further agrees that in the performance of these services that it will not discriminate in its hiring, employment, and contracting practices with reference to political affiliation, genetic information, sexual orientation, age, sex, race, color, religion, national origin, handicap or disability.

V.G.4. **IRAN DIVESTMENT ACT CERTIFICATION**

The Consultant/Contractor hereby certifies that, it is not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. § 147-86.58. The Consultant/Contractor shall not utilize in the performance of the Agreement any subcontractor that is identified on the Iran Final Divestment List.

V.G.5. **E-VERIFY**

The Consultant/Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further if the Consultant/Contractor utilizes a Subcontractor, the Consultant/Contractor shall require the Subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Consultant/Contractor represents that the Consultant/Contractor and its

Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

V.G.6. **ASSIGNMENT**

There shall be no assignment, subletting or transfer of the interest (including payments) of the Consultant/Contractor in any of the work covered by the Agreement without the written consent of the City. Unless the City agrees otherwise in writing, the Consultant/Contractor and all assignees shall be subject to all of the City's defenses and shall be liable for all of the Consultant/Contractor's duties that arise out of this Agreement and all of the City's claims that arise out of this Agreement. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

V.G.7. **GENERAL COMPLIANCE WITH LAWS**

The Consultant/Contractor shall comply with all applicable Federal, State, and local laws, ordinances, rules, and regulations pertaining to the performance of Work under this Agreement.

V.G.8. **AMENDMENTS AND WAIVER**

No waiver, alterations, consent or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the City or his designee.

V.G.9. **PERMITS, LICENSES, AND CERTIFICATES**

The Consultant/Contractor is to procure all permits, licenses, and certificates, as required by any such laws, ordinances, rules and regulations, for proper execution and completion of the Work under this Agreement.

V.G.10. **CHOICE OF LAW AND VENUE**

This Agreement is deemed to be under and shall be governed by and construed according to the laws of the State of North Carolina and the ordinances of the City of Greenville. The exclusive forum and venue for all actions, suits or proceedings arising out of or related to this Agreement shall be the North Carolina General Courts of Justice, in Pitt County, or if in federal court, in the Eastern District of North Carolina.

V.G.11. **AUTHORITY TO CONTRACT**

The undersigned hereby certifies that this Agreement is made without prior understanding, agreement, or connection with any corporation, firm, or person who submitted bids for the Work covered by this Agreement and is in all respects fair and without collusion or fraud. As to Consultant/Contractor, the undersigned hereby warrants and certifies that they are authorized to enter into this Agreement and to execute same on

behalf of the Consultant/Contractor as the act of the said Consultant/Contractor.

V.G.12. **DISPUTE RESOLUTION**

In the event of any dispute arising out of or relating to this agreement, the affected party shall notify the other party, and the parties shall attempt in good faith to resolve the matter within thirty (30) days after the date such notice is received by the other party (the "Notice Date") prior to exercising their rights under law.

V.G.13. **CONFLICT OF INTERESTS**

- a. Consultant/Contractor is aware of the conflict of interest laws of the City of Greenville, of the State of North Carolina (as set forth in North Carolina General Statutes), and agrees that it will fully comply in all respects with the terms thereof and any future amendments.
- b. Consultant/Contractor covenants that no person or entity under its employ, presently exercising any functions or responsibilities in connection with this Agreement has any personal financial interests, direct or indirect, with the City. Consultant/Contractor further covenants that, in the performance of this Agreement, no person or entity having such conflicting interest shall be utilized in respect to the Scope of Work or services provided hereunder. Any such conflict of interest(s) on the part of Consultant/Contractor, its employees or associated persons or entities shall be disclosed to the City.
- c. Consultant/Contractor shall disclose any possible conflicts of interest or apparent improprieties of any party under or in connection with the Legal Requirements, including the standards for procurement.
- d. Consultant/Contractor shall make any such disclosure to the City in writing and immediately upon the Consultant/Contractor's discovery of such possible conflict. The City's determination regarding the possible conflict of interest shall be binding on all parties.
- e. No employee, agent, Consultant/Contractor, elected official or appointed official of the City, exercising any functions or responsibilities in connection with this Agreement, or who is in a position to participate in the decision-making process or gain inside information regarding activities, has any personal financial interest, direct or indirect, in this Agreement, the proceeds hereunder, the Project or Consultant/Contractor, either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

V.G.14.

NON-APPROPRIATION OF FUNDS

Consultant/Contractor acknowledges that funding for this Agreement is conditioned upon appropriation and allocation by the governing body of sufficient funds to support the activities described in this Agreement. By written notice to Consultant/Contractor at the earliest possible date, City may terminate this Agreement, in whole or in part, at any time for lack of appropriation of funds, or other withdrawal, reduction or limitation in any way of the City's budget, funding or financial resources. Such termination is in addition to the City's rights to terminate for convenience or cause. If this Agreement is terminated for non-appropriation: The City will be liable only for payment in accordance with the terms of this Agreement for Work completed and expenses incurred prior to the effective date of termination. The Consultant/Contractor will not be compensated for any other costs in connection with a termination for non-appropriation. The Consultant/Contractor will not be entitled to recover any damages in connection with a termination for non-appropriation, including, but not limited to, lost profits. Consultant/Contractor shall be released from any further obligation to provide Work affected by such termination; and Termination shall not prejudice any other right or remedy available to the City.

V.G.15

RECORD RETENTION

All records required to be kept on the project shall be maintained for at least five (5) years after final payments and until all other pending matters under this project have been closed. However, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the five (5) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the five (5) year period, whichever is later.

V.G.16

CONFIDENTIALITY

Proprietary or confidential information ("confidential information") developed or disclosed by either party under this agreement shall be clearly labeled and identified as confidential information by the disclosing party at the time of disclosure. Confidential Information shall not be disclosed to the extent allowable by law by the receiving party to any other person except to those individuals who need access to such Confidential Information as needed to ensure proper performance of the Services.

Neither party shall be liable for disclosure or use of Confidential Information which: (1) is or was known by the receiving party at the time of disclosure due to circumstances unrelated to this agreement; (2) is generally available to the public without breach of this agreement; (3) is disclosed with the prior written approval of the disclosing party; or (4) is required to be released by applicable law or court order.

Each party shall return all Confidential Information relating to this agreement to the disclosing party upon request of the disclosing party or upon termination of this agreement, whichever occurs first. Each party shall have the right to retain a copy of the Confidential Information for its internal records and subject to ongoing compliance with the restrictions set forth in this Section. This Section shall survive termination of this agreement.

V.G.17 **SEVERABILITY**

No waiver of any breach of this agreement shall operate as a waiver of any similar subsequent breach or any breach of any other provision of this agreement. If any provision of this agreement is held invalid by a court of competent jurisdiction, such provision shall be severed from this agreement and to the extent possible, this agreement shall continue without affecting the remaining provisions.

V.G.18 **COUNTERPARTS**

This agreement may be executed in counterparts, and the counterparts, taken together, shall constitute the original.

V.G.19 **THIRD PARTY RIGHTS**

No Third Party Rights Created. This contract is intended for the benefit of the City and the Contractor and not any other person.

V.G.20 **PRINCIPLES OF INTERPRETATION AND DEFINITIONS.**

(1) The singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words "include," "including," etc. mean include, including, etc. without limitation. (2) References to a "Section" or "section" shall mean a section of this contract. (3) "Contract" and "Agreement," whether or not capitalized, refer to this instrument. (4) "Duties" includes obligations. (5) The word "person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (6) The word "shall" is mandatory. (7) The word "day" means calendar day. (8) The word "Work" is defined in Section I.A. (9) A definition in this contract will not apply to the extent the context requires otherwise.

V.G.21. **ENTIRE AGREEMENT**

This Agreement, including any Exhibits hereto, contains all the terms and conditions agreed upon by the parties. No promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or

referenced in this contract shall be deemed to exist or to bind either party hereto.

V.G.22. **HEADINGS**

The headings of the various Articles and Sections herein are for convenience of reference only and shall not form part of this Agreement or define or limit any of the terms or provisions hereof.

V.G.23 **DISCHARGE OF MECHANICS AND MATERIALMEN'S LIEN**

If applicable, the Consultant/Contractor's shall use its best efforts to prevent any liens that arise from the performance of the Work from being filed against the City or Property. If any liens are filed, the Consultant/Contractor's shall prevent any liens from becoming delinquent. Upon completion of the Work and prior to payment by the City, the Consultant/Contractor's shall execute and provide to the City a Release of Liens and Waiver of Claims form.

V.G.24 **PEFORMANCE OF GOVERNMENT FUNCTIONS**

Nothing contained in this Agreement shall be deemed or construed so as to in any way estop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

V.G.25 **E-SIGNATURE AUTHORITY**

The parties hereto consent and agree that this agreement may be signed and/or transmitted by facsimile, e-mail of a .pdf document or using electronic signature technology (e.g., via DocuSign or similar electronic signature technology), and that such signed electronic record shall be valid and as effective to bind the party so signing as a paper copy bearing such party's hand written signature. The parties further consent and agree that (1) to the extent a party signs this document using electronic signature technology, by clicking "sign", such party is signing this Agreement electronically, and (2) the electronic signatures appearing on this Agreement shall be treated for purposes of validity, enforceability and admissibility, the same as hand-written signatures.

V.G.26 **CITY MANAGERS AUTHORITY**

To the extent, if any, the City has the power to suspend or terminate this contract or the Consultant/Contractor's services under this Agreement, that power may be exercised by the City Manager or their designee.

(REMAINDER OF) THIS PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first written above:

EXECUTED by the City this DATE: _____

CITY OF GREENVILLE

BY: _____

TITLE: _____

APPROVED AS TO FORM:

BY: _____
Emanuel McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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

BY: _____ Date: _____
Byron Hayes, Director of Financial Services

Account Number 010-01-55-61-000-000-528385-

Project Code (if applicable) N/A

**Consultant/Contractor SIGNATURE PAGES FOLLOW –
TO BE COMPLETED, AS APPLICABLE TO EACH SIGNATORY ENTITY.**

SIGNATURE OF Consultant/Contractor – (PROFESSIONAL) CORPORATION

EXECUTED by the Consultant/Contractor this DATE _____.

Precision Lawn Care and Landscaping, Inc.

Full name of (Professional) Corporation

Attest Maria Rogerson
Secretary/Assistant Secretary

Secretary
(Select Appropriate Title Above)

Maria Rogerson
Print or type Signer's name

By David Rogerson
President/Vice President/Assistant Vice President

President
(Select Appropriate Title Above)

David Rogerson
Print or type Signer's name

INVITATION TO BID
Informal BID # 21-22-32

CITY OF GREENVILLE PUBLIC WORKS DEPARTMENT
BUILDING AND GROUNDS DIVISION
MOWING/LANDSCAPE MAINTENANCE CONTRACT #3
GREENWOOD CEMETERY

CITY OF GREENVILLE
NORTH CAROLINA



PUBLIC WORKS DEPARTMENT
1500 BEATTY STREET, GREENVILLE, NC

BID DUE DATE: **THURSDAY APRIL 14, 2022 @ 2:00 PM**

CONTACT PERSONS

QUESTIONS REGARDING THE BID PACKAGE:

Mrs. Angelene E. Brinkley
Interim Financial Services Manager
Telephone: (252) 329-4862
Fax: (252) 329-4464
Email: aebrinkley@greenvillenc.gov

QUESTIONS REGARDING THE SPECIFICATIONS:

Mr. Devin Thompson
Building and Grounds Superintendent
Telephone: (252) 329-4522
Fax: (252) 329-4535
Email: dthompson@greenvillenc.gov

**CITY OF GREENVILLE
ADVERTISEMENT FOR BIDS FOR CONTRACT #3**

Sealed bids will be received by the City of Greenville until Thursday, April 14, 2022@ 2:00 p.m. at the Public Works Department located at 1500 Beatty Street, Greenville, NC 27834 for Contract #3 (Mowing of Greenwood Cemetery). All bids will be marked with the date and time they are received by reception staff. Bids will not be opened and read aloud at this time. Bids will be evaluated and awarded at a later date.

A pre-bid conference will not be held.

The City of Greenville reserves the right to reject any or all bids, waive any informality and award contracts that appear to be in its best interest. The right is reserved to hold any or all proposals for a period of ninety (90) days from the bid opening thereof.

From the date of this advertisement until the date and time bids are due, the specifications of the proposed work and/or a complete description of the apparatus, supplies, materials or equipment are and will continue to be on file in the office of the **City of Greenville Interim Financial Services Manager, 201 W. 5th Street, Greenville, NC 27834**, or the Public Works Department, 1500 Beatty Street, Greenville N.C. during regular business hours, and available to prospective bidders. Inquiries should be directed to the Financial Services -Manager at the above address --- **Telephone (252) 329-4862**. Minority/Women owned businesses are encouraged to submit proposals.

Angelene E. Brinkley
Interim Financial Services Manager
City of Greenville
201 W. 5th Street
Greenville, NC 27834

**ADVERTISEMENT FOR BIDS
LANDSCAPE MAINTENANCE FOR
GREENWOOD CEMETERY
GREENVILLE, NORTH CAROLINA**

INTRODUCTION

The City of Greenville desires to enter into a Landscape Maintenance Contract for Greenwood Cemetery (PWD Mowing/Landscape Maintenance Contract #3). All aspects of cemetery management are very sensitive and detail oriented including mowing and the general appearance of Greenwood Cemetery. The successful **BIDDER** will be challenged to complete the terms of the contract while ensuring these sensitivities and details are respected and met with the highest standards.

SECTION I

- (1) Bids for Contract #3 shall be submitted to the Public Works Department, 1500 Beatty St., Greenville, North Carolina, 27834, **no later than Thursday, April 14, 2022 by 2:00 PM**. The words "**Mowing/Landscape Maintenance for Greenwood Cemetery**" and Attn. Devin Thompson shall appear on the outside of the sealed envelope. The bids will not be opened at this time but will be reviewed and contracts will be awarded at a later date.
- (2) The proposal shall be bid as a per cycle price for mowing/landscape maintenance per specifications
- (3) No charge will be allowed for Federal Excise and Transportation tax from which the City is exempt.
- (4) **No bid proposal may be changed or withdrawn after April 14, 2022 @ 2:00 PM**. Any modifications or withdrawals requested before this time shall be acceptable only when such request is made in writing to Angelene E. Brinkley, Interim Financial Services Manager of the City of Greenville.
- (5) **ACCEPTANCE OF PROPOSALS:** The City of Greenville reserves the right to award to the Firm who will best serve the interests of the City. The City also reserves the right to waive minor variations in the specifications and in the bidding process, as well as to accept in whole or in part such proposal(s) where it deems it advisable in protection of the best interests of the City. The City further reserves the right to accept or reject any or all bids/proposals, and to award or not award a contract based on this proposal.

- (6) Contract is expected to begin as directed approximately April 1, 2022 and end on December 31, 2022 for the first year. The contract can be extended annually for up to 2 additional years with written agreement by the City and the Contractor starting annually on January 1st and ending December 31st.
- (7) Firms submitting a bid are attesting that no official or employee of the City of Greenville is directly or indirectly interested in this proposal for any reason of personal gain.
- (8) By submitting a proposal, the firm is attesting that it is an Equal Opportunity Employer.
- (9) Firms submitting a proposal are attesting that they have taken affirmative action to ensure equality of opportunity in all aspects of employment.
- (10) Minority and Women Business Enterprise (M/WBE):

It is the policy of the City of Greenville to provide minorities and woman equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchase, and professional and personal service contracts. In accordance with this policy, the City has adopted a Minority and Woman Business Enterprise (MWBE) Plan and subsequent program, outlining verifiable goals.

The City established a 4% Minority Business Enterprise (MBE) and 4% Women Business Enterprise (WBE) goal for the participation of MWBE firms in supplying goods and services for the completion of this project. All firms submitting bids agree to utilize minority and women-owned suppliers and service providers whenever possible.

Questions regarding the City's MWBE Program should be directed MWBE Office at (252) 329-4862

- (11) The **BIDDER** is specifically advised that any person, firm, or other party, to whom it is proposed to award a subcontract under this contract, must be acceptable to the City of Greenville, hereinafter referred to as the **OWNER**. See also Section III, Number 16.
- (12) The **OWNER** shall make such investigations as he sees necessary to determine the ability of the **BIDDER** to perform the work, and the **BIDDER** shall furnish to the **OWNER** all such information and data for this purpose as the **OWNER** may request. The **OWNER** reserves the right to reject any Bid if the evidence submitted by, or investigation of such **BIDDER** fails to satisfy the **OWNER** that each **BIDDER** is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.

(13) The **BIDDER'S** attention is directed to the fact that all applicable State law, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

(14) The **CONTRACTOR** shall not commence work under this contract until he has obtained all insurance required nor shall the **CONTRACTOR** allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been obtained and approved.

a. Worker's Compensation:

The **CONTRACTOR** shall acquire and maintain during the life of this contract, Worker's Compensation Insurance for all employees employed at the site of the project under this contract, or as otherwise required by North Carolina General Statutes.

b. Public Liability and Property Damage:

The **CONTRACTOR** shall acquire and maintain during the life of this contract such Public Liability and Property Damage Insurance as shall protect from claims for damage for personal injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operation be by himself or by any subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall not be less than \$500,000 for injuries, subject to the same limits per person and \$1,000,000 for property damage or otherwise needed to protect the interests of the **OWNER**. The City of Greenville shall be named as an additional insured on all coverage.

c. Other Insurance:

The **CONTRACTOR** shall furnish such additional insurance as may be required by the General Statutes of North Carolina, including motor vehicle insurance in amounts not less than statutory limits.

d. Cancellation:

Each certificate of insurance shall bear the provision that the policy cannot be altered or canceled in less than ten (10) days after mailing written notice to the assured of such alteration or cancellation, sent registered mail.

e. Proof of Carriages:

The **CONTRACTOR** shall furnish the **OWNER** with satisfactory proof of carriage of the insurance required prior to beginning work on this contract.

(15) The City of Greenville has adopted a Local Preference Policy, Resolution No. 056-13, and a Professional and other Services Policy, Resolution No. 057-13 that will pertain to this project. For more information, please see www.greenvillenc.gov/financialservices/purchasingdivision on the City of Greenville's webpage.

(16) E-Verify Compliance

- a) The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Contractor utilizes a Subcontractor, the Contractor shall require the Subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Contractor represents that the Contractor and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
- b) BIDDER acknowledges that compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes is required by the Contractor and its Subcontractors by North Carolina law and the provisions of the Contract Documents. The BIDDER represents that the BIDDER and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Article 2 of Chapter 64 of the North Carolina General Statutes requires employers, that transact business in the State of North Carolina and employ 25 or more employees in the State of North Carolina, to electronically verify the legal employment status of an employee through the federal E-Verify program after hiring the employee to work in the State of North Carolina.
- c) All firms submitting bids are required to complete a new Vendor Self-Service Profile, and associated documents as required upon acceptance of mowing contract.

(17) IRAN DIVESTMENT ACT:

IRAN DIVESTMENT ACT: Vendor certifies that it is not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58. The vendor will not utilize on the contract any subcontractor that is listed on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58.

- (18) NON-DISCRIMINATION: The City of Greenville does not discriminate on the basis of race, color, sex, national origin, religion, age or disability. Any contractors or vendors who provide services, programs or goods to the City are expected to fully comply with the City's non-discrimination policy.
- (19) NON-COLLUSION: Respondents, by submitting a signed proposal, certify that the accompanying submission is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under North Carolina or United States law.
- (20) FEDERAL LAW: Federal law (Rehabilitation Act and ADA) prohibits handicapped discrimination by all governmental units. By submitting a proposal, the vendor is attesting to its policy of nondiscrimination regarding the handicapped.
- (21) WITHDRAWAL OF PROPOSALS: No bid/proposal may be changed or withdrawn after the stated time and date for submittal. Bids/proposals submitted shall be binding for ninety (90) days after the date of submittal.
- (22) Executed contract documents, insurance certifications, invoices and other information requested, are to be sent to:
Devin Thompson
Building and Grounds Superintendent
Public Works Department
1500 Beatty Street
Greenville, NC 27834
- (23) Questions relative to technical aspects of the work to be done should be directed to **Devin Thompson by email at dthompson@greenvillenc.gov**.

Grounds Maintenance Scope of Work

The City of Greenville intends to enter into a Grounds Maintenance Service Agreement with a responsible company for the locations listed below.

Greenwood Cemetery - 2801 E 5th St.

The services to be provided by the qualified successful **BIDDER** awarded the contract are for the entire cemetery area and shall include:

- (1) It will be mandatory that the **LANDSCAPE MAINTENANCE CONTRACTORS** provide full protection for the safety of the company employees, general public, grounds, and adjacent public thoroughfares thereof while performing the maintenance work.
- (2) Removing and disposing all litter from the cemetery prior to mowing. Mow all grass, and weed trim other vegetation on *Greenwood Cemetery* properties once a week or as directed for the duration of the contract between March and December, or as directed.
- (3) Edge all curbs, sidewalks, and roadways at Greenwood Cemetery with a mechanical rotary edger three (3) times as directed by the Building and Grounds Superintendent or designee during each year of the contract period.

Estimated Dates for edging are between May 15th-30th, August 10th-25th, and November 1st -20th.

- (4) After completing mowing and trimming at Greenwood Cemetery, the successful **BIDDER** must clean parking areas, paved areas, and markers of clippings, leaves (including Magnolia leaves), limbs and debris, and ensure that clippings, leaves, limbs and debris is not dispersed in the adjacent streets.
- (5) General public must be referred to the Cemetery Office at the Public Works Department for all work order requests to include placement of markers, monuments, borders, trees, shrubbery and/or live plantings.
- (6) The Successful **BIDDER**, his supervisory personnel and employees shall not drive across cemetery lots with vehicles. All vehicles must be parked on vehicle paths and not on any cemetery lots or cement curbing. The vehicles and equipment shall not block any roadways at any time.
- (7) Although the above Successful **BIDDER**'s tasks to be performed identify specific levels of service, there are certain periods of the year when ALL City cemeteries must be freshly groomed irrespective of their position in the maintenance cycle. These special holidays are: Easter, Mother's Day, Father's Day, Memorial Day, July 4th, Labor Day. *Greenwood Cemetery*

must be cut and groomed at least by the day prior to these specific holiday(s).

- (8) The disposal of all debris, limbs, grass, leaves, trash, etc. is to be done in accordance with all Federal, State and Local regulations.
- (9) Successful **BIDDER** shall provide solely at his/her expense any and all materials, equipment, labor, supplies, etc. needed to perform the required services.
- (10) The Successful **BIDDER** shall be solely responsible for any damages to any monument (headstone, foot marker), coping mausoleums, buildings, trees, shrubs, paved roads, curbs and gutters caused by the Successful **BIDDER** or his/her representative. All damages must be immediately reported to the Cemetery Supervisor by the successful **BIDDER**.
- (11) After having been awarded the contract and prior to beginning work, the successful **BIDDER** shall furnish documentation to the Building & Grounds Division of Public Works; a Certificate of Insurance indicating coverage as required herein, and to include liability. These certificates shall remain in effect through the duration of this contract.
- (12) The City of Greenville reserves the right to reduce or add the number of mowing cycles for any reason it deems necessary during the contract period. Any elimination or addition of cycles will be communicated to the CONTRACTOR in a timely manner. The per cycle bid price will not be adjusted in the event of any elimination or addition of cycles.
- (13) Contractor must comply with all local, state, or federal laws and ordinances associated or governing the work within this contract including Occupational Safety and Health and Health Regulations.
- (14) The Contractor shall not have the right to subcontract any part of its obligations and service requirements without the prior written authorization of the City. This authorization may be given by the Director of Public Works or designee. If any part of this work under this agreement is sublet, the subcontractor shall be required to meet all insurance requirements set forth in the Agreement. The parties stipulate that the Company will maintain each type of insurance set forth in the Agreement at a coverage equal to the amount set forth for each type of insurance. However, nothing contained herein shall relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

SECTION III GENERAL REQUIREMENTS

(1) General Intent:

It is the intent of this Agreement to provide the City with landscape maintenance of the *Greenwood Cemetery* at a level normally associated with a well-run, public and privately owned cemetery. All duties are to be performed in a respectful, safe and courteous manner.

(2) Scope:

Landscape Maintenance: The landscape maintenance contract involves litter removal, mowing, string trimming, edging, mechanical blowing, raking, limb and debris removal, and related landscape maintenance services described more fully in Section II of this bid request.

(3) Pricing:

Landscape Maintenance: **BIDDERS** are asked to provide price per mowing cycle for Greenwood Cemetery to include all work specified. The per mowing cycle price will be inclusive of all items such as edging three (3) times per contract year.

(4) Award:

Landscape Maintenance: The landscape maintenance contracts will be awarded on the basis of a successively qualified bidder from approximately April 1, 2022 until December 31, 2022. This contract can be extended for 2 additional one year periods with written agreement of the City and the Contractor.

(5) Term:

The contract shall be awarded for 2022 beginning approximately April 1, 2022 and ending December 31, 2022. This contract can be extended for two (2) additional one year periods beginning January 1 and ending December 31 each year of extension with mutual agreement of the City and Contractor.

(6) Billing and Payment:

The City will render payment within thirty (30) days of receipt of an approved monthly invoice for the previous month. The invoice is expected by the 10th of each month.

(7) **Termination:**

The City may terminate the contract for nonperformance, unacceptable performance, or for any other reason as determined by the Public Works Director or his Designee. The City will give written notice to the **CONTRACTOR** specifying areas of nonperformance or unacceptable performance and the **CONTRACTOR** shall have 10 days to rectify. In the event the condition(s) identified in any future written notice to the **CONTRACTOR** are not rectified, the City will give the **CONTRACTOR** a written notice of termination. Upon receipt, the **CONTRACTOR** is expected to remove all employees and equipment from the premises immediately.

(8) Cemetery Supervisor:

The City employs a full time supervisor responsible for all of the City's cemeteries who will assist with overseeing that the requirements of this contract are met. If assistance or further information is needed, please contact Devin Thompson, Building and Grounds Superintendent at (252) 329-4522. The **CONTRACTOR**(s) is expected to keep the City informed of work progress and plans.

(9) Contractor's Supervisor:

The **CONTRACTOR** shall furnish a competent supervisor who shall be on the jobsite and available to the City's Cemetery Supervisor or Building and Grounds Superintendent or designee at all times for the location of the **CONTRACTOR**'s work crew on cemetery property. The **CONTRACTOR**'s supervisor shall have full authority over the **CONTRACTOR**'s work crews and shall monitor and direct them responsibly. **CONTRACTOR**'s Supervisor shall have a telephone number to be contacted as needed.

(10) Labor, Equipment and Supplies:

The **CONTRACTOR** shall furnish all labor, equipment, and supplies needed to fulfill its obligation under this contract. The City will furnish no equipment, supplies, or fuel under this contract.

The **CONTRACTOR** shall cease all work within or near the cemetery when funeral or memorial services are in progress. Contact the Buildings and Grounds Superintendent or the Cemetery Supervisor at (252) 329-4522 for funeral schedules.

(11) Licenses:

The **CONTRACTOR** shall have and maintain all necessary and legally required licenses and permits to enable performance of the services.

(12) Addendum and questions:

Addendum: Any changes to the specifications will be issued as a written addendum. No oral statements, explanations, or commitments by whosoever shall be of any effect. Any issued addenda will be posted on the City's bid advertisement site. The contractor must acknowledge reading each addenda on the bid sheet.

Any questions regarding these bid specifications must be sent by email to dthompson@greenvillenc.gov.

Schedule for questions and addenda:

Last date to submit a question: Wednesday, April 6, 2022 by 5 p.m.

Questions will be answered by: Friday, April 8, 2022 by 5 p.m.

Last addenda will be posted by: Friday, April 8, 2022 by 5 p.m.

(13) Amendment:

The Contract may be amended from time to time through written agreement by both parties.

(14) Damage to Contractor's Property:

The City of Greenville shall be under no obligation to replace or in any way compensate the **CONTRACTOR** for fire, theft, vandalism or other casualty, injury or damage to equipment or property belonging to the **CONTRACTOR** while on City Property.

(15) Insurance:

- a. The successful **BIDDER** agrees to indemnify, and hold harmless the City of Greenville from and against any liability, loss, cost, damage suit, claim, or expense arising occurrence on the part of the Successful **BIDDER** to include its officers, servants, agents or employees arising from its activities, operations, and performance of services while on City property and further agrees to release and discharge the City and its Agents from all claims or liabilities arising from or caused by the Successful **BIDDER** in fulfilling its obligations under this Agreement.
- b. It is understood and agreed by the parties that the City of Greenville will assume no liability for damages, injury, or other loss to the Successful **BIDDER**, its employees or property, tools or equipment, or to other persons or properties located on City facilities resulting from the successful **BIDDER**'s activities and operations while performing those service enumerated herein. The

Successful **BIDDER** shall assume full and complete liability for any and all damages to tombstones, markers, building improvements, fences, or any other City or private properties caused by or resulting from its activities, operations, and that of its employees, agents and officers.

(16) Assignment:

The Contractor shall not have the right to subcontract any part of its obligations and service requirements without the prior written authorization of the City. This authorization may be given by the Director of Public Works or designee. If any part of this work under this agreement is sublet, the subcontractor shall be required to meet all insurance requirements set forth in the Agreement. The parties stipulate that the Company will maintain each type of insurance set forth in the Agreement at a coverage equal to the amount set forth for each type of insurance. However, nothing contained herein shall relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

SECTION IV Reference Information

All **BIDDERS** are to provide the names of three (3) references. The reference information is to include the company's name, a contract person's name with his or her title and their telephone number. This information must be included with the bid sheet.

- 1. Company name: _____
Contact person: _____
Title: _____ Phone No. _____

- 2. Company name: _____
Contact person: _____
Title: _____ Phone No. _____

- 3. Company name: _____
Contact person: _____
Title: _____ Phone No. _____

SECTION V Contractor Information

Please provide the information below with the bid sheet.

PROSPECTIVE CONTRACTOR DATA FORM

**CITY OF GREENVILLE
NORTH CAROLINA**

Company Name: _____

Address: _____

Phone Number: _____ Mobile Phone Number: _____

Company Owner: _____

Company Owner Phone Number: _____

Authorized Company Representative: _____

Title: _____

Authorized Company Representative Phone Number:

List the tools and/or equipment you would utilize to perform this contract:

Attach additional sheet or continue on back if needed:

SECTION VI: Bid Sheet for
Greenwood Cemetery
Mowing/Landscape Maintenance Contract #3

CITY OF GREENVILLE
BID PROPOSAL AGREEMENT

DESCRIPTION

BID

Landscape maintenance in *Greenwood Cemetery* per cycle

One Cycle at: _____

Note: Award will be considered based on Total for Greenwood Cemetery per cycle line item.

Addendum Acknowledgement:
Please record each Addendum Number Received for Contract # 3:

Signed: _____

Date: _____

Print Name: _____

Title: _____

STATE OF NORTH CAROLINA

AFFIDAVIT

CITY OF GREENVILLE

I, _____ (the individual attesting below), being duly authorized by and on behalf of _____ (the entity bidding on project hereinafter "Employer") after first being duly sworn hereby swears or affirms as follows:

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).
3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. (Mark- Yes or No)
 - a. YES _____, or
 - b. NO _____
4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer. This ___ day of _____, 2022.

Signature of Affiant
Print or Type Name: _____

State of North Carolina City of Greenville

Signed and sworn to (or affirmed) before me, this the _____ day of _____, 2022.

My Commission Expires:

Notary Public

(Affix Official/Notarial Seal)

**INVITATION TO BID
Informal BID # 21-22-32**

**CITY OF GREENVILLE PUBLIC WORKS DEPARTMENT
BUILDING AND GROUNDS DIVISION
MOWING/LANDSCAPE MAINTENANCE CONTRACT #3
GREENWOOD CEMETERY**

**CITY OF GREENVILLE
NORTH CAROLINA**



**PUBLIC WORKS DEPARTMENT
1500 BEATTY STREET, GREENVILLE, NC**

BID DUE DATE: THURSDAY APRIL 14, 2022 @ 2:00 PM

CONTACT PERSONS

QUESTIONS REGARDING THE BID PACKAGE:

*Mrs. Angelene E. Brinkley
Interim Financial Services Manager
Telephone: (252) 329-4862
Fax: (252) 329-4464
Email: aebrinkley@greenvillenc.gov*

QUESTIONS REGARDING THE SPECIFICATIONS:

*Mr. Devin Thompson
Building and Grounds Superintendent
Telephone: (252) 329-4522
Fax: (252) 329-4535
Email: dthompson@greenvillenc.gov*

CITY OF GREENVILLE
ADVERTISEMENT FOR BIDS FOR CONTRACT #3

Sealed bids will be received by the City of Greenville until Thursday, April 14, 2022@ 2:00 p.m. at the Public Works Department located at 1500 Beatty Street, Greenville, NC 27834 for Contract #3 (Mowing of Greenwood Cemetery). All bids will be marked with the date and time they are received by reception staff. Bids will not be opened and read aloud at this time. Bids will be evaluated and awarded at a later date.

A pre-bid conference will not be held.

The City of Greenville reserves the right to reject any or all bids, waive any informality and award contracts that appear to be in its best interest. The right is reserved to hold any or all proposals for a period of ninety (90) days from the bid opening thereof.

From the date of this advertisement until the date and time bids are due, the specifications of the proposed work and/or a complete description of the apparatus, supplies, materials or equipment are and will continue to be on file in the office of the **City of Greenville Interim Financial Services Manager, 201 W. 5th Street, Greenville, NC 27834**, or the Public Works Department, 1500 Beatty Street, Greenville N.C. during regular business hours, and available to prospective bidders. Inquiries should be directed to the Financial Services -Manager at the above address --- **Telephone (252) 329-4862**. Minority/Women owned businesses are encouraged to submit proposals.

Angelene E. Brinkley
Interim Financial Services Manager
City of Greenville
201 W. 5th Street
Greenville, NC 27834

**ADVERTISEMENT FOR BIDS
LANDSCAPE MAINTENANCE FOR
GREENWOOD CEMETERY
GREENVILLE, NORTH CAROLINA**

INTRODUCTION

The City of Greenville desires to enter into a Landscape Maintenance Contract for Greenwood Cemetery (PWD Mowing/Landscape Maintenance Contract #3). All aspects of cemetery management are very sensitive and detail oriented including mowing and the general appearance of Greenwood Cemetery. The successful **BIDDER** will be challenged to complete the terms of the contract while ensuring these sensitivities and details are respected and met with the highest standards.

SECTION I

- (1) Bids for Contract #3 shall be submitted to the Public Works Department, 1500 Beatty St., Greenville, North Carolina, 27834, **no later than Thursday, April 14, 2022 by 2:00 PM.** The words "**Mowing/Landscape Maintenance for Greenwood Cemetery**" and Attn. Devin Thompson shall appear on the outside of the sealed envelope. The bids will not be opened at this time but will be reviewed and contracts will be awarded at a later date.
- (2) The proposal shall be bid as a per cycle price for mowing/landscape maintenance per specifications
- (3) No charge will be allowed for Federal Excise and Transportation tax from which the City is exempt.
- (4) **No bid proposal may be changed or withdrawn after April 14, 2022 @ 2:00 PM.** Any modifications or withdrawals requested before this time shall be acceptable only when such request is made in writing to Angelene E. Brinkley, Interim Financial Services Manager of the City of Greenville.
- (5) **ACCEPTANCE OF PROPOSALS:** The City of Greenville reserves the right to award to the Firm who will best serve the interests of the City. The City also reserves the right to waive minor variations in the specifications and in the bidding process, as well as to accept in whole or in part such proposal(s) where it deems it advisable in protection of the best interests of the City. The City further reserves the right to accept or reject any or all bids/proposals, and to award or not award a contract based on this proposal.

- (6) Contract is expected to begin as directed approximately April 1, 2022 and end on December 31, 2022 for the first year. The contract can be extended annually for up to 2 additional years with written agreement by the City and the Contractor starting annually on January 1st and ending December 31st.
- (7) Firms submitting a bid are attesting that no official or employee of the City of Greenville is directly or indirectly interested in this proposal for any reason of personal gain.
- (8) By submitting a proposal, the firm is attesting that it is an Equal Opportunity Employer.
- (9) Firms submitting a proposal are attesting that they have taken affirmative action to ensure equality of opportunity in all aspects of employment.
- (10) Minority and Women Business Enterprise (M/WBE):

It is the policy of the City of Greenville to provide minorities and woman equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchase, and professional and personal service contracts. In accordance with this policy, the City has adopted a Minority and Woman Business Enterprise (MWBE) Plan and subsequent program, outlining verifiable goals.

The City established a 4% Minority Business Enterprise (MBE) and 4% Women Business Enterprise (WBE) goal for the participation of MWBE firms in supplying goods and services for the completion of this project. All firms submitting bids agree to utilize minority and women-owned suppliers and service providers whenever possible.

Questions regarding the City's MWBE Program should be directed MWBE Office at (252) 329-4862

- (11) The **BIDDER** is specifically advised that any person, firm, or other party, to whom it is proposed to award a subcontract under this contract, must be acceptable to the City of Greenville, hereinafter referred to as the **OWNER**. See also Section III, Number 16.
- (12) The **OWNER** shall make such investigations as he sees necessary to determine the ability of the **BIDDER** to perform the work, and the **BIDDER** shall furnish to the **OWNER** all such information and data for this purpose as the **OWNER** may request. The **OWNER** reserves the right to reject any Bid if the evidence submitted by, or investigation of such **BIDDER** fails to satisfy the **OWNER** that each **BIDDER** is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.

- (13) The **BIDDER'S** attention is directed to the fact that all applicable State law, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.
- (14) The **CONTRACTOR** shall not commence work under this contract until he has obtained all insurance required nor shall the **CONTRACTOR** allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been obtained and approved.
- a. Worker's Compensation:
- The **CONTRACTOR** shall acquire and maintain during the life of this contract, Worker's Compensation Insurance for all employees employed at the site of the project under this contract, or as otherwise required by North Carolina General Statutes.
- b. Public Liability and Property Damage:
- The **CONTRACTOR** shall acquire and maintain during the life of this contract such Public Liability and Property Damage Insurance as shall protect from claims for damage for personal injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operation be by himself or by any subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall not be less than \$500,000 for injuries, subject to the same limits per person and \$1,000,000 for property damage or otherwise needed to protect the interests of the **OWNER**. The City of Greenville shall be named as an additional insured on all coverage.
- c. Other Insurance:
- The **CONTRACTOR** shall furnish such additional insurance as may be required by the General Statutes of North Carolina, including motor vehicle insurance in amounts not less than statutory limits.
- d. Cancellation:
- Each certificate of insurance shall bear the provision that the policy cannot be altered or canceled in less than ten (10) days after mailing written notice to the assured of such alteration or cancellation, sent registered mail.

e. Proof of Carriages:

The **CONTRACTOR** shall furnish the **OWNER** with satisfactory proof of carriage of the insurance required prior to beginning work on this contract.

(15) The City of Greenville has adopted a Local Preference Policy, Resolution No. 056-13, and a Professional and other Services Policy, Resolution No. 057-13 that will pertain to this project. For more information, please see www.greenvillenc.gov/financialservices/purchasingdivision on the City of Greenville's webpage.

(16) E-Verify Compliance

- a) The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Contractor utilizes a Subcontractor, the Contractor shall require the Subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Contractor represents that the Contractor and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
- b) BIDDER acknowledges that compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes is required by the Contractor and its Subcontractors by North Carolina law and the provisions of the Contract Documents. The BIDDER represents that the BIDDER and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Article 2 of Chapter 64 of the North Carolina General Statutes requires employers, that transact business in the State of North Carolina and employ 25 or more employees in the State of North Carolina, to electronically verify the legal employment status of an employee through the federal E-Verify program after hiring the employee to work in the State of North Carolina.
- c) All firms submitting bids are required to complete a new Vendor Self-Service Profile, and associated documents as required upon acceptance of mowing contract.

(17) IRAN DIVESTMENT ACT:

IRAN DIVESTMENT ACT: Vendor certifies that it is not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58. The vendor will not utilize on the contract any subcontractor that is listed on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58.

- (18) NON-DISCRIMINATION: The City of Greenville does not discriminate on the basis of race, color, sex, national origin, religion, age or disability. Any contractors or vendors who provide services, programs or goods to the City are expected to fully comply with the City's non-discrimination policy.
- (19) NON-COLLUSION: Respondents, by submitting a signed proposal, certify that the accompanying submission is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under North Carolina or United States law.
- (20) FEDERAL LAW: Federal law (Rehabilitation Act and ADA) prohibits handicapped discrimination by all governmental units. By submitting a proposal, the vendor is attesting to its policy of nondiscrimination regarding the handicapped.
- (21) WITHDRAWAL OF PROPOSALS: No bid/proposal may be changed or withdrawn after the stated time and date for submittal. Bids/proposals submitted shall be binding for ninety (90) days after the date of submittal.
- (22) Executed contract documents, insurance certifications, invoices and other information requested, are to be sent to:
Devin Thompson
Building and Grounds Superintendent
Public Works Department
1500 Beatty Street
Greenville, NC 27834
- (23) Questions relative to technical aspects of the work to be done should be directed to **Devin Thompson by email at dthompson@greenvillenc.gov**.

Grounds Maintenance Scope of Work

The City of Greenville intends to enter into a Grounds Maintenance Service Agreement with a responsible company for the locations listed below.

Greenwood Cemetery - 2801 E 5th St.

The services to be provided by the qualified successful **BIDDER** awarded the contract are for the entire cemetery area and shall include:

- (1) It will be mandatory that the **LANDSCAPE MAINTENANCE CONTRACTORS** provide full protection for the safety of the company employees, general public, grounds, and adjacent public thoroughfares thereof while performing the maintenance work.
- (2) Removing and disposing all litter from the cemetery prior to mowing. Mow all grass, and weed trim other vegetation on *Greenwood Cemetery* properties once a week or as directed for the duration of the contract between March and December, or as directed.
- (3) Edge all curbs, sidewalks, and roadways at Greenwood Cemetery with a mechanical rotary edger three (3) times as directed by the Building and Grounds Superintendent or designee during each year of the contract period.

Estimated Dates for edging are between May 15th-30th, August 10th-25th, and November 1st -20th.

- (4) After completing mowing and trimming at Greenwood Cemetery, the successful **BIDDER** must clean parking areas, paved areas, and markers of clippings, leaves (including Magnolia leaves), limbs and debris, and ensure that clippings, leaves, limbs and debris is not dispersed in the adjacent streets.
- (5) General public must be referred to the Cemetery Office at the Public Works Department for all work order requests to include placement of markers, monuments, borders, trees, shrubbery and/or live plantings.
- (6) The Successful **BIDDER**, his supervisory personnel and employees shall not drive across cemetery lots with vehicles. All vehicles must be parked on vehicle paths and not on any cemetery lots or cement curbing. The vehicles and equipment shall not block any roadways at any time.
- (7) Although the above Successful **BIDDER**'s tasks to be performed identify specific levels of service, there are certain periods of the year when ALL City cemeteries must be freshly groomed irrespective of their position in the maintenance cycle. These special holidays are: Easter, Mother's Day, Father's Day, Memorial Day, July 4th, Labor Day. *Greenwood Cemetery*

must be cut and groomed at least by the day prior to these specific holiday(s).

- (8) The disposal of all debris, limbs, grass, leaves, trash, etc. is to be done in accordance with all Federal, State and Local regulations.
- (9) Successful **BIDDER** shall provide solely at his/her expense any and all materials, equipment, labor, supplies, etc. needed to perform the required services.
- (10) The Successful **BIDDER** shall be solely responsible for any damages to any monument (headstone, foot marker), coping mausoleums, buildings, trees, shrubs, paved roads, curbs and gutters caused by the Successful **BIDDER** or his/her representative. All damages must be immediately reported to the Cemetery Supervisor by the successful **BIDDER**.
- (11) After having been awarded the contract and prior to beginning work, the successful **BIDDER** shall furnish documentation to the Building & Grounds Division of Public Works; a Certificate of Insurance indicating coverage as required herein, and to include liability. These certificates shall remain in effect through the duration of this contract.
- (12) The City of Greenville reserves the right to reduce or add the number of mowing cycles for any reason it deems necessary during the contract period. Any elimination or addition of cycles will be communicated to the CONTRACTOR in a timely manner. The per cycle bid price will not be adjusted in the event of any elimination or addition of cycles.
- (13) Contractor must comply with all local, state, or federal laws and ordinances associated or governing the work within this contract including Occupational Safety and Health and Health Regulations.
- (14) The Contractor shall not have the right to subcontract any part of its obligations and service requirements without the prior written authorization of the City. This authorization may be given by the Director of Public Works or designee. If any part of this work under this agreement is sublet, the subcontractor shall be required to meet all insurance requirements set forth in the Agreement. The parties stipulate that the Company will maintain each type of insurance set forth in the Agreement at a coverage equal to the amount set forth for each type of insurance. However, nothing contained herein shall relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

SECTION III GENERAL REQUIREMENTS

(1) General Intent:

It is the intent of this Agreement to provide the City with landscape maintenance of the *Greenwood Cemetery* at a level normally associated with a well-run, public and privately owned cemetery. All duties are to be performed in a respectful, safe and courteous manner.

(2) Scope:

Landscape Maintenance: The landscape maintenance contract involves litter removal, mowing, string trimming, edging, mechanical blowing, raking, limb and debris removal, and related landscape maintenance services described more fully in Section II of this bid request.

(3) Pricing:

Landscape Maintenance: **BIDDERS** are asked to provide price per mowing cycle for Greenwood Cemetery to include all work specified. The per mowing cycle price will be inclusive of all items such as edging three (3) times per contract year.

(4) Award:

Landscape Maintenance: The landscape maintenance contracts will be awarded on the basis of a successively qualified bidder from approximately April 1, 2022 until December 31, 2022. This contract can be extended for 2 additional one year periods with written agreement of the City and the Contractor.

(5) Term:

The contract shall be awarded for 2022 beginning approximately April 1, 2022 and ending December 31, 2022. This contract can be extended for two (2) additional one year periods beginning January 1 and ending December 31 each year of extension with mutual agreement of the City and Contractor.

(6) Billing and Payment:

The City will render payment within thirty (30) days of receipt of an approved monthly invoice for the previous month. The invoice is expected by the 10th of each month.

(7) **Termination:**

The City may terminate the contract for nonperformance, unacceptable performance, or for any other reason as determined by the Public Works Director or his Designee. The City will give written notice to the **CONTRACTOR** specifying areas of nonperformance or unacceptable performance and the **CONTRACTOR** shall have 10 days to rectify. In the event the condition(s) identified in any future written notice to the **CONTRACTOR** are not rectified, the City will give the **CONTRACTOR** a written notice of termination. Upon receipt, the **CONTRACTOR** is expected to remove all employees and equipment from the premises immediately.

(8) **Cemetery Supervisor:**

The City employs a full time supervisor responsible for all of the City's cemeteries who will assist with overseeing that the requirements of this contract are met. If assistance or further information is needed, please contact Devin Thompson, Building and Grounds Superintendent at (252) 329-4522. The **CONTRACTOR(s)** is expected to keep the City informed of work progress and plans.

(9) **Contractor's Supervisor:**

The **CONTRACTOR** shall furnish a competent supervisor who shall be on the jobsite and available to the City's Cemetery Supervisor or Building and Grounds Superintendent or designee at all times for the location of the **CONTRACTOR's** work crew on cemetery property. The **CONTRACTOR's** supervisor shall have full authority over the **CONTRACTOR's** work crews and shall monitor and direct them responsibly. **CONTRACTOR's** Supervisor shall have a telephone number to be contacted as needed.

(10) **Labor, Equipment and Supplies:**

The **CONTRACTOR** shall furnish all labor, equipment, and supplies needed to fulfill its obligation under this contract. The City will furnish no equipment, supplies, or fuel under this contract.

The **CONTRACTOR** shall cease all work within or near the cemetery when funeral or memorial services are in progress. Contact the Buildings and Grounds Superintendent or the Cemetery Supervisor at (252) 329-4522 for funeral schedules.

(11) **Licenses:**

The **CONTRACTOR** shall have and maintain all necessary and legally required licenses and permits to enable performance of the services.

(12) Addendum and questions:

Addendum: Any changes to the specifications will be issued as a written addendum. No oral statements, explanations, or commitments by whosoever shall be of any effect. Any issued addenda will be posted on the City's bid advertisement site. The contractor must acknowledge reading each addenda on the bid sheet.

Any questions regarding these bid specifications must be sent by email to dthompson@greenvillenc.gov.

Schedule for questions and addenda:

Last date to submit a question: Wednesday, April 6, 2022 by 5 p.m.

Questions will be answered by: Friday, April 8, 2022 by 5 p.m.

Last addenda will be posted by: Friday, April 8, 2022 by 5 p.m.

(13) Amendment:

The Contract may be amended from time to time through written agreement by both parties.

(14) Damage to Contractor's Property:

The City of Greenville shall be under no obligation to replace or in any way compensate the **CONTRACTOR** for fire, theft, vandalism or other casualty, injury or damage to equipment or property belonging to the **CONTRACTOR** while on City Property.

(15) Insurance:

a. The successful **BIDDER** agrees to indemnify, and hold harmless the City of Greenville from and against any liability, loss, cost, damage suit, claim, or expense arising occurrence on the part of the Successful **BIDDER** to include its officers, servants, agents or employees arising from its activities, operations, and performance of services while on City property and further agrees to release and discharge the City and its Agents from all claims or liabilities arising from or caused by the Successful **BIDDER** in fulfilling its obligations under this Agreement.

b. It is understood and agreed by the parties that the City of Greenville will assume no liability for damages, injury, or other loss to the Successful **BIDDER**, its employees or property, tools or equipment, or to other persons or properties located on City facilities resulting from the successful **BIDDER's** activities and operations while performing those service enumerated herein. The

Successful **BIDDER** shall assume full and complete liability for any and all damages to tombstones, markers, building improvements, fences, or any other City or private properties caused by or resulting from its activities, operations, and that of its employees, agents and officers.

(16) Assignment:

The Contractor shall not have the right to subcontract any part of its obligations and service requirements without the prior written authorization of the City. This authorization may be given by the Director of Public Works or designee. If any part of this work under this agreement is sublet, the subcontractor shall be required to meet all insurance requirements set forth in the Agreement. The parties stipulate that the Company will maintain each type of insurance set forth in the Agreement at a coverage equal to the amount set forth for each type of insurance. However, nothing contained herein shall relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

SECTION IV Reference Information

All **BIDDERS** are to provide the names of three (3) references. The reference information is to include the company's name, a contract person's name with his or her title and their telephone number. This information must be included with the bid sheet.

1. Company name: Town of Ayden
Contact person: Stephen Smith
Title: Interim Public Works Director Phone No. 252-481-5828

2. Company name: Town of Winterville
Contact person: Ben Williams
Title: Assistant Town Manager Phone No. 252-756-2412

3. Company name: City of Greenville
Contact person: Frank Livesay
Title: Parks Facilities Supervisor Phone No. 252-329-4556

SECTION V Contractor Information

Please provide the information below with the bid sheet.

PROSPECTIVE CONTRACTOR DATA FORM

**CITY OF GREENVILLE
NORTH CAROLINA**

Company Name: Precision Lawn Care and Landscaping, Inc

Address: 5118 Country Lane, Grifton, NC 28530

Phone Number: 252-746-2202 Mobile Phone Number: 252-531-1841

Company Owner: David Rogerson

Company Owner Phone Number: 252-746-2202

Authorized Company Representative: Maria Rogerson

Title: Secretary

Authorized Company Representative Phone Number:
252-341-7953

List the tools and/or equipment you would utilize to perform this contract:

Attach additional sheet or continue on back if needed:

3-Grasshopper 400D, 3-Grasshopper 430D, 3-Grasshopper 322D

30-Stihl FS111 Weedeater, 5-Stihl FR111 Edgers, 4-Stihl BR600 Blowers

2 Ventrac 4500

SECTION VI: Bid Sheet for

Greenwood Cemetery

Mowing/Landscape Maintenance Contract #3

**CITY OF GREENVILLE
BID PROPOSAL AGREEMENT**

DESCRIPTION

BID

Landscape maintenance in Greenwood Cemetery per cycle

One Cycle at: 2400.00

Note: Award will be considered based on Total for Greenwood Cemetery per cycle line item.

Addendum Acknowledgement:
Please record each Addendum Number Received for Contract # 3:

Signed: Maria A. Rogerson

Date: 04/13/2022

Print Name: Maria A. Rogerson

Title: Secretary

STATE OF NORTH CAROLINA

AFFIDAVIT

CITY OF GREENVILLE

I, Maria A. Rogerson (the individual attesting below), being duly authorized by and on behalf of Precision Lawn Care and Landscaping Inc. (the entity bidding on project hereinafter "Employer") after first being duly sworn hereby swears or affirms as follows:

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).
3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. (Mark- Yes or No)
 - a. YES X , or
 - b. NO
4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer.
This 13th day of April , 2022.

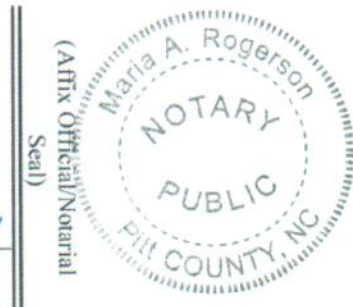
Signature of Affiant
Print or Type Name: Maria A. Rogerson

State of North Carolina City of Greenville

Signed and sworn to (or affirmed) before me, this the 13th day of April , 2022.

My Commission Expires:
 6-24-23

 Maria A. Rogerson
Notary Public



City of Greenville Public Works Department
Bid Tab

Repost of ITB 03/29/2022

Company Name	Reference Sheet	Contractor Information Sheet	E-Verify Form	Addendum Acknowledged	Bid Sheet Price
Precision Lawn Care and Landscaping, Inc.	Included	Included	Included Completed	N/A	\$2400.00/ Cycle
					No Other Bids Received
					**
					**
					**
					**
					**
					**
					**
Bid Certified by: D. Thompson					**
Buildings And Grounds Superintendent					**
Signature	Date				**
<i>Devin Thompson</i>	04/08/2022				**



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Third Year Renewal of Contract with Pitt County for Pitt Area Transit (PATS) to Provide Paratransit Services for Fiscal Year 2022-2023

Explanation: Greenville Area Transit (GREAT) provides safe and reliable fixed route services to all citizens within the City limits of Greenville. GREAT contracts with Pitt County's Pitt Area Transit (PATS) to provide services for ADA passengers living inside the City limits. This contract with Pitt Area Transit will provide ADA passengers with door-to-door services to assist them in getting to their destination safely.

PATS provides ADA services at a minimum during the same hours that GREAT operates.

Fiscal Note: The allocation for the FY 2022-23 contract with Pitt Area Transit (PATS) is \$332,431.50, and funds are provided within the Public Works Transit budget. This contract is reimbursed by the Federal Transportation Administration's (FTA) 5307 fund, and 80% of the total costs of this contract are eligible for reimbursement from FTA. The maximum amount of the City's contribution is \$66,500.

The City will pay PATS on a reimbursement basis for rides that begin and end within the city limits. The reimbursement shall be based on the following:

The City (GREAT) shall pay Pitt Area Transit (PATS) sixteen dollars (\$16) per passenger when GREAT is fare-based and eighteen dollars (\$18) for a passenger "no-show" fee or if the GREAT Transit system is fare-free.

Recommendation: City Council authorize renewal of the professional services contract with Pitt Area Transit (PATS) so that ADA services to the passengers of Greenville Area Transit (GREAT) can continue to be provided.

ATTACHMENTS

 [PATS THIRD YEAR RENEWAL CONTRACT - CC AGENDA REV. 5-27-22.pdf](#)

**RENEWAL OF CONTRACT FOR SERVICES
BETWEEN PITT COUNTY
AND CITY OF GREENVILLE (GREAT)**

THIS THIRD RENEWAL OF CONTRACT FOR SERVICES is made and entered into this the 1st day of July, 2022 between Pitt County, a political subdivision of the State of North Carolina, (hereinafter referred to as the "County") and CITY OF GREENVILLE (GREAT BUS) (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, County and Contractor entered into a Contract for Services dated July 1st, 2019 for the purpose of complimentary ADA Para Transit Services, herein called Original Agreement, which is attached hereto as Exhibit A and incorporated into this Renewal as if fully set forth herein; and

WHEREAS, County and Contractor entered into a Renewal of Contract effective July 1, 2020.

WHEREAS, County and Contractor desire at this time to renew said Original Agreement as hereinafter set forth;

NOW, THEREFORE, it is mutually agreed that the Original Agreement shall be renewed as follows:

- a. The Original Agreement shall be renewed and shall exist and continue until the 30th day of June, 2023.
- b. All of the terms and provisions of the Original Agreement except as herein modified, are to remain in full force and effect, and are made a part of this Renewal of Contract for Services;

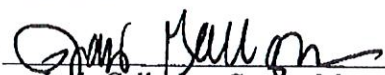
In consideration of the mutual promises and benefits set forth herein, County and Contractor agree to be bound by the terms of this Renewal of Contract for Services, as evidenced by the signatures below.

Contractor: CITY OF GREENVILLE


Finance Officer

BY: _____

PITT COUNTY

BY: 
James Gallagher, County Manager

APPROVED AS TO FORM


County Attorney

Page 1 of 1

Exhibit A

**SECOND RENEWAL OF CONTRACT FOR SERVICES
BETWEEN PITT COUNTY
AND CITY OF GREENVILLE (GREAT)**

THIS SECOND RENEWAL OF CONTRACT FOR SERVICES is made and entered into this the 1st day of JULY, 2021 between Pitt County, a political subdivision of the State of North Carolina, (hereinafter referred to as the "County") and CITY OF GREENVILLE (GREAT BUS) (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, County and Contractor entered into a Contract for Services dated JULY 1st, 2019 for the purpose of complimentary ADA Para transit services, herein called Original Agreement, which is attached hereto as Exhibit A and incorporated into this Renewal as if fully set forth herein; and

WHEREAS, County and Contractor entered into a Renewal of Contract effective JULY 1st, 2020.

WHEREAS, County and Contractor desire at this time to renew said Original Agreement as hereinafter set forth;

NOW, THEREFORE, it is mutually agreed that the Original Agreement shall be renewed as follows:

- a. The Original Agreement shall be renewed and shall exist and continue until the 30th day of JUNE, 2022.
- b. All of the terms and provisions of the Original Agreement except as herein modified, are to remain in full force and effect, and are made a part of this Renewal of Contract for Services;

In consideration of the mutual promises and benefits set forth herein, County and Contractor agree to be bound by the terms of this Renewal of Contract for Services, as evidenced by the signatures below.

Contractor: CITY OF GREENVILLE

BY:


Ann E. Wall, City Manager

PITT COUNTY

BY:


D. Scott Elliott, County Manager

APPROVED AS TO FORM


County Attorney

Page 1 of 1



**RENEWAL OF CONTRACT FOR SERVICES
BETWEEN PITT COUNTY
AND CITY OF GREENVILLE (GREAT BUS)**

THIS RENEWAL OF CONTRACT FOR SERVICES is made and entered into this the 1 day of JULY, 2020 between Pitt County, a political subdivision of the State of North Carolina, (hereinafter referred to as the "County") and CITY OF GREENVILLE (GREAT BUS) (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, County and Contractor entered into a Contract for Services dated JULY 1, 2019 for the purpose of transportation services, herein called Original Agreement, which is attached hereto as Exhibit A and incorporated into this Renewal as if fully set forth herein; and

WHEREAS, County and Contractor desire at this time to renew said Original Agreement as hereinafter set forth;

NOW, THEREFORE, it is mutually agreed that the Original Agreement shall be renewed as follows:

- a. The Original Agreement shall be renewed and shall exist and continue until the 30 day of JUNE 30, 2021.
- b. All of the terms and provisions of the Original Agreement except as herein modified, are to remain in full force and effect, and are made a part of this Renewal of Contract for Services;

In consideration of the mutual promises and benefits set forth herein, County and Contractor agree to be bound by the terms of this Renewal of Contract for Services, as evidenced by the signatures below.

Contractor:
CITY OF GREENVILLE

BY: 

Ann E. Wall

PITT COUNTY

BY: 

D. Scott Elliott, County Manager

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

Page 1 of 1


Date of Filing

APPROVED AS TO FORM


County Attorney

**CONTRACT FOR SERVICES
BETWEEN PITT COUNTY
AND
CITY OF GREENVILLE**

THIS SUBAWARD AGREEMENT (this "Agreement") is entered into ____ day of _____, 2019, by and between the City of Greenville, (hereinafter referred to as "Contractor") and Sub-recipient Pitt County, a political subdivision of the State of North Carolina, (hereinafter referred to as the "County").

WITNESSTH:

WHEREAS, Contractor desires assistance with curb to curb and ADA reasonable accommodation transports; and

WHEREAS, County possesses the expertise and experience to assist Contractor in such capacity;

NOW THEREFORE, in consideration of the mutual promises of the parties hereto, and other good and valuable consideration the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Services. The County shall provide the services listed in EXHIBIT C attached hereto and incorporated by reference.

WHEREAS, certain information required by the City Uniform Guidance, to be included in this Agreement with respect to the Subaward is set forth in the Subaward Data attached hereto as Exhibit B and is incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and County hereby agree as follows:

1. TERM. This Agreement shall cover the period of time from July 1, 2019 (the "Effective Date") through June 30, 2020, unless earlier terminated by either party in accordance with the terms of this Agreement (such period of performance, the "Agreement Term").

2. SCOPE OF SERVICES AND BUDGET; PRIOR APPROVAL FOR CHANGES.

- a. Scope of Services and Budget. County shall, in a satisfactory manner as determined by City, perform all activities described in the scope of services as approved by City and attached hereto as Exhibit C, as may be amended from time to time (the "Approved Services") in accordance with the program budget as approved by City and attached hereto as Exhibit D, as may be amended from time to time (the "Approved Budget").

b. Prior Approval for Changes. County may not transfer allocated funds among cost categories within a budgeted program account without the prior written approval of City; nor shall County make any changes, directly or indirectly, in program design or in the Approved Services or in the Approved Budget without the prior written approval of City.

3. COMPENSATION.

a. Contractor shall pay County at a flat rate of sixteen dollars (\$16.00) per client ADA complementary par-transit transport (individual client is responsible for the supplementary \$2.00 fee) and an eighteen dollar (\$18.00) client "no-show" fee for services rendered under this program. The particular amount of time may vary from day to day or week to week. County shall submit an invoice detailing the trips, miles and passengers transported hereunder. Contractor shall pay such bill within thirty-(30) days of receipt.

b. Invoices. On or before the twentieth (20th) day of each month and in any event no later than thirty (30) days after the earlier of the expiration or termination of this Agreement, County shall submit invoices, for the most recent month ended, to City, setting forth actual expenditures of County in accordance with this Agreement. Within ten (10) working days from the date it receives such invoice, City may disapprove the requested compensation. If the compensation is so disapproved, City shall notify County as to the disapproval. If payment is approved, no notice will be given.

c. Contingency. The payment of funds to County under the terms of this Agreement shall be contingent on the receipt of such funds by City from applicable state and federal funding sources and shall be subject to County's continued eligibility to receive funds under the applicable provisions of state and federal laws and the Notice of Prime Award. If the amount of funds that City receives from state and federal funding sources is reduced, City reserves the right to reduce the amount of funds awarded under, or to terminate, this Agreement. City also reserves the right to deny payment for County's expenditures for Approved Services where invoices and/or other reports are not submitted by the deadlines specified Sections 3(b) above.

4. FINANCIAL ACCOUNTABILITY AND GRANT ADMINISTRATION.

a. Financial Management. County shall maintain a financial management system and financial records and shall administer funds received pursuant to this Agreement in accordance with all applicable federal and state requirements, including without limitation: [(i) the City Uniform Guidance and (ii) the Notice of Prime Award]. County shall adopt such additional financial management procedures as may from time to time be prescribed by City if required by applicable laws, regulations or guidelines from its federal and state government funding sources. County shall maintain detailed, itemized documentation and records of all income received and expenses incurred pursuant to this Agreement.

b. Limitations on Expenditures. County shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided prior to the Effective Date, or following the earlier of the expiration or termination of this Agreement. City shall only reimburse County for documented expenditures incurred during the Agreement Term that are: (i)

reasonable and necessary to carry out the City Family Planning Services; (ii) documented by contracts or other evidence of liability consistent with established City and County procedures; and (iii) incurred in accordance with all applicable requirements for the expenditure of funds payable under this Agreement.

c. Indirect Cost Rate. The Subaward Data attached hereto as Exhibit B contains information on City's indirect cost rate under the Notice of Prime Award. The indirect cost rate information, if any, indicated in the Approved Budget attached hereto as Exhibit D shall apply to the Subaward.

d. Financial and Other Reports. County shall submit to City such reports and back-up data as may be required by FTA or City, including without limitation such reports which enable City to submit its own quarterly financial and annual programmatic reports to FTA.

This provision shall survive the expiration or termination of this Agreement with respect to any reports which County is required to submit to City following the expiration or termination of this Agreement.

e. Improper Payments. Any item of expenditure by County under the terms of this Agreement which is found by auditors, investigators, and other authorized representatives of City, FTA, the U.S. Government Accountability Office or the Comptroller General of the United States to be improper, unallowable, in violation of federal or state law or the terms of the Notice of Prime Award or this Agreement, or involving any fraudulent, deceptive, or misleading representations or activities of County, shall become County's liability, to be paid by County from funds other than those provided by City under this Agreement or any other agreements between City and County. This provision shall survive the expiration or termination of this Agreement.

f. Audited Financial Statements. In any fiscal year in which County expends \$750,000 or more in federal awards during such fiscal year, including awards received as a County, County must comply with the federal audit requirements contained in the Uniform Guidance, including the preparation of an audit by an independent Certified Public Accountant in accordance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501-7507, and with Generally Accepted Accounting Principles. If County expends less than \$750,000 in federal awards in any fiscal year, it is exempt from federal audit requirements, but its records must be available for review by City and appropriate officials of FTA, the U.S. Government Accountability Office and the Comptroller General of the United States, and it must still have a financial audit performed for that year by an independent Certified Public Accountant. County shall provide City with a copy of County's most recent audited financial statements, federal Single Audit report, if applicable (including financial statements, schedule of expenditures of federal awards, schedule of findings and questioned costs, summary of prior audit findings, and corrective action plan, if applicable), and management letter within thirty (30) days after execution of this Agreement and thereafter within nine (9) months following the end of County's most recently ended fiscal year.

g. Closeout. Final payment request(s) under this Agreement must be received by City no later than thirty (30) days from the earlier of the expiration date or termination date of this Agreement. No payment request will be accepted by City after this date without authorization from City. In consideration of the execution of this Agreement by City, County agrees that acceptance of final payment from City will constitute an agreement by County to release and forever discharge City, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which County has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this Agreement. County's obligations to City under this Agreement shall not terminate until all closeout requirements are completed to the satisfaction of City. Such requirements shall include, without limitation, submitting final reports to City and providing any closeout-related information requested by City by the deadlines specified by City. This provision shall survive the expiration or termination of this Agreement.

5. COOPERATION IN MONITORING AND EVALUATION.

a. City Responsibilities. City shall monitor, evaluate and provide guidance and direction to County in the conduct of Approved Services performed under this Agreement. City has the responsibility to determine whether County has spent funds in accordance with applicable laws, regulations, including the federal audit requirements and agreements and shall monitor the activities of County to ensure that County has met such requirements. City may require County to take corrective action if deficiencies are found.

b. County Responsibilities.

i. County shall permit City to carry out monitoring and evaluation activities, including any performance measurement system required by applicable law, regulation, funding sources guidelines or by the terms and conditions of the applicable Notice of Prime Award, and County agrees to ensure, to the greatest extent possible, the cooperation of its agents, employees and board members in such monitoring and evaluation efforts. This provision shall survive the expiration or termination of this Agreement.

ii. County shall cooperate fully with any reviews or audits of the activities under this Agreement by authorized representatives of City, FTA, the U.S. Government Accountability Office or the Comptroller General of the United States and County agrees to ensure to the extent possible the cooperation of its agents, employees and board members in any such reviews and audits. This provision shall survive the expiration or termination of this Agreement.

6. RECORD RETENTION AND ACCESS. County shall maintain all records, books, papers and other documents related to its performance of Approved Services under this Agreement (including without limitation personnel, property, financial and medical records) for a period of 3 years following the date that City makes the last payment to County under this Agreement, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Agreement. County shall make all records,

books, papers and other documents that relate to this Agreement available at all reasonable times for inspection, review and audit by the authorized representatives of City, FTA, the U.S. Government Accountability Office and the Comptroller General of the United States.

7. INDEPENDENT CONTRACTOR RELATIONSHIP. The relationship of County to City is that of an independent contractor and not of an employee/employer. It is expressly understood that any individual performing services under this Agreement on behalf of County shall not be deemed to be an employee or independent contractor of City, and such individual shall not be entitled to tax withholding, workers' compensation, unemployment compensation or any employee benefits, statutory or otherwise, from City. County agrees that it is solely responsible for the reporting and payment of income, social security and other employment taxes due to the proper taxing authorities with respect to such personnel. County agrees to indemnify, defend and hold harmless City and its directors, officers, employees and agents from and against any and all costs, losses, damages, liabilities, expenses, demands and judgments, including court costs and attorney's fees, relating to the reporting and payment of income, social security and other employment taxes and the provision of employee benefits (including but not limited to workers' compensation, unemployment insurance and health insurance coverage or assessable payments required under the Patient Protection and Affordable Care Act, P.L.111-148) with respect to such individual performing services under this Agreement on behalf of County. This provision shall survive the expiration or termination of this Agreement.

8. COMPLIANCE WITH GRANT AGREEMENT AND APPLICABLE LAWS.

a. Compliance with Prime Award and Subaward. County shall perform all activities funded by this Agreement in accordance with: (i) the Notice of Prime Award attached hereto as Exhibit A, including any amendments thereto; (ii) the Subaward Data attached hereto as Exhibit B, including any amendments thereto; (iii) the Approved Services attached hereto as Exhibit C, including any amendments thereto; (iv) the Approved Budget attached hereto as Exhibit D, including any amendments thereto and (v) the applicable contract provisions for non-federal entity contracts under federal awards required under Appendix II to the City Uniform Guidance and attached hereto as Exhibit E (the "Required Contract Provisions") (each of (i) – (v) above is hereby incorporated by reference into this Agreement). In addition, County shall cooperate fully with City in its efforts to comply with the requirements of the Notice of Prime Award, including any amendments thereto.

b. Compliance with Applicable Laws. County shall perform all activities funded by this Agreement in accordance with all applicable federal, state and local laws, including without limitation laws which regulate the use of funds allocated under [Title X]. The term "federal, state and local laws" as used in this Agreement shall mean all applicable statutes, rules, regulations, executive orders, directives or other laws, including all laws as presently in effect and as may be amended or otherwise altered during the Agreement Term, as well as all such laws which may be enacted or otherwise become effective during the Agreement Term. The term "federal, state and local laws" shall include, without limitation.

i. Authorizing Statute and Regulations. 5307-2A

ii. Administrative Requirements; Cost Principles; Audit Requirements. County shall comply with the City's Uniform Administrative Requirements, Cost Principles, and Audit Requirements.

iii. Restrictions on Lobbying. County shall comply with the restrictions on lobbying set forth in [45 C.F.R. Part 93]. If the Subaward exceeds \$100,000, County must execute and deliver to City the certification attached hereto as Exhibit F ("Certification Regarding Lobbying"). In addition, County shall comply with the applicable restrictions on lobbying contained in the federal appropriations act through which funds for the Subaward were appropriated.

iv. Covenant Against Contingent Fees. County represents and warrants that no person or entity has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. In the event of a breach or violation of this representation and warranty, City shall have the right to annul this Agreement without liability or, in its discretion, to offset against amounts it owes County under this Agreement or otherwise recover from County the full amount of such commission, percentage, brokerage, or contingent fee, and to seek any other legal remedies available to it as a result of such breach;

v. Suspension and Debarment. County represents that neither it nor any of its principals has been debarred, suspended or determined ineligible to participate in federal assistance awards or contracts as defined in regulations implementing Office of Management and Budget Guidelines on Governmentwide Debarment and Suspension (Nonprocurement) in Executive Order 12549. County further agrees that it will notify City immediately if it or any of its principals is placed on the list of parties excluded from federal procurement or nonprocurement programs available at www.sam.gov;

vi. DUNS Number. County agrees and acknowledges that City may not grant the Subaward and County may not receive the Subaward unless County has provided its Data Universal Numbering System ("DUNS") number to City. The DUNS number is the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify business entities;

vii. Federal Funding Accountability and Transparency Act of 2006. County agrees to provide City with all information requested by City to enable City to comply with the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282, as amended by section 6202 of P.L. 110-252);

viii. Regulations on Nondiscrimination. County shall comply with the FTA regulations on nondiscrimination in FTA programs or activities receiving federal financial assistance at [45 C.F.R. Parts 80, 84, 86 and 91];

ix. Drug-Free Workplace. County shall comply with the requirements of the Drug-Free Workplace Act of 1988, 42 U.S.C. § 701 *et seq.* and 2 C.F.R. 182, and the applicable

FTA regulations set forth in [45 C.F.R. Part 82], which require all programs and activities receiving federal assistance to maintain a drug-free workplace;

x. Equal Treatment for Faith-Based Organizations. County shall comply with the FTA regulations regarding the equal treatment of religious organizations in FTA programs, [45 C.F.R. Part 87];

xi. Pro-Children Act of 1994. In accordance with 20 U.S.C. 6081 et seq., County certifies that County, its employees, agents, contractors, and subcontractors will not permit smoking in any portion of an indoor facility owned or leased or contracted for by County and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18;

xii. Policies on Limited English Proficient Persons. County must have written policies that are consistent with the [HHS Office for Civil Rights policy document, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (August 4, 2003)]

xiii. Licenses, Certifications, Permits, Accreditation. County shall procure and keep current any license, certification, permit or accreditation required by federal, state or local law and shall submit to City proof of any licensure, certification, permit or accreditation upon request; and

xiv. Other City Agreements. County shall fulfill all other agreements with City and shall comply with all federal, state and local laws applicable to programs funded by such agreements.

9. EMPLOYMENT LAWS AND POLICIES.

a. Non-Discrimination in Employment. County shall not discriminate against any qualified employee or applicant for employment because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, religion, genetic information, or disability. County shall comply with all applicable provisions of federal, state and local laws prohibiting discrimination in employment.

b. Salary Limitation. Funds provided to County under this Agreement shall not be used to pay the salary of an individual at a rate in excess of (This amount reflects an individual's base salary exclusive of fringe benefits and any income that an individual may be permitted to earn outside of his or her duties to County.)

10. INDEMNIFICATION. County shall defend and hold City, its employees, officers, directors, agents and representatives harmless from any and all costs, losses, damages, liabilities, expenses, demands, and judgments, including court costs and attorney's fees, which they may suffer arising from any act or omission or neglect of County, its employees, officers, directors, agents or representatives, or anyone else for whose acts County may be responsible, in the performance of County's obligations under this Agreement. This provision shall survive the expiration or termination of this Agreement.

11. INSURANCE. County shall, at all times throughout the Agreement Term, carry insurance in such form and in such amounts as City may from time to time reasonably require against other insurable hazards and casualties that are commonly insured against in the performance of similar services as are to be provided under this Agreement. At a minimum, County shall maintain during the Agreement Term at least the following types and limits of insurance coverage:

- a. Workers' compensation in amounts no less than required by law;
- b. Employer's Liability Insurance with a limit of \$[1,000,000];
- c. Commercial general liability insurance, including personal injury, contractual liability and property damage, with limits of \$[1,000,000] per occurrence and \$[3,000,000] aggregate;
- d. Abuse and molestation insurance with a limit of \$[1,000,000] per claim;
- e. Professional liability insurance on a claims made basis with a limit of not less than \$[1,000,000] per occurrence and \$[3,000,000] aggregate; and
- f. Umbrella liability insurance with a limit of ~~\$[5,000,000]~~ per occurrence and in the aggregate.
 \$ 4,000,000 (1750)

All policies (other than workers' compensation and employer's liability insurance) providing such coverage shall name City as an additional insured with respect to County's performance of services under this Agreement. County shall provide City with certificates of insurance evidencing such coverage within thirty (30) days after execution of this Agreement, which certificates shall provide that City shall receive thirty (30) days' advance written notice of any pending cancellation or non-renewal of any of the coverages required by City pursuant to this Agreement. Insurance coverages that expire before the expiration of the Agreement Term shall be promptly renewed by County so that there is no gap in coverage and certificates of insurance evidencing such renewal coverage shall be provided to City (by a copy provided to City pursuant to the notice provisions set forth in Section 16(f)) immediately upon renewal. County's failure to maintain insurance in the form and/or amounts required by City pursuant to this Agreement shall be deemed a material breach of this Agreement and City shall have the right thereupon to terminate this Agreement immediately in addition to any other remedy provided herein.

12. TERMINATION.

- a. By City. City may, by giving written notice to County, terminate this Agreement in whole or in part for cause, which shall include, without limitation: (i) failure for any reason of County to fulfill timely and properly any of its obligations under this Agreement, including

failure to comply with any provision of Section 8 of this Agreement; (ii) County's default, breach or any intervening casualty which poses an immediate threat to life, health or safety; (iii) County's breach of its representations, warranties and certifications contained in this Agreement; (iv) the suspension or debarment or determination that County or any of its principals are ineligible to participate in federal assistance awards or contracts; (v) County's failure to maintain the insurance coverage in the form and/or amounts required by City pursuant to this Agreement; (vi) the submission by County to FTA or City of reports that are incorrect or incomplete in any material respect; (vii) ineffective or improper use by County of funds received under this Agreement; (viii) suspension, termination, in whole or in part of, or absence or reduction of appropriations for, grants or reimbursements to City under [Title X]; (ix) the necessity for termination and/or amendment of this Agreement so as to make any terms of this Agreement consistent with federal, state or local laws; (vi) fraudulent activities on the part of County; and (x) the filing of bankruptcy, receivership or dissolution by or with respect to County. City may also terminate this Agreement in whole or in part without cause upon thirty (30) days' written notice to County.

b. By County. If County is unable or unwilling to comply with any additional conditions or requirements which may arise as a result of changes in or additions to any federal, state or local laws after the commencement of the Agreement Term, including without limitation those applied by FTA in their grants and reimbursements to City, and which thereby become applicable to County during the Agreement Term, County shall terminate this Agreement by giving written notice to City. The effective date of such notice of termination shall be no earlier than thirty (30) days from the date of the notice.

c. Transfer of Performance Upon Termination. Upon giving or receiving notice of termination, City may require County to ensure that adequate arrangements have been made for the transfer of performance of the Approved Services to another entity or to City, including the reasonable payments of any costs involved in such transfer out of compensation otherwise due County under this Agreement.

d. Liability for Default. Whether or not this Agreement is terminated, County shall be liable to City for damages sustained by City by virtue of any breach of this Agreement by County and City shall be liable to County for damages sustained by County by virtue of any breach of this Agreement by City. This shall include, without limitation, liability of County for the disallowance by FTA of the reimbursement of charges submitted by City for services provided by County under this Agreement where the disallowance is in any way attributable to County, including the provision or maintenance by County of inadequate or erroneous records or billing documentation of services provided. If any such reimbursement of charges is disallowed as a result of an audit by FTA of County or City, the amount disallowed must be paid by County to City from funds other than those provided by City under this Agreement.

13. GENERAL PROVISIONS.

a. Governing Law. This Agreement shall be governed by the laws of the State of North Carolina without giving effect to the conflicts of laws provisions thereof.

b. Integration. This Agreement supersedes all oral agreements, negotiations and representations between the parties pertaining to the subject matter of this Agreement.

c. Severability. If any provision of this Agreement is found to be invalid, the remaining provisions shall remain in full force and effect.

d. Waiver of Breach. The waiver by either party of any breach of any provision of this Agreement shall not be deemed a waiver of any subsequent breach by the other party of the same or of different provisions.

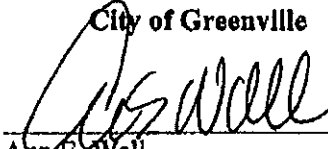
e. Binding Effect; Assignment. Except as otherwise provided in this Agreement, every covenant, term, and provision of this Agreement shall be binding upon and inure to the benefit of the parties and their respective and permitted successors, transferees and assigns. County shall not assign, subcontract or transfer any of its rights, responsibilities or obligations under this Agreement without City's prior written consent, which City may withhold in its sole discretion. Should County assign, subcontract or transfer any of its rights, responsibilities or obligations hereunder with such consent from City, County and the party to which it proposes to assign or subcontract its responsibilities or services hereunder must enter into a written agreement that is consistent with this Agreement and the various requirements specified hereunder and that is approved by City prior to its execution.

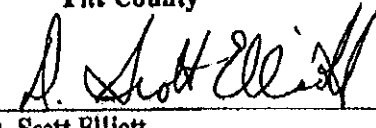
f. Amendment. Any amendment to this Agreement, including to the Approved Services and the Approved Budget, shall be reduced to writing, signed by an authorized representative of each party, and attached to this Agreement.

g. Counterpart Execution; Facsimile Execution. This Agreement may be executed in any number of counterparts with the same effect as if all of the parties had signed the same document. Such executions may be transmitted to the other parties by facsimile or other electronic transmission and such facsimile or other electronic execution shall have the full force and effect of an original signature. All fully executed counterparts, whether original executions or facsimile executions, electronic executions or a combination of the foregoing, shall be construed together and shall constitute one and the same agreement.

[Remainder of page left intentionally blank]

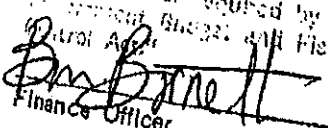
IN WITNESS WHEREOF, each of the parties has executed this Agreement by its duly authorized officer as of the day and year first written above.

City of Greenville
By: 
Ann E. Wall
City Manager

Pitt County
By: 
D. Scott Elliott
County Manager

APPROVED AS TO FORM


County Attorney

Informed it has been presented
and approved by the Local
Government Budget and Fiscal
Control Act

Finance Officer

SIGNATURE PAGE TO SUBAWARD AGREEMENT

SUBAWARD AGREEMENT

List of Exhibits

- | | |
|------------------|----------------------------------|
| <u>Exhibit A</u> | Notice of Prime Award |
| <u>Exhibit B</u> | Subaward Data |
| <u>Exhibit C</u> | Approved Services |
| <u>Exhibit D</u> | Approved Budget |
| <u>Exhibit E</u> | Required Contract Provisions |
| <u>Exhibit F</u> | Certification Regarding Lobbying |

Exhibit A

Notice of Prime Award

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION**

**GRANT AGREEMENT
(FTA G-26, October 1, 2019)**

On the date the authorized U.S. Department of Transportation, Federal Transit Administration (FTA) official signs this Grant Agreement, FTA has obligated and awarded federal assistance as provided below. Upon execution of this Grant Agreement by the Recipient named below, the Recipient affirms this FTA Award, enters into this Grant Agreement with FTA, and binds its compliance with the terms of this Grant Agreement.

The following documents are incorporated by reference and made part of this Grant Agreement:

- (1) "Federal Transit Administration Master Agreement," FTA MA(26), October 1, 2019, <http://www.transit.dot.gov>,
- (2) The Certifications and Assurances applicable to the FTA Award that the Recipient has selected and provided to FTA, and
- (3) Any Award notification containing special conditions or requirements, if issued.

WHEN THE TERM "FTA AWARD" OR "AWARD" IS USED, EITHER IN THIS GRANT AGREEMENT OR THE APPLICABLE MASTER AGREEMENT, "AWARD" ALSO INCLUDES ALL TERMS AND CONDITIONS SET FORTH IN THIS GRANT AGREEMENT.

FTA OR THE FEDERAL GOVERNMENT MAY WITHDRAW ITS OBLIGATION TO PROVIDE FEDERAL ASSISTANCE IF THE RECIPIENT DOES NOT EXECUTE THIS GRANT AGREEMENT WITHIN 90 DAYS FOLLOWING FTA'S AWARD DATE SET FORTH HEREIN.

FTA AWARD

Federal Transit Administration (FTA) hereby awards a Federal Grant as follows:

Recipient Information

Recipient Name: Greenville, City of

Recipient ID: 3101

DUNS No: 023307494

Award Information

Federal Award Identification Number: NC-2020-061-00

Award Name: CARES Act, Operating & Capital Assistance; GREAT; Greenville, NC

Award Start Date: 8/28/2020

Original Award End Date: 3/30/2025

Current Award End Date: 3/30/2025

Award Executive Summary: This is a FFY 2020 Section CARES Act application in the amount of \$4,221,860 (100% Federal Share), this application utilizes CARES Act funding to help respond to and recover from the COVID-19 pandemic. The application is for the purpose of providing operating and capital assistance for the Greenville Area Transit (GREAT) system in Greenville, North Carolina.

In response to COVID-19, Greenville Area Transit will continue to address the needs of the community by providing mobility options with enhanced safety consideration for employees and passengers. GREAT will also continue coordination with East Carolina University's transit system and Pitt County's human service and rural general public transit service.

- \$1,169,510 will be used to support the preventive maintenance expenses.
- \$796,286 will be used to support the non-fixed route ADA paratransit service expenses.
- \$2,256,064 will be used to support the operating expenses.

Greenville Area Transit agrees that if it receives Federal funding from the Federal Emergency Management Agency (FEMA) or through a pass-through entity through the Robert T. Stafford Disaster Relief and Emergency Assistance Act, a different Federal agency, or insurance proceeds for any portion of a project activity approved for FTA funding under this Grant Agreement, it will provide written notification to FTA, and reimburse FTA for any Federal share that duplicates funding provided by FEMA, another Federal agency, or an insurance company.

PRIOR FEDERAL FUNDING: No federal funding was previously received for this project or obligated in another grant application.

Greenville Area Transit did not and does not have plans to or has request a waiver through the Emergency Relief Docket.

The Operational Expenses requested in this application were determined by a budget analysis of the prior year's budget application and financial forecasting for transit operations during COVID-19. Greenville Area Transit understands that the expenses requested in this application are subject to review for their reasonableness as part of the agency's next Triennial/State Management Review.

Insurance Statement: Insurance is non-applicable for this project

Direct Recipient Statement: Greenville Area Transit is a direct recipient of Section 5307 funds.

STIP Statement: This project only includes operating expenses and/or capital expenses that do not include substantial functional, location, or capacity changes to the asset or system. Therefore, no additional TIP/STIP documentation is needed.

Split Letter Statement: The split letter dated April 16, 2020 is attached in TrAMS.

Research and Development: This award does not include research and development activities.

Indirect Costs: This award does not include an indirect cost rate.

Suballocation Funds: Recipient organization is directly allocated these funds and is eligible to apply for and receive these funds directly.

Pre-Award Authority: This award is using Pre-Award Authority.

Award Budget

Total Award Budget: \$4,221,860.00

Amount of Federal Assistance Obligated for This FTA Action (in U.S. Dollars): \$4,221,860.00

Amount of Non-Federal Funds Committed to This FTA Action (in U.S. Dollars): \$0.00

Total FTA Amount Awarded and Obligated (in U.S. Dollars): \$4,221,860.00

Total Non-Federal Funds Committed to the Overall Award (in U.S. Dollars): \$0.00

Award Budget Control Totals

(The Budget includes the individual Project Budgets (Scopes and Activity Line Items) or as attached)

Funding Source	Section of Statute	CFDA Number	Amount
5307 - Urbanized Area Formula Grants (CARES Act)	5307-6	20507	\$4,221,860
Local			\$0
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0

Transportation Development Credit	\$0
Adjustment	\$0
Total Eligible Cost	\$4,221,860

(The Transportation Development Credits are not added to the amount of the Total Award Budget.)

U.S. Department of Labor Certification of Public Transportation Employee Protective Arrangements:

Review Decision: DOL Concurs - Certified
Original Certification Date: 8/27/2020

Special Conditions

There are no special conditions.

FINDINGS AND DETERMINATIONS

By signing this Award on behalf of FTA, I am making all the determinations and findings required by federal law and regulations before this Award may be made.

FTA AWARD OF THE GRANT AGREEMENT

Awarded By:
Yvette Taylor
Regional Administrator
FEDERAL TRANSIT ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION
Contact Info: yvette.taylor@dot.gov
Award Date: 8/28/2020

EXECUTION OF THE GRANT AGREEMENT

Upon full execution of this Grant Agreement by the Recipient, the Effective Date will be the date FTA or the Federal Government awarded Federal assistance for this Grant Agreement.

By executing this Grant Agreement, the Recipient intends to enter into a legally binding agreement in which the Recipient:

- (1) Affirms this FTA Award,

- (2) Adopts and ratifies all of the following information it has submitted to FTA:
 - (a) Statements,
 - (b) Representations,
 - (c) Warranties,
 - (d) Covenants, and
 - (e) Materials,
- (3) Consents to comply with the requirements of this FTA Award, and
- (4) Agrees to all terms and conditions set forth in this Grant Agreement.

Executed By:
Ann Wall
City Manager
Greenville, City of
9/15/2020

**Exhibit B
Subaward Data**

(i)	County Name	Pitt County
(ii)	County Unique Entity Identifier:	County DUNS # 080889694
(iii)	Federal Award Identification Number (FAIN):	NC-2020-061-00
(iv)	Federal Award Date of Award to the Recipient by the Federal Agency:	8/28/2020
(v)	Subaward Period of Performance Start Date:	8/28/2020
	Subaward Period of Performance End Date:	6/30/2022
(vi)	Amount of Federal Funds Obligated by this Action by the Pass-Through Entity to the County:	\$569,588
(vii)	Total Amount of Federal Funds Obligated to the County by the Pass-Through Entity Including the Current Obligation	\$796,266
(viii)	Total Amount of the Federal Award Committed to the County by the Pass-Through Entity:	\$796,266
(ix)	Federal Award Project Description:	Non-Fixed ADA Paratransit Services
(x)	Name of Federal Awarding Agency:	FTA
	Name of Pass-Through Entity:	Greenville, City of
	Contact Information for Federal Awarding Official:	David Mucher 404-865-5623
	Contact Information for City Authorizing Official:	Ann E. Wall Awall@greenvillenc.gov
	Contact Information for City Project Director:	Alishia Chapman Ayoung@greenvillenc.gov
(xi)	CFDA Number and Name:	20.507 FTA
(xii)	Identification of Whether Subaward is R&D:	It is not
(xiii)	Indirect Cost Rate for City Federal Award:	Not Determined
	County Indirect Costs:	See Exhibit D - Approved Budget

Exhibit C

Approved Services

County shall provide the following services:

- Approved ADA transports from GREAT Bus System
- ADA reasonable accommodations upon request
- Communication between parties regarding transit related topics.

Exhibit D

Budget

Current budget for ADA services is:

- \$332,431.50 Balance of ADA funds awarded by CARES ACT Grant.

Exhibit E

Required Contract Provisions

(Appendix II to Part 75 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)

- A. **Federal Acquisition Regulation.** The Federal Acquisition Regulation (FAR), 48 CFR Chapter 1, does not apply to federally assisted procurements, absent Federal laws or regulations to the contrary. In the case of FTA programs, FAR Part 31 cost principles apply to grants and cooperative agreements with private for-profit entities. Audits of A&E services listed in 49 U.S.C. Section 5325 must be carried out under FAR Part 31 cost principles. In other circumstances, in the absence of specific guidance for federally assisted projects, other FAR standards might prove useful if the recipient's circumstances are suitable for application of a specific FAR provision under consideration. One major exception concerns at this time concerns the "simplified acquisition threshold." In this matter, FTA is taking the position that the FAR clause 2.101 definition of "simplified acquisition threshold," which was increased from \$100,000 to \$150,000, does not apply to FTA's federally assisted programs absent specific guidance from the Office of Management and Budget (OMB) or DOT, which we have not received as of February 2011. Instead FTA is continuing to use the dollar standard of the underlying original statute, establishing the simplified acquisition threshold, 41 U.S.C. Section 403(j), referred to in the Common Grant Rule for governmental recipients. But when Federal regulations or guidance is issued, FTA will implement it appropriately.
- B. **All contracts in excess of \$10,000** must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- C. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, as amended by Executive Order 11375, and implementing regulations at 41 CFR part 60.
- D. **Davis-Bacon Act.** Under 49 U.S.C. Section 5333(a), Davis-Bacon Act prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Common Grant Rules require third party contracts for construction, alteration, or repair at any contract tier exceeding \$2,000 to include provisions requiring compliance with the Davis-Bacon Act, 40 U.S.C. Sections 3141 et seq., and implementing DOL regulations "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction," 29 CFR Part 5. The Davis-Bacon Act requires that contractors pay wages to laborers and mechanics at a rate not less than the minimum wages specified in the wage determination made by the Secretary of Labor. The Davis-Bacon Act also requires contractors to pay wages not less

than once a week. The recipient must include a copy of the current prevailing wage determination issued by DOL in each contract solicitation and must condition contract award upon the acceptance of that wage determination. These requirements are in addition to the separate Wage and Hour Requirements addressed in paragraph 2.c(1) of this Chapter IV.

- E. **Clean Air Act** The Common Grant Rules specifically prohibit the use of facilities included in the Environmental Protection Agency (EPA) "List of Violating Facilities," in the performance of any third party contract at any tier exceeding \$100,000. The contractor must also comply with all applicable standards, orders, or regulations issued under Section 306 of the Clean Air Act, as amended, 42 U.S.C. Section 7414, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. Sections 7401 through 7671q.
- F. **Clean Water.** The Common Grant Rules specifically prohibit the use of facilities included in the EPA "List of Violating Facilities," in the performance of any third party contract at any tier exceeding \$100,000. The contractor must also comply with all applicable standards, orders, or regulations issued under Section 508 of the Clean Water Act, as amended, 33 U.S.C. Section 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. Sections 1251 through 1377.
- G. **Debarment and Suspension.** Debarment and suspension regulations and guidance include the following:
 - (a) **DOT Debarment and Suspension Regulations.** Department of Transportation (DOT) regulations, "Non-procurement Suspension and Debarment," 2 CFR Part 1200 apply to each third party contract at any tier of \$25,000 or more, to each third party contract at any tier for a federally required audit (irrespective of the contract amount), and to each third party contract at any tier that must be approved by an FTA official irrespective of the contract amount. See, 2 CFR Part 1200. Thus, the recipient must apply DOT's debarment and suspension requirements to itself and each third party contractor at every tier to the extent required by DOT's regulations that incorporate the requirements of Office of Management and Budget (OMB), "Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement)," 2 CFR Part 180.
- H. **Byrd Anti-Lobbying Amendment Lobbying Certification and Disclosure.** If the third party contract will exceed \$100,000, the recipient must obtain a lobbying certification before awarding the contract, and if applicable, a lobbying disclosure from a prospective third party contractor. See, DOT regulations, "New Restrictions on Lobbying" 49 CFR Part 20, modified as necessary by 31 U.S.C. Section 1352, which implement the Byrd "Anti-Lobbying" Amendment, 31 U.S.C. Section 1352.
- I. **Personal Conflicts of Interest.** As provided in the Common Grant Rules and in the Federal Transit Administration (FTA) Master Agreement, no employee, officer, agent, or board member, or his or her immediate family member, partner, or organization that employs or is about to employ any of the foregoing individuals may participate in the

selection, award, or administration of a contract supported with FTA assistance if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of those individuals previously listed has a financial or other interest in the firm selected for award.

- J. **FTA is not a party to its recipients' third party contracts**, and does not have any obligation to any participant in its recipients' third party contracts. In general, FTA will not substitute its judgment for that of the recipient or subrecipient unless the matter is primarily a Federal concern. Examples of "Federal concerns" include, but are not limited to, situations "where a special Federal interest is declared because of program management concerns, possible mismanagement, impropriety, waste, or fraud." Nevertheless, FTA can become involved in the recipient's administrative decisions when a recipient's protest decision is appealed to FTA, or when the recipient seeks to use FTA assistance to support the costs of settlements or other resolutions of protests, disputes, claims, or litigation.
- K. **Disadvantaged Business Enterprises (DBES)**. Section 1101 (b) of MAP-21, 23 U.S.C. Section 101 note, extends the Federal statutory requirements that FTA make available at least 10 percent of its funding under that Act for contracts with small business concerns owned and controlled by socially and economically disadvantaged people. Each FTA recipient and subrecipient of FTA funding assists FTA in meeting this national goal. To receive FTA assistance, each FTA recipient and subrecipient of FTA funding must comply with applicable requirements of DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 CFR Part 26. If the recipient is required to have a DBE program, the third party contracts that the recipient has included in its DBE program determine whether the recipient meets the DBE threshold for goal setting, and the goal if the threshold is met.
- L. **Third Party Contract Reviews**. Although the Common Grant Rules authorizes FTA to conduct preaward reviews, FTA relies on the validity of the recipient's self-certification rather than on preaward review of third party contracts as a whole (except for certain reviews of portions of rolling stock procurements). FTA will rely on periodic, post-award reviews to ensure that the recipient complies with Federal requirements and standards. Should a recipient fail to self-certify its procurement system, however, FTA reserves the right to conduct preaward reviews as provided by the Common Grant Rules. Even if a recipient self-certifies its procurement system, the recipient still may request FTA's preaward review of specific procurements as part of FTA's technical assistance program. Conversely, if FTA seeks to review the record of a particular procurement, the recipient must make its procurement documents available for FTA's preaward or post-award review.
- M. **FRAUD**. As a reminder, 49 U.S.C. Section 5323(j) extends the criminal fraud provisions of 18 U.S.C. Section 1001 to all certificates, submissions, or statements made in connection with any program financed under the Federal transit program. In addition, the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Sections 3801 et

seq., and DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31 and FTA Circular C 4220.2f, apply to any false or fraudulent statement or claim made under the Federal transit program.

- N. **Resolution of Disputes, Breaches, or Other Litigation.** As outlined in FTA Circular C 4220.1F 15t, the Common Grant Rules assign responsibility to the recipient for resolving all contractual and administrative issues arising out of their third party procurements, including source evaluation and selection, including protests of awards, disputes, and claims using good administrative practices and sound business judgment. The Federal Transit Administration (FTA) also encourages the recipient to use appropriate alternative dispute resolution procedures. Neither FTA nor the Common Grant Rules relieves the recipient of any responsibility under its contracts to resolve disagreements that may arise in the course of contract formation or contract administration.

As outlined in FTA Circular C 4220.1F 15t, FTA is not a party to its recipients' third party contracts, and does not have any obligation to any participant in its recipients' third party contracts. In general, FTA will not substitute its judgment for that of the recipient or sub recipient unless the matter is primarily a Federal concern. Examples of "Federal concerns" include, but are not limited to, situations "where a special Federal interest is declared because of program management concerns, possible mismanagement, impropriety, waste, or fraud." Nevertheless, FTA can become involved in the recipient's administrative decisions when a recipient's protest decision is appealed to FTA, or when the recipient seeks to use FTA assistance to support the costs of settlements or other resolutions of protests, disputes, claims, or litigation.

- 3.1 **Service Contracts (except for A/E professional services) and Purchase Contracts costing \$90,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(o)) and state formal bidding procedures (G.S. 143-129) as follows:**

1. Cost or price analysis is required prior to soliciting bids, if above \$250,000.
2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised on the City of Greenville's website at least seven full days between the date of the advertisement and the date of the public bid opening. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
4. Take affirmative steps to solicit price quotes from MWBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.

6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. **Governing board must approve all Purchase Contracts \$100k or more. Any and all bids may be rejected only for "sound documented reasons."**
7. Procurement Record Must Include (attach to requisition/contract):
 - a. Method of Procurement Decision Matrix (Doc #1080074)
 - b. Cost/Price Analysis Worksheet (Doc# 1082673, 1082091)
 - c. Solicitation Document (i.e.: Invitation to Bid)
 - d. Screenshot of Website Advertisement
 - e. Attendance Sheets (i.e.: pre-bid/bid opening Doc# 1030046)
 - f. Bid Tabulation (sample form Doc #1030042)
 - g. Responsibility Determination Form (Doc# 1082674) or Contractor Reference Verification Worksheet (Doc# 1082675)
 - h. System for Award Management (SAM) Screenshot. Requesting department must do a search at sam.gov to ensure that the awarded vendor is not debarred.
 - i. Council Agenda Item (if required) with approval
 - j. Rationale for awarding to anyone other than the lowest responsive, responsible bidder.

Exhibit F

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements.

The undersigned, on behalf of [County], certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Countys shall certify and disclose accordingly.

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

[NAME OF COUNTY]

By: _____

Name:

Title:

Date: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/20/2019

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).

PRODUCER Surry Insurance P. O. Box 128 Dobson NC 27017-0128		CONTACT NAME: PHONE (A/C, No., Ext): (336) 386-6228 FAX (A/C, No.): (336) 388-4661 E-MAIL ADDRESS: ADDRESS:	
INSURED Pitt County Government Pitt Area Transit 1717 West Fifth Street Greenville NC 27834		INSURER(S) AFFORDING COVERAGE INSURER A: Argonaut Great Central Insurance Company NAIC # 19860 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

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.

INBR LTR	TYPE OF INSURANCE	ADDC	ISUBR	INSD	WVO	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO- <input type="checkbox"/> LOC OTHER:					4837269	07/01/2019	07/01/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 0 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COM/PROP AGG \$ 3,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY					4837297	07/01/2019	07/01/2020	COMBINED SINGLE LIMIT (EA accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					4837297	07/01/2019	07/01/2020	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below								<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER EL, EACH ACCIDENT \$ EL, DISEASE - EA EMPLOYEE \$ EL, DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more details required)

Certificate holder is an additional insured for ADA transportation

CERTIFICATE HOLDER City of Greenville PO Box 7207 Greenville NC 27868	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 <i>Loni Alee Hatt</i>
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City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Various tax refunds greater than \$100

Explanation: Pursuant to North Carolina General Statute 105-381, refunds are being reported to City Council. These are refunds created by a change or release of value for City of Greenville taxes by the Pitt County Tax Assessor. Pitt County Commissioners have previously approved these refunds; they are before City Council for their approval as well. These refunds will be reported as they occur when they exceed \$100.

The Director of Financial Services reports refunds of the following taxes:

Payee	Adjustment Refunds	Amount
Michael Newbern	Individual Property Taxes	302.89
Thomas Martin Paul	Registered Motor Vehicle	414.16
Larry Glenn Smart	Registered Motor Vehicle	413.10
Onslow County	Registered Motor Vehicle	304.02
Wayne Heiser	Registered Motor Vehicle	127.12
Emmanuel Zervos	Registered Motor Vehicle	127.12
Anthony Deon Blount	Registered Motor Vehicle	124.64
Philip Jeffrey Pipher	Registered Motor Vehicle	107.82
Nazra Nuhman	Registered Motor Vehicle	556.99
Ernest Avery	Registered Motor Vehicle	342.18
Gary O'neal	Registered Motor Vehicle	268.65
Donald Howard	Registered Motor Vehicle	268.29
William Swart	Registered Motor Vehicle	236.06
Jason Conrad George	Registered Motor Vehicle	199.07
Timothy Dean Ham	Registered Motor Vehicle	188.35
Crystal Congleton Manning	Registered Motor Vehicle	174.97
Christian Thomas Kelly	Registered Motor Vehicle	159.10
Melissa Quinn Spain	Registered Motor Vehicle	155.21
Bobbie Jo Taylor	Registered Motor Vehicle	144.53

Michael C. McKee & Associates Inc	Registered Motor Vehicle	139.32
Joann Moore	Registered Motor Vehicle	132.60
Jimmie Lee Wooten	Registered Motor Vehicle	129.58
Maurice Clifton York	Registered Motor Vehicle	127.60
Joseph Thomas Miller IV	Registered Motor Vehicle	126.74
Bryan John Balow	Registered Motor Vehicle	120.53
Jose Miguel Saldarriaga	Registered Motor Vehicle	117.81
Robert Lynn Desoto	Registered Motor Vehicle	113.86
David Eugene Cochran	Registered Motor Vehicle	105.70

Fiscal Note: The total refunded is \$5,728.01.

Recommendation: Approval of taxes refunded by City Council



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Ordinance to annex Bobby W. Joyner property involving 5.84 acres located along the northern right-of-way of East Fire Tower Road and 200+/- feet west of Meeting Place

Explanation: A. SCHEDULE

1. Advertising date: May 28, 2022
2. City Council public hearing date: June 9, 2022
3. Effective date: June 9, 2022

B. CHARACTERISTICS

1. Relation to primary city limits: Contiguous
2. Relation to recognized industrial area: Outside
3. Acres: 5.84
4. Voting District: 4
5. Township: Winterville
6. Zoning: OR (Office Residential)
7. Existing land use: One (1) single family residence
8. Anticipated land use: 80 multi-family units
9. Population estimate

	Formula	Number of people
Total current:	0	0
Estimated at full development	80 x 2.18*	174
Current minority	0	0
Estimated minority at full development	174 x 43.4*	75
Current white	0	0
Estimated white at full development	174 - 75	99

* Source: Census.gov

10. Rural fire tax district: Eastern Pines
11. Greenville fire district: Station 3
12. Present tax value: \$233,375
13. Estimated tax value: \$16,000,000

Fiscal Note: Estimated tax value at full development is \$16,000,000

Recommendation: Approve the attached ordinance to annex Bobby W. Joyner property.

ATTACHMENTS

-  [Ordinance_Bobby_Joyner.pdf](#)
-  [BOBBY JOYNER Survey.pdf](#)

ORDINANCE NO. 22-
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

WHEREAS, the City Council has directed the City Clerk to investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at 6:00 p.m. on the 9th day of June, 2022, after due notice by publication in The Daily Reflector on the 28th day of May, 2022; and

WHEREAS, the City Council does hereby find as a fact that said petition meets the requirements of G.S. 160A-31, as amended.

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

Section 1. That by virtue of the authority vested in the City Council of the City of Greenville, North Carolina, under G. S. 160A-31, as amended, the following described contiguous territory is annexed:

TO WIT: Being all of that certain property as shown on the annexation map entitled “Bobby Joyner”, involving 5.840 acres prepared by Gary S Miller and Associates, PA.

LOCATION: Situate in Winterville Township, Pitt County, North Carolina, located along the northern right-of-way of East Fire Tower Road and 200 +/- feet west of Meeting Place.

GENERAL DESCRIPTION:

Lying and being located in Winterville Township, Pitt County, NC and being more particularly described as follows:

Beginning at an existing iron pipe located at the intersection of the western right of way of Meeting Place and the northern right of way of SR 1708 – E. Fire Tower Road thence running along the northern right of way of SR 1708 – E. Fire Tower Road S 56-06-41 W, 203.22 feet to an existing iron pipe having NC Grid Coordinates N 666321.57 and E 2492065.64 and being located on the northern right of way of SR 1708 – E. Fire Tower Road the POINT OF BEGINNING; thence from said point of beginning and leaving the northern right of way of SR 1708 – E. Fire Tower Road S 02-31-13 E, 70.27 feet to a point located on the southern right of way of SR 1708 – E. Fire Tower Road; thence running along the southern right of way of SR

1708 – E. Fire Tower Road S 56-06-41 W, 150.00 feet to an existing magnetic nail located on the southern right of way of SR 1708 – E. Fire Tower Road; thence continuing along the southern right of way of SR 1708 – E. Fire Tower Road S 56-06-41 W, 360.77 feet to an existing iron pipe located on the southern right of way of SR 1708 – E. Fire Tower Road; thence leaving the southern right of way of SR 1708 – E. Fire Tower Road N 04-01-37 W, 69.19 feet to an existing iron pipe with cap having NC Grid Coordinates N 666035.59 and E 2491639.87 and being located on the northern right of way of SR 1708 – E. Fire Tower Road; thence leaving the northern right of way of SR 1708 – E. Fire Tower Road N 04-01-37 W, 667.17 feet to a point; thence N 87-28-45 E, 182.27 feet to a point; thence with a curve to the right having a radius of 20.00 feet a chord bearing and distance S 48-16-26 E, 27.91 feet to a point; thence S 04-01-36 E, 276.88 feet to a point; thence with a curve to the left having a radius of 275.00 feet a chord bearing and distance S 18-57-27 E, 141.71 feet to a point; thence S 33-53-18 E, 54.63 feet to a point; thence S 11-06-37 W, 35.36 feet to a point located on the northern right of way of SR 1708 – E. Fire Tower Road; thence running along the northern right of way of SR 1708 – E. Fire Tower Road N 56-06-41 E, 100.00 feet to a point located on the northern right of way of SR 1708 – E. Fire Tower Road; thence leaving the northern right of way of SR 1708 – E. Fire Tower Road N 78-53-16 W, 35.36 feet to a point; thence N 33-53-18 W, 54.63 feet to a point; thence with a curve to the right having a radius of 225.00 feet a chord bearing and distance N 18-57-27 W, 115.94 feet to a point; thence N 04-01-36 W, 345.07 feet to a point; thence N 87-28-45 E, 205.01 feet to a point; thence S 02-31-16 E, 449.96 feet to the point of beginning containing 5.840 acres.

Section 2. Territory annexed to the City of Greenville by this ordinance shall, pursuant to the terms of G.S. 160A-23, be annexed into Greenville municipal election district four. The City Clerk, City Engineer, representatives of the Board of Elections, and any other person having responsibility or charge of official maps or documents shall amend those maps or documents to reflect the annexation of this territory into municipal election district four.

Section 3. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Greenville and shall be entitled to the same privileges and benefits as other territory now within the City of Greenville. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 4. The Mayor of the City of Greenville, North Carolina, shall cause a copy of the map of the territory annexed by this ordinance and a certified copy of this ordinance to be recorded in the office of the Register of Deeds of Pitt County and in the Office of the Secretary of State in Raleigh, North Carolina. Such a map shall also be delivered to the Pitt County Board of Elections as required by G.S. 163-288.1.

Section 5. This annexation shall take effect from and after the 9th day of June, 2022.

ADOPTED this 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

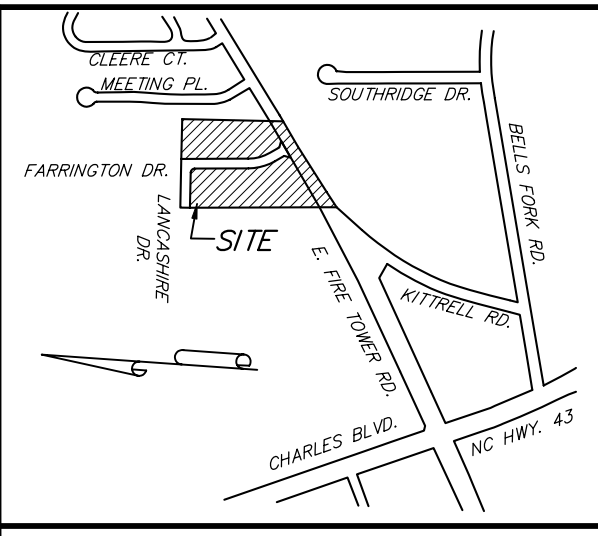
I, Camillia P. Smith, a Notary Public for said County and State, certify that Valerie Shiuwegar personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing instrument was signed in its name by its Mayor, sealed with the corporate seal, and attested by herself as its City Clerk.

WITNESS my hand and official seal this ____th day of _____, 2022.

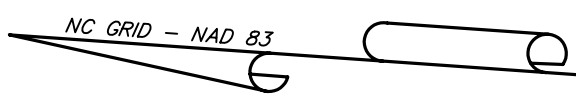
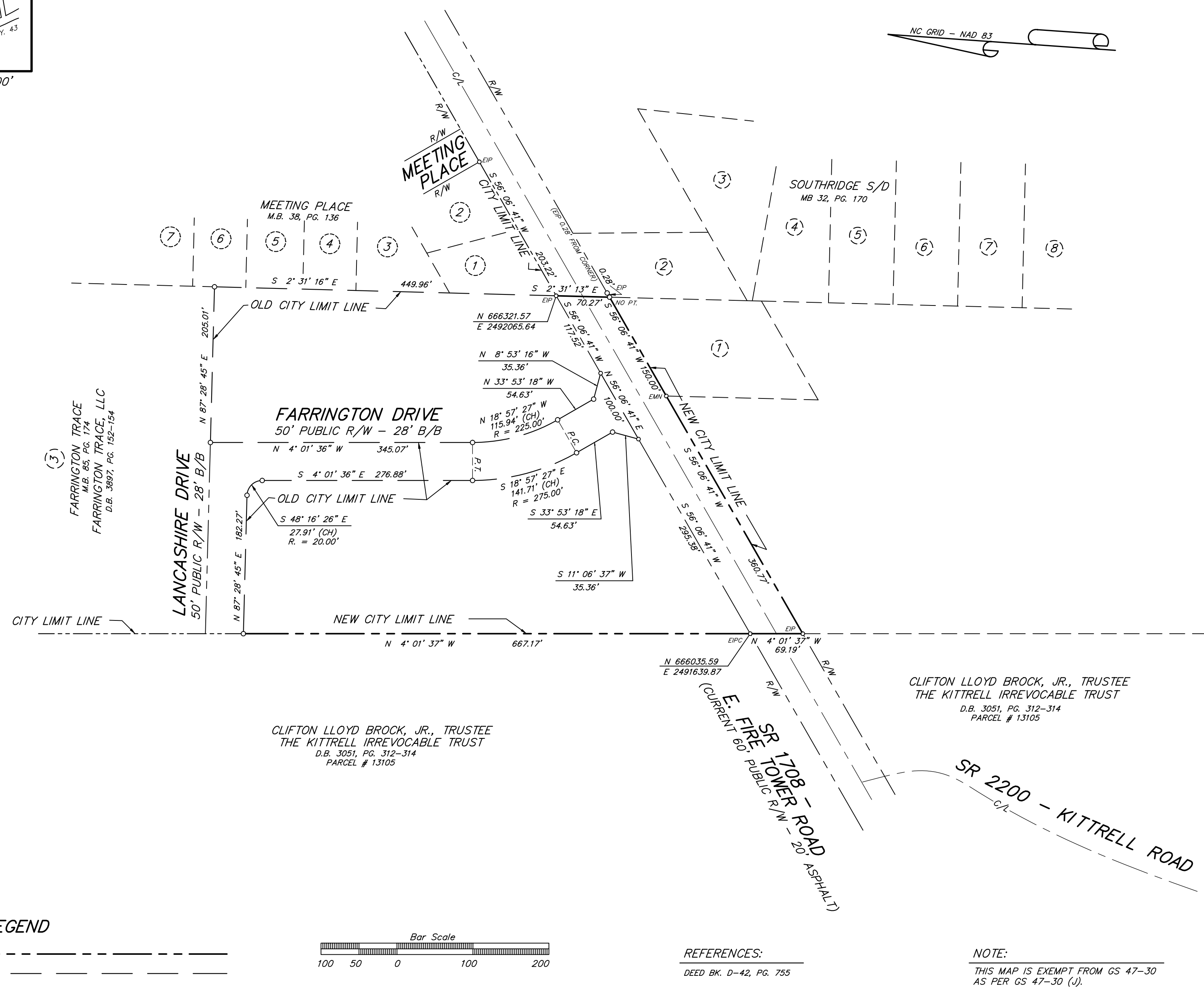
Notary Public

My Commission Expires: _____

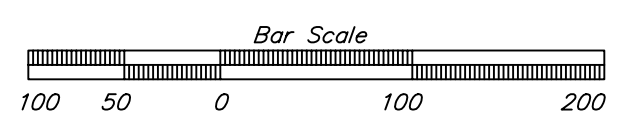
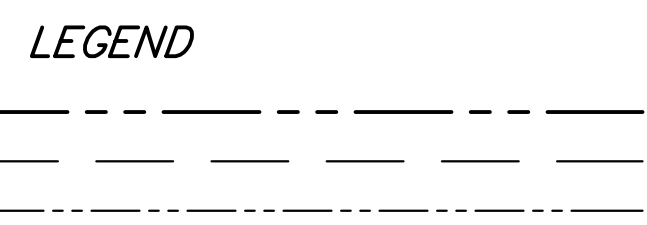
1164893



VICINITY MAP 1" = 1,000'



- LEGEND:**
- EIP - EXISTING IRON PIPE
 - R/W - RIGHT OF WAY
 - C/L - CENTERLINE
 - EMN - EXISTING MAGNETIC NAIL
 - EIPC - EXISTING IRON PIPE WITH CAP
 - P.C. - POINT OF CURVATURE
 - P.T. - POINT OF TANGENCY



REFERENCES:
DEED BK. D-42, PG. 755

NOTE:
THIS MAP IS EXEMPT FROM GS 47-30 AS PER GS 47-30 (J).

SURVEYOR'S CERTIFICATION

I, GARY S. MILLER, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY PERFORMED UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK SEE, PAGE REF.; OR FROM BOOKS REFERENCED HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK SEE, PAGE REF., OR AS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

I FURTHER CERTIFY PURSUANT TO G.S. 47-30 (f) (1) (d), THIS SURVEY IS OF ANOTHER CATEGORY AND IS AN EXEMPTION TO THE DEFINITION OF SUBDIVISION. WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS 28th DAY OF APRIL 2022.

G. S. Miller
SIGNED
PROFESSIONAL LAND SURVEYOR NO. L-2562



ANNEXATION PLAT FOR BOBBY W. JOYNER	
WINTERVILLE TOWNSHIP, PITT CO., N.C.	
GARY S. MILLER & ASSOCIATES, P.A. LAND SURVEYORS	SURVEYED: MCP DRAWN: BLW CHECKED: TEM
1803 South, Charles Blvd. Greenville, N.C. 27833 Phone (252)756-7878 Fax (252)756-0785 License # C-0225	APPROVED: GSM DATE: 04-28-2022 SCALE: 1" = 100'

MAP NO.	PLATS RECORDED	BOOK	PAGE

MAP SHOWING AREA ANNEXED BY
THE CITY OF GREENVILLE, N.C.

DATE: _____ ORDINANCE NO. _____ AREA: 5.840

WINTERVILLE TOWNSHIP, PITT COUNTY, N.C.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Ordinance to annex Congleton Funeral Home involving 3.66 acres located along the northern right-of-way of East 10th Street and 400+/- feet south of Port Terminal Road

Explanation: A. SCHEDULE

1. Advertising date: May 28, 2022
2. City Council public hearing date: June 9, 2022
3. Effective date: June 9, 2022

B. CHARACTERISTICS

1. Relation to primary city limits: Contiguous
2. Relation to recognized industrial area: Outside
3. Acres: 3.66
4. Voting District: 3
5. Township: Greenville
6. Zoning: CG (General Commercial)
7. Existing land use: Vacant
8. Anticipated land use: 12,000 square foot funeral home
9. Population estimate

	Formula	Number of people
Total current:	0	0
Estimated at full development	0	0
Current minority	0	0
Estimated minority at full development	0	0
Current white	0	0
Estimated white at full development	0	0

10. Rural fire tax district: Eastern Pines
11. Greenville fire district: Station 6
12. Present tax value: \$246,017
13. Estimated tax value: \$15,000,000

Fiscal Note: Estimated tax value at full development is \$15,000,000

Recommendation: Approve the attached ordinance to annex Congleton Funeral Home

ATTACHMENTS

 [Ordinance_Congleton_Funeral_Home.pdf](#)

 [Congletonsurvey.pdf](#)

ORDINANCE NO. 22-
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

WHEREAS, the City Council has directed the City Clerk to investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at 6:00 p.m. on the 9th day of June, 2022, after due notice by publication in The Daily Reflector on the 28th day of May, 2022; and

WHEREAS, the City Council does hereby find as a fact that said petition meets the requirements of G.S. 160A-31, as amended.

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

Section 1. That by virtue of the authority vested in the City Council of the City of Greenville, North Carolina, under G. S. 160A-31, as amended, the following described contiguous territory is annexed:

TO WIT: Being all of that certain property as shown on the annexation map entitled "Congleton Funeral Home and Cremations, INC", involving 3.66 acres prepared by Rivers & Associates, INC.

LOCATION: Situate in Greenville Township, Pitt County, North Carolina, located along the northern right-of-way of East 10th Street and 400+/- feet south of Port Terminal Road.

GENERAL DESCRIPTION:

Being a tract of land lying and being situated in Greenville Township, Pitt County, N.C., bounded on the north by Happy Trail Farm, LLC and POHL, LLC, on the east by Wanda Cox Harrington Heirs, on the south by Mid Atlantic Property Management, LLC, and on the west by East Tenth Street - Highway 33 and being described by metes and bounds as follows:

Beginning at point located on the eastern right of way of East Tenth Street – Highway 33 at the southwest corner of the POHL, LLC property (P.N. 10044) recorded in Deed Book 3512, Page 491 (Tract 8) of the Pitt County Registry and located within the City Limits of Greenville; thence, from the POINT OF BEGINNING, leaving the Old City Limits Line along the southern line of the aforementioned POHL, LLC property, and the New City Limits Line, N 63°16'22" E 262.04 feet to a point, said point being the southeast corner of the POHL, LLC property recorded

in Deed Book 3512, Page 491 of the Pitt County Registry; thence with the eastern line of said POHL, LLC property (P.N. 10044) and the eastern line of the POHL, LLC property (P.N. 02156) recorded in Deed Book 3512, Page 491 (Tract 7), and continuing with the New City Limits, N 05°57'41" W 119.88 feet to a point marking the northeast corner of the POHL, LLC (Tract 7, P.N. 02156), the southeast corner of the POHL, LLC property (Tract 6, P.N. 18927) property recorded in Deed Book 3512, Page 491, and the southwest corner of the Happy Trail Farm, LLC property recorded in Deed Book 3367, Page 289, Deed Book 4245, Page 752, and Map Book 27, Page 114 of the Pitt County Registry; thence along the said Happy Trail Farm, LLC property and continuing with the New City Limits, the following three (3) calls; 1) N 84°05'49" E 129.83 feet to a point; 2) S 13°03'37" E 98.96 feet to a point; and 3) S 60°59'28" E 197.05 feet to a point located on the western line of the Wanda Cox Harrington Heirs property, reference Estate File 2008-805 of the Pitt County Registry; thence with the Wanda Cox Harrington Heirs line and the New City Limits, S 23°03'11" W 300.53 feet to a point marking the southeastern corner of the Mid Atlantic Property Management, LLC property recorded in Deed Book 1947, Page 328 of the Pitt County Registry; thence leaving the Wanda Cox Harrington Heirs line, following the Mid Atlantic Property Management, LLC line and continuing with the New City Limits line the following four (4) calls; 1) N 26°06'03" W 150.19 feet to a point; 2) S 63°54'35" W 115.72 feet to a point; 3) S 26°14'03" E 150.00 feet to a point; and 4) S 63°53'10" W 171.50 feet to a point located on the eastern right of way of East Tenth Street – Highway 33, and the Old City Limits line, said point is also marking the northwestern corner of the aforementioned Mid Atlantic Property Management, LLC property; thence along the eastern right of way of East Tenth Street – Highway 33 and with the Old City Limits line N 26°17'48" W 383.84 feet to the POINT OF BEGINNING, containing an area of 3.66 acres (159,429.6 square feet) more or less and being all of those properties recorded in Deed Book 4261 Page 79, and Deed Book 4249 Page 84 to be annexed into the City of Greenville, and further shown on a map by Rivers and Associates, Inc. drawing Z-2678 dated March 31, 2022, signed on April 7, 2022, entitled Annexation Map for Congleton Funeral Home and Cremations Inc., which by reference is made a part hereof.

Section 2. Territory annexed to the City of Greenville by this ordinance shall, pursuant to the terms of G.S. 160A-23, be annexed into Greenville municipal election district three. The City Clerk, City Engineer, representatives of the Board of Elections, and any other person having responsibility or charge of official maps or documents shall amend those maps or documents to reflect the annexation of this territory into municipal election district three.

Section 3. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Greenville and shall be entitled to the same privileges and benefits as other territory now within the City of Greenville. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 4. The Mayor of the City of Greenville, North Carolina, shall cause a copy of the map of the territory annexed by this ordinance and a certified copy of this ordinance to be recorded in the office of the Register of Deeds of Pitt County and in the Office of the Secretary of State in Raleigh, North Carolina. Such a map shall also be delivered to the Pitt County Board of Elections as required by G.S. 163-288.1.

Section 5. This annexation shall take effect from and after the 9th day of June, 2022.

ADOPTED this 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

I, Camillia P. Smith, a Notary Public for said County and State, certify that Valerie Shiuwegar personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing instrument was signed in its name by its Mayor, sealed with the corporate seal, and attested by herself as its City Clerk.

WITNESS my hand and official seal this ____th day of _____, 2022.

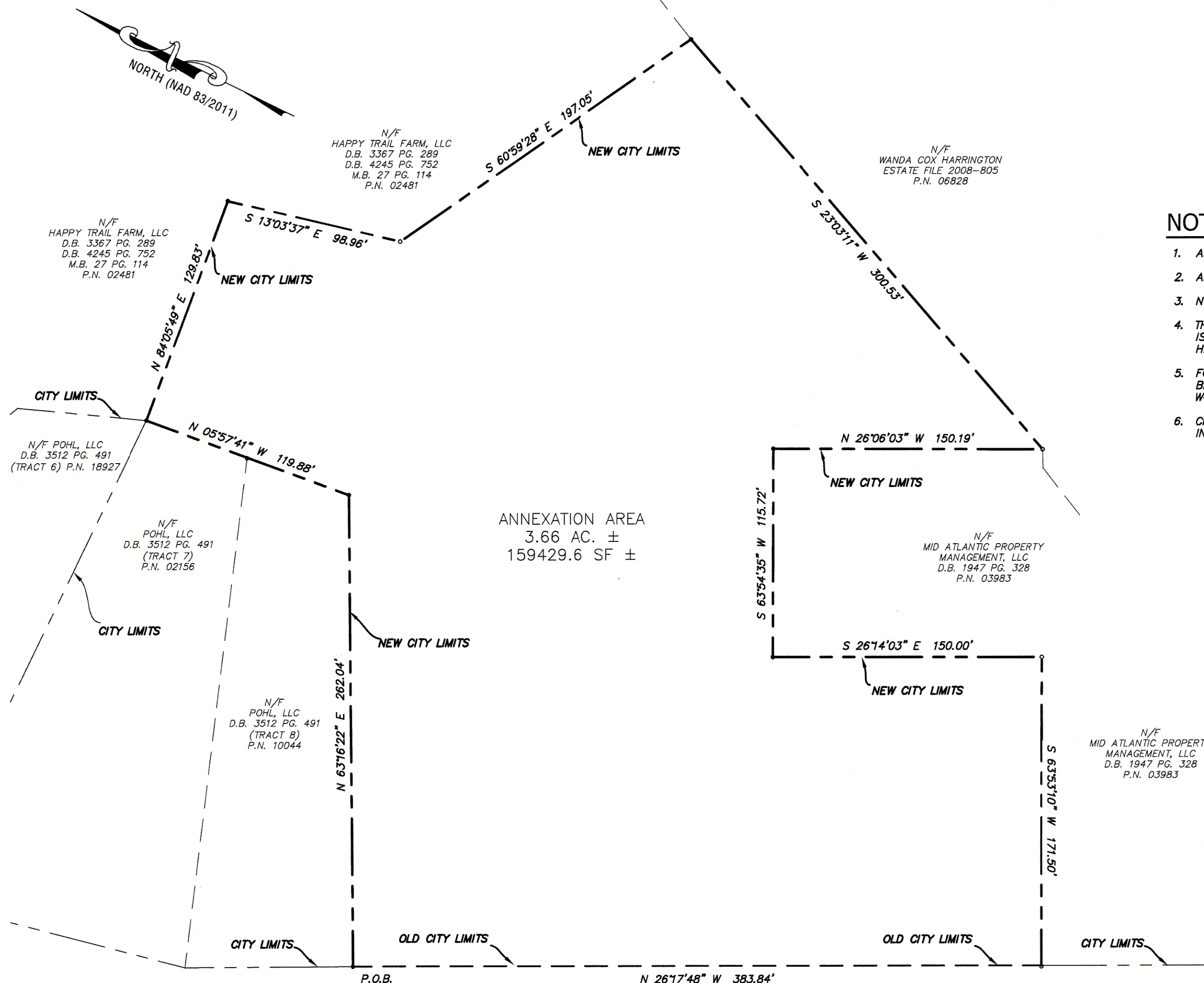
Notary Public

My Commission Expires: _____

1164893



VICINITY MAP
SCALE: 1" = 1000'



ANNEXATION AREA
3.66 AC. ±
159429.6 SF ±

E. TENTH STREET - HWY 33

(29.64 METER PUBLIC R/W: 64' B/B)
(S.H.B. 2 PG. 16 F & G)

NOTES

1. AREA DETERMINED BY COORDINATES.
2. ALL DISTANCES ARE HORIZONTAL GROUND MEASUREMENTS.
3. NO POINT SET AT ANY CORNER.
4. THIS MAP WAS PREPARED FOR ANNEXATION PURPOSES ONLY AND IS NOT A BOUNDARY SURVEY OF THE PROPERTIES SHOWN HEREON OR TO BE USED FOR SALES OR CONVEYANCE.
5. FOR CLARITY, NO EXISTING EASEMENTS OR IMPROVEMENTS ARE BEING SHOWN. REFERENCE RIVERS & ASSOCIATES DRAWING W-3968 FOR EXISTING SITE CONDITIONS.
6. CITY LIMITS WAS TAKEN FROM PITT COUNTY GEOGRAPHIC INFORMATION SYSTEM.

REFERENCES:

- D.B. 4261 PG. 79
- D.B. 4249 PG. 84
- P.N. 17672
- P.N. 02493
- P.N. 02480
- P.N. 02491
- D.B. V-30 PG. 292
- D.B. V-36 PG. 567
- D.B. R 38 PG. 470
- D.B. 1250 PG. 277 (TOG EASEMENT)
- D.B. 1359 PG. 676 (TOG EASEMENT)
- NC DOT SHP 8.1221301 (SHB. 2 PG. 16 F/G)
- RIVERS DRAWING Z-232
- M.B. 27 PG. 114
- RIVERS DRAWING W-3088RD (EPWC)

LEGEND

NEW CITY LIMIT	---
OLD CITY LIMIT	---
CITY LIMIT	---
RIGHT OF WAY	---
PARCEL NUMBER	PN
MAP BOOK	M.B.
PAGE	PG.
DEED BOOK	D.B.
RIGHT OF WAY	R/W
POINT OF BEGINNING	P.O.B.

REVISIONS:

ANNEXATION MAP
CONGLETON FUNERAL HOME AND CREMATIONS INC.
CITY OF GREENVILLE, GREENVILLE TOWNSHIP, PITT COUNTY, N.C.

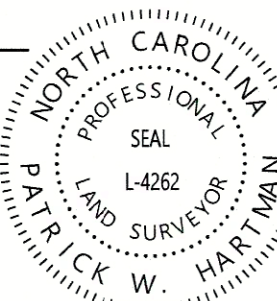
OWNER: CONGLETON FUNERAL HOMES AND CREMATIONS, INC
ADDRESS: P.O. BOX 8555 GREENVILLE, NC 27858
PHONE: (252) 355-9995

Rivers & Associates, Inc.
107 East Second Street
Greenville, NC 27858
(252) 752-4135

SURVEYED	N/A	APPROVED	
DRAWN	DE	DATE	3/31/22
CHECKED	PH	SCALE	1" = 50'

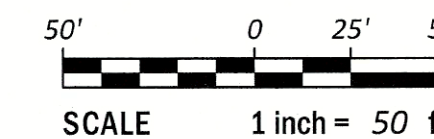
MAP NO.	PLATS RECORDED	BOOK	PAGE
	RICHARDSON	41	37
	OAKHURST PARK	64	84

MAP SHOWING AREA ANNEXED BY
THE CITY OF GREENVILLE, N.C.
EFFECTIVE DATE _____ ORDINANCE NO. _____
BELVOIR TOWNSHIP, PITT COUNTY, N.C.



CERTIFICATION
NORTH CAROLINA PITT COUNTY
I, PATRICK W. HARTMAN, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM DEED DESCRIPTIONS RECORDED IN DEED BOOK SEE PAGE REF OR AS NOTED; THAT THE RATIO OF PRECISION IS 1:10,000; THAT BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND AND REFERENCED HEREON; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. I FURTHER CERTIFY PURSUANT TO G.S. 47-30 (f)(11)(d) AS TO THE FOLLOWING THAT THIS SURVEY IS OF ANOTHER CATEGORY; BEING A SURVEY FOR ANNEXATION INTO CITY LIMITS OF THE CITY OF GREENVILLE; WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 7TH DAY OF APRIL, 2022.

SIGNED: *Patrick W. Hartman*
PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-4262



RECORDED IN MAP BOOK _____ PAGE _____

3.66 AC.
AREA



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Ordinance to annex the Kate Vincent Kittrell property involving 12.048 acres located along the southern right-of-way of Dickinson Avenue and 600+/- feet south of West Arlington Boulevard

Explanation: A. SCHEDULE

1. Advertising date: May 28, 2022
2. City Council public hearing date: June 9, 2022
3. Effective date: June 9, 2022

B. CHARACTERISTICS

1. Relation to primary city limits: Contiguous
2. Relation to recognized industrial area: Outside
3. Acres: 12.048
4. Voting District: 2
5. Township: Greenville
6. Zoning: OR (Office-Residential)
7. Existing land use: Vacant
8. Anticipated land use: 180 Multi-family units
9. Population estimate

	Formula	Number of people
Total current:	0	0
Estimated at full development	180 x 2.18*	392
Current minority	0	0
Estimated minority at full development	392 x 43.4*	170
Current white	0	0
Estimated white at full development	392 - 170	222

* Source: Census.gov

10. Rural fire tax district: Red Oak
11. Greenville fire district: Station 2
12. Present tax value: \$228,160
13. Estimated tax value: \$38,000,000

Fiscal Note: Estimated tax value at full development is \$38,000,000

Recommendation: Approve the attached ordinance to annex the Kate Vincent Kittrell property

ATTACHMENTS

-  [Ordinance Kate V Kittrell.pdf](#)
-  [Kittrell Survey.pdf](#)

ORDINANCE NO. 22-
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

WHEREAS, the City Council has directed the City Clerk to investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at 6:00 p.m. on the 9th day of June, 2022, after due notice by publication in The Daily Reflector on the 28th day of May, 2022; and

WHEREAS, the City Council does hereby find as a fact that said petition meets the requirements of G.S. 160A-31, as amended.

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

Section 1. That by virtue of the authority vested in the City Council of the City of Greenville, North Carolina, under G. S. 160A-31, as amended, the following described contiguous territory is annexed:

TO WIT: Being all of that certain property as shown on the annexation map entitled “Kate Vincent Kittrell”, involving 12.048 acres prepared by Gary S Miller and Associates, PA.

LOCATION: Situate in Winterville Township, Pitt County, North Carolina, located along the southern right-of-way of Dickinson Avenue and 600+/- feet south of West Arlington Boulevard.

GENERAL DESCRIPTION:

Beginning at an existing iron pipe located on the southern right of way of Dickinson Avenue said existing iron pipe being located at the intersection of the southwest property corner of the property belonging to HCRI North Carolina Properties, III Limited Partnership recorded in Deed Book 2689, Pages 419-421 and Map Book 48, Page 117 and the northeast property corner of the property belonging to Kate Vincent Kittrell recorded in Deed Book 205, page 805, Pitt County Registry; thence from said point of beginning and leaving the southern right of way of Dickinson Avenue S 42-05-13 E, 10.20 feet to an existing iron pipe; thence continuing S 42-05-13 E, 1,111.70 feet to an existing iron pipe; thence continuing S 42-05-13 E, 595.31 feet to an existing iron pipe located in the centerline of Reedy Branch; thence running along the centerline of Reedy Branch the following courses and distances S 18-31-49 W, 38.68 feet to a point; thence S 50-53-47 W, 23.49 feet to a point; thence S 36-12-08 W, 17.24 feet to a point; thence S 02-01-58 E,

31.58 feet to a point; thence S 48-42-12 W, 25.08 feet to a point; thence S 08-54-34 W, 18.52 feet to a point; thence S 56-37-28 W, 45.59 feet to a point; thence S 22-01-35 W, 85.79 feet to a point; thence S 35-03-41 W, 50.39 feet to a point; thence leaving the centerline of Reedy Branch N 42-09-09 W, 5.11 feet to an existing iron pipe; thence continuing N 42-09-09 W, 1,148.93 feet to an existing iron pipe; thence continuing N 42-09-09 W, 264.11 feet to an existing drill hole; thence continuing N 42-09-09 W, 109.61 feet to an existing iron pipe; thence continuing N 42-09-09 W, 132.82 feet to an existing iron pipe; thence N 41-19-34 W, 149.96 feet to an existing iron pipe; thence continuing N 41-19-34 W, 9.74 feet to an existing iron pipe located on the southern right of way of Dickinson Avenue; thence running along the southern right of way of Dickinson Avenue N 48-46-14 E, 35.65 feet to a point; thence leaving the southern right of way of Dickinson Avenue S 41-13-46 E, 159.98 feet to an existing iron pipe; thence N 48-46-14 E, 110.00 feet to an existing iron pipe; thence N 41-13-46 W, 159.98 feet to a point located on the southern right of way of Dickinson Avenue; thence running along the southern right of way of Dickinson Avenue N 48-46-14 E, 159.28 feet to the point of beginning containing 12.048 acres.

Section 2. Territory annexed to the City of Greenville by this ordinance shall, pursuant to the terms of G.S. 160A-23, be annexed into Greenville municipal election district two. The City Clerk, City Engineer, representatives of the Board of Elections, and any other person having responsibility or charge of official maps or documents shall amend those maps or documents to reflect the annexation of this territory into municipal election district two.

Section 3. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Greenville and shall be entitled to the same privileges and benefits as other territory now within the City of Greenville. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 4. The Mayor of the City of Greenville, North Carolina, shall cause a copy of the map of the territory annexed by this ordinance and a certified copy of this ordinance to be recorded in the office of the Register of Deeds of Pitt County and in the Office of the Secretary of State in Raleigh, North Carolina. Such a map shall also be delivered to the Pitt County Board of Elections as required by G.S. 163-288.1.

Section 5. This annexation shall take effect from and after the 9th day of June, 2022.

ADOPTED this 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

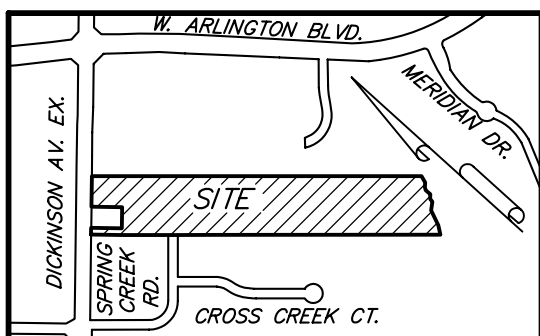
I, Camillia P. Smith, a Notary Public for said County and State, certify that Valerie Shiuwegar personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing instrument was signed in its name by its Mayor, sealed with the corporate seal, and attested by herself as its City Clerk.

WITNESS my hand and official seal this ____th day of _____, 2022.

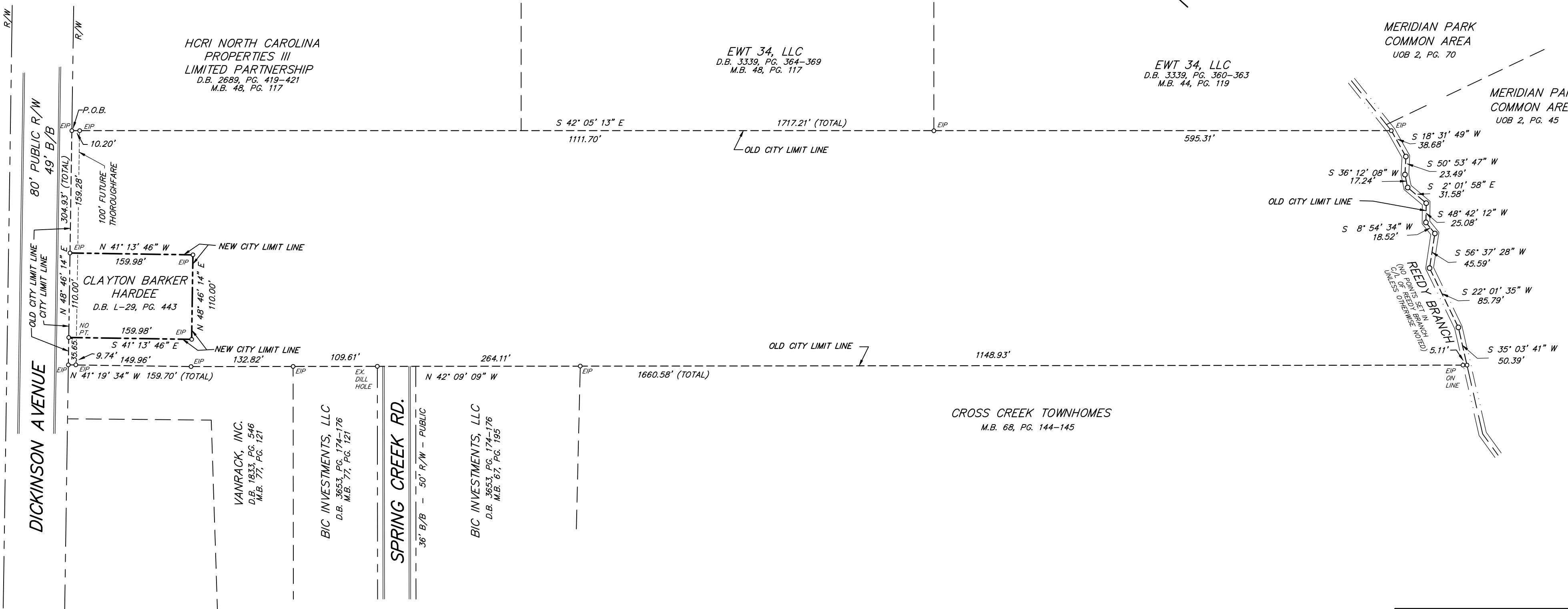
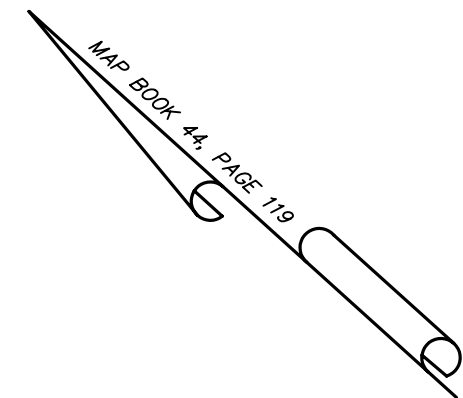
Notary Public

My Commission Expires: _____

1164893



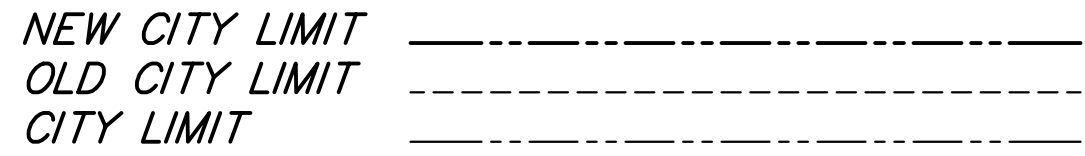
VICINITY MAP 1" = 1,000'



LEGEND:
 EIP - EXISTING IRON PIPE
 R/W - RIGHT OF WAY
 B/B - BACK TO BACK
 C/L - CENTERLINE
 P.O.B. - POINT OF BEGINNING

REFERENCE:
 DEED BK. 205, PG. 805
 DEED BK. 147, PG. 820
 TAX PARCEL # 13111

LEGEND



NOTE:
 THIS MAP IS EXEMPT FROM GS 47-30 AS PER GS 47-30 (J).

SURVEYOR'S CERTIFICATION
 I, GARY S. MILLER, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY PERFORMED UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 205, PAGE 805; OR FROM BOOKS REFERENCED HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK SEE, PAGE REF., OR AS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.
 I FURTHER CERTIFY PURSUANT TO G.S. 47-30 (f) (1) (d), THIS SURVEY IS OF ANOTHER CATEGORY AND IS AN EXEMPTION TO THE DEFINITION OF SUBDIVISION.
 WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS 29th DAY OF APRIL 20, 2022.
 SIGNED: *G. Miller*
 PROFESSIONAL LAND SURVEYOR NO. L-2562



ANNEXATION PLAT FOR
KATE VINCENT KITTRELL
 TAX PARCEL #13111
 GREENVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA

 GARY S. MILLER, PLS & ASSOCIATES, P.A. LAND SURVEYORS <small>GARY S. MILLER, PLS Phone: (252)756-7878 Fax: (252)756-0785 1803 South, Charles Blvd. Greenville, N.C. 27838 License # C-0225</small>	SURVEYED: MCP	APPROVED: GSM
	DRAWN: BLW	DATE: 4-29-2022
	CHECKED: TEM	SCALE: 1" = 100'

MAP NO.	PLATS RECORDED	BOOK	PAGE

MAP SHOWING AREA ANNEXED BY
 THE CITY OF GREENVILLE, N.C.

DATE: _____ ORDINANCE NO. _____ AREA: 12.048 AC.

GREENVILLE TOWNSHIP, PITT COUNTY, N.C.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Ordinance requested by BFC Allen Road, LLC to rezone 1.542+/- acres located along the southern right-of-way of the Norfolk & Southern Railroad between Allen Road and Spring Forest Road from RA20 (Residential-Agricultural) to R6 (Residential [High Density Multi-family])

Explanation: **Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on May 3, 2022.
On-site sign(s) posted on May 3, 2022.
City Council public hearing notice (property owner and adjoining property owner letter) mailed on May 26, 2022.
Public hearing legal advertisement published May 28 and June 4, 2022.

Comprehensive Plan:

The Future Land Use and Character Map recommends commercial (C) at the southeastern corner of the intersection Allen Road and the CSX RR transitioning to traditional neighborhood, medium-high density (TNMH) to the south and interior.

Commercial

Primarily community- and regional-scale commercial development situated near and along major roadway corridors. Existing development is characterized by buildings set back from streets behind surface parking. That existing pattern should evolve to become more walkable with shorter blocks, buildings near streets, shared parking, and connections to surrounding development.

Intent:

- Provide connectivity to nearby uses (paths, streets)
- Locate new buildings near street on at least one side and accommodate parking to the side or rear of buildings

- Improve/provide public realm features such as signs, sidewalks, landscaping
- Reduce access-points into development for pedestrian and vehicular safety
- Reduce and consolidate surface parking

Primary uses:

Commercial (small and large format)

Office

Secondary uses:

Institutional/civic

Traditional Neighborhood, Medium-High Density

Primarily residential area featuring a mix of higher density housing types ranging from multi-family, townhomes, and small-lot single-family detached. They are typically located within a walkable distance to a neighborhood activity center. Traditional neighborhoods should have a walkable street network of small blocks, a defined center and edges, and connections to surrounding development.

Intent:

- Provide streetscape features such as sidewalks, street trees, and lighting
- Allow neighborhood-scale commercial or mixed use centers at key intersections within neighborhoods

Primary uses:

Multi-family residential

Single-family residential attached (townhomes) and detached (small-lot)

Secondary uses:

Institutional (neighborhood scale)

Thoroughfare/Traffic Report Summary (Engineering Department):

Due to the size and shape of the property, it is not developable. Therefore, a traffic report was not generated.

History/Background:

In 2001, the property was part of a large-scale extra-territorial jurisdiction (ETJ) extension and zoned to its current zoning.

Existing Land Uses:

Farmland

Water/Sewer:

Water and sanitary sewer are available to the property.

Historic Sites:

There are no known effects on historic sites.

Environmental Conditions/Constraints:

The property is located in the Greens Mill Run watershed. If stormwater rules apply, it would require 25-year detention, nitrogen and phosphorus reduction.

No portion of the property is located in the Special Flood Hazard Area. No jurisdictional wetlands, streams and riparian buffers appear to exist on the property.

Surrounding Land Uses and Zoning:

North: MR - Farmland

South and West: R6 - Woodland (under common ownership of the applicant)

East: R6 - Breckinridge Court Apartments

Density Estimates:

Due to size and shape of the property, it is not developable.

Fiscal Note:

No cost to the City.

Recommendation:

In staff's opinion the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

Therefore, staff recommends approval.

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

The Planning and Zoning Commission voted unanimously to approve the request at its May 17, 2022 meeting.







If City Council determines to approve the request, a motion to adopt the attached rezoning ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

"Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest."

Note: In addition to the other criteria, the Planning and Zoning Commission and City Council shall consider the entire range of permitted and special uses for the existing and proposed districts as listed under Title 9, Chapter 4, Article D of the Greenville City Code.

ATTACHMENTS

-  [Ordinance_-_BFC_Allen_Rd.pdf](#)
-  [COG-#1164915-v1-P&Z_Excerpt_May_17_2022-_BFC_Allen_RZ.pdf](#)
-  [BFCapomap.pdf](#)
-  [BFC Allen Rdsurvey.pdf](#)
-  [RA20 to R6.pdf](#)
-  [Density and Veg Charts.pdf](#)

LOCATION: Located along the southern right-of-way of the Norfolk & Southern Railroad between Allen Road and Spring Forest Road.

DESCRIPTION: Beginning at an existing iron pipe on the southern right-of-way of Norfolk and Southern Railroad, said iron pipe being the northwestern corner of the Breckenridge Court, LLC Property as described in Deed Book 1386, Page 528 and recorded in Map Book 58, Page 102, both of the Pitt County Register of Deeds. From the above described beginning, so located, running thence as follows:

Leaving the southern right-of-way of Norfolk and Southern Railroad and with the western line of above referenced Breckinridge Court, LLC Property, S 24°51'07" W 247.05' to an existing iron pipe at the northeastern corner of the BFC Allen Road, LLC Property as described in Deed Book 4158, Page 751 of the Pitt County Register of Deeds, thence leaving the western line of the Breckinridge Court, LLC Property and with the northern line of said Hot Point, LLC Property, N 77°09'42" W 529.81' to an existing iron pipe on the southern right-of-way of Norfolk and Southern Railroad, thence with the southern right-of-way of Norfolk and Southern Railroad, N 78°14'21" E 136.87', N 78°58'54" E 108.70' (chord), N 79°51'42" E 107.81' (chord), N81°04'47" E 104.65' (chord), N 82°14'16" E 107.01' (chord) and N 82°47'12" E 64.67' (chord) to the point of beginning containing 1.542 acres.

Section 2. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 3. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. That this ordinance shall become effective upon its adoption.

ADOPTED this 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1165136

Excerpt from the draft Planning & Zoning Commission Minutes (05/17/22)

REQUEST BY BFC ALLEN ROAD, LLC TO REZONE 1.542+/- ACRES LOCATED ALONG THE SOUTHERN RIGHT-OF-WAY OF THE NORFOLK & SOUTHERN RAILROAD BETWEEN ALLEN ROAD AND SPRING FOREST ROAD FROM RA20 (RESIDENTIAL-AGRICULTURAL) TO R6 (RESIDENTIAL [HIGH DENSITY MULTI-FAMILY]).

Chantae Gooby presented for staff. The property is located in the Greens Mill Run watershed and will require 25-year detention. There is no special hazard area, wetlands, streams or buffers on the property. Due to the size of this property, it is not developable as an individual piece of property so a traffic volume report was not generated. The property is currently zoned RA20 (Residential-Agricultural) and the request is for R6 (Residential [High Density Multi-family]). It is under common ownership of the property to the south which is already zoned R6 (Residential [High Density Multi-family]). In staff's opinion, the request is in compliance with the Horizons 2026: Greenville's Community Plan and the Future Land Use Plan. Therefore, staff recommends approval of the request.

Chairman Faison opened the public hearing.

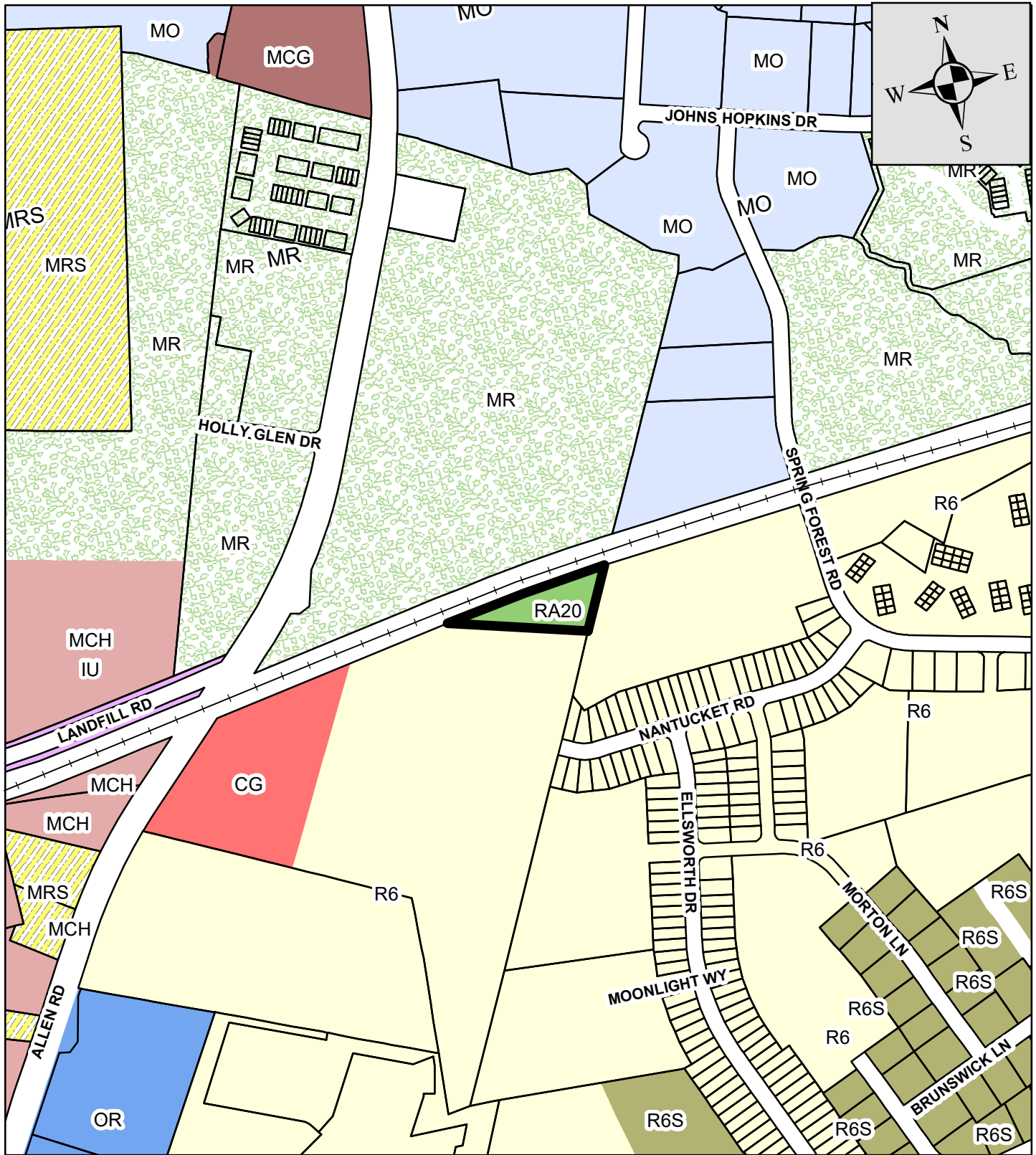
Scott Anderson spoke in favor. He stated this parcel is in common ownership with the 30 acres located to the south. The intent is to combine the parcels together to allow for development.

No one spoke in opposition.

Chairman Faison closed the public hearing.

Motion made by Mr. Joyner, seconded by Mr. Robinson, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

BFC Allen Road, LLC
From: RA20
To: R6
1.542 acres
May 3, 2022



EXISTING ZONING**RA20 (RESIDENTIAL-AGRICULTURAL) - PERMITTED USES**

(1) General	
a.	Accessory use or building
c.	On-premise signs per Article N
(2) Residential	
a.	Single-family dwelling
b(1).	Master Plan Community per Article J
f.	Residential cluster development per Article M
k.	Family care homes (see also 9-4-103)
q.	Room renting
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
c.	Wayside market for farm products produced on-site
e.	Kennel (see also section 9-4-103)
f.	Stable; horse only (see also section 9-4-103)
g.	Stable; per definition (see also section 9-4-103)
h.	Animal boarding not otherwise listed; outside facility, as an accessory or principal use
l.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility
g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	

RA20 (RESIDENTIAL-AGRICULTURAL) - SPECIAL USES

(1) General - None	
(2) Residential	
b.	Two-family attached dwelling (duplex)
g.	Mobile home (see also section 9-4-103)
n.	Retirement center or home
o.	Nursing, convalescent or maternity home; major care facility
o(1).	Nursing, convalescent or maternity home; minor care facility
(3) Home Occupations	
a.	Home occupation; not otherwise listed
b.	Home occupation; barber and beauty shop
c.	Home occupation; manicure, pedicure or facial salon
(4) Governmental	
a.	Public utility building or use
(5) Agricultural/Mining	

b.	Greenhouse or plant nursery; including accessory sales
m.	Beekeeping; major use
n.	Solar energy facility
(6) Recreational/Entertainment	
a.	Golf course; 18-hole regulation length (see also section 9-4-103)
a(1).	Golf course; 9-hole regulation length (see also section 9-4-103)
c(1).	Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
a.	Child day care facilities
b.	Adult day care facilities
d.	Cemetery
g.	School; junior and senior high (see also section 9-4-103)
h.	School; elementary (see also section 9-4-103)
i.	School; nursery and kindergarten (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
PROPOSED ZONING	
R6 (RESIDENTIAL) - PERMITTED USES	
(1) General	
a.	Accessory use or building
c.	On-premise signs per Article N
(2) Residential	
a.	Single-family dwelling
b.	Two-family attached dwelling (duplex)
b(1).	Master Plan Community per Article J
c.	Multi-family development per Article I
f.	Residential cluster development per Article M
k.	Family care homes (see also 9-4-103)
q.	Room renting
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
l.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility
g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	

(12) Construction	
	c. Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
R6 (RESIDENTIAL) - SPECIAL USES	
(1) General - None	
(2) Residential	
	d. Land use intensity multi-family (LUI) development rating 50 per Article K
	e. Land use intensity multi-family (LUI) development rating 67 per Article K
	l. Group care facility
	n. Retirement center or home
	o(1). Nursing, convalescent or maternity home; minor care facility
	p. Board or rooming house
	r. Fraternity or sorority house
(3) Home Occupations	
	a. Home occupation; not otherwise listed
	b. Home occupation; barber and beauty shop
	c. Home occupation; manicure, pedicure or facial salon
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining - None	
(6) Recreational/Entertainment	
	a. Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1). Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
	a. Child day care facilities
	b. Adult day care facilities
	d. Cemetery
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
	m. Multi-purpose center
	t. Guest house for a college or other institution of higher learning
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	

RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

*** Maximim allowable density in the respective zoning district.

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

Bufferyard Requirements: Match proposed land use with adjacent permitted land use or adjacent vacant zone/nonconforming use to determine applicable bufferyard.

PROPOSED LAND USE CLASS (#)	ADJACENT PERMITTED LAND USE CLASS (#)					ADJACENT VACANT ZONE OR NONCONFORMING USE		PUBLIC/PRIVATE STREETS OR R.R.
	Single-Family Residential (1)	Multi-Family Residential (2)	Office/Institutional, light Commercial, Service (3)	Heavy Commercial, Light Industry (4)	Heavy Industrial (5)	Residential (1) - (2)	Non-Residential (3) - (5)	
Multi-Family Development (2)	C	B	B	B	B	C	B	A
Office/Institutional, Light Commercial, Service (3)	D	D	B	B	B	D	B	A
Heavy Commercial, Light Industry (4)	E	E	B	B	B	E	B	A
Heavy Industrial (5)	F	F	B	B	B	F	B	A

Bufferyard A (street yard)		
Lot Size	Width	For every 100 linear feet
Less than 25,000 sq.ft.	4'	2 large street trees
25,000 to 175,000 sq.ft.	6'	2 large street trees
Over 175,000 sq.ft.	10'	2 large street trees

Street trees may count toward the minimum acreage.

Bufferyard B (no screen required)	
Lot Size	Width
Less than 25,000 sq.ft.	4'
25,000 to 175,000 sq.ft.	6'
Over 175,000 sq.ft.	10'

Bufferyard C (screen required)	
Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs

Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.

Bufferyard D (screen required)	
Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard E (screen required)	
Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard F (screen required)	
Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Parking Area: Thirty (30) inch high screen required for all parking areas located within fifty (50) feet of a street right-of-way.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Ordinance requested by Charles Blvd. 58 Acres, LLC to rezone a total of 48.101 acres located along the eastern right-of-way of Charles Boulevard and 200+/- feet south of Cantata Drive from R15S (Residential-Single-family [Low Density]), R9S (Residential-Single-family [Medium Density]), and R6S (Residential-Single-family [Medium Density]) to O (Office)

Explanation: **Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on May 3, 2022.
On-site sign(s) posted on May 3, 2022.
City Council public hearing notice (property owner and adjoining property owner letter) mailed on May 26, 2022.
Public hearing legal advertisement published May 28 and June 4, 2022.

Comprehensive Plan:

The Future Land Use and Character Map recommends commercial (C) at the northeastern corner of the intersection of Charles Boulevard and East Fire Tower Road transitioning to office/institutional and traditional neighborhood, medium-high density (TNMH) to the north and interior. Further, the Future Land Use and Character recommends potential conservation/open space (PCOS) along Meetinghouse Branch.

Commercial

Primarily community- and regional-scale commercial development situated near and along major roadway corridors. Existing development is characterized by buildings set back from streets behind surface parking. That existing pattern should evolve to become more walkable with shorter blocks, buildings near streets, shared parking, and connections to surrounding development.

Intent:

- Provide connectivity to nearby uses (paths, streets)
- Locate new buildings near street on at least one side and accommodate parking to the side or rear of buildings
- Improve/provide public realm features such as signs, sidewalks, landscaping
- Reduce access-points into development for pedestrian and vehicular safety
- Reduce and consolidate surface parking

Primary uses:

Commercial (small and large format)

Office

Secondary uses:

Institutional/civic

Office/Institutional

These areas serve as a transition between more intense commercial areas and surrounding neighborhoods. The form of future development should take a more walkable pattern with shorter blocks, buildings near streets, shared parking, and connections to surrounding development.

Intent:

- Provide connectivity to nearby uses (paths, streets)
- Locate new buildings near street on at least one side and accommodate parking to the side or rear of buildings; cluster buildings to consolidate and share surface parking
- Improve/provide public realm features such as signs, sidewalks, landscaping
- Reduce access-points into development for pedestrian and vehicular safety

Primary uses:

Office

Institutional/civic

Traditional Neighborhood, Medium-High Density

Primarily residential area featuring a mix of higher density housing types ranging from multi-family, townhomes, and small-lot single-family detached. They are typically located within a walkable distance to a neighborhood activity center. Traditional neighborhoods should have a walkable street network of small blocks, a defined center and edges, and connections to surrounding development.

Intent:

- Provide streetscape features such as sidewalks, street trees, and lighting
- Allow neighborhood-scale commercial or mixed use centers at key intersections within neighborhoods

Primary uses:

Multi-family residential

Single-family residential attached (townhomes) and detached (small-lot)

Secondary uses:

Institutional (neighborhood scale)

Potential Conservation/Open Space

Potential conservation/open space land is typically located in areas that contain existing parkland, needed land buffers, exhibit potential for flooding, or are deemed inappropriate for development due to physical or environmental barriers. Some land within this area may not contain barriers to development, or there may be reasonable mitigation. Site analysis is needed to determine development capabilities in these areas.

The Future Land Use and Character Map identifies certain areas as potential conservation/open space. Much of this area is designated based upon data on flood-prone land and environmental constraints that may not correspond

precisely with conditions on the ground. Seeing an area designated this way is the beginning of a conversation. When considering rezoning requests or other development proposals, some areas classified as potential conservation/open space may be determined not to contain anticipated limitations on development, or that existing concerns can reasonably be mitigated. In such cases, the future preferred land use should be based on adjacent Land Use and Character designations, contextual considerations, and the general policies of the comprehensive plan.

Intent:

- Conserve environmentally-sensitive land
- Buffer incompatible land uses with open space
- Provide open space network through the city for recreation
- Conservation/open space buffers adjacent to industrial development should be maintained at a width based on the type of industry and its potential to create compatibility problems
- Greenways and greenway connectors should be maintained to be consistent with the Greenway Plan.

Thoroughfare/Traffic Report Summary (Engineering Department):

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 2,873 trips to and from the site on Charles Boulevard, which is a net increase of 796 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

History/Background:

In 2017, this property was zoned its current zoning.

Existing Land Uses:

Farmland

Water/Sewer:

Water and sanitary sewer are available to the property.

Historic Sites:

There are no known effects on historic sites.

Environmental Conditions/Constraints:

The property is located in the Meetinghouse Branch watershed. If stormwater rules apply, it would require 25-year detention, nitrogen and phosphorus

reduction.

No portion of the property is located in the Special Flood Hazard Area. Jurisdictional wetlands, streams and riparian buffers may exist on the property.

Surrounding Land Uses and Zoning:

North: R6S - Tucker Subdivision; R15S - Rabbit Run Subdivision.

Note: There is a 50+/- foot strip of R15S-zoned property that is not included in this rezoning request. This strip is under common ownership of the subject property.

South: R6 - Farmland and one (1) single-family residence

East: R9S - Tuckahoe Subdivision

West: O - Vacant (under common ownership as the subject property)

Density Estimates:

Under the current zoning, the site could accommodate 215-220 single-family lots.

Under the proposed zoning, the site could accommodate 295,000 square feet of office space.

The anticipated build-out is within 5-7 years.

Fiscal Note:

No cost to the City.

Recommendation:

In staff's opinion the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

Therefore, staff recommends approval.

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

The Planning and Zoning Commission voted to approve (4:1) the request at its May 17, 2022 meeting








If City Council determines to approve the request, a motion to adopt the attached rezoning ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

"Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest."

Note: In addition to the other criteria, the Planning and Zoning Commission and City Council shall consider the entire range of permitted and special uses for the existing and proposed districts as listed under Title 9, Chapter 4, Article D of the Greenville City Code.

ATTACHMENTS

-  [Ordinance_Charles_Blvd_58_acres.pdf](#)
-  [COG-#1164917-v1-P&Z_Excerpt_May_17_2022-_Charles_Blvd_RZ.pdf](#)
-  [ChasBLvdAPot.pdf](#)
-  [ChasBlvdsurvey.pdf](#)
-  [Charles Blvd Traffic.pdf](#)
-  [Chas Blvd List_of_uses.pdf](#)
-  [Density and Veg Charts.pdf](#)

ORDINANCE NO. 22-
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE
REZONING TERRITORY LOCATED WITHIN THE PLANNING AND ZONING
JURISDICTION OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 6, Chapter 160D, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on the 9th day of June, 2022, at 6:00 p.m., conduct a public hearing on the adoption of an ordinance rezoning the following described territory;

WHEREAS, the City Council has been informed of and has considered all of the permitted and special uses of the districts under consideration;

WHEREAS, in accordance with the applicable provisions of North Carolina General Statute 160D-605, the City Council does hereby find and determine that the adoption of the ordinance zoning the following described property is consistent with the adopted comprehensive plan and other officially adopted plans that are applicable and that the adoption of the ordinance zoning the following described property is reasonable and in the public interest due to its consistency with the comprehensive plan and other officially adopted plans that are applicable and, as a result, its furtherance of the goals and objectives of the comprehensive plan and other officially adopted plans that are applicable;

WHEREAS, as a further description as to why the action taken is consistent with the comprehensive plan and other officially adopted plans that are applicable in compliance with the provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance is consistent with provisions of the comprehensive plan including, but not limited to, Policy 1.1.1 guide development with the Future Land Use and Character Map and Policy 1.1.6 guide development using the Tiered Growth Approach; and

WHEREAS, as a further explanation as to why the action taken is reasonable and in the public interest in compliance with the applicable provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance will, in addition to the furtherance of other goals and objectives, promote the safety and general welfare of the community because the requested zoning is consistent with the recommended Future Land Use and Character Map and is located in a Primary Service Area;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

Section 1. That the following described territory is rezoned from R15S (Residential-Single-family), R9S (Residential-Single-family), R6S (Residential-Single-family to O (Office).

TO WIT: John Marvin Taft and Patricia Scheller Bowen et al

LOCATION: Located along the eastern right-of-way of Charles Boulevard and 200+/- feet south of Cantata Drive.

DESCRIPTION: **COMMENCING** at a 1/2" Pipe found having observed North Carolina State Plane Coordinate System NAD 83(2011) coordinates of Northing=667,105.57 feet and Easting=2,489,829.28 feet and thence running North 21° 31' 57" West for a distance of 195.60 feet (Ground) to a 1/2" Pipe found having coordinates of Northing=667,287.50 and Easting=2,489,757.50, and then running along and with the easterly right-of-way for Charles Boulevard North 21° 30' 42" West for a distance of 1263.96 feet to a Flat Iron found, thence leaving said right-of-way and turning and running South 89° 38' 15" East for a distance of 322.26 feet to a 3/4" found pipe, thence turning and running South 21° 33' 32" East for a distance of 53.90 feet, said point also being the point and place of BEGINNING.

Thence from said point of beginning South 89° 38' 15" East for a distance of 1854.22 feet to a Calculated point, thence turning and running North 15° 50' 35" West for a distance of 52.07 feet to a Calculated point, thence turning and running the following three (3) calls: (1) South 89° 38' 15" East for a distance of 49.09 feet to a Calculated point; (2) South 89° 38' 15" East for a distance of 29.44 feet to a Calculated point; and (3) South 89° 38' 15" East for a distance of 432.92 feet to a 1/2" Rebar found; thence turning and running the following four (4) calls: (1) South 07° 23' 03" East for a distance of 244.76 feet to 1/2" Pipe found; (2) South 07° 31' 10" East for a distance of 136.83 feet to a 1" Pipe found; (3) South 08° 21' 08" East for a distance of 19.71 feet to a 1" Pipe found; (4) South 08° 21' 08" East for a distance of 134.78 feet to a Calculated point in the center of Meeting House Branch; thence turning and running along and with said Branch the following twenty-three (23) calls: (1) South 50° 36' 27" East for a distance of 52.32 feet to a Calculated point; (2) South 66° 33' 38" East for a distance of 44.19 feet to a Calculated point; (3) South 68° 44' 36" East for a distance of 48.29 feet to a Calculated point; (4) South 54° 02' 24" East for a distance of 67.21 feet to a Calculated point; (5) South 56° 22' 00" East for a distance of 40.38 feet to a Calculated point; (6) South 35° 12' 58" East for a distance of 15.81 feet to Calculated point; (7) South 72° 46' 14" East for a distance of 16.31 feet to a Calculated point; (8) South 48° 42' 59" East for a distance of 35.34 feet to a Calculated point; (9) South 46° 20' 09" East for a distance of 32.82 feet to a Calculated point; (10) South 56° 59' 11" West for a distance of 16.86 feet to a Calculated point; (11) South 56° 59' 11" West for a distance of 41.30 feet to a Calculated point; (12) South 41° 47' 03" West for a distance of 20.82 feet to a Calculated point; (13) South 58° 17' 58" West for a distance of 38.14 feet to a Calculated point; (14) South 44° 24' 10" West for a distance of 72.55 feet to a Calculated point; (15) South 22° 44' 10" West for a distance of 70.68 feet to a Calculated point; (16) South 63° 17' 46" West for a distance of 34.54 feet to a Calculated point; (17) South 63° 17' 46" West for a distance of 143.96 feet to a Calculated point; (18) South 59° 14' 43" West for a distance of 2.30 feet to a Calculated point; (19) South 59° 21' 32" West for a distance of 54.51 feet to a Calculated point; (20) South 81° 19' 54" West for a distance of 65.80 feet to a Calculated point; (21) South 86° 30' 55" West for a distance of 54.69 feet to a Calculated point; (22) South 82° 45' 41" West for a distance of 97.83 feet to a Calculated point; (23) South 84° 10' 19" West for a distance of 49.74 feet to a Calculated point, thence turning and running the following six (6) calls: (1) North 00° 19' 31" East for a distance of 226.78 feet (crossing over a 3/4" Pipe found at 20.00 feet) to a 3/4" Pipe found; (2) North 89° 39' 54" West for a distance of 438.13 feet to a

3/4" Pipe found; (3) South 00° 20' 35" West for a distance of 135.23 feet to a 3/4" Pipe found; (4) North 89° 39' 18" West for a distance of 974.21 feet to a 3/4" Pipe Found; (5) South 68° 27' 38" West for a distance of 80.59 feet to a 3/4" Pipe found; (6) South 68° 27' 38" West for a distance of 190.59 feet to a Calculated point; thence turning and running North 21° 33' 32" West for a distance of 1,089.85 feet to the point and place of **BEGINNING**.

Section 2. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 3. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. That this ordinance shall become effective upon its adoption.

ADOPTED this 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1165138

Excerpt from the draft Planning & Zoning Commission Minutes (05/17/22)

REQUEST BY CHARLES BLVD. 58 ACRES, LLC TO REZONE A TOTAL OF 48.101 ACRES LOCATED ALONG THE EASTERN RIGHT-OF-WAY OF CHARLES BOULEVARD AND 200+/- FEET SOUTH OF CANTATA DRIVE FROM R15S (RESIDENTIAL-SINGLE-FAMILY [LOW DENSITY]), R9S (RESIDENTIAL-SINGLE-FAMILY [MEDIUM DENSITY]), AND R6S (RESIDENTIAL-SINGLE-FAMILY [MEDIUM DENSITY]) TO O (OFFICE).

Chantae Gooby presented for staff. There is approximately a 50 foot strip left out between the subject property and Tucker Subdivision that will remain R15S (Residential Single-family [Low Density]). The property is located in the Meetinghouse Branch watershed and will require 25-year detention. There is no special flood hazard area but wetlands, streams and buffers may exist. This rezoning could generate a net increase of about 800 trips per day at full build-out between the existing zoning and the proposed zoning. Currently, the property has three separate zoning districts that are all single-family zoning districts. The request is to rezone the property to O (Office). Under the current zoning, the property could yield about 215 single-family lots. Under the proposed zoning, it could yield about 300,000 square feet of office space. The Future Land Use Plan recommends commercial at the corner of Charles Boulevard and Fire Tower Road. Further north along Charles Boulevard, office is used as a buffer between Charles Boulevard and Tucker Subdivision. Office is a good neighbor adjacent to residential. In staff's opinion, the request is in compliance with the Horizons 2026: Greenville's Community Plan and the Future Land Use Plan. Therefore, staff recommends approval of the request.

Mr. Maxwell stated there is residential all around this property and it seems odd to turn it into office.

Ms. Gooby stated office is the most restrictive non-residential district. It is used as a buffer between residential and commercial.

Mr. Maxwell stated he has concern about increased flooding for the neighborhoods.

Ms. Gooby stated this would fall under the stormwater regulations that the city has in place.

Chairman Faison opened the public hearing.

Clint Cogburn spoke in favor. He stated his client, Grover Gaming, submitted this request to use this property as its office. The 50-foot strip was excluded after discussion with the neighbors. They wanted additional buffer and control and the plan is to deed the 50-foot strip property to the adjacent property owners. The proposal is consistent with the existing zoning districts in the area.

Jeff Aldridge spoke in favor. He stated he is a Tucker Estates homeowner and he is one of the 12 houses that backs up to the property. He thinks it is a great neighbor for their neighborhood and the community. He has lived in the neighborhood since 1986 and does not know of any streets that have flooded.

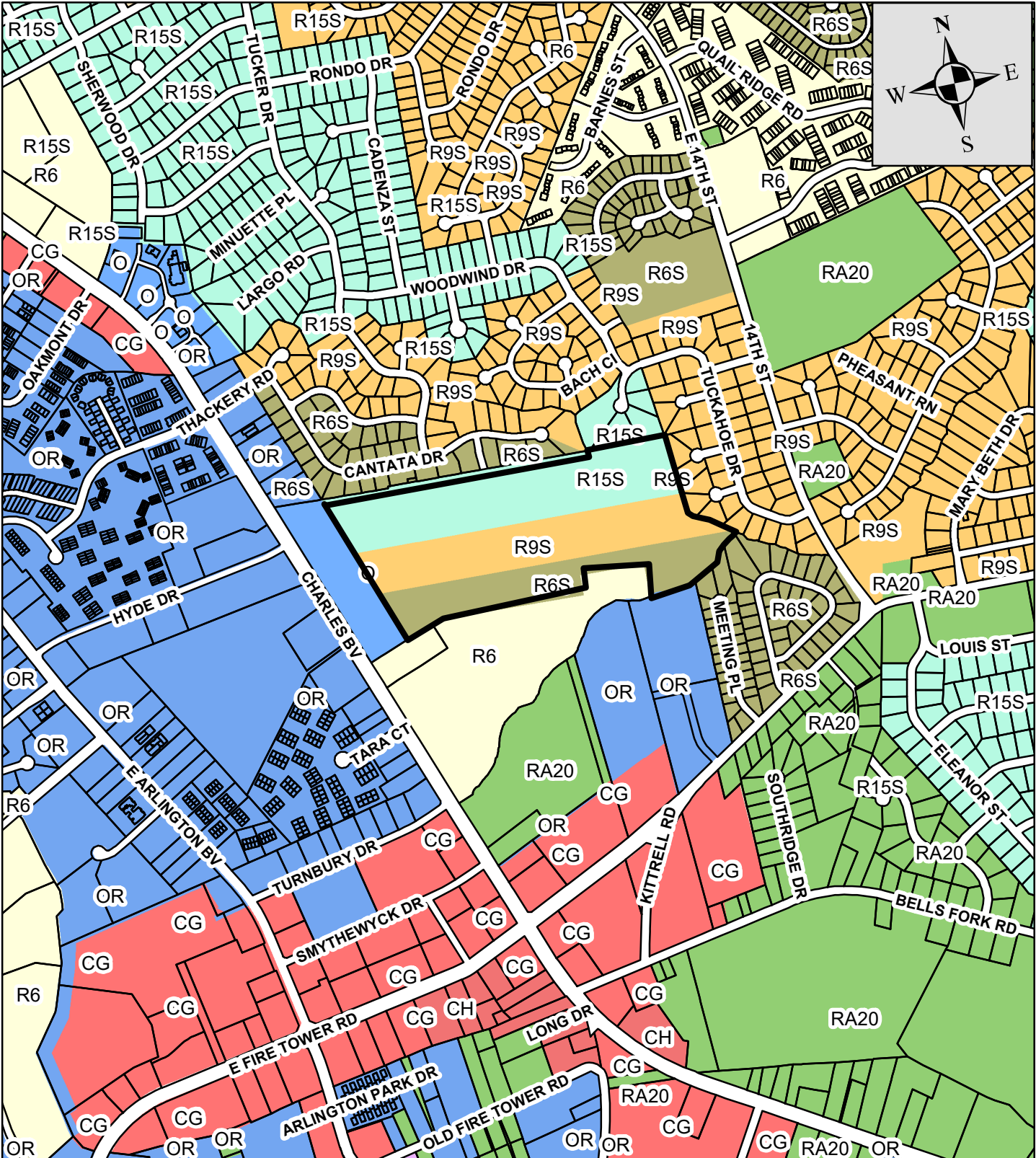
Justin Mullarkey spoke in favor. He stated they have taken an approach that they feel is inclusive of the adjacent property owners. They had a neighborhood meeting to share the ideas and concepts of what this could be.

Jerry Sullivan spoke in opposition. He stated he lives in Meeting Place and he has concern about increased flooding.

Chairman Faison closed the public hearing.

Motion made by Mr. Robinson, seconded by Mr. Joyner, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. Those voting in favor: Robinson, Joyner, Collins, and Overton. Those voting in opposition: Maxwell. Motion passed 4:1.

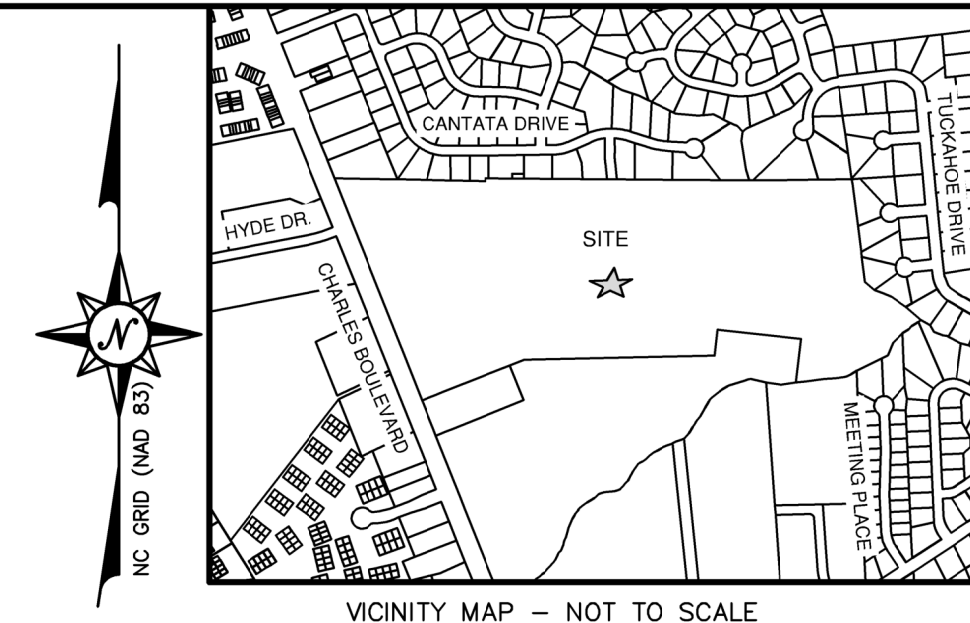
Charles Blvd 58 Acres, LLC
From: R15S, R9S, R6S
To: Office
Acres: 48.101
May 3, 2022



LEGEND

●	= IRON FOUND (AS NOTED)
△	= CALCULATED POINT
—	= SIGN
—	= POWER POLE
☆	= LIGHT POLE
Y—	= GUY WIRE
—	= MAILBOX
—	= TELEPHONE PEDESTAL
⊙	= SANITARY MANHOLE
R/W	= RIGHT OF WAY
N/F	= NOW/FORMERLY
IRF	= IRON REBAR FOUND
IPF	= IRON PIPE FOUND
NAD	= NORTH AMERICAN DATUM
—	= BOUNDARY LINE
—	= RIGHT-OF-WAY
—	= LINES PER PITT COUNTY GIS
—	= EASEMENT (AS NOTED)
—	= FENCE (AS NOTED)
—	= OVERHEAD ELECTRIC LINE
—	= TREE LINE

- ALL DISTANCES ARE HORIZONTAL GROUND IN U.S. SURVEY FEET UNLESS OTHERWISE SHOWN.
- BEARINGS BASED ON NC GRID NAD 83(2011).
- REFERENCES: DEED BOOK Y-32, PAGE 378, MAP BOOK 11, PAGE 35
- SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP, TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
- UNDERGROUND UTILITIES ARE SHOWN ONLY WHERE ABOVEGROUND SERVICES WERE VISIBLE.
- SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS TRACT.
- THE EXISTENCE OR NONEXISTENCE OF WETLANDS ON SUBJECT PROPERTY HAS NOT BEEN DETERMINED BY THIS SURVEY.
- SUBJECT TO ALL EASEMENTS, RIGHT OF WAYS, AND OR ENCUMBRANCES THAT MAY EFFECT THIS PROPERTY.
- THIS PARCEL IS IN FLOOD ZONE "X" ACCORDING TO FEMA FIRM PANEL 3720469600J, HAVING AN EFFECTIVE DATE OF JANUARY 1, 2004.
- THIS SITE WAS LOCALIZED AT A 5/8" REBAR W/ CAP HAVING A NORTHING 668,456.91, EASTING 2,489,204.54, AND CSF 0.999890712.
- THE PURPOSE OF THIS PLAT IS FOR REZONING PURPOSES ONLY.



I, MATTHEW T. ROBERTS PLS L-5332, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK Y-32 PAGE 278); THAT THE BOUNDARY LINES NOT SURVEYED ARE INDICATED WITH DASHED LINES AS DRAWN FROM INFORMATION FROM PITT COUNTY GIS; THAT THE RATIO OF PRECISION IS 1:48816; THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600);

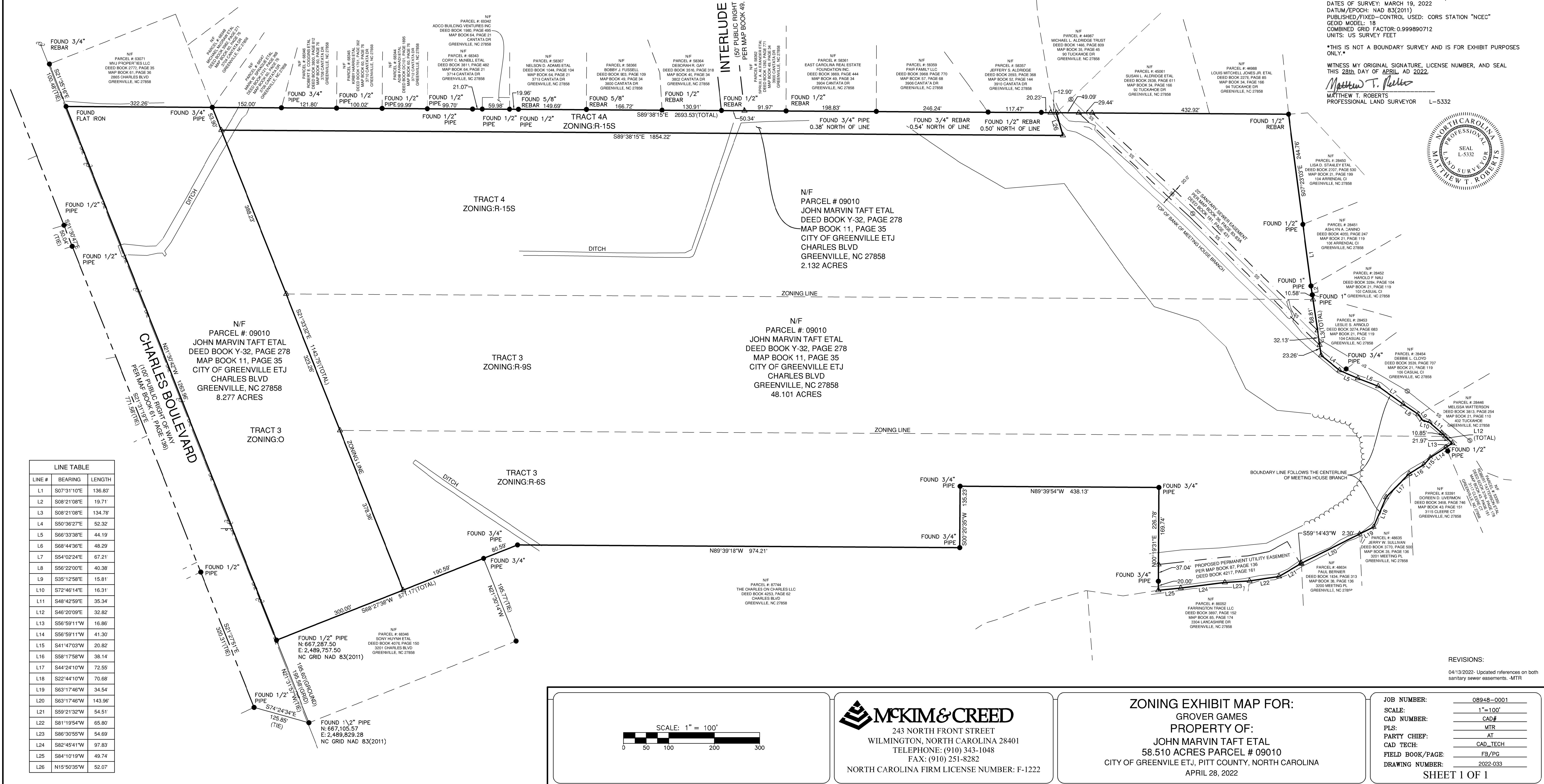
THAT THE GPS SURVEY MADE WAS UNDER MY SUPERVISION AND WAS USED TO ESTABLISH CONTROL.

CLASS OF SURVEY: A
 POSITIONAL ACCURACY: 0.034 @ 95%
 TYPE OF GPS FIELD PROCEDURE: NC RTN/RS
 DATES OF SURVEY: MARCH 19, 2022
 DATUM/EPOCH: NAD 83(2011)
 PUBLISHED/FIXED-CONTROL USED: CORS STATION "NCEC"
 GEOID MODEL: 18
 COMBINED GRID FACTOR: 0.999890712
 UNITS: US SURVEY FEET

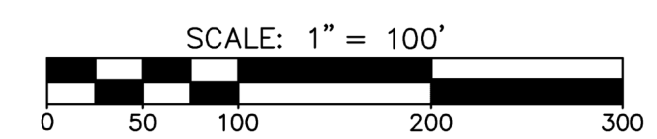
THIS IS NOT A BOUNDARY SURVEY AND IS FOR EXHIBIT PURPOSES ONLY.

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 23rd DAY OF APRIL, AD 2022.

Matthew T. Roberts
 MATTHEW T. ROBERTS
 PROFESSIONAL LAND SURVEYOR L-5332



LINE #	BEARING	LENGTH
L1	S07°31'10"E	136.83'
L2	S08°21'08"E	19.71'
L3	S08°21'08"E	134.78'
L4	S50°36'27"E	52.32'
L5	S66°33'38"E	44.19'
L6	S68°44'36"E	48.29'
L7	S54°02'24"E	67.21'
L8	S56°22'00"E	40.38'
L9	S35°12'58"E	15.81'
L10	S72°46'14"E	16.31'
L11	S48°42'59"E	35.34'
L12	S46°20'09"E	32.82'
L13	S56°59'11"W	16.86'
L14	S56°59'11"W	41.30'
L15	S41°47'03"W	20.82'
L16	S58°17'58"W	38.14'
L17	S44°24'10"W	72.55'
L18	S22°44'10"W	70.68'
L19	S63°17'46"W	34.54'
L20	S63°17'46"W	143.96'
L21	S59°21'32"W	54.51'
L22	S81°19'54"W	65.80'
L23	S86°30'55"W	54.69'
L24	S82°45'41"W	97.83'
L25	S84°10'19"W	49.74'
L26	N15°50'35"W	52.07'



MCKIM & CREED
 243 NORTH FRONT STREET
 WILMINGTON, NORTH CAROLINA 28401
 TELEPHONE: (910) 343-1048
 FAX: (910) 251-8282
 NORTH CAROLINA FIRM LICENSE NUMBER: F-1222

ZONING EXHIBIT MAP FOR:
 GROVER GAMES
 PROPERTY OF:
 JOHN MARVIN TAFT ETAL
 58.510 ACRES PARCEL # 09010
 CITY OF GREENVILLE ETJ, PITT COUNTY, NORTH CAROLINA
 APRIL 28, 2022

JOB NUMBER: 08948-0001
SCALE: 1"=100'
CAD NUMBER: CAD#
PLS: MTR
PARTY CHIEF: AT
CAD TECH: CAD_TECH
FIELD BOOK/PAGE: FB/Pg
DRAWING NUMBER: 2022-033
SHEET 1 OF 1

REVISIONS:
 04/13/2022: Updated references on both sanitary sewer easements. -MTR

REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 22-09

Applicant: Charles Blvd 58 Acres, LLC

Property Information

Current Zoning: R15S (Residential-Single-Family), R9S (Residential-Single-Family), R6S (Residential-Single-Family)

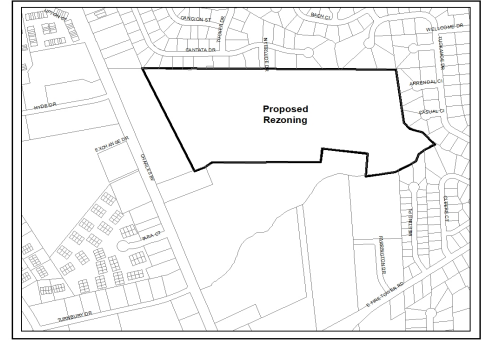
Proposed Zoning: O (Office)

Current Acreage: 50 acres

Location: Charles Blvd, across from Hyde Drive

Points of Access: Charles Blvd

Location Map



Transportation Background Information

1.) Charles Blvd- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	5 lanes - curb & gutter	
Right of way width (ft)	100	no change
Speed Limit (mph)	45	no change
Current ADT:	26,465 (*)	
Design ADT:	29,900 vehicles/day (**)	29,900 vehicles/day (**)
Controlled Access	No	

Thoroughfare Plan Status Major Thoroughfare

Other Information: There are no sidewalks along Charles Blvd that service this property.

- Notes:**
- (*) 2016 NCDOT count adjusted for a 2% annual growth rate
 - (**) Traffic volume based on operating Level of Service D for existing geometric conditions
- ADT – Average Daily Traffic volume

Transportation Improvement Program Status: U-6147 - US 264A (GREENVILLE BOULEVARD) TO SR 1726 (BELLS FORK ROAD). ACCESS MANAGEMENT.

Trips generated by proposed use/change

Current Zoning: 2,077 -vehicle trips/day (*) **Proposed Zoning: 2,873** -vehicle trips/day (*)

Estimated Net Change: increase of 796 vehicle trips/day (assumes full-build out)

(* - These volumes are estimated and based on an average of the possible uses permitted by the current and proposed zoning.)

Impact on Existing Roads

The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on Charles Blvd are as follows:

1.) Charles Blvd , North of Site (60%): “No build” ADT of 26,465

Estimated ADT with Proposed Zoning (full build) – 28,189

Estimated ADT with Current Zoning (full build) – 27,711

Net ADT change = 478 (2% increase)

2.) Charles Blvd , South of Site (40%): "No build" ADT of 26,465

Estimated ADT with Proposed Zoning (full build) – 27,614

Estimated ADT with Current Zoning (full build) – 27,296

Net ADT change = 318 (1% increase)

Staff Findings/Recommendations

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 2873 trips to and from the site on Charles Blvd, which is a net increase of 796 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

EXISTING ZONING	
R15S (RESIDENTIAL-SINGLE-FAMILY) - PERMITTED USES	
(1) General	
	a. Accessory use or building
	c. On-premise signs per Article N
(2) Residential	
	a. Single-family dwelling
	k. Family care homes (see also 9-4-103)
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	b. 4-103)
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	l. Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
	o. Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
	c. Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
R15S (RESIDENTIAL-SINGLE-FAMILY) - SPECIAL USES	
(1) General - None	
(2) Residential - None	
(3) Home Occupations	
	a. Home occupation; not otherwise listed
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining	
	f. Stable; horse only (see also section 9-4-103)
(6) Recreational/Entertainment	
	a. Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1). Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	

(8) Services	
	d. Cemetery
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
R9S (RESIDENTIAL-SINGLE-FAMILY) - PERMITTED USES	
(1) General	
	a. Accessory use or building
	c. On-premise signs per Article N
(2) Residential	
	a. Single-family dwelling
	f. Residential cluster development per Article M
	k. Family care homes (see also 9-4-103)
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	b. City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	l. Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
	o. Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
	c. Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
R9S (RESIDENTIAL-SINGLE-FAMILY) - SPECIAL USES	
(1) General - None	
(2) Residential - None	

(3) Home Occupations	
	a. Home occupation; not otherwise listed
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining	
	i. Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
	a. Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1). Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
	d. Cemetery
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
R6S (RESIDENTIAL-SINGLE-FAMILY) - PERMITTED USES	
(1) General	
	a. Accessory use or building
	c. On-premise signs per Article N
(2) Residential	
	a. Single-family dwelling
	b(1). Master Plan Community per Article J
	f. Residential cluster development per Article M
	k. Family care homes (see also 9-4-103)
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
	o. Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	

(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
	c. Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
R6S (RESIDENTIAL-SINGLE-FAMILY) - SPECIAL USES	
(1) General - None	
(2) Residential - None	
(3) Home Occupations	
	a. Home occupation; not otherwise listed
	d. Home occupation; bed and breakfast inn
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining - None	
(6) Recreational/Entertainment	
	a. Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1). Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
	d. Cemetery
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
	t. Guest house for a college or other institution of higher learning
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
PROPOSED ZONING	
O (OFFICE) - PERMITTED USES	
(1) General	
	a. Accessory use or building
	b. Internal service facilities
	c. On-premise signs per Article N
	f. Retail sales; incidental
(2) Residential - None	
(3) Home Occupations - None	
(4) Governmental	
	b. City of Greenville municipal government building or use (see also section 9-4-103)

	c.	County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
	d.	Federal government building or use
(5) Agricultural/Mining		
	a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
(6) Recreational/Entertainment		
	f.	Public park or recreational facility
(7) Office/Financial/Medical		
	a.	Office; professional and business, not otherwise listed
	d.	Bank, savings and loans or other savings or investment institutions
	e.	Medical, dental, ophthalmology or similar clinic, not otherwise listed
(8) Services		
	c.	Funeral home
	e.	Barber or beauty salon
	g.	School; junior and senior high (see also section 9-4-103)
	h.	School; elementary (see also section 9-4-103)
	i.	School; nursery and kindergarten (see also section 9-4-103)
	o.	Church or place of worship (see also section 9-4-103)
	p.	Library
	q.	Museum
	r.	Art gallery
	u.	Art studio including art and supply sales
	v.	Photography studio including photo and supply sales
	w.	Recording studio
	x.	Dance studio
(9) Repair - None		
(10) Retail Trade		
	s.	Book or card store, news stand
	w.	Florist
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None		
(12) Construction		
	c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None		
(14) Manufacturing/Warehousing - None		
(15) Other Activities (not otherwise listed - all categories) - None		
O (OFFICE) - SPECIAL USES		
(1) General - None		
(2) Residential		
	i.	Residential quarters for resident manager, supervisor or caretaker; excluding mobile home
(3) Home Occupations - None		
(4) Governmental		
	a.	Public utility building or use
(5) Agricultural/Mining - None		

(6) Recreational/Entertainment - None	
(7) Office/Financial/Medical - None	
(8) Services	
	a. Child day care facilities
	b. Adult day care facilities
	j. College and other institutions of higher learning
	l. Convention center; private
y(4)	Distributed Antenna System (See also 9-4-103 (Q))
	bb. Civic organizations
	cc. Trade or business organizations
(9) Repair- None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	

RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

*** Maximim allowable density in the respective zoning district.

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

Bufferyard Requirements: Match proposed land use with adjacent permitted land use or adjacent vacant zone/nonconforming use to determine applicable bufferyard.

PROPOSED LAND USE CLASS (#)	ADJACENT PERMITTED LAND USE CLASS (#)					ADJACENT VACANT ZONE OR NONCONFORMING USE		PUBLIC/PRIVATE STREETS OR R.R.
	Single-Family Residential (1)	Multi-Family Residential (2)	Office/Institutional, light Commercial, Service (3)	Heavy Commercial, Light Industry (4)	Heavy Industrial (5)	Residential (1) - (2)	Non-Residential (3) - (5)	
Multi-Family Development (2)	C	B	B	B	B	C	B	A
Office/Institutional, Light Commercial, Service (3)	D	D	B	B	B	D	B	A
Heavy Commercial, Light Industry (4)	E	E	B	B	B	E	B	A
Heavy Industrial (5)	F	F	B	B	B	F	B	A

Bufferyard A (street yard)		
Lot Size	Width	For every 100 linear feet
Less than 25,000 sq.ft.	4'	2 large street trees
25,000 to 175,000 sq.ft.	6'	2 large street trees
Over 175,000 sq.ft.	10'	2 large street trees

Street trees may count toward the minimum acreage.

Bufferyard B (no screen required)	
Lot Size	Width
Less than 25,000 sq.ft.	4'
25,000 to 175,000 sq.ft.	6'
Over 175,000 sq.ft.	10'

Bufferyard C (screen required)	
Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs

Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.

Bufferyard D (screen required)	
Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard E (screen required)	
Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard F (screen required)	
Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Parking Area: Thirty (30) inch high screen required for all parking areas located within fifty (50) feet of a street right-of-way.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Ordinance requested by Greenbrier Realty Company, Inc. to rezone 0.238 acres located along the eastern right-of-way of Cromwell Drive and 200+/- feet south of Lynndale Court from OR (Office-Residential [High Density Multi-family]) and R6 (Residential [High Density Multi-family]) to R9S (Residential-Single-family [Medium Density])

Explanation: **Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on May 3, 2022.
On-site sign(s) posted on May 3, 2022.
City Council public hearing notice (property owner and adjoining property owner letter) mailed on May 26, 2022.
Public hearing legal advertisement published May 28 and June 4, 2022.

Comprehensive Plan:

The Future Land Use and Character Map recommends mixed use (MU) at the southeastern corner of Red Banks Road and Cromwell Drive transitioning to office/institutional (OI) and traditional neighborhood, low-medium density to the south and interior.

Traditional Neighborhood, Low-Medium Density

Residential area with a mix of housing types on small lots with a single-family neighborhood appearance. Traditional neighborhoods should have a walkable street network of small blocks, a defined center and edges, and connections to surrounding development.

Intent:

- Provide streetscape features such as sidewalks, street trees, and lighting
- Introduce neighborhood-scale commercial centers at key intersections

Primary uses:

Single-family residential

Two-family residential

Attached residential (townhomes)

Secondary uses:

Multi-family residential

Small-scale institutional/civic (churches and school)

Thoroughfare/Traffic Report Summary (Engineering Department):

Due to the size and shape of the property, it is not developable. Therefore, a traffic report was not generated.

History/Background:

In 1989, the property was rezoned to its current zoning.

Existing Land Uses:

Woodland

Water/Sewer:

Water and sanitary sewer are available to the property.

Historic Sites:

There are no known effects on historic sites.

Environmental Conditions/Constraints:

The property is located in the Meetinghouse Branch watershed. If stormwater rules apply, it would require 25-year detention, nitrogen and phosphorus reduction.

No portion of the property is located in the Special Flood Hazard Area. No jurisdictional wetlands, streams and riparian buffers appear to exist on the property.

Surrounding Land Uses and Zoning:

North: OR - Lynndale Executive Park
South: R9S - Woodland (under common ownership of the applicant)
East: OR and R6 - Woodland (under common ownership of the applicant)
West: R9S - Three (3) single-family residences

Density Estimates:

Due to size and shape of the property, it is not developable.

Fiscal Note:

No cost to the City.

Recommendation:

In staff's opinion the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

Therefore, staff recommends approval.

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

The Planning and Zoning Commission voted unanimously to approve the request at its May 17, 2022 meeting.







If City Council determines to approve the request, a motion to adopt the attached rezoning ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

"Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest."

Note: In addition to the other criteria, the Planning and Zoning Commission and City Council shall consider the entire range of permitted and special uses for the existing and proposed districts as listed under Title 9, Chapter 4, Article D of the Greenville City Code.

ATTACHMENTS

-  [Ordinance_-_Greenbrier_Realty.pdf](#)
-  [COG-#1164916-v1-P&Z_Excerpt_May_17_2022-_Greenbrier_RZ.pdf](#)
-  [Greenbrierapomap.pdf](#)
-  [GreenbrierSurvey.pdf](#)
-  [List_of_uses_OR,_R6_to_R9S.pdf](#)
-  [Density and Veg Charts.pdf](#)

LOCATION: Located along the eastern right-of-way of Cromwell Drive and 200+/- feet south of Lynndale Court.

DESCRIPTION: Being a tract of land lying and being situated in Winterville Township, Pitt County, N.C., bounded on the north by Lynndale Executive Park, on the east and the south by Greenbrier Realty Company, Inc., and on the west by Cromwell Drive and being described by metes and bounds as follows:

Beginning at point located on the eastern right of way of Cromwell Drive at the southwest corner of Lot 10, Block "A" of Lynndale Executive Park recorded in Map Book 53 Page 51 of the Pitt County Registry. Said point also marking the northwest corner of Greenbrier Realty Company, Inc. property (P.N. 87838) recorded in Deed Book 4221 Page 752 & Deed Book 4221 Page 758 of the Pitt County Registry; thence, from the point of beginning and with the southern line of Lynndale Executive Park, S 86°59'08" E 150.21 feet to a point, said point marking the northeastern corner of the aforementioned Greenbrier Realty Company, Inc. property (P.N. 87838); thence with a new Zoning line S 06°00'36" W 113.79 feet to a point in the existing Zoning Line dividing R6 and R9S; thence along the existing zoning division line of Zone R6 and Zone R9S and with a curve turning to the left with an arc length of 165.12 feet, with a radius of 227.06 feet, with a chord bearing and distance of N 62°13'46" W, 161.51 feet to a point in the eastern right of way of Cromwell Drive; thence with the eastern right of way of Cromwell Drive, N 06°00'36" E 46.06 feet to the Point of Beginning, containing an area of 0.238 acres (10,367.3 square feet) more or less and being a portion of the property recorded in Deed Book 4221 Page 752 & Deed Book 4221 Page 758, Pitt County Parcel No 87838, currently zoned OR/R6 and a proposed zoning of R9S, and further shown on a map by Rivers and Associates, Inc. drawing Z-2677 dated March 23, 2022, last revised April 28, 2022, entitled Rezoning Map for Greenbrier Realty Company, Inc., Lynndale East Section V, Phase I, which by reference is made a part hereof.

Section 2. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 3. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. That this ordinance shall become effective upon its adoption.

ADOPTED this 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1165137

Excerpt from the draft Planning & Zoning Commission Minutes (05/17/22)

REQUEST BY GREENBRIER REALTY COMPANY, INC. TO REZONE 0.238 ACRES LOCATED ALONG THE EASTERN RIGHT-OF-WAY OF CROMWELL DRIVE AND 200+/- FEET SOUTH OF LYNNDALE COURT FROM OR (OFFICE-RESIDENTIAL [HIGH DENSITY MULTI-FAMILY]) AND R6 (RESIDENTIAL [HIGH DENSITY MULTI-FAMILY]) TO R9S (RESIDENTIAL SINGLE-FAMILY [MEDIUM DENSITY]).

Chantae Gooby presented for staff. It is located in the Meethouse Branch watershed and would require 25-year detention. There are no wetlands, streams or buffers on the property. The property individually could not be developed so a traffic volume report was not generated. Currently, the property is zoned OR (Office-Residential [High Density Multi-family]) and R6 (Residential [High Density Multi-family]). Staff has received a plat for single-family lots. The request will clean up the zoning so it will match lot lines. The Future Land Use Plan recommends Mixed-Use at Red Banks Road and transitions into Office-Institutional. Further south, the Land Use Plan recommends Traditional Neighborhood Low to Medium Density and the requested R9S in part of that character. In staff's opinion, the request is in compliance with the Horizons 2026: Greenville's Community Plan and the Future Land Use Plan. Therefore, staff recommends approval of the request.

Chairman Faison opened the public hearing.

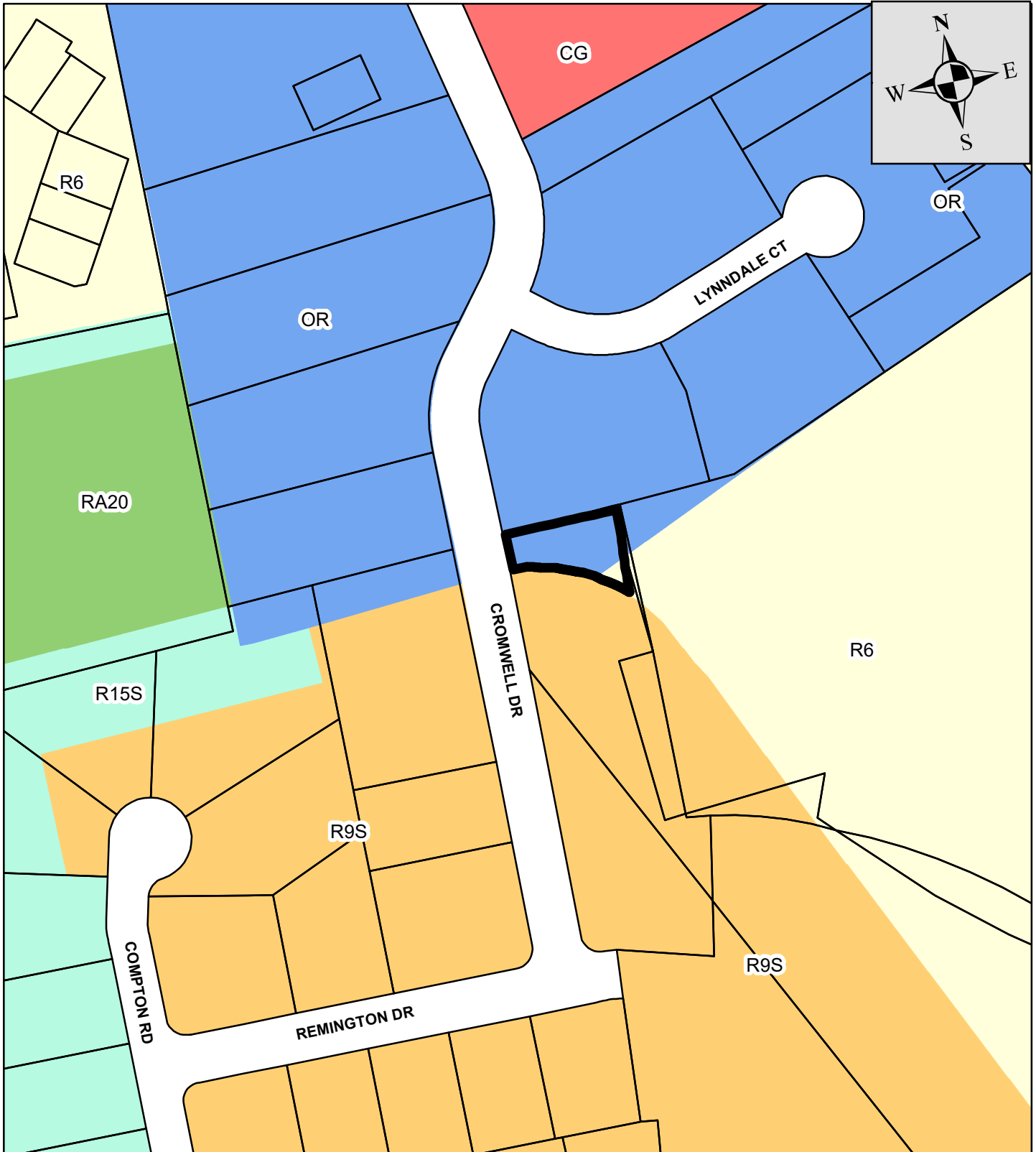
Dwight Vernelson spoke in favor. He stated the request is being made basically clean up the zoning lines.

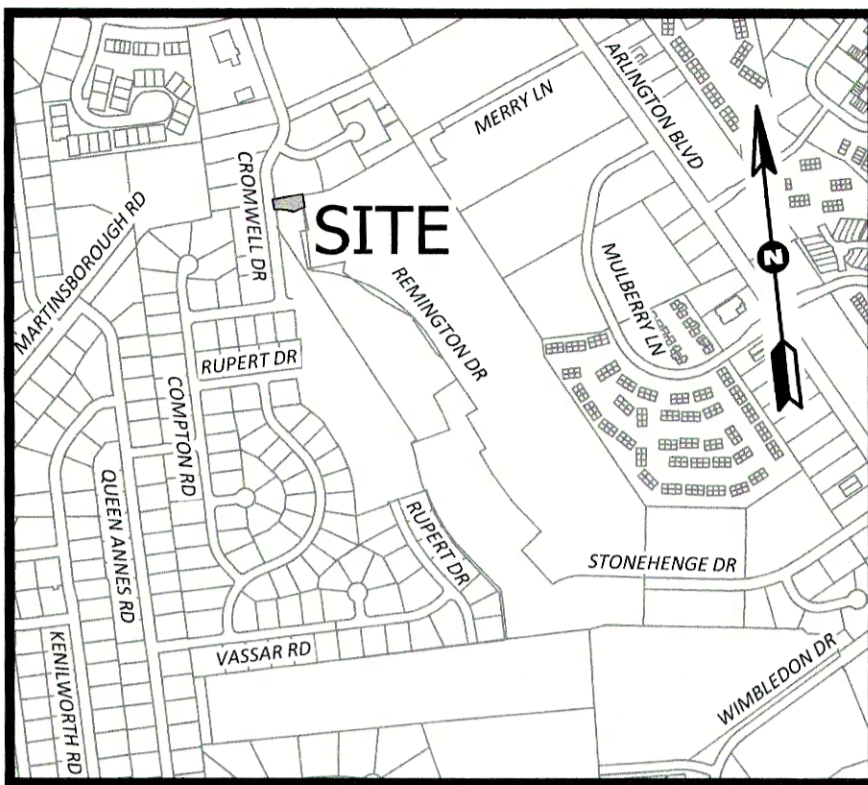
No one spoke in opposition.

Chairman Faison closed the public hearing.

Motion made by Mr. Collins, seconded by Mr. Overton, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

Greenbrier Realty Co., Inc
From: OR and R6
To: R9S
0.238 ares
May 3, 2022





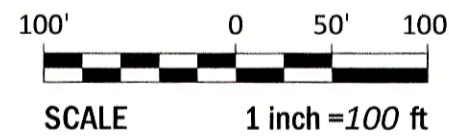
VICINITY MAP SCALE: 1" = 1000'

PARCEL OWNER ADDRESS LIST

PERRY 1, LLC
P.O. DRAWER 1475
KINSTON, NC 28503

ANNE EVANS BREWER, DAVID A. EVANS, JR. ETAL
411 WINCHESTER DRIVE
GREENVILLE, NC 27858

NORBERTO VELAZQUEZ AND WIFE, LAURA J DAVILA
714 CROMWELL DRIVE
GREENVILLE, NC 27858



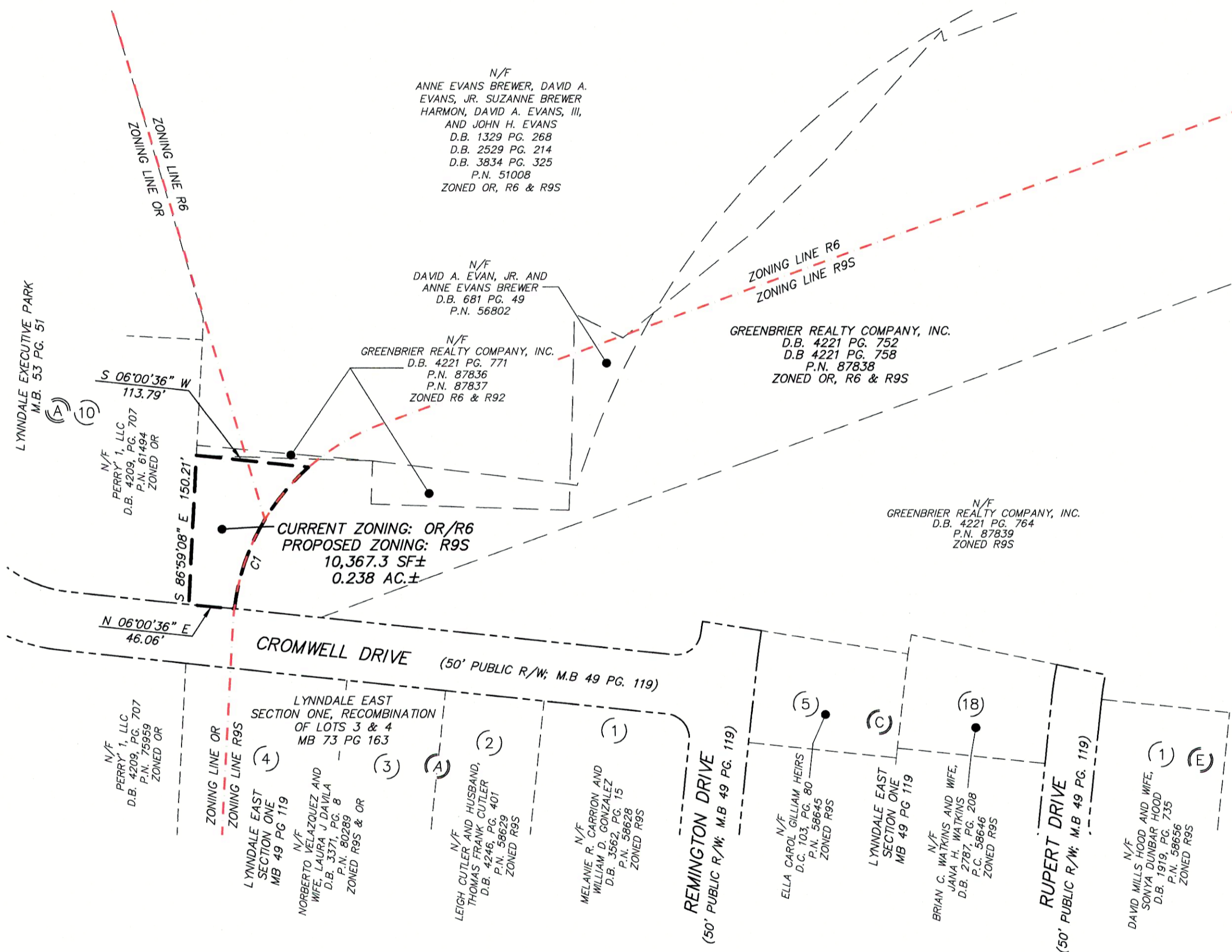
NOTES

1. AREA DETERMINED BY COORDINATES.
2. ALL DISTANCES ARE HORIZONTAL GROUND MEASUREMENTS.
3. NO POINT SET AT ANY CORNER UNLESS OTHERWISE NOTED.
4. THIS MAP WAS PREPARED FOR REZONING PURPOSES ONLY AND IS NOT A BOUNDARY SURVEY OF THE PROPERTIES SHOWN HEREON OR TO BE USED FOR SALES OR CONVEYANCE.
5. FOR CLARITY, NO EXISTING EASEMENTS OR IMPROVEMENTS ARE BEING SHOWN. REFERENCE RIVERS & ASSOCIATES DRAWING W-3192-A (REVISED 08/09/21) FOR EXISTING SITE CONDITIONS.
6. EXISTING ZONING WAS TAKEN FROM PITT COUNTY ONLINE INFORMATION SYSTEM WEBSITE ON MARCH 21 2022.

MAP BOOK 82 PAGE 136 (2/15/2018)

LEGEND

REZONING LINE	---
TAX PARCEL LINE	---
PLATTED LOT LINE	---
ZONING LINE	---
RIGHT OF WAY	---
PARCEL NUMBER	PN
MAP BOOK	M.B.
PAGE	PG.
DEED BOOK	D.B.
RIGHT OF WAY	R/W
SQUARE FEET	SF
ACRES	AC.
OFFICE-RESIDENTIAL	OR
RESIDENTIAL	R6
RESIDENTIAL-SINGLE FAMILY	R9S
PLATTED LOT INFORMATION	(2) (A)



REFERENCES

D.B. 4221 PG. 764	M.B. 49 PG. 119	P.N. 56801
D.B. 4221 PG. 737	D.B. 1986, PG. 659	P.N. 16473
D.B. 4221 PG. 744	D.B. 1986, PG. 647	P.N. 56802
D.B. 4221 PG. 752	D.B. 2020, PG. 443	
D.B. 4221 PG. 771	D.B. 1986, PG. 643	
D.B. 4221 PG. 758	D.B. 2020, PG. 439	
D.B. 3638 PG. 235	D.B. 1979, PG. 617	
D.B. 3638 PG. 244	D.B. 2020, PG. 427	
D.B. 3638 PG. 258	D.B. 1979, PG. 613	
D.B. 2529, PG. 214	D.B. 2020, PG. 423	
D.B. 2005, PG. 873	D.B. 1979, PG. 609	
D.B. 2595, PG. 724	D.B. 2009, PG. 840	
D.B. 2005, PG. 870	D.B. 1979, PG. 605	
M.B. 82 PG. 136	D.B. 896, PG. 532	
M.B. 67, PG. 18	D.B. 1329, PG. 268	

REVISIONS: #1 - 4/28/2022: REVISED PER COG COMMENTS

REZONING MAP
GREENBRIER REALTY COMPANY, INC.
LYNNDALE EAST SECTION V

GREENVILLE, WINTERVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA

OWNER GREENBRIER REALTY COMPANY, INC.
ADDRESS P.O. BOX 3353
GREENVILLE, NC 27836
PHONE (252)-752-2106



SURVEYED	APPROVED
N/A	JDV
DRAWN	DATE
MS	3/23/22
CHECKED	SCALE
PH	1" = 100'

CERTIFICATION

I, PATRICK W. HARTMAN, PROFESSIONAL LAND SURVEYOR CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM DEEDS AND OR MAPS AS REFERENCED HEREON, AND DOES NOT REPRESENT A FIELD BOUNDARY SURVEY BY MYSELF OR RIVERS AND ASSOCIATES, INC.; I FURTHER CERTIFY PURSUANT TO G.S. 47-30 (F)(11)d, THAT THIS SURVEY IS OF ANOTHER CATEGORY; REZONING MAP; WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 23RD DAY OF MARCH 2022.



SIGNED _____
PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-4262

PRELIMINARY

NOT FOR RECORDATION, SALES, OR CONVEYANCES

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	227.06'	165.12'	N 62°13'46" W	161.51'

P:\LANDDEV\LYNNDALE EAST - SECTIONS V - 2016\RESUBMIT - DWG-2677-1\LYNNDALE-5-REZONING-DWG - LAYOUT - 4/28/2022 2:50:02 AM - PATRICK HARTMAN

EXISTING ZONING	
OR (OFFICE-RESIDENTIAL) - PERMITTED USES	
(1) General	
	a. Accessory use or building
	b. Internal service facilities
	c. On-premise signs per Article N
	f. Retail sales; incidental
(2) Residential	
	b. Two-family attached dwelling (duplex)
	c. Multi-family development per Article I
	k. Family care homes (see also 9-4-103)
	n. Retirement center or home
	o. Nursing, convalescent or maternity home; major care facility
	p. Boarding or rooming house
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	b. City of Greenville municipal government building or use (see also section 9-4-103)
	c. County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
	d. Federal government building or use
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial recreation; indoor only, not otherwise listed
(7) Office/Financial/Medical	
	a. Office; professional and business, not otherwise listed
	b. Operation/processing center
	c. Office; customer service, not otherwise listed, including accessory service delivery vehicle parking and indoor storage
	d. Bank, savings and loans or other savings or investment institutions
	e. Medical, dental, ophthalmology or similar clinic, not otherwise listed
(8) Services	
	c. Funeral home
	e. Barber or beauty salon
	f. Manicure, pedicure or facial salon
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
	j. College and other institutions of higher learning
	k. Business or trade school
	n. Auditorium
	o. Church or place of worship (see also section 9-4-103)
	p. Library

	q. Museum
	r. Art gallery
	u. Art studio including art and supply sales
	v. Photography studio including photo and supply sales
	w. Digital broadcast studio (see also section 9-4-103)
	x. Dance studio
	y(2) TV and/or radio broadcast facilities, including receiving and transmission equipment and towers not exceeding 120 feet in height or cellular telephone and wireless communication towers not exceeding 120 feet in height (see also section 9-4-103)
	y(4) Distributed Antenna System (See also 9-4-103 (Q))
	bb. Civic organizations
	cc. Trade or business organizations
(9) Repair - None	
(10) Retail Trade	
	s. Book or card store, news stand
	w. Florist
	ee. Christmas tree sales lot; temporary only (see also section 9-4-103)
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
	a. Licensed contractor; general electrical, plumbing, mechanical, etc... excluding outside storage
	c. Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
OR (OFFICE-RESIDENTIAL) - SPECIAL USES	
(1) General - None	
(2) Residential	
	d. Land use intensity multi-family (LUI) development rating 50 per Article K
	e. Land use intensity multi-family (LUI) development rating 67 per Article K
	i. Residential quarters for resident manager, supervisor or caretaker; excluding mobile home
	m. Shelter for homeless or abused (see also section 9-4-103)
	o(1). Nursing, convalescent or maternity home; minor care facility
	r. Fraternity or sorority house
(3) Home Occupations - None	
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining - None	
(6) Recreational/Entertainment	
	c(1). Tennis club; indoor and outdoor facilities
	h. Commercial recreation; indoor only, not otherwise listed

m(1).	Dining and entertainment establishment (see also section 9-4-103)
(7) Office/Financial/Medical	
f.	Veterinary clinic or animal hospital (see also animal boarding; outside facility, kennel and stable)
(8) Services	
a.	Child day care facilities
b.	Adult day care facilities
l.	Convention center; private
s.	Hotel, motel bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)
ff.	Mental health, emotional or physical rehabilitation day program facility
ff(1).	Mental health, emotional or physical rehabilitation day program facility
(9) Repair- None	
(10) Retail Trade - None	
h.	Restaurant; conventional
j.	Restaurant and/or dining and entertainment establishment; regulated outdoor activities
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation	
h.	Parking lot or structure; principal use
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories)	
a.	Other activities; personal services not otherwise listed
b.	Other activities; professional services not otherwise listed
R6 (RESIDENTIAL) - PERMITTED USES	
(1) General	
a.	Accessory use or building
c.	On-premise signs per Article N
(2) Residential	
a.	Single-family dwelling
b.	Two-family attached dwelling (duplex)
b(1).	Master Plan Community per Article J
c.	Multi-family development per Article I
f.	Residential cluster development per Article M
k.	Family care homes (see also 9-4-103)
q.	Room renting
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
l.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility

	g. Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
	o. Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
	c. Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
R6 (RESIDENTIAL) - SPECIAL USES	
(1) General - None	
(2) Residential	
	d. Land use intensity multi-family (LUI) development rating 50 per Article K
	e. Land use intensity multi-family (LUI) development rating 67 per Article K
	l. Group care facility
	n. Retirement center or home
	o(1). Nursing, convalescent or maternity home; minor care facility
	p. Board or rooming house
	r. Fraternity or sorority house
(3) Home Occupations	
	a. Home occupation; not otherwise listed
	b. Home occupation; barber and beauty shop
	c. Home occupation; manicure, pedicure or facial salon
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining - None	
(6) Recreational/Entertainment	
	a. Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1). Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
	a. Child day care facilities
	b. Adult day care facilities
	d. Cemetery
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
	m. Multi-purpose center
	t. Guest house for a college or other institution of higher learning
(9) Repair - None	

(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
PROPOSED ZONING	
R9S (RESIDENTIAL-SINGLE-FAMILY) - PERMITTED USES	
(1) General	
	a. Accessory use or building
	c. On-premise signs per Article N
(2) Residential	
	a. Single-family dwelling
	f. Residential cluster development per Article M
	k. Family care homes (see also 9-4-103)
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	b. City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	l. Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
	o. Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
	c. Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
R9S (RESIDENTIAL-SINGLE-FAMILY) - SPECIAL USES	
(1) General - None	
(2) Residential - None	
(3) Home Occupations	
	a. Home occupation; not otherwise listed
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining	

RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

*** Maximim allowable density in the respective zoning district.

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

Bufferyard Requirements: Match proposed land use with adjacent permitted land use or adjacent vacant zone/nonconforming use to determine applicable bufferyard.

PROPOSED LAND USE CLASS (#)	ADJACENT PERMITTED LAND USE CLASS (#)					ADJACENT VACANT ZONE OR NONCONFORMING USE		PUBLIC/PRIVATE STREETS OR R.R.
	Single-Family Residential (1)	Multi-Family Residential (2)	Office/Institutional, light Commercial, Service (3)	Heavy Commercial, Light Industry (4)	Heavy Industrial (5)	Residential (1) - (2)	Non-Residential (3) - (5)	
Multi-Family Development (2)	C	B	B	B	B	C	B	A
Office/Institutional, Light Commercial, Service (3)	D	D	B	B	B	D	B	A
Heavy Commercial, Light Industry (4)	E	E	B	B	B	E	B	A
Heavy Industrial (5)	F	F	B	B	B	F	B	A

Bufferyard A (street yard)		
Lot Size	Width	For every 100 linear feet
Less than 25,000 sq.ft.	4'	2 large street trees
25,000 to 175,000 sq.ft.	6'	2 large street trees
Over 175,000 sq.ft.	10'	2 large street trees

Street trees may count toward the minimum acreage.

Bufferyard B (no screen required)	
Lot Size	Width
Less than 25,000 sq.ft.	4'
25,000 to 175,000 sq.ft.	6'
Over 175,000 sq.ft.	10'

Bufferyard C (screen required)	
Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs

Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.

Bufferyard D (screen required)	
Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard E (screen required)	
Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard F (screen required)	
Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Parking Area: Thirty (30) inch high screen required for all parking areas located within fifty (50) feet of a street right-of-way.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Ordinance requested by K Sade Ventures, LLC to rezone a total of 8.722 acres located along the northern right-of-way of NC Hwy 43 (West 5th Street) and 240+/- feet west of Mattox Road from RA20 (Residential-Agricultural), MO (Medical-Office), and MRS (Medical-Residential [Single-family]) to MR (Medical-Residential [High Density Multi-family])

Explanation: **Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on May 3, 2022.
On-site sign(s) posted on May 3, 2022.
City Council public hearing notice (property owner and adjoining property owner letter) mailed on May 26, 2022.
Public hearing legal advertisement published May 28 and June 4, 2022.

Comprehensive Plan:

The Future Land Use and Character Map recommends traditional neighborhood, medium-high density (TNMH) along the northern right-of-way of NC 43 N (West 5th Street) and west of Mattox Road and transitioning to potential conservation/open space (PCOS).

Traditional Neighborhood, Medium-High Density

Primarily residential area featuring a mix of higher density housing types ranging from multi-family, townhomes, and small-lot single-family detached. They are typically located within a walkable distance to a neighborhood activity center. Traditional neighborhoods should have a walkable street network of small blocks, a defined center and edges, and connections to surrounding development.

Intent:

- Provide streetscape features such as sidewalks, street trees, and lighting
- Allow neighborhood-scale commercial or mixed use centers at key intersections within neighborhoods

Primary uses:

Multi-family residential

Single-family residential attached (townhomes) and detached (small-lot)

Secondary uses:
Institutional (neighborhood scale)
Traditional Neighborhood, Low-Medium Density

Potential Conservation/Open Space

Potential conservation/open space land is typically located in areas that contain existing parkland, needed land buffers, exhibit potential for flooding, or are deemed inappropriate for development due to physical or environmental barriers. Some land within this area may not contain barriers to development, or there may be reasonable mitigation. Site analysis is needed to determine development capabilities in these areas.

The Future Land Use and Character Map identifies certain areas as potential conservation/open space. Much of this area is designated based upon data on flood-prone land and environmental constraints that may not correspond precisely with conditions on the ground. Seeing an area designated this way is the beginning of a conversation. When considering rezoning requests or other development proposals, some areas classified as potential conservation/open space may be determined not to contain anticipated limitations on development, or that existing concerns can reasonably be mitigated. In such cases, the future preferred land use should be based on adjacent Land Use and Character designations, contextual considerations, and the general policies of the comprehensive plan.

Intent:

- Conserve environmentally-sensitive land
- Buffer incompatible land uses with open space
- Provide open space network through the city for recreation
- Conservation/open space buffers adjacent to industrial development should be maintained at a width based on the type of industry and its potential to create compatibility problems
- Greenways and greenway connectors should be maintained to be consistent with the Greenway Plan.

Thoroughfare/Traffic Report Summary (Engineering Department):

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 512 trips to and from the site on West 5th Street, which is a net increase of 122 additional trips per day (over current zoning).

During the review process, measures to mitigate the traffic will be determined.

History/Background:

In 1985, the property was part of a large-scale extra-territorial jurisdiction (ETJ) expansion and was zoned to its current zoning.

Existing Land Uses:

Farmland

Water/Sewer:

Water and sanitary sewer are available to the property.

Historic Sites:

There are no known effects on historic sites.

Environmental Conditions/Constraints:

The property is located in the Harris Mill Run Watershed. If stormwater rules apply, it would require 10-year detention, nitrogen and phosphorus reduction.

A portion of the property is located in the Special Flood Hazard Area. A Floodplain Development Permit and Erosion Control Plan will be required for impacts in the floodplain. Jurisdictional wetlands, streams and riparian buffers may exist on the property.

Surrounding Land Uses and Zoning:

North: MRS - Woodlands (Under common ownership of the applicant.)

South: MRS - Scattered single-family residences and associated accessory buildings

East: MO - Oak Haven Senior Village and one (1) vacant lot

West: RA20 - Farmland

Density Estimates:

Tract 1

Acreage: 6.8

Current Zoning: MO (Medical-Office)

Proposed Zoning: MR (Medical-Residential [High Density Multi-family])

Under the current zoning, the site could accommodate 40,000+/- SF of office space.

Under the proposed zoning, the site could accommodate 65-70 multi-family units (1, 2 and 3 bedroom units).

Tract 2

Acreage: 1.9

Current Zoning: RA20 (Residential-Agricultural) and MRS (Medical-Residential-Single-family)

Proposed Zoning: MR (Medical-Residential [High Density Multi-family])

Due to size and shape of the property, it is not developable.

The anticipated build-out is within 2-5 years.

Fiscal Note: No cost to the City.

Recommendation: In staff's opinion the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

Therefore, staff recommends approval.

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

The Planning and Zoning Commission voted unanimously to approve the request at its May 17, 2022 meeting.

If City Council determines to approve the request, a motion to adopt the attached rezoning ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

"Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest."

Note: In addition to the other criteria, the Planning and Zoning Commission and City Council shall consider the entire range of permitted and special uses for the existing and proposed districts as listed under Title 9, Chapter 4, Article D of the Greenville City Code.

ATTACHMENTS

- 📄 [Ordinance - K_Sade_Ventures.pdf](#)
- 📄 [COG-#1164914-v1-P&Z_Excerpt_May_17_2022- K_Sade_RZ.pdf](#)
- 📄 [KSadeapomap.pdf](#)
- 📄 [K Sade Survey.pdf](#)
- 📄 [K Sade Traffic.pdf](#)
- 📄 [KSADElist of uses.pdf](#)

 **Density and Veg Charts.pdf**

LOCATION: Located along the northern right-of-way of NC Hwy 43 and 240+/- feet west of Mattox Road.

DESCRIPTION: Beginning at a point on the northern right-of-way of NC 43 (West Fifth Street), said point being the southwestern most corner of the City of Greenville Property as described in Deed Book 551, Page 421 of the Pitt County Register of Deeds office. Said point of beginning also being located 235' as measured along the northern right-of-way of NC 43 (West Fifth Street) in a westerly direction from the intersection of northern right-of-way of NC 43 (West Fifth Street) and the western right-of-way of Mattox Road. From the above described beginning, so located, running thence as follows:

With the northern right-of-way of NC 43 (West Fifth Street), N 51°11'19" W 617.74', thence leaving said right-of-way N 39°01'31" E 498.63', thence S 51°09'15" E 574.76' to the western line of the City of Greenville property as referenced above, thence with the City of Greenville property S 34°04'15" W 500.00' to the point of beginning containing 6.822 acres and being a portion of the property described in Deed Book 753, Page 258 and all of the property described in Deed Book 2860, Page 521 of the Pitt County Register of Deeds.

Section 2. That the following described territory is rezoned from MRS (Medical-Residential-Single-family) to RA20 (Residential-Agricultural) to MR (Medical-Residential).

TO WIT: FMM Partnership, LLC (Tract 2)

LOCATION: Located 1,900+/- feet north of NC Hwy 43 and west of Paladin Place Duplexes.

DESCRIPTION: Beginning at the northwestern most corner of the Greenville Utilities Commission property as shown on Map Book 75, Page 99 of the Pitt County Register of Deeds office. From the above described beginning, so located running thence as follows:

Leaving said Greenville Utilities Commission corner, N 62°44'01" W 1073.89' to the eastern line of the Marion Ernest Taylor property as described on Deed Book 529 Page 147 of the Pitt County Register of Deeds thence with the eastern line of said Taylor property, N 39°33'01" E 157.79', thence leaving said Taylor line S 54°23'17" E 1051.45' to the point of beginning containing 1.90 acres and being a portion of the property described in Deed Book 753, Page 258 of the Pitt County Register of Deeds.

Section 3. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 4. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 5. That this ordinance shall become effective upon its adoption.

ADOPTED this 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1165135

Excerpt from the draft Planning & Zoning Commission Minutes (05/17/22)

REQUEST BY K SADE VENTURES, LLC TO REZONE A TOTAL OF 8.722 ACRES LOCATED ALONG THE NORTHERN RIGHT-OF-WAY OF NC HWY 43 (WEST 5TH STREET) AND 240+/- FEET WEST OF MATTOX ROAD FROM RA20 (RESIDENTIAL-AGRICULTURAL), MO (MEDICAL-OFFICE), AND MRS (MEDICAL-RESIDENTIAL [SINGLE-FAMILY]) TO MR (MEDICAL-RESIDENTIAL [HIGH DENSITY MULTI-FAMILY]).

This request was continued from last month's meeting in order for the applicant to revise the request. The original request was to rezone a total of 6.05 acres.

Chantae Gooby presented for staff. The property is located in the northwest quadrant of the city and consists of two tracts. Tract 1 is about 6.8 acres and Tract 2 is almost 2 acres. The requested zoning for both tracts is MR (Medical-Residential [High Density Multi-family]). The properties are located in the Harris Mill Run watershed and 10-year detention will be required. A portion of the property, mainly near tract 2, is located in the Special Hazard Area. A Floodplain Development Permit and Erosion Control Plan will be required. There are wetlands, streams and buffers on the property. This rezoning could generate a net increase of 122 trips per day at full build-out. Tract 1 is currently zoned MO (Medical-Office) and could yield about 40,000 square feet of office. Under the requested zoning, MR (Medical-Residential [High Density Multi-family]), it could yield about 70 multi-family units. Tract 2 is not developable as it is but it will square off the property and create contiguous zoning. In staff's opinion, the request is in compliance with the Horizons 2026: Greenville's Community Plan and the Future Land Use Plan. Therefore, staff recommends approval of the request.

Chairman Faison opened the public hearing.

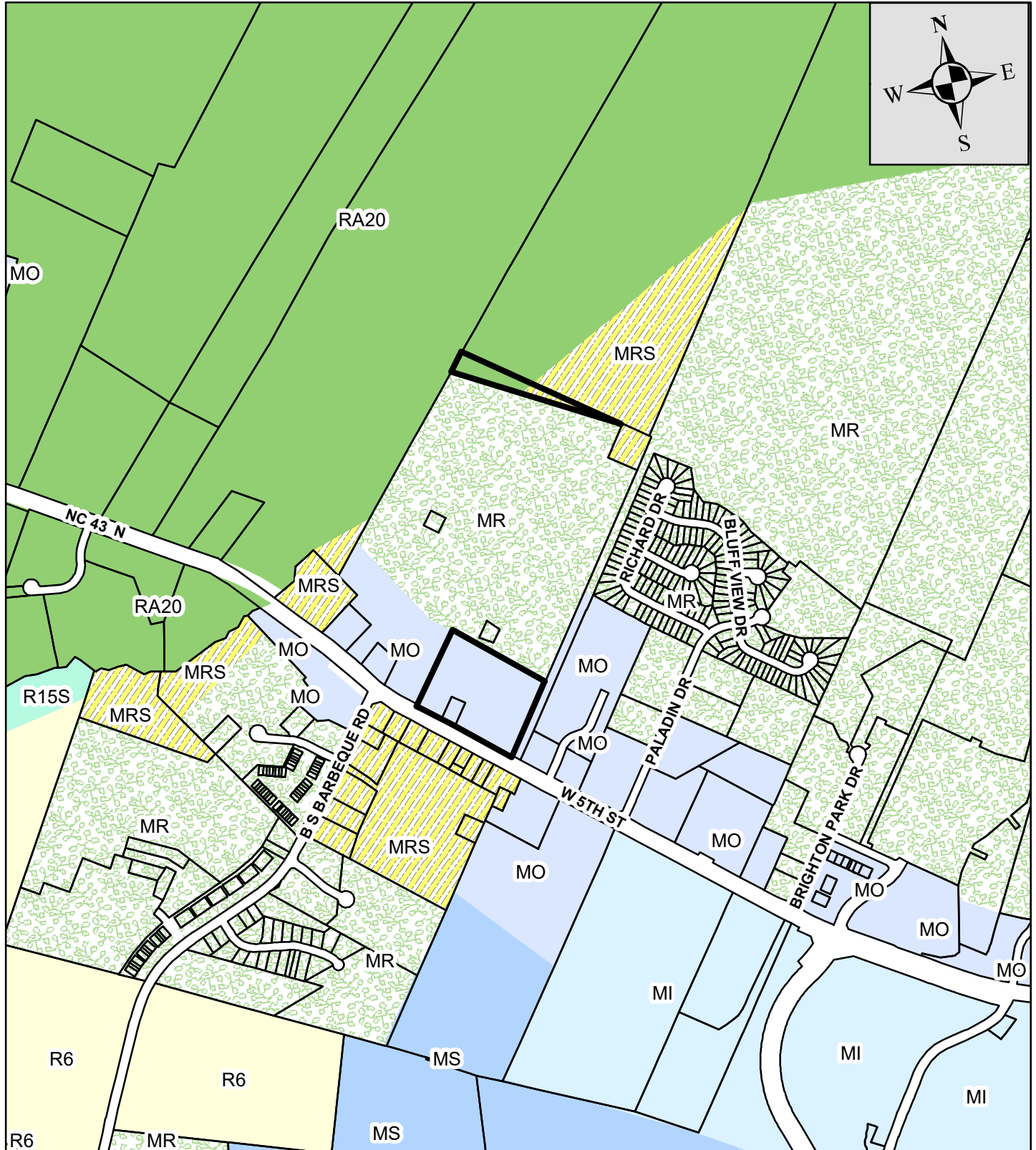
No one spoke in favor.

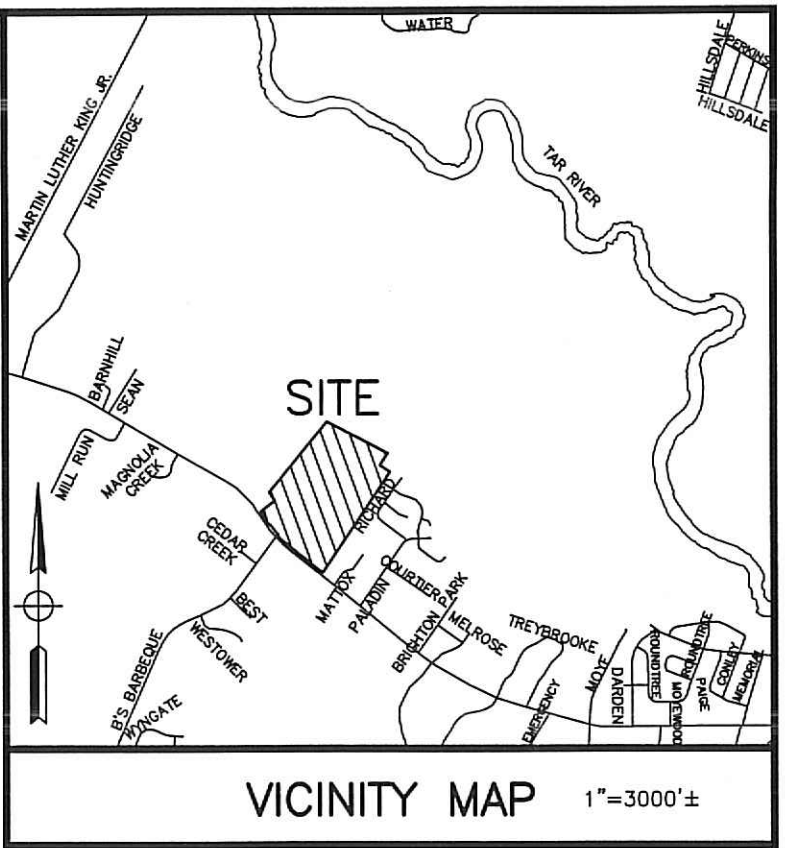
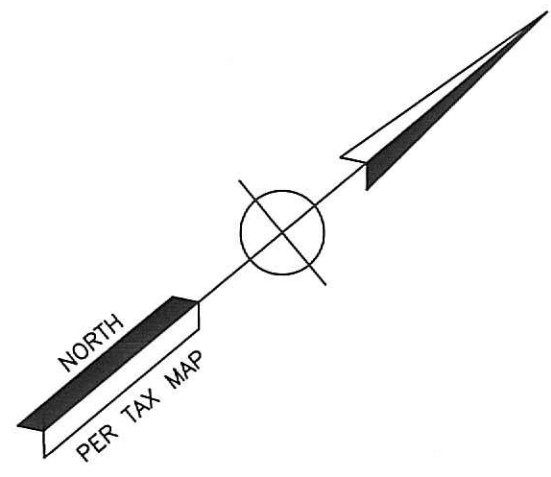
No one spoke in opposition.

Chairman Faison closed the public hearing.

Motion made by Mr. Collins, seconded by Mr. Robinson, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

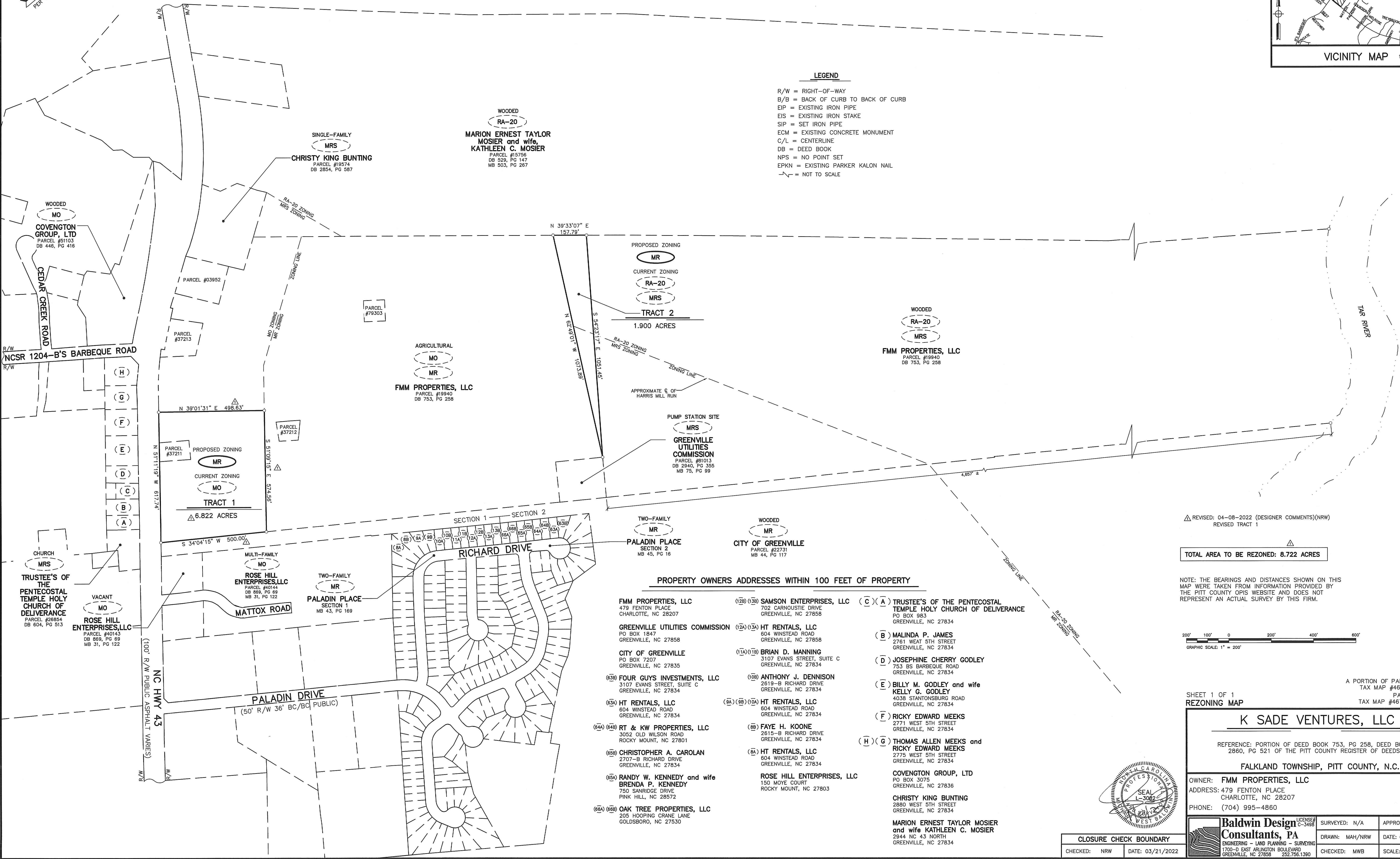
K Sade Ventures, LLC
From: MO, MRS, RA20
To: MR
Total Acres: 8.722
May 3, 2022





LEGEND

- R/W = RIGHT-OF-WAY
- B/B = BACK OF CURB TO BACK OF CURB
- EIP = EXISTING IRON PIPE
- EIS = EXISTING IRON STAKE
- SIP = SET IRON PIPE
- ECM = EXISTING CONCRETE MONUMENT
- C/L = CENTERLINE
- DB = DEED BOOK
- NPS = NO POINT SET
- EPKN = EXISTING PARKER KALON NAIL
- - - = NOT TO SCALE

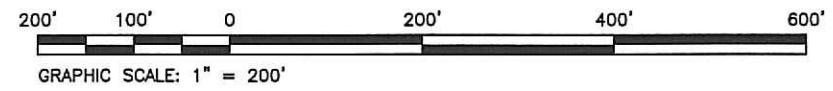


Y:\DRAWINGS\22-044\REZONING WITH REVISED AREA.dwg Plt, Apr 08, 2022-10:50am RWELLS

△ REVISED: 04-08-2022 (DESIGNER COMMENTS)(NRW)
REVISED TRACT 1

△ TOTAL AREA TO BE REZONED: 8.722 ACRES

NOTE: THE BEARINGS AND DISTANCES SHOWN ON THIS MAP WERE TAKEN FROM INFORMATION PROVIDED BY THE PITT COUNTY OPIS WEBSITE AND DOES NOT REPRESENT AN ACTUAL SURVEY BY THIS FIRM.



PROPERTY OWNERS ADDRESSES WITHIN 100 FEET OF PROPERTY

- | | | |
|---------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| (128) (138) FMM PROPERTIES, LLC
479 FENTON PLACE
CHARLOTTE, NC 28207 | (128) (138) SAMSON ENTERPRISES, LLC
702 CARNOUSTE DRIVE
GREENVILLE, NC 27858 | (C) (A) TRUSTEE'S OF THE PENTECOSTAL
TEMPLE HOLY CHURCH OF DELIVERANCE
PO BOX 983
GREENVILLE, NC 27834 |
| GREENVILLE UTILITIES COMMISSION
PO BOX 1847
GREENVILLE, NC 27858 | (12A) (13A) HT RENTALS, LLC
604 WINSTEAD ROAD
GREENVILLE, NC 27858 | (B) MALINDA P. JAMES
2761 WEAT 5TH STREET
GREENVILLE, NC 27834 |
| CITY OF GREENVILLE
PO BOX 7207
GREENVILLE, NC 27835 | (11A) (11B) BRIAN D. MANNING
3107 EVANS STREET, SUITE C
GREENVILLE, NC 27834 | (D) JOSEPHINE CHERRY GODLEY
753 BS BARBEQUE ROAD
GREENVILLE, NC 27834 |
| (636) FOUR GUYS INVESTMENTS, LLC
3107 EVANS STREET, SUITE C
GREENVILLE, NC 27834 | (108) ANTHONY J. DENNISON
2619-B RICHARD DRIVE
GREENVILLE, NC 27834 | (E) BILLY M. GODLEY and wife
KELLY G. GODLEY
4038 STANTONBURG ROAD
GREENVILLE, NC 27834 |
| (63A) HT RENTALS, LLC
604 WINSTEAD ROAD
GREENVILLE, NC 27834 | (6A) (6B) (10A) HT RENTALS, LLC
604 WINSTEAD ROAD
GREENVILLE, NC 27834 | (F) RICKY EDWARD MEEKS
2771 WEST 5TH STREET
GREENVILLE, NC 27834 |
| (64A) (64B) RT & KW PROPERTIES, LLC
3052 OLD WILSON ROAD
ROCKY MOUNT, NC 27801 | (8B) FAYE H. KOONE
2615-B RICHARD DRIVE
GREENVILLE, NC 27834 | (H) (G) THOMAS ALLEN MEEKS and
RICKY EDWARD MEEKS
2775 WEST 5TH STREET
GREENVILLE, NC 27834 |
| (65B) CHRISTOPHER A. CAROLAN
2707-B RICHARD DRIVE
GREENVILLE, NC 27834 | (8A) HT RENTALS, LLC
604 WINSTEAD ROAD
GREENVILLE, NC 27834 | COVENGTON GROUP, LTD
PO BOX 3075
GREENVILLE, NC 27836 |
| (65A) RANDY W. KENNEDY and wife
BRENDA P. KENNEDY
750 SANRIDGE DRIVE
PINK HILL, NC 28572 | ROSE HILL ENTERPRISES, LLC
150 MOYE COURT
ROCKY MOUNT, NC 27803 | CHRISTY KING BUNTING
2880 WEST 5TH STREET
GREENVILLE, NC 27834 |
| (66A) (66B) OAK TREE PROPERTIES, LLC
205 HOOPING CRANE LANE
GOLDSBORO, NC 27530 | MARION ERNEST TAYLOR MOSIER
and wife KATHLEEN C. MOSIER
2944 NC 43 NORTH
GREENVILLE, NC 27834 | |

SHEET 1 OF 1
REZONING MAP

A PORTION OF PARCEL #19940
TAX MAP #4678-27-4219
PARCEL #37211
TAX MAP #4678-04-6584

K SADE VENTURES, LLC

REFERENCE: PORTION OF DEED BOOK 753, PG 258, DEED BOOK
2860, PG 521 OF THE PITT COUNTY REGISTER OF DEEDS

FALKLAND TOWNSHIP, PITT COUNTY, N.C.

OWNER: FMM PROPERTIES, LLC
ADDRESS: 479 FENTON PLACE
CHARLOTTE, NC 28207
PHONE: (704) 995-4860

	LICENSED -3498	SURVEYED: N/A	APPROVED: MWB
	ENGINEERING - LAND PLANNING - SURVEYING 1700-D EAST ARLINGTON BOULEVARD GREENVILLE, NC 27658 252.756.1390	DRAWN: MAH/NRW	DATE: 03/21/2022

CHECKED: NRW DATE: 03/21/2022

SCALE: 1" = 200'

CLOSURE CHECK BOUNDARY	
CHECKED: NRW	DATE: 03/21/2022

REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 22-05

Applicant: K Sade Ventures, LLC

Property Information

Current Zoning: MO (Medical-Office)

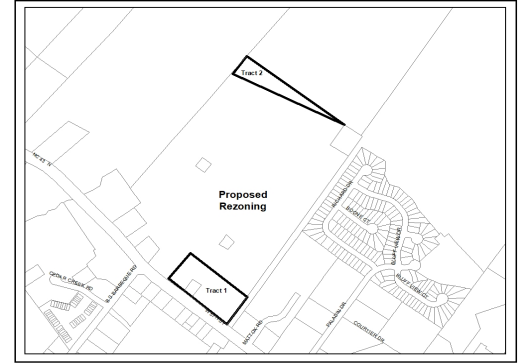
Proposed Zoning: MR (Medical-Residential [High Density Multi-Family])

Current Acreage: 6.8 acres

Location: NC 43, south of B's BBQ Road

Points of Access: NC 43

Location Map



Transportation Background Information

1.) W. 5th St- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	4 lane divided w/ grass median	no change
Right of way width (ft)	100	no change
Speed Limit (mph)	45	no change
Current ADT:	18,940 (*)	
Design ADT:	39,700 vehicles/day (**)	
Controlled Access	No	
Thoroughfare Plan Status	Major Thoroughfare	

Other Information: There are no sidewalks along W. 5th St that service this property.

Notes: (*) 2018 NCDOT count adjusted for a 2% annual growth rate
 (**) Traffic volume based on operating Level of Service D for existing geometric conditions
 ADT – Average Daily Traffic volume

Transportation Improvement Program Status:

Trips generated by proposed use/change

Current Zoning: 390 -vehicle trips/day (*) **Proposed Zoning: 512** -vehicle trips/day (*)

Estimated Net Change: increase of 122 vehicle trips/day (assumes full-build out)

(* - These volumes are estimated and based on an average of the possible uses permitted by the current and proposed zoning.)

Impact on Existing Roads

The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on W. 5th St are as follows:

1.) W. 5th St , West of Site (30%): “No build” ADT of 18,940

Estimated ADT with Proposed Zoning (full build) – 19,094
 Estimated ADT with Current Zoning (full build) – 19,057
Net ADT change = 37 (<1% increase)

2.) W. 5th St , East of Site (70%): "No build" ADT of 18,940

Estimated ADT with Proposed Zoning (full build) – 19,298

Estimated ADT with Current Zoning (full build) – 19,213

Net ADT change = 85 (<1% increase)

Staff Findings/Recommendations

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 512 trips to and from the site on W. 5th St, which is a net increase of 122 additional trips per day (over current zoning).

During the review process, measures to mitigate the traffic will be determined.

EXISTING ZONING	
MO (MEDICAL-OFFICE) - PERMITTED USES	
(1) General	
a.	Accessory use or building
b.	Internal service facilities
c.	On-premise signs per Article N
f.	Retail sales; incidental
(2) Residential	
l.	Group care facility
n.	Retirement center or home
o.	Nursing, convalescent or maternity home; major care facility
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
c.	County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
d.	Federal government building or use
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility
g.	Private noncommercial recreation; indoor only, not otherwise listed
(7) Office/Financial/Medical	
a.	Office; professional and business, not otherwise listed
d.	Bank, savings and loans or other savings or investment institutions
e.	Medical, dental, ophthalmology or similar clinic, not otherwise listed
(8) Services	
n.	Auditorium
r.	Art gallery
u.	Art studio including art and supply sales
y(3).	TV and/or radio broadcast facilities, including receiving and transmission equipment and towers or cellular telephone and wireless communication towers not exceeding 80 feet in height
y(4).	Distributed Antenna System (See also 9-4-103 (Q))
ee.	Hospital
ii.	Wellness center, indoor and outdoor facilities
(9) Repair - None	
(10) Retail Trade	
d.	Pharmacy
s.	Book or card store, news stand
w.	Florist
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	

(15) Other Activities (not otherwise listed - all categories) - None	
MO (MEDICAL-OFFICE) - SPECIAL USES	
(1) General - None	
(2) Residential	
i.	Residential quarters for resident manager, supervisor or caretaker; excluding mobile home
(3) Home Occupations - None	
(4) Governmental	
a.	Public utility building or use
(5) Agricultural/Mining - None	
(6) Recreational/Entertainment	
m(1).	Dining and entertainment establishment (see also section 9-4-103)
s.	Athletic club; indoor only
(7) Office/Financial/Medical - None	
(8) Services	
a.	Child day care facilities
b.	Adult day care facilities
e.	Barber or beauty salon
f.	Manicure, pedicure or facial salon
j.	College and other institutions of higher learning
l.	Convention center; private
s.	Hotel, motel bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)
s(1).	Hotel, motel bed and breakfast inn; extended stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)
ff(1).	Mental health, emotional or physical rehabilitation day program facility
hh.	Exercise and weight loss studio; indoor only
jj.	Health services not otherwise listed
ll(1).	Dry cleaners; household users; drop-off/pick-up station only
(9) Repair- None	
(10) Retail Trade	
c.	Wine shop; including on-premise consumption (see also section 9-4-103)
f.	Office and school supply, equipment sales
h.	Restaurant; conventional
i.	Restaurant; fast food (limited to multi-unit structures which contain not less than three separate
j.	Restaurant and/or dining and entertainment establishment; regulated outdoor activities
k.	Medical supply sales and rental of medically-related products including uniforms and related accessories
t.	Hobby or craft shop
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	

MRS (MEDICAL-RESIDENTIAL-SINGLE-FAMILY) - PERMITTED USES

(1) General	
	a. Accessory use or building
	c. On-premise signs per Article N
(2) Residential	
	a. Single-family dwelling
	f. Residential cluster development per Article M
	k. Family care homes (see also 9-4-103)
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	b. City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	f. Stable; horse only (see also section 9-4-103)
	g. Stable; per definition (see also section 9-4-103)
	h. Animal boarding not otherwise listed; outside facility, as an accessory or principal use
	l. Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
	o. Church or place of worship (see also section 9-4-103)
	y(4) Distributed Antenna System (See also 9-4-103 (Q))
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
	c. Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	

MRS (MEDICAL-RESIDENTIAL-SINGLE-FAMILY) - SPECIAL USES

(1) General - None	
(2) Residential - None	
(3) Home Occupations	
	a. Home occupation; not otherwise listed
(4) Governmental	
	a. Public utility building or use
	c. County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
(5) Agricultural/Mining	
	b. Greenhouse or plant nursery; including accessory sales
(6) Recreational/Entertainment	

	a.	Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1).	Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1).	Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None		
(8) Services		
	g.	School; junior and senior high (see also section 9-4-103)
	h.	School; elementary (see also section 9-4-103)
	i.	School; nursery and kindergarten (see also section 9-4-103)
	y.	TV and/or radio broadcast facilities, including receiving and transmission equipment and towers or cellular telephone and wireless communication towers
(9) Repair - None		
(10) Retail Trade - None		
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None		
(12) Construction - None		
(13) Transportation - None		
(14) Manufacturing/Warehousing - None		
(15) Other Activities (not otherwise listed - all categories) - None		
RA20 (RESIDENTIAL-AGRICULTURAL) - PERMITTED USES		
(1) General		
	a.	Accessory use or building
	c.	On-premise signs per Article N
(2) Residential		
	a.	Single-family dwelling
	b(1).	Master Plan Community per Article J
	f.	Residential cluster development per Article M
	k.	Family care homes (see also 9-4-103)
	q.	Room renting
(3) Home Occupations - None		
(4) Governmental		
	b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining		
	a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	c.	Wayside market for farm products produced on-site
	e.	Kennel (see also section 9-4-103)
	f.	Stable; horse only (see also section 9-4-103)
	g.	Stable; per definition (see also section 9-4-103)
	h.	Animal boarding not otherwise listed; outside facility, as an accessory or principal use
	l.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment		
	f.	Public park or recreational facility
	g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None		
(8) Services		
	o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None		

(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
	c. Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
RA20 (RESIDENTIAL-AGRICULTURAL) - SPECIAL USES	
(1) General - None	
(2) Residential	
	b. Two-family attached dwelling (duplex)
	g. Mobile home (see also section 9-4-103)
	n. Retirement center or home
	o. Nursing, convalescent or maternity home; major care facility
	o(1). Nursing, convalescent or maternity home; minor care facility
(3) Home Occupations	
	a. Home occupation; not otherwise listed
	b. Home occupation; barber and beauty shop
	c. Home occupation; manicure, pedicure or facial salon
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining	
	b. Greenhouse or plant nursery; including accessory sales
	m. Beekeeping; major use
	n. Solar energy facility
(6) Recreational/Entertainment	
	a. Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1). Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
	a. Child day care facilities
	b. Adult day care facilities
	d. Cemetery
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
PROPOSED ZONING	
MR (MEDICAL-RESIDENTIAL) - PERMITTED USES	

(1) General	
	a. Accessory use or building
	c. On-premise signs per Article N
(2) Residential	
	a. Single-family dwelling
	b. Two-family attached dwelling (duplex)
	c. Multi-family development per Article I
	f. Residential cluster development per Article M
	k. Family care homes (see also 9-4-103)
	q. Room renting
(3) Home Occupations - None	
(4) Governmental	
	b. City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
	a. Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	l. Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	g. Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
	o. Church or place of worship (see also section 9-4-103)
	y(4) Distributed Antenna System (See also 9-4-103 (Q))
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
	c. Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
MR (MEDICAL-RESIDENTIAL) - SPECIAL USES	
(1) General - None	
(2) Residential	
	d. Land use intensity multi-family (LUI) development rating 50 per Article K
	l. Group care facility
	n. Retirement center or home
	o. Nursing, convalescent or maternity home; major care facility
	o(1). Nursing, convalescent or maternity home; minor care facility
(3) Home Occupations	
	a. Home occupation; not otherwise listed
(4) Governmental	
	a. Public utility building or use
(5) Agricultural/Mining - None	
(6) Recreational/Entertainment	
	c(1). Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	

(8) Services	
	a. Child day care facilities
	b. Adult day care facilities
	g. School; junior and senior high (see also section 9-4-103)
	h. School; elementary (see also section 9-4-103)
	i. School; nursery and kindergarten (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
	h. Restaurant; conventional
	i. Restaurant; fast food (see also section 9-4-103)
	k. Medical supply sales and rental of medically-related products including uniforms and related accessories
	l. Electronic; stereo, radio, computer, TV and the like, sales and accessory repair
	m. Appliance; household use, sales and accessory repair, excluding outside storage
	p. Furniture and home furnishing sales not otherwise listed
	q. Floor covering, carpet and wall covering sales
	r. Antique sales, excluding vehicles
	s. Book or card store, news stand
	t. Hobby or craft shop
	u. Pet shop (see also animal boarding; outside facility)
	v. Video or music store; records, tape, CD and the like sales
	w. Florist
	x. Sporting goods sales and rental shop
	y. Auto part sales (see also major and minor repair)
	aa. Pawnbroker
	bb. Lawn and garden supply and household implement sales and accessory service
	ee. Christmas tree sales lot; temporary only (see also section 9-4-103)
(11) Wholesale/Rental/Vehicle-Mobile Home Trade	
	b. Rental of home furniture, appliances or electronics and medically-related products (see also division (10k.))
	c. Rental of clothes and accessories; formal wear, and the like
(12) Construction	
	c. Construction office; temporary, including modular office (see also section 9-4-103)
	e. Building supply; lumber and materials sales, plumbing and/or electrical supply excluding outdoor sales
	f. Hardware store
(13) Transportation	
	c. Taxi or limousine service
	h. Parking lot or structure; principal use
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	

RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

*** Maximim allowable density in the respective zoning district.

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

Bufferyard Requirements: Match proposed land use with adjacent permitted land use or adjacent vacant zone/nonconforming use to determine applicable bufferyard.

PROPOSED LAND USE CLASS (#)	ADJACENT PERMITTED LAND USE CLASS (#)					ADJACENT VACANT ZONE OR NONCONFORMING USE		PUBLIC/PRIVATE STREETS OR R.R.
	Single-Family Residential (1)	Multi-Family Residential (2)	Office/Institutional, light Commercial, Service (3)	Heavy Commercial, Light Industry (4)	Heavy Industrial (5)	Residential (1) - (2)	Non-Residential (3) - (5)	
Multi-Family Development (2)	C	B	B	B	B	C	B	A
Office/Institutional, Light Commercial, Service (3)	D	D	B	B	B	D	B	A
Heavy Commercial, Light Industry (4)	E	E	B	B	B	E	B	A
Heavy Industrial (5)	F	F	B	B	B	F	B	A

Bufferyard A (street yard)

Lot Size	Width	For every 100 linear feet
Less than 25,000 sq.ft.	4'	2 large street trees
25,000 to 175,000 sq.ft.	6'	2 large street trees
Over 175,000 sq.ft.	10'	2 large street trees

Street trees may count toward the minimum acreage.

Bufferyard B (no screen required)

Lot Size	Width
Less than 25,000 sq.ft.	4'
25,000 to 175,000 sq.ft.	6'
Over 175,000 sq.ft.	10'

Bufferyard C (screen required)

Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs

Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.

Bufferyard D (screen required)

Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard E (screen required)

Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard F (screen required)

Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Parking Area: Thirty (30) inch high screen required for all parking areas located within fifty (50) feet of a street right-of-way.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Ordinance requested by the FP Dickinson, LLC to amend Title 9, Chapter 4, Appendix A: Table of Uses of the City Code to add use code 14(c) Bakery; production, storage, and shipment facilities" as a permitted use in General Commercial (CG) zoning district

Explanation: Over time certain changes to the zoning ordinance have become necessary as matters of housekeeping, modernization or due to changes in policy. This is a text amendment to add "bakery; production, storage, and shipment facilities" as a permitted use to the General Commercial (CG) zoning district. Currently, this use is allowed as a permitted use in the following districts: Medical-Heavy Commercial (MCH), Medical-General Commercial (MCG), Downtown Commercial Fringe (CDF), Heavy Commercial (CH), Unoffensive Industry (IU), Industry (I), Planned Unoffensive Industry (PIU), and Planned Industry (PI).

Fiscal Note: No cost to the City.

Recommendation: In staff's opinion, the proposed Zoning Ordinance Text Amendment is in compliance with the Horizons 2026: Greenville's Community Plan, Chapter 4, Growing the Economic Hub, Goal 4.3 A Stable & Resilient Economy.

Policy 4.3.1 Modernize and Diversify Local Economy. Support the growth of a variety of employment opportunities and businesses that diversify Greenville's economy and provide workers with a range of skill sets and training. Encourage business growth within incorporated areas to expand and diversify Greenville's tax base.

Therefore, staff recommends approval.




The Planning and Zoning Commission voted unanimously to approve the request at its May 17, 2022 meeting.

If City Council determines to approve the request, a motion to adopt the attached ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the amendment, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

"Motion to deny the requested text amendment, to make a finding and determination that the required text amendment is inconsistent with the comprehensive plan or other applicable plans, including but not limited to Horizons 2026: Greenville's Community Plan, Chapter 4, Growing the Economic Hub, Goal 4.3 A Stable & Resilient Economy. *Policy 4.3.1 Modernize and Diversify Local Economy. Support the growth of a variety of employment opportunities and businesses that diversify Greenville's economy and provide workers with a range of skill sets and training. Encourage business growth within incorporated areas to expand and diversify Greenville's tax base.*"

ATTACHMENTS

-  [Ordinance_to_add_bakery_to_CG.pdf](#)
-  [COG-#1164918-v1-P&Z_Excerpt_May_17_2022-_Bakery_TA.pdf](#)
-  [Table_of_Uses_for_bakery.pdf](#)

ORDINANCE NO. 22-____
AN ORDINANCE AMENDING THE CITY CODE
OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 6, Chapter 160D, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on the 9th day of June 2022, at 6:00 p.m., conduct a meeting and conduct a public hearing on the adoption of an ordinance amending the City Code;

WHEREAS, in accordance with the provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of the ordinance involving the text amendment is consistent with the adopted comprehensive plan and other officially adopted plans that are applicable and that the adoption of the ordinance involving the text amendment is reasonable and in the public interest due to its consistency with the comprehensive plan and other officially adopted plans that are applicable and, as a result, its furtherance of the goals and objectives of the comprehensive plan and other officially adopted plans that are applicable;

WHEREAS, as a further description as to why the action taken is consistent with the comprehensive plan and other officially adopted plans that are applicable in compliance with the applicable provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance is consistent with provisions of the comprehensive plan, including, but not limited to, Horizons 2026: Greenville's Community Plan, Chapter 4, Growing the Economic Hub, Goal 4.3 A Stable & Resilient Economy. *Policy 4.3.1 Modernize and Diversify Local Economy. Support the growth of a variety of employment opportunities and businesses that diversify Greenville's economy and provide workers with a range of skill sets and training. Encourage business growth within incorporated areas to expand and diversify Greenville's tax base.*

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

Section 1. That Title 9, Chapter 4, Article U, Appendix A Table of Uses, of the City Code is hereby amended by allowing use code (14)(c) Bakery; production, storage, and shipment facilities as a permitted use in the CG (General Commercial) zoning district.

Section 2. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed

Section 3: Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Section 4: That this ordinance shall become effective upon its adoption.

ADOPTED this 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

Doc. # 1165139

Excerpt from the draft Planning & Zoning Commission Minutes (05/17/22)

REQUEST BY THE FP DICKINSON, LLC TO AMEND TITLE 9, CHAPTER 4, APPENDIX A: TABLE OF USES OF THE CITY CODE TO ADD “BAKERY; PRODUCTION, STORAGE, AND SHIPMENT FACILITIES” AS A PERMITTED USE IN GENERAL COMMERCIAL (CG) ZONING DISTRICT.

Chantae Gooby presented for staff. From time to time, there are uses that come to light that are not allowed in particular zoning districts. The applicant is requesting to add a “bakery” as a permitted use in the CG (General Commercial) district. This use is appropriate in this zoning district. In staff's opinion, the proposed Zoning Ordinance Text Amendment is in compliance with the Horizons 2026: Greenville's Community Plan, Chapter 4, Growing the Economic Hub,

Goal 4.3 A Stable & Resilient Economy. Policy 4.3.1 Modernize and Diversify Local Economy. Support the growth of a variety of employment opportunities and businesses that diversify Greenville's economy and provide workers with a range of skill sets and training. Encourage business growth within incorporated areas to expand and diversify Greenville's tax base.

Therefore, staff recommends approval of the request.

Chairman Faison opened the public hearing.

Ken Malpass spoke in favor. He stated this is a situation where the individual owns several restaurants and wants to bake his bread in the particular zoning.

No one spoke in opposition.

Chairman Faison closed the public hearing.

Motion made by Mr. Collins, seconded by Mr. Robinson, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

(14) Manufacturing/warehousing.

	USE	LUC#	RA20	R15S	R9S	R6S	R6N	R9	R6	R6 A	R6MH	MI	MS	MO	MCG	MR	MCH	MRS	MUI	OR	O	CD	CDF	CG	CN	CH	IU	I	PIU	PI	
c.	Bakery; production, storage and shipment facilities	5													P		P						P	P		P	P	P	P	P	P



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Ordinance requiring the demolition and removal of the dwelling located at 1303 West Third Street, Tax Parcel #23006

Explanation: The Planning and Development Services Department is requesting that the City Council approve an ordinance requiring the owner of a dwelling or dwelling units on one parcel to demolish and remove the dwelling(s) pursuant to City Code Section 9-1-110 (C)(2): "ordering the Code Enforcement Coordinator or officer to cause the structure to be removed or demolished, as provided in the original order of the Code Enforcement Coordinator or officer". The proposed ordinance provides that the owner has 90 days to demolish and remove the dwelling(s) and if the owner fails to accomplish this within 90 days, then the City will proceed with demolishing and removing the dwelling(s).

- On February 1, 2022, Notice of Violation and Hearing was sent by certified mail to the listed owner(s) and heirs.
- On February 5 and February 12, 2022, Notice of Violation and Hearing was published in the Greenville, NC Daily Reflector to the listed owner(s) and heirs to ensure all owners and parties in interest, specifically unknown and unnamed, received proper notice and an opportunity for hearing on the action(s) to be taken by the City for the dwelling located at 1303 W. Third Street, Tax Parcel #23006.
- On February 28, 2022, the City held a hearing. No owners, parties in interest, or their agent or attorneys attended.
- On February 28, 2022, Notice of Finding of Fact and Order was sent by certified mail to the listed owner(s) and heirs.
- On March 5 and March 12, 2022, Notice of Finding of Fact and Order was published in the Greenville, NC Daily Reflector.

- The Order instructed the listed owner(s) and heirs to bring the dwelling into compliance with the Minimum Housing Code of the City of Greenville by repairing, altering or improving the dwelling in order to render it in compliance with the minimum standards or by demolishing and removing the structure by a date no later than April 11, 2022.
- The dwelling(s) has/have been vacated and closed without utilities for well over 5 years.
- The current Pitt County Tax Assessor's report values the property at \$19,936 (Building value is listed as \$16,816, Extra features value of \$0, and the land value is \$3,120 for a total tax value of \$19,936).
- The estimated cost to repair the main dwellings is \$110,688.80.

Fiscal Note:

Costs to test and abate asbestos (if present) and demolish the structure are estimated at \$5,000. The cost of demolition and removal shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as the lien for special assessment established by Article 12 of Chapter 160D of the North Carolina General Statutes. If the dwelling is removed or demolished by the public officer, the local government shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

Recommendation: Staff recommends that Council approve the ordinance requiring the demolition and removal of the dwelling located at 1303 West Third Street, Tax Parcel #23006.

ATTACHMENTS

- 📎 [1163183 - 1303 West 3rd Street Demo Ordinance - 1 - COG.DOCX](#)
- 📎 [1303 West 3rd-front.jpg](#)
- 📎 [1303 West 3rd-left side.jpg](#)
- 📎 [1303 West 3rd-back board.jpg](#)

ORDINANCE NO. 22-

ORDINANCE REQUIRING THE DEMOLITION AND REMOVAL OF THE DWELLING
LOCATED AT:
1303 W. THIRD STREET, TAX PARCEL NUMBER 23006
(CODE CASE CEMH-2021-00103)

WHEREAS, pursuant to the enforcement of the Minimum Housing Code contained in Title 9, Chapter 1, Article F of the Code of the City of Greenville, North Carolina, as authorized by the provisions of Article 12 of Chapter 160D of the North Carolina General Statutes (G.S.), the owner of the dwelling described below has failed to comply with an Order to either (i) repair, alter, or improve the dwelling to bring it into compliance with the minimum standards established by the Minimum Housing Code or (ii) demolish and remove the dwelling;

WHEREAS, the City Council of the City of Greenville does hereby find and determine that the owner of the dwelling described below has been given a reasonable opportunity to bring the dwelling in conformity with the minimum standards established by the Minimum Housing Code contained in Section 9-1-93 through 9-1-104 of the Code of the City of Greenville, North Carolina; and

WHEREAS, G. S. § 160D-1203 and Section 9-1-110 (C)(2), of the Code of the City of Greenville, North Carolina empower the City Council of the City of Greenville to enact this ordinance to authorize and direct the Code Enforcement officer to remove or demolish a dwelling when the owner has failed to comply with an Order of the Code Enforcement Officer issued pursuant to the provisions of the Minimum Housing Code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GREENVILLE
DOES HEREBY ORDAIN:

Section 1. The owner(s), Teresa D. Edwards & Any other unknown and un-named Heirs at Law of Sadie Bell Darden as tenants in common, of the dwelling located at 1303 W. Third Street, Tax Parcel # 23006 in the City of Greenville, North Carolina, is hereby directed and required to demolish and remove the dwelling within ninety (90) days from the effective date of this ordinance.

Section 2. The Code Enforcement Supervisor is hereby authorized and directed to proceed to demolish and remove the dwelling in the event the owner fails to comply with the provisions of Section 1 of this ordinance within ninety (90) days, said dwelling being located at 1303 W. Third Street, Greenville, North Carolina, and owned by Teresa D. Edwards & Any other unknown and un-named Heirs at Law of Sadie Bell Darden as tenants in common.

Section 3. The cost of demolition and removal shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as the lien for special assessment established by Article 12 of Chapter 160D of the North Carolina General Statutes. The usable material of the dwelling and any personal property, fixtures, or appurtenances found in or attached to the dwelling shall be sold and the proceeds shall be credited against the cost of removal or demolition and any balance remaining shall be deposited in superior court where it shall be secured and disbursed in the manner provided by G.S. § 160D-1203(7).

Section 4. This ordinance shall be recorded in the Office of the Register of Deeds of Pitt County and shall be indexed in the name of the property owner in the grantor index.

Section 5. This ordinance shall become effective upon its adoption.

This the 9th day of June, 2022.

PJ Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

I, _____, a Notary Public in and for said state and county, do hereby certify that Valerie Shiuwegar personally appeared before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing instrument was signed in its name by the Mayor, sealed with the corporate seal and attested by herself as its City Clerk.

Witness my hand and notarial seal this _____ day of _____ 2022.

Notary Public

My Commission Expires:



Apr 25, 2022 10:19:53 AM
William Lowery



Apr 25, 2022 10:33:39 AM
William Lowery



Apr 25, 2022 10:33:52 AM
William Lowery



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item:

Ordinance amending the Flood Damage Prevention Ordinance text to amend the freeboard requirements for manufactured homes to align with the model ordinance

Explanation:

The National Flood Insurance Program (NFIP) was created by Congress in 1968 to reduce the loss of life and property and the rising disaster relief costs caused by flooding. The NFIP is a voluntary program based on a mutual agreement between the federal government and the local community. The City of Greenville became a member of the NFIP on January 15, 1974. The Federal Emergency Management Agency (FEMA) published the first Flood Hazard Boundary Map for the City of Greenville on June 14, 1974, and this map was replaced on July 3, 1978, with a detailed Flood Insurance Study (FIS) and accompanying Flood Insurance Rate Maps (FIRM) when the City became a participating member.

After the devastation of Hurricane Floyd in 1999, the State of North Carolina partnered with FEMA as the first Cooperating Technical State. This partnership was established to update the FIS's for all 100 counties in North Carolina. On January 2, 2004, July 7, 2014 and June 19, 2020, the revised studies for Pitt County were published by FEMA and adopted by the City.

As part of the preparation for Greenville's Community Rating System (CRS) renewal, City staff, along with staff of the NC Department of Public Safety (NCDPS), reviewed the City's Flood Damage Prevention Ordinance for compliance with the State model ordinance. It was determined that the present ordinance requires some changes for clarification and to ensure consistency with the State model ordinance. These modifications will also maximize the City's credit in the CRS.

The City of Greenville is expected to be reviewed and scored in the Community Rating System during the next few months. The City has put forth a concerted effort over the last several years to reduce its rating from the current Class 7 rating. This provides a 15% discount off flood insurance to citizens residing in the special flood hazard area. A modification to the CRS requirements now establishes a Class 8 prerequisite that communities must enforce a minimum of 1' freeboard to include manufactured homes and associated ductwork and equipment. This ordinance amendment does not affect existing property owners unless they improve their property by 49% of the value. This text amendment is needed to meet the prerequisite and allow the City to maintain its current Class 7 rating or improve to a lower class rating. The lower the class rating, the greater

the discount on flood insurance premiums for the citizens of Greenville.

Proposed Text Amendments

- Amend the freeboard requirements for manufactured homes to include ductwork and equipment to align with the model ordinance and to maximize credit in the Community Rating System (CRS).
- Amend the definition of Regulatory Floodplain Elevation to eliminate exemption for ductwork and equipment to align with the model ordinance and to maximize credit in the Community Rating System (CRS).

That Title 9, Chapter 6, of the City Code be amended as follows:

Remove all of the strikethrough text and add the **BOLD** text below.

SEC. 9-6-2 DEFINITIONS.

Regulatory flood protection elevation. The elevation to which all structures and other development located within the special flood hazard areas must be elevated or floodproofed, if nonresidential.

(1) In “Special Flood Hazard Areas” where base flood elevations (BFEs) have been determined, this elevation shall be at least the BFE plus two (2) feet for all structures and other development. ~~except manufactured homes.~~

~~(2) For manufactured homes, this elevation shall be at least the BFE plus two (2) feet, provided that no portion of the manufactured home below the lowest floor is lower than the base flood elevation. Allowable elements below the lowest floor are limited to electrical, mechanical, and duct work, which are considered a standard part of the manufactured home. Cross over ducts for double and triple wide manufactured homes are specifically exempted from the freeboard requirement provided the bottom of all such cross over ducts are above the base flood elevation. All electrical, mechanical, and duct work which are not a part of the manufactured home shall be no lower than two (2) feet above the base flood elevation.~~

~~(23)~~ In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

SEC. 9-6-5 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) *General standards.* In all special flood hazard areas the following provisions are required:

- (1) All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be elevated to the regulatory flood protection elevation and/or designed so as to prevent water from entering or accumulating within the components during conditions of flooding. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, duct work, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator and the like), hot water heaters, electric outlets/switches;

SEC. 9-6-5 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(B) *Specific standards.* In all special flood hazard areas where base flood elevation data have been provided as set forth in section 9-6-3(B) or section 9-6-4(E) (11) and (12), the following provisions are required:

(1) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. **Electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the RFPE, with the exception of electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment that are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the design flood elevation.** (Ord. No. 00-19, § 4, passed 2-10-2000)

(2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the regulatory flood protection elevation in lieu of being elevated, provided that all areas of the structure, together with attendant utility and sanitary facilities, below the required flood protection elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 9-6-5(G)(2). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as

set forth in section 9-6-4(B)(3) along with the operational plan and the inspection and maintenance plan.

(3) *Manufactured homes.*

(a) New or replacement manufactured homes shall be elevated on a foundation such that the reference level of the manufactured home is elevated no lower than the regulatory flood protection elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. **For manufactured homes being used for residential purposes, Electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the RFPE, with the exception of electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment that are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the design flood elevation.**

Fiscal Note: No fiscal impact is anticipated with this action.

Recommendation: Approve the attached ordinance amending Section 9-6-2 DEFINITIONS and Section 9-6-5 PROVISIONS FOR FLOOD HAZARD REDUCTION of the Flood Damage Prevention Ordinance.

ATTACHMENTS

 [1165330-Ordinance_Amending_Flood_Damage_Prevention_Ordinance.pdf](#)

ORDINANCE NO. 22-_____
AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 6, Chapter 160D, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on June 9, 2022, at 6:00 p.m., in the City Council Chambers of City Hall, in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance amending the City Code; and

WHEREAS, in accordance with the provisions of North Carolina General Statute 160D-923, the City Council does hereby find and determine that the adoption of the ordinance involving the text amendment is consistent with the adopted comprehensive plan and is reasonable and in the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

Section 1: That Title 9, Chapter 6, Section 9-6-2 of the Code of Ordinances of the City of Greenville definition of *Regulatory Flood Protection Elevation*, is hereby amended to read as follows:

SEC. 9-6-2 DEFINITIONS.

Regulatory flood protection elevation. The elevation to which all structures and other development located within the special flood hazard areas must be elevated or floodproofed, if nonresidential.

(1) In “Special Flood Hazard Areas” where base flood elevations (BFEs) have been determined, this elevation shall be at least the BFE plus two (2) feet for all structures and other development.

(2) In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

Section 2: That Title 9, Chapter 6, Section 9-6-5(A) of the Code of Ordinances of the City of Greenville, is hereby amended to read as follows:

SEC. 9-6-5 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) *General standards.* In all special flood hazard areas the following provisions are required:

(1) All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(4) All new electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be elevated to the regulatory flood protection elevation and designed so as to prevent water from entering or accumulating within the components during conditions of flooding. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, duct work, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator and the like), hot water heaters, electric outlets/switches;

Section 3: That Title 9, Chapter 6, Section 9-6-5(B) of the Code of Ordinances of the City of Greenville, is hereby amended to read as follows:

SEC. 9-6-5 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(B) *Specific standards.* In all special flood hazard areas where base flood elevation data have been provided as set forth in section [9-6-3\(B\)](#) or section [9-6-4\(E\)](#) (11) and (12), the following provisions are required:

(1) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the RFPE, with the exception of electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment that are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the design flood elevation. (Ord. No. 00-19, § 4, passed 2-10-2000)

(2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the regulatory flood protection elevation in lieu of being elevated, provided that all areas of the structure, together with attendant utility and sanitary facilities, below the required flood protection elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 9-6-5(G)(2). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 9-6-4(B)(3) along with the operational plan and the inspection and maintenance plan.

(3) *Manufactured homes.*

(a) New or replacement manufactured homes shall be elevated on a foundation such that the reference level of the manufactured home is elevated no lower than the regulatory flood protection elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. For manufactured homes being used for residential purposes, Electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the RFPE, with the exception of electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment that are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the design flood elevation.

Section 4. Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Adopted this 9th day of June, 2022.

P.J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

#1165330



City of Greenville, North Carolina

Meeting Date: 06/09/2022

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- Title of Item:** Resolution to Enter into a Grant Agreement with NC Biotechnology Center and Performance Agreement with Patheon Manufacturing Services LLC for Project Lucky
- Explanation:** Patheon Manufacturing Services LLC is expanding and acquiring property in the City of Greenville's Extraterritorial Jurisdiction (ETJ) and on January 24, 2022, Council previously authorized a Job Creation Grant as part of Project Lucky.
- Additional grant funding totaling \$100,000 has been made available by a Partnership Development Grant by the NC Biotechnology Center, which leads life sciences technology-based economic development for North Carolina by supporting the progression of ideas from the research lab to the marketplace. NC Biotech invests in technology development through grants, in company development through loans, and in economic development through its Partnership Development Grant. NC Biotech's programs and activities target emerging sectors and work across North Carolina to develop strengths that yield jobs in the life sciences.
- The grant funding must be passed through and administered by the City in exchange for Patheon creating jobs and supporting training at the Pharmaceutical Services Network at Pitt Community College to prepare recent high school graduates for careers at Patheon's facilities located in the City's ETJ.
- Fiscal Note:** Patheon will receive a \$100,000 lump sum payment to be expended over a three-year grant period, and requires a one (1) year maintenance period at the end of the three years.
- Recommendation:** City Council hold a public hearing on the grant award, and approve the attached resolution, Grant Agreement with NC Biotechnology Center, and Performance Agreement with Patheon Manufacturing Services
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ATTACHMENTS

- [📄 RESOLUTION FOR PATHEON- NC BIOTECH CENTER.pdf](#)
- [📄 Project Lucky_NCBiotech_PDG_Performance Agreement_20220601.pdf](#)
- [📄 Project Lucky_NCBiotech_PDG_Grant Agreement_20220527.pdf](#)

RESOLUTION NO. _____
RESOLUTION OF THE GREENVILLE CITY COUNCIL APPROVING PASS THROUGH
GRANT FOR PROJECT LUCKY

WHEREAS, North Carolina General Statute § 158-7.1 grants authority to the City of Greenville (the “City”) to make appropriations for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the corporate limits of the City or in Pitt County, or for other purposes which the City Council finds, in its discretion, will increase employment, taxable property base, and business prospects of the City; and

WHEREAS, Patheon Manufacturing Services LLC (“Patheon” or “Company”), a foreign corporation duly organized and existing under the laws of the State of Delaware, has a location in the City’s extraterritorial jurisdiction, and is a Company that manufactures pharmaceutical products, technology and equipment, and does business throughout the United States; and

WHEREAS, the Greenville City Council previously approved participation in an economic development project by authorizing the Job Creation Grant (cash incentive) to be paid to Patheon upon proof of agreed-upon taxable investments in real property of \$53 million, purchase of equipment and machinery totaling at least \$101 million, and creation of up to 290 full-time jobs; and

WHEREAS, the North Carolina Biotechnology Center (“NCBiotech”) leads life sciences technology-based economic development for North Carolina by supporting the progression of ideas from the research lab to the marketplace. NCBiotech invests in technology development through grants, in company development through loans, and in economic development through its Partnership Development Grant. NCBiotech’s programs and activities target emerging sectors and work across North Carolina to develop strengths that yield jobs in the life sciences; and

WHEREAS, the NCBiotech is offering a grant totaling \$100,000 to Patheon for creation of at least 125 jobs and supporting training at the Pharmaceutical Services Network at Pitt Community College to prepare recent high school graduates for careers at Patheon’s facilities located in the City’s ETJ over a three (3) year period with a period of maintenance for one (1) year after the initial grant period ends, and the grant must be passed through and administered by the City; and

WHEREAS, the City Council does hereby find and determine that the proposed economic development funding will continue to increase the taxable property base of the City, increase the business prospects of the City, and create high-paying jobs, and that it is in the public interest to provide assistance, as authorized by North Carolina General Statute § 158-7.1, in order to encourage the Company to continue developing the project described herein; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that:

1. The City approves the appropriation and expenditure of \$100,000 lump sum as a pass through grant to be administered by the City for Patheon to continue its economic development project in the City’s ETJ.
2. New full-time job creation levels must be met and funding must be expended within three (3) years following the date of initial job certifications, or the job start date as defined by

the performance agreement, and must also be maintained for one (1) year maintenance following the three (3) year period.

3. If the Company does not meet the requirements of the grant funding, they will be required to repay a pro rata share of the funding based on the number of jobs below the established minimum job requirement.
4. The Mayor or City Manager is authorized to execute the grant funding and performance agreements and any other documents necessary to the project on behalf of the City.

Adopted this 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

**NORTH CAROLINA BIOTECHNOLOGY CENTER PARTNERSHIP DEVELOPMENT GRANT
PERFORMANCE AGREEMENT**

This Performance Agreement (this “**Performance Agreement**”) is entered into on the ___ day of _____, 2022, by and between the City of Greenville, a municipal corporation organized and existing under the laws of the State of North Carolina (the “**LUG**”) and Patheon Manufacturing Services LLC, a foreign corporation duly organized and existing under the laws of the State of Delaware, and authorized to conduct business in the State of North Carolina (the “**Company**”).

WHEREAS, the Company is a multipurpose pharmaceutical life science company focused on the development/manufacture of pharmaceutical products, technology and equipment; and

WHEREAS, the LUG has been awarded a one hundred thousand dollar (\$100,000) Partnership Development Grant (the “**Grant**”) from the North Carolina Biotechnology Center (the “**Center**”), to support an incentive from the LUG to induce the Company to establish, expand, and maintain a business operation in Greenville, NC (the “**Project**”); and

WHEREAS, the LUG has agreed to administer the Grant pursuant to the terms and conditions of a Grant Agreement (attached hereto as Attachment 1 and incorporated into this Performance Agreement as if fully set forth herein) between the LUG and the Center; and

WHEREAS, terms contained in the Grant Agreement between the LUG and the Center require the LUG to enter into a Performance Agreement with the Company to address the following:

- (1) the disbursement of the Grant Funds (as defined below) by the LUG to the Company;
- (2) the use of the Grant Funds by the Company;
- (3) the Company’s performance in creating or attracting new jobs in the LUG;
- (4) the circumstances under which the Company will be required to repay the Grant Funds; and
- (5) the Company’s reporting obligations.

NOW THEREFORE, the LUG and the Company knowingly and willingly enter into this Performance Agreement for the purposes set forth above, and hereby agree to the following terms and conditions:

1. Disbursement of Funds.

(a) The LUG shall disburse to the Company the full sum of one hundred thousand dollar (\$100,000) in one lump sum, constituting the full amount of the Grant Funds as an economic development incentive (the “**Grant Funds**”), unless otherwise agreed to as described in Exhibit A of the Grant Agreement.

(b) The obligation to disburse any amount to the Company under this Performance Agreement is contingent upon the availability of funds to the Center for such purpose, and the payment of such funds to the LUG to administer to the Company.

(c) For purposes of this Performance Agreement, all documents referred to as Exhibit A of the Grant Agreement between the LUG and the Center shall be considered a part of this

Performance Agreement as if fully set forth herein. Funds awarded under the Grant Agreement will not be transferred by the Center to the LUG prior to the completion of the documents required by the Grant Agreement (including those referred to in Exhibit A thereto), which shall be completed and certified where required.

2. Use of Funds.

(a) The Grant Funds shall be used by the Company to support its business activities that relate to the life sciences and to create and attract life science-related jobs based in the geographic area of the LUG. The Grant Funds shall be used in a manner that provides sustainable benefit to both the Company and LUG in support of growth of the area's life science community. Acceptable uses of Grant Funds are project dependent based on, but not limited to, company/project size, status, and resources. Examples include, without limitation, support for talent preparation and optimization, infrastructure investments, community education, improvements of facilities, and the acquisition of equipment (placed in service and remaining in service in North Carolina for a minimum of three (3) years), each in support of the Company's life science operations and LUG's life science community. Grant Funds shall only be used for the purposes for which they are granted.

(b) All Grant Funds must be expended by the Company no later than the date exactly three (3) years following the specific date upon which the Company initially certifies existing jobs (the "**Jobs Start Date**"). This date exactly three (3) years following the Jobs Start Date shall be referred to as the "**Jobs End Date**".

3. Company Performance.

(a) As of the Jobs End Date, the Company shall employ at least 125 new full-time persons above and beyond the number of employees based in the geographic area of the LUG as of the Jobs Start Date (the "**Minimum Job Requirement**"). The Company shall certify the number of jobs as of the Jobs End Date and provide evidence of such number if requested by the LUG or the Center. As used herein, (i) "**Number of Jobs Created**" means an amount equal to the number of jobs certified by the Company at the Jobs End Date minus the number of jobs certified by the Company at the Jobs Start Date and (ii) "**New Minimum Job Requirement**" means the actual Number of Jobs Created, but shall not be an amount greater than the original Minimum Job Requirement. The number of jobs certified at any time hereunder is the number of jobs of the Company based in the geographic area of the LUG. Number of Jobs Created represents net new full-time jobs at the Company based in the geographical area of the Local Unit of Government and cannot include employees transferred or relocated from another Company site in North Carolina unless otherwise agreed to by the Center, Local Unit of Government, and the Company.

(b) As of the date one (1) year following the Jobs End Date (the "**End of Maintenance Date**"), the Company shall employ no fewer full-time persons based in the geographic area of the LUG than the New Minimum Job Requirement. The Company shall certify the number of jobs as of the End of Maintenance Date and provide evidence of such number if requested by the LUG or the Center.

4. Repayment by the Company.

(a) If the Company does not satisfy the Minimum Job Requirement as of the Jobs End Date, then the Company shall pay the LUG eight hundred dollars (\$800) for each job below the

established Minimum Job Requirement threshold. Any such payment shall be due from the Company to the LUG no more than sixty (60) days following the Jobs End Date.

(b) If the Company does not maintain the New Minimum Job Requirement as of End of Maintenance Date, then the Company shall pay the LUG eight hundred dollars (\$800) for each job below the New Minimum Job Requirement. Any such payment shall be due from the Company to the LUG no more than sixty (60) days following the End of Maintenance Date.

5. Reporting Obligations; Site Visits.

(a) The Company shall provide the LUG with annual reports documenting the Company's receipt and expenditure of Grant Funds during the year and the number of full-time employees of the Company based in the LUG during the year. Upon request, the Company shall provide the LUG with any supporting documentation such as copies of forms filed with the N.C. Employment Security Commission. Such reports shall be received, annually, by the LUG no later than thirty (30) days following each anniversary of the Jobs Start Date. The Company shall also provide the LUG with a summary report no later than ninety (90) days following the Jobs End Date documenting final use of the Grant Funds and summarizing the overall uses and benefits to the LUG of the Grant, including the total number of jobs created over the three (3) year period beginning on the Jobs Start Date. Any unexpended Grant Funds as of the Jobs End Date shall be remitted by the Company to the LUG within sixty (60) days after the Jobs End Date. Any use of Grant Funds by the Company not satisfying the requirements as described in Section 2 above are due from the Company to the LUG no later than one-hundred sixty (160) days following the Jobs End Date. In addition, the Company shall provide the LUG with a final report no later than ninety (90) days following the End of Maintenance Date which shall include relevant employment information related to the requirements set forth above.

(b) The Company shall retain all financial records, supporting documents, and other pertinent Project records related to the Grant for a period of five (5) years from the date of termination of this Performance Agreement. In the event such records are audited, all Project records shall be retained beyond the five-year period until any and all audit findings have been resolved. The Company agrees to make available to the LUG, or its designated representative, all of its records pertaining to Grant Fund expenditures which relate to the Project, and agrees to allow the Center or said representative to audit, examine and copy any and all data, documents, proceedings, records and notes of activity relating in any way to Grant Fund expenditures which relate to the Project. Access to these records shall be allowed upon request at any time during normal business hours and as often as the LUG or said representative may deem necessary.

(c) The Company hereby acknowledges and agrees that the staff of each of the LUG and the Center shall be permitted to make site visits to the location of the Project as may be necessary for each of the LUG and the Center to monitor and confirm compliance with the terms of the Grant Agreement and this Performance Agreement, including, without limitation, with respect to the use and expenditure of the Grant Funds by the Company. The Company shall be given reasonable advance notice of any site visit, which will be scheduled during regular business hours unless other mutually acceptable arrangements are agreed upon.

6. Applicable Law. This Performance Agreement shall be construed and enforced under the laws of the State of North Carolina, excluding its conflict of law principles.

7. Notice. All notices required or permitted to be delivered hereunder shall be in writing and shall be (i) personally delivered, (ii) sent by email or facsimile (with a copy sent the same day by certified mail, postage prepaid), or (iii) sent by Federal Express or other nationally recognized overnight delivery service, addressed as follows:

LUG:

Ann Wall
City Manager
City of Greenville
PO Box 7207
Greenville, NC 27835
Email: awall@greenvillenc.gov

Company:

Derek Niese, Finance Director
Patheon Manufacturing Services LLC
5900 Martin Luther King Jr Highway
Greenville, NC, 27834, USA
(252) 707-7051
Email: derek.niese@patheon.com

Michael Michaud, Vice President, Global Tax
Accounting
Thermo Fisher Scientific, Inc.
168 Third Avenue
Waltham, MA 02451, USA
(781) 622-1396
michael.michaud@thermofisher.com

or addressed to such other address or to the attention of such other individual as the LUG or the Company shall have specified in a notice delivered pursuant to this Section 7. Notice shall be deemed effective on the date dispatched if by personal delivery, on the date transmitted by email or facsimile (if confirmed by mail pursuant to this Section 7) or two (2) days after mailing if by Federal Express or other nationally recognized overnight delivery service.

8. Term and Termination. This Performance Agreement shall remain in effect for a period of six (6) years, unless sooner terminated. This Performance Agreement may be terminated or extended upon written consent of each of the Company, the LUG and the Center.

9. Indemnification and Insurance. Company and LUG hereby agree to indemnify, defend and hold the other party, its officers, directors, members, partners, agents, consultants, and employees harmless from and against any and all damages or other amounts payable to a third-party claimant, as well as any reasonable attorneys' fees and costs of litigation arising out of or resulting from any claim, suit, proceeding or cause of action brought by a third-party against either party, its officers, directors, members, partners, agents, consultants, and employees based on gross negligence or willful misconduct by such indemnifying party, its officers, directors, members, partners, agents, consultants, or employees as a result of work performed pursuant to this Performance Agreement.

Insurance. The Company agrees to purchase at its own expense insurance coverages to satisfy the following minimum requirements. Work under this contract shall not commence until all insurance required as listed has been obtained. Insurance required shall remain in effect through the life of this contract.

- a. **Workers' Compensation Insurance:** No contractor or subcontractor may exclude executive officers. Workers Compensation must include all employees

Limits:

Workers Compensation: Statutory for the State of North Carolina.
Employers Liability: Bodily Injury by Accident \$1,000,000 each accident.
Bodily Injury by Disease \$1,000,000 policy limit.
Bodily Injury by Disease \$1,000,000 each employee.

b. Commercial General Liability:

Limits:

Each Occurrence:	\$1,000,000
Personal and Advertising Injury	\$1,000,000
General Aggregate Limit	\$2,000,000
Products and Completed Operations Aggregate	\$2,000,000

The aggregate limit must apply per project. The form of coverage must be the ISO CG 00 01 policy as approved by the State of North Carolina Department of Insurance. If a form of coverage other than the CG 00 01 is used it must be approved by the **Company**. Any endorsed exclusions or limitations from the standard policy must be clearly stated in writing and attached to the Certificate of Insurance. Completed Operations coverage must be maintained for the period of the applicable statute of limitations. Additionally, the **Company** must be added as an Additional Insured to the Commercial General Liability policy.

c. Commercial Automobile Liability:

Limits: \$1,000,000 combined single limit.

d. Cancellation:

Each certificate of insurance shall bear the provision that the policy cannot be altered or canceled in less than ten (10) days after mailing written notice to the assured of such alteration or cancellation, sent registered mail.

e. Proof of Carriages:

- i. The **Company** shall provide the LUG with insurance industry standard ACCORD form Certificate(s) of Insurance on all policies of insurance and renewals thereof in a form(s) acceptable to the LUG prior to the commencement of services. Said policies shall provide that the LUG be an additional named insured.
- ii. The LUG shall be notified in writing of any reduction, cancellation, or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.
- iii. All insurance policies shall be issued by responsible companies who are acceptable to the LUG and licensed and authorized to do business under the laws of North Carolina.

10. Force Majeure. Any delay in the performance of any of the duties or obligations of the Company shall not be considered a breach of this Performance Agreement and the time required for performance shall be extended for a period equal to the lesser of (i) the period of such delay or (ii) 24 months, provided that such delay has been caused by or is the result of any acts of God; acts

of the public enemy; insurrections; riots; embargoes; labor disputes, including strikes, lockouts, job actions, or boycotts; shortages of materials or energy; fires; explosions; floods; changes in laws governing this type of facility; or other unforeseeable causes beyond the control and without the fault or negligence of the Company, which delay affects the Company. The Company shall give prompt notice to LUG of such cause, and shall take whatever reasonable steps are necessary to relieve the effect of such cause as promptly as possible. No such event shall excuse the payment of any sums due and payable hereunder on the due date thereof except any payment due upon the occurrence of any act or event for which delayed performance is excused as provided above.

11. Amendments. Any and all additions, deletions or other changes in this Performance Agreement shall be effectuated by written amendment signed by the parties to this Performance Agreement.
12. Execution. This Performance Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and such counterparts, together, shall constitute one and the same Performance Agreement which shall be sufficiently evidenced by one of such original counterparts.
13. Assignment. The rights, duties and obligations of the parties under this Performance Agreement shall inure to the benefit of the parties and shall be binding upon their successors and permitted assigns. Neither this Performance Agreement nor the respective rights, duties, obligations, and responsibilities of the Company may be transferred or assigned, in whole or in part, by the Company to any other person, firm or organization (including sub-agents) without the prior written consent of the Local Unit of Government. In the event of a permitted assignment, the assignee shall not be relieved of any of its duties or obligations under this Performance Agreement, and such assignee shall agree to abide by the standards contained in the Uniform Administration of State Grants Subchapter.
14. Choice of Law and Venue. This Performance Agreement shall be construed and governed by the laws of the State of North Carolina, excluding its conflict of law principles. The exclusive forum and venue for all actions, suits or proceedings arising out of or related to this Performance Agreement shall be the North Carolina General Courts of Justice, in Pitt County, or if in federal court, in the Eastern District of North Carolina.
15. Headings. The headings in this Performance Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.
16. Compliance with the Law. The Company shall take all actions necessary to fully comply with federal, state and local laws, ordinances, rules, and regulations pertaining to the performance of work under this Performance Agreement including specifically with the applicable requirements contained in Chapter 143C of the North Carolina General Statutes, including the rules and reporting requirements thereunder (including, without limitation, 09 NCAC Subchapter 03M.0205) (as such statutes, rules and requirements may be amended from time to time). For convenience, the current reporting thresholds applicable to the Grant, established for recipients and subrecipients receiving State funds, are stated below:

At least \$25,000 but less than \$500,000 (Level II)—A recipient or subrecipient that receives, holds, uses, or expends State funds in an amount of at least twenty-five thousand (\$25,000) or greater but less than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including: (a) a certification completed by the recipient or subrecipient stating that the State funds were received, held, used, or expended for the purposes for which they were granted; (b) an accounting of the State funds received, held, used, or expended; and (c) a description of activities and accomplishments undertaken by the recipient or subrecipient with the State funds, including reporting on any performance measures established in the contract. All reports shall be filed with the disbursing agency in the format and method specified by the agency no later than three months after the end of the recipient's or subrecipient's fiscal year.

Such thresholds and requirements may change from time to time and the Company should review the applicable statutes, rules and requirements to determine the then-applicable thresholds and reporting requirements.

17. Minority/Women-Owned Business Enterprise Program. The LUG has adopted an Affirmative Action and Minority and Women Business Enterprise Plan (M/WBE) Program. The Company attests that it also shall take affirmative action to insure equality of opportunity in all aspects of employment and to utilize MWBE suppliers of materials and labor whenever reasonably and commercially practicable in the conduct of its business. Company further agrees that in the performance of these services that it will not discriminate in its hiring, employment, and contracting practices with reference to political affiliation, genetic information, sexual orientation, age, sex, race, color, religion, national origin, handicap or disability.
18. E-Verify. The Company shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Company utilizes a Subcontractor, the Company shall take commercially reasonable efforts to insure any such consultant or contractor, and any of their respective subcontractors, shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Company represents that the Company and its Subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
19. Severability. No waiver of any breach of this Performance Agreement shall operate as a waiver of any similar subsequent breach or any breach of any other provision of this Performance Agreement. If any provision of this Performance Agreement is held invalid by a court of competent jurisdiction, such provision shall be severed from this Performance Agreement and to the extent possible, this Performance Agreement shall continue without affecting the remaining provisions.
20. Non-Appropriation of Funds. The Company acknowledges that funding for this Performance Agreement is conditioned upon appropriation and allocation by the governing body of sufficient funds to support the activities described in this Performance Agreement. By written notice to Company at the earliest possible date, the LUG may terminate this Performance Agreement, in whole or in part, at any time for lack of appropriation of funds, or other withdrawal, reduction or limitation in any way of the LUG's budget, funding or financial resources. Such termination is in addition to the LUG's rights to terminate for convenience or cause. If this Performance Agreement is terminated for non-appropriation the LUG will be liable only for payment in accordance with the terms of this Performance Agreement for work completed and expenses incurred prior to the effective date of termination. The Company will not be compensated for any other costs in connection with a termination for non-

appropriation. The Company will not be entitled to recover any damages in connection with a termination for non-appropriation, including, but not limited to, lost profits. The Company shall be released from any further obligation to provide work affected by such termination; and termination shall not prejudice any other right or remedy available to the LUG.

21. Entire Agreement. This Performance Agreement, including any Exhibits hereto, contains all the terms and conditions agreed upon by the parties. No promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this contract shall be deemed to exist or to bind either party hereto.
22. Performance of Government Functions. Nothing contained in this Performance Agreement shall be deemed or construed so as to in any way estop, limit, or impair the LUG from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

(Signatures appear on the following page)

IN WITNESS WHEREOF, each of the parties hereto have executed this Performance Agreement as of the date below, effective as the date first above written.

LUG:

CITY OF GREENVILLE

By: _____

Name: _____

Title: _____

Date: _____

COMPANY:

PATHEON MANUFACTURING SERVICES LLC

By: _____

Name: Pat McNally

Title: Senior Director of Quality for Drug Product
Division North America, Thermo Fisher
Scientific, Inc.

Date: _____

APPROVED AS TO FORM:

BY: _____
Emanuel McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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

BY: _____
Byron Hayes, Director of Financial Services

Date:

Account Number _____

Project Code (if applicable) _____

Attachment 1

(Project Lucky Grant Agreement between Center and LUG)

NORTH CAROLINA BIOTECHNOLOGY CENTER PARTNERSHIP DEVELOPMENT GRANT GRANT AGREEMENT

This GRANT AGREEMENT (this “**Agreement**”) is entered into this ____ day of _____, 2022, by and between the City of Greenville, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter referred to as the “**Local Unit of Government**”) and the North Carolina Biotechnology Center, a non-profit corporation organized and existing under the laws of the State of North Carolina (hereinafter referred to as the “**Center**”).

This Agreement defines the parameters for distribution of a Partnership Development Grant from the Center to the Local Unit of Government to support job creation through Project Lucky (the “**Project**”) in collaboration with a life science company (hereinafter referred to as the “**Company**”).

For purposes of this Agreement, the following definitions shall apply:

Award Letter of Intent: The letter provided by the Center to the Local Unit of Government and the Company indicating the Center’s intent to award the Grant.

Performance Agreement: The Performance Agreement between the Local Unit of Government and the Company. This Agreement outlines the parameters of performance by the Company as required by the Local Unit of Government as the recipient and administrator of the Center grant.

Use of Funds: The budget agreed to between the Center, the Local Unit of Government and the Company which specifies how Grant Funds are to be used.

Jobs Start Date or JSD: The specific date upon which the Company will initially certify existing jobs. This date is the start date for a three (3) year period in which the Company has to create the number of new jobs promised (i.e., the Minimum Job Requirement). This date is incorporated into the Performance Agreement. The JSD is September 14, 2021.

Jobs End Date or JED: The specific date that is three (3) years following the Jobs Start Date. This date is also incorporated into the Performance Agreement. The JED is September 14, 2024.

Number of Jobs Created: This figure is an amount equal to the number of jobs certified at the JED minus the number of jobs certified at the JSD. The number of jobs certified at any time hereunder represents current full-time employees of the Company based in the geographic area of the Local Unit of Government. Number of Jobs Created represents net new full-time jobs at the Company based in the geographic area of the Local Unit of Government and cannot include employees transferred or relocated from another Company site in North Carolina unless otherwise agreed to by the Center, Local Unit of Government and Company.

Minimum Job Requirement: This figure is the number of new jobs based in the geographic area of the Local Unit of Government expected to be created by the Company. The Minimum Job Requirement is 125.

New Minimum Job Requirement. This figure is the actual Number of Jobs Created based on the calculation as defined above, but shall not be an amount greater than the original Minimum Job Requirement, and which shall become the minimum number of jobs to be maintained for one (1) year after the Jobs End Date.

End of Maintenance Date or EOM: The specific date that is one (1) year after the Jobs End Date. This date marks the end of the jobs maintenance period in which the Company is required to maintain the New Minimum Job Requirement. The EOM date is September 14, 2025.

Grant End Date or GED: The final date of this Agreement upon which all requirements will be met. The GED is September 14, 2025.

WITNESSETH:

THAT, WHEREAS, the Center's mission is to provide long-term economic and societal benefits to North Carolina by supporting biotechnology research, business and education statewide; and

WHEREAS, biotechnology is characterized by the application of the principles of engineering and technology to the life sciences to solve problems and make products; and

WHEREAS, the Center provides direct and indirect financial assistance and support to persons and firms seeking to become involved in biotechnology/life science businesses and entrepreneurial opportunities in North Carolina; and

WHEREAS, the Company, [a multipurpose pharmaceutical manufacturing business based in Waltham, Massachusetts expanding its manufacturing operations in Greenville, NC] and the Center has agreed to provide a Partnership Development Grant (the "**Grant**") through the Local Unit of Government for the benefit of the Company to induce the Company to expand and maintain new business operations in Greenville, NC; and

WHEREAS, the Local Unit of Government has agreed to be the responsible pass-through agency and to administer the Grant; and

WHEREAS, the Company is expected to create 125 new full-time jobs related to the life sciences in Greenville, NC and is expected to generate significant tax revenue for Greenville, NC; and

WHEREAS, the Local Unit of Government acknowledges that economic support such as the Grant serves as an important means for municipalities to attract businesses and develop local economies; and

WHEREAS, the Center desires to help the Local Unit of Government to attract new life science jobs and investment through the Grant which accordingly would constitute a public purpose; and

WHEREAS, information provided by the Company and the Local Unit of Government to the Center indicates that the Project represents a competitive project for which the Center's support

is significant to the City of Greenville, NC in creating or attracting 125 new full-time jobs related to the life sciences;

NOW, THEREFORE, in consideration of the mutual promises and such other valuable consideration as shall be set out herein, the parties hereto do mutually agree to the following terms and conditions:

1. Scope of the Project. The scope of the Project shall be clearly outlined in Exhibit A and Exhibit B which are an integral part of this Agreement.

Exhibit A provides specific details of the Project including (1) the planned Use of Funds, (2) Certification of jobs at the Jobs Start Date, Jobs End Date and at End of Maintenance Date, and (3) milestones expected to be achieved.

Exhibit B provides a general outline of the Project through the following three documents: (1) the Center Letter of Intent to support the Project, (2) the Center Letter of Affirmation confirming the intent to fund, and (3) a copy of the signed Performance Agreement.

By executing this Agreement, the Local Unit of Government hereby agrees to (a) disburse to the Company the Grant funds (the “**Grant Funds**”) unless otherwise agreed to by the Center, Local Unit of Government and Company as specified in Exhibit A, (b) enter into the Performance Agreement with the Company, which Performance Agreement shall contain other terms consistent with this Agreement, and (c) negotiate in collaboration with the Center and the Company the Use of Funds.

2. Period of Agreement. The effective period of this Agreement shall commence on the execution of this Agreement and shall terminate no later than six (6) years following the date of execution, and may be subject to earlier termination as provided herein.

3. Grant Amount. The amount of the Grant the Center grants to the Local Unit of Government is one hundred thousand dollars (\$100,000) and such amount is to be paid in a single lump sum. It is agreed between the parties that the above-referenced sum shall represent the total amount of this Agreement, except as such amount may be amended in accordance with the terms of this Agreement.

4. Funding and Method of Payment.

(a) Prior to transferring the Grant Funds to the Local Unit of Government, the deliverables set forth in Paragraph 1 above (including Exhibit A and Exhibit B) shall have been provided to the Center by the Local Unit of Government and the Company, as applicable, in form and substance reasonably satisfactory to the Center. Upon satisfaction of such deliverable requirements, the Center will transfer the full amount of the Grant to the Local Unit of Government within thirty (30) days thereafter.

(b) All Grant Funds received by the Local Unit of Government from the Center must be transferred to and expended by the Company no later than the Jobs End Date, unless

otherwise agreed to by the Center, Local Unit of Government, and Company as specified in Exhibit A. Any unexpended Grant Funds as of the Jobs End Date shall be obtained by the Local Unit of Government from the Company and returned to the Center. Such amounts shall be paid by the Local Unit of Government to the Center no later than ninety (90) days after the Jobs End Date.

(c) As of the Jobs End Date, the Local Unit of Government shall require the Company to certify the number of jobs as of the Jobs End Date and to provide evidence of such number if requested by the Local Unit of Government or the Center. If the Company does not satisfy the Minimum Job Requirement, then the Company shall be required to pay the Local Unit of Government \$800 for each job below the established Minimum Job Requirement threshold. If any such payment is due, the Local Unit of Government shall require it to be paid by the Company no later than sixty (60) days after the Jobs End Date, and such amount shall be returned to the Center by the Local Unit of Government no later than ninety (90) days after the Jobs End Date.

5. Reporting.

(a) Interim Reports. The Local Unit of Government shall require the Company to provide annual reports documenting the Company's receipt and expenditure of Grant Funds, as outlined in Exhibit A (a copy of which must be provided to the Center), during each of the three (3) years during which the Company is creating the new jobs. The requirements of these reports shall be as outlined in the Performance Agreement, and shall, at a minimum, provide an accounting of the use of Grant Funds to verify expenditure for purposes for which they were granted, descriptions of activities and accomplishments undertaken related to use of Grant Funds, and the number of full-time employees of the Company based in the designated Project locale during the year.

(b) Final Report. The Local Unit of Government shall require the Company to provide a final report at the End of Maintenance Date, a copy of which must be provided to the Center. The final report is due no later than ninety (90) days following the EOM. The final report must document final use of the Grant Funds, as outlined in Exhibit A, and summarize the overall benefits to the Local Unit of Government of the Grant, including the total number of jobs created and maintained under the Project and certified to the Local Unit of Government. If at the End of Maintenance Date, the Company has failed to maintain the New Minimum Job Requirement, the Company shall be required to pay the Local Unit of Government \$800 for each job below the established New Minimum Job Requirement threshold. If any such payment is due, the Local Unit of Government shall require it to be paid by the Company not more than sixty (60) days after the End of Maintenance Date, and such amount shall be returned to the Center by the Local Unit of Government no later than ninety (90) days after the End of Maintenance Date.

(c) Audit Requirements and Reporting; Site Visits.

i. Audit Requirements and Reporting. The Local Unit of Government shall require the Company to expend the funds provided by this agreement only for the purposes for which they were granted. The Local Unit of Government and the Company are subject to the requirements of N.C.G.S. Sections 143C-6.21, -6.22, and -6.23. The Local Unit of Government shall require the Company to comply with all the rules and reporting requirements established by

statute or administrative rules from time to time, including the foregoing Sections of N.C.G.S. 143C and 09 NCAC Subchapter 03M.0205 (as such statutes, rules and requirements may be amended from time to time). For convenience, the current reporting thresholds applicable to the Grant, established for recipients and subrecipients receiving State funds, are stated below:

At least \$25,000 but less than \$500,000 (Level II)—A recipient or subrecipient that receives, holds, uses, or expends State funds in an amount of at least twenty-five thousand (\$25,000) or greater but less than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including: (a) a certification completed by the recipient or subrecipient stating that the State funds were received, held, used, or expended for the purposes for which they were granted; (b) an accounting of the State funds received, held, used, or expended; and (c) a description of activities and accomplishments undertaken by the recipient or subrecipient with the State funds, including reporting on any performance measures established in the contract. All reports shall be filed with the disbursing agency in the format and method specified by the agency no later than three months after the end of the recipient's or subrecipient's fiscal year.

Such thresholds and requirements may change from time to time and the Local Unit of Government and the Company should review the applicable statutes, rules and requirements to determine the then-applicable thresholds and reporting requirements.

ii. Site Visits. The Local Unit of Government shall require the Company to permit site visits to the location of the Project by Center staff as may be necessary for the Center to monitor and confirm compliance with the terms of this Agreement and the Performance Agreement, including, without limitation, with respect to the use and expenditure of the Grant Funds by the Company. The Company shall be given reasonable advance notice of any site visit, which will be scheduled during regular business hours unless other mutually acceptable arrangements are agreed upon.

6. Amendments. Any and all additions, deletions or other changes in this Agreement shall be effectuated by written amendment signed by the parties to this Agreement.

7. Project Records. The Local Unit of Government shall retain all financial records, supporting documents, and other pertinent Project records related to the Grant for a period of five (5) years from the date of termination of this Agreement. In the event such records are audited, all Project records shall be retained beyond the five-year period until any and all audit findings have been resolved. The Local Unit of Government agrees to make available to the Center, or its designated representative, all of its records which relate to the Project, and agrees to allow the Center or said representative to audit, examine and copy any and all data, documents, proceedings, records and notes of activity relating in any way to the Project. Access to these records shall be allowed upon request at any time during normal business hours and as often as the Center or said representative may deem necessary.

8. Liabilities and Loss. The Center assumes no liability with respect to accidents, bodily injury, illness, breach of contract or any other damages or loss, or with respect to any claims arising out of any activities undertaken by the Local Unit of Government under this Agreement or by the Company under the Performance Agreement, whether with respect to persons or property of the Local Unit of Government, or third parties. The Local Unit of Government agrees to obtain and maintain insurance or otherwise protect itself or others as it may deem desirable. Further, the Center assumes no liability with respect to accidents, bodily injury, illness, breach of contract, or any other damages or loss, or with respect to any claims or losses arising out of the use of funds. Except to the extent caused by the negligence or willful misconduct of the Center or its agents, the LUG will, to the extent and limits of its insurance and any legal limitations, indemnify, defend, and hold harmless the Center and its agents from and against any and all claims, actions, damages, losses, orders, judgements, liability, and expenses arising from the acts or omissions of the Center or its agents.

9. Availability of Funds. It is understood that the Center's obligation to pay any amounts under this Agreement is contingent upon the availability of funds for such purpose. The Center depends on sources for funding that are beyond its control. In the event that total funding in support of the Center falls below the level available when this commitment was made, the Center reserves the right to terminate this Agreement upon thirty (30) days written notice to the Local Unit of Government. All obligations of the Center to make payments under this Agreement shall cease as of the date of such termination.

10. Entire Agreement. This Agreement supersedes all prior agreements between the Center and the Local Unit of Government, and expresses their entire understanding with respect to the transactions contemplated herein, and shall not be amended, modified or altered except pursuant to a writing signed by both parties.

11. Headings. The headings in this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

12. Notice. All notices required or permitted to be delivered hereunder shall be in writing and shall be (i) personally delivered, (ii) sent by email or facsimile (with a copy sent the same day by certified mail, postage prepaid), or (iii) sent by Federal Express or other nationally recognized overnight delivery service, addressed as follows:

If to the Center, to: William Bullock, Sr VP Economic Development
North Carolina Biotechnology Center
15 T. W. Alexander Drive
Research Triangle Park, NC 27709-3547
Email: bill_bullock@ncbiotech.org
Fax: 919-549-8852

If to the Local Unit:
of Government, to : Ann Wall, City Manager
City of Greenville
PO Box 7207

Greenville, NC 27835
Email: awall@greenvillenc.gov

or addressed to such other address or to the attention of such other individual as the Center or the Local Unit of Government shall have specified in a notice delivered pursuant to this Paragraph 12. Notice shall be deemed effective on the date dispatched if by personal delivery, on the date transmitted by email or facsimile (if confirmed by mail pursuant to this Paragraph 12) or two (2) days after mailing if by Federal Express or other nationally recognized overnight delivery service.

13. Termination. Notwithstanding any other provisions of this Agreement, the parties may terminate this Agreement by mutual consent. Such termination right is in addition to the Center's other termination rights set forth in Paragraph 9. On termination, any ongoing obligations such as recordkeeping requirements described in Paragraph 7 shall continue. All obligations of the Center to advance funds under this Agreement shall cease as of the date of any such termination, and the Local Unit of Government agrees that, as a result of such termination, the Center shall not be liable to the Local Unit of Government for any compensation, losses, damages, or reimbursement of any kind.

14. Execution. This Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and such counterparts, together, shall constitute one and the same Agreement which shall be sufficiently evidenced by one of such original counterparts.

15. Assignment. The rights, duties and obligations of the parties under this Agreement shall inure to the benefit of the parties and shall be binding upon their successors and permitted assigns. Neither this Agreement nor the respective rights, duties, obligations, and responsibilities of the Local Unit of Government may be transferred or assigned, in whole or in part, by the Local Unit of Government to any other person, firm or organization (including sub-agents) without the prior written consent of the Center. In the event of a permitted assignment, the assignee shall not be relieved of any of its duties or obligations under this Agreement, and such assignee shall agree to abide by the standards contained in the Uniform Administration of State Grants Subchapter.

16. Construction. This Agreement shall be construed and governed by the laws of the State of North Carolina, excluding its conflict of law principles.

[Signatures appear on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF GREENVILLE

By: _____

Print Name: _____

Title: _____

Federal Employer Identification Number: _____

NORTH CAROLINA BIOTECHNOLOGY CENTER

By: _____

Print Name: _____

Title: _____

APPROVED AS TO FORM:

BY: _____
Emanuel McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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

BY: _____ Date: _____
Byron Hayes, Director of Financial Services

Account Number _____

Project Code (if applicable) _____

Exhibit A

1. Use of Funds

The Partnership Development Grant will be used to strengthen Patheon/Thermo Fisher Scientific’s talent pipeline and community engagement in Greenville, NC through providing training and job placement opportunities. As Thermo Fisher Scientific expands its footprint in Greenville, it is critical to ensure young people are interested and aware of careers in pharma manufacturing.

Use of funds: Item	No.	Description	Ct/Unit	Total Cost
Pharma K12	60	2.5 day training program at the Pharmaceutical Services Network at Pitt Community College for recent high school graduates	\$ 1,500	\$ 90,000
Marketing & Outreach for Pharma K12	N/A	Advertisement, media, and outreach events including refreshments and promo items to increase awareness of the Pharma K12 program and recruit participants	N/A	\$10,000
TOTAL				\$100,000

2. Job Creation & Investment Certification Worksheet

- a. Jobs Start Date (JSD) September 14, 2021
- b. Jobs End Date (JED) September 14, 2024
- c. End of Maintenance Date (EOM) September 14, 2025
- d. Grant End Date (GED) September 14, 2025
- e. *# jobs on JSD** _____
- f. # jobs 1 year from JSD _____
- g. Expenditure of funds 1 year from JSD \$ _____
- h. Description of use of funds 1 year from JSD _____
- i. # jobs 2 years from JSD _____
- j. Expenditure of funds 2 years from JSD \$ _____
- k. Description of use of funds 2 years from JSD _____
- l. *# jobs 3 years from JSD (JED)** _____
- m. Expenditure of funds 3 years from JSD \$ _____
- n. Description of use of funds 3 years from JSD _____
- o. # jobs on JED minus # jobs on JSD _____
- p. Minimum Job Requirement on JED _____
- q. Was Minimum Job Requirement met? _____
- r. New Minimum Job Requirement _____
- s. *# jobs at EOM** _____
- t. Was New Minimum Job Requirement met? _____
- u. Description of geographic area(s) where project will locate and new jobs will be created:

_____ Greenville, NC _____

*** # Jobs on JSD, # Jobs on JED, and # Jobs at EOM must all be certified in accordance with the terms of the Grant Agreement and as outlined in the following pages.**

Jobs on JSD

The number of existing full-time employees at the Company based in the geographical area of the Local Unit of Government administering the Grant Funds on the JSD. The JSD is the start date for a three (3) year period in which the Company has to create the number of new full-time jobs promised (i.e., Minimum Job Requirement). The JSD is September 14, 2021. # Jobs on the JSD is _____ and must be certified below by a senior executive of the company:

Patheon Manufacturing Services LLC

By: _____

Print Name: _____

Title: _____

Date: _____

Jobs on JED

The number of existing full-time employees at the Company based in the geographical area of the Local Unit of Government administering the Grant Funds on the JED (three years from the JSD). The JED is September 14, 2024. # Jobs on the JED is _____ as certified by a senior executive of the company:

By: _____

Print Name: _____

Title: _____

Date: _____

Jobs at EOM

The number of existing full-time employees at the Company based in the geographical area of the Local Unit of Government administering the Grant Funds at EOM (one year from the JED). The EOM date is September 14, 2025. # Jobs at the EOM is _____ as certified by a senior executive of the company:

By: _____

Print Name: _____

Title: _____

Date: _____

3. Milestones Description

(Provide a description of key project milestones that relate to, are enabled by, or result from PDG Grant Funds)

Key Project Milestones	Completion (Quarter/Year)
Host first cohort of Pharma K12 students	Q3 2022
Develop and deploy Pharma K12 marketing. Host second cohort of 6 Pharma K12 students	Q3 2023
Host third cohort of Pharma K12 students	Q3 2024

Key Hiring Milestones	Completion (Quarter/Year)
Hire 10 new FTEs	Q3 2022
Hire 15 additional FTEs	Q3 2023
Hire 100 additional FTEs	Q3 2024

Exhibit B

(attached)

North Carolina Biotechnology Center

Offices in Asheville | Charlotte | Greenville | Research Triangle Park | Wilmington | Winston-Salem

June 18, 2021

Christine Spratley
Senior Manager | Multistate Location & Credit – Incentive Services
Deloitte Tax LLP
150 Fayetteville Street, Raleigh, NC 27601

Dear Ms. Spratley,

The North Carolina Biotechnology Center has served the state for over 35 years, providing programs and support that have propelled North Carolina to one of the leading life science communities in the world. In addition to our numerous programs driving scientific innovation, company creation, and life science sector development, NCBiotech also assists companies to establish and expand operations in North Carolina.

One program we offer is the Economic Development Award (EDA), designed to support North Carolina communities in attracting life science jobs and investment. The EDA is a performance-based program centered on net new job growth in North Carolina as a part of a defined company expansion or relocation project.

Based on the information you have shared regarding Project Lucky's plans for expansion, NCBiotech provides this letter of intent to support this project through the awarding of EDA funds in the amount of \$100,000. Supporting assumptions include the creation of a minimum of 290 net new permanent, full-time jobs in years 2022-2025. This summary represents NCBiotech's intent to identify available programs that may benefit Project Lucky in its efforts to expand in North Carolina, and creates no binding legal or contractual obligation on the part of either party.

Awarding of EDA funds requires the willingness of the local unit of government associated with the North Carolina community selected for the project in question to administer the grant. The local unit of government will provide funds to the company based on employment milestones met over the 3 years of the award, plus an additional 1 year job maintenance requirement. Appropriate use of EDA funds must be pre-negotiated between NCBiotech, the local unit of government, and the company. Details of the award will be provided upon confirmation of the selection of North Carolina as location-of-choice for the project in question. NCBiotech's intent to provide funds through an EDA grant to Project Lucky terminates one year from the date of this letter.

NCBiotech offers this letter of support as part of its commitment to continue to work with you and the company to bring these new life science jobs to the state. I look forward to hearing from you regarding the company's decision to expand in North Carolina.

Sincerely,



William O. Bullock
Senior VP, Economic Development & Statewide Operations
15 TW Alexander Drive | Research Triangle Park, NC 27709
919-549-8829 | bill_bullock@ncbiotech.org

North Carolina Biotechnology Center

Offices in Asheville | Charlotte | Greenville | Research Triangle Park | Wilmington | Winston-Salem

October 18, 2021

Derek Niese
Finance Director, Pharma Services
Patheon, part of Thermo Fisher Scientific
5900 Martin Luther King Jr Highway | Greenville, NC 27834 USA

Dear Mr. Niese,

Congratulations to Thermo Fisher on your decision to expand in Greenville. On behalf of the North Carolina Biotechnology Center (NCBiotech), we look forward to strengthening our partnership with Thermo Fisher as a member of North Carolina's life sciences community.

NCBiotech is committed to supporting Thermo Fisher as it grows in North Carolina. As a follow-up to the attached proposal of support, this letter represents an affirmation of NCBiotech's intent to provide a \$100,000. Partnership Development Grant (PDG) in support of Thermo Fisher's creation of 290 new jobs in Greenville.


The intent of the PDG is to assist North Carolina communities in attracting sustainable life science job creation. The PDG consists of two agreements:

- The **Grant Agreement** between NCBiotech and the local unit of government (the City of Greenville) defining use of funds (to be negotiated between NCBiotech, Greenville, and Thermo Fisher) and general parameters of the agreement.
- The **Performance Agreement** between the City of Greenville and Thermo Fisher outlining disbursement of funds and reporting obligations.

Upon full execution of both agreements by all parties, NCBiotech will award PDG funds to the local unit of government as a lump sum amount to be distributed to Thermo Fisher (or other entity in accordance with the use-of-funds agreement). The local unit of government serves as administrator of the grant over the 3 year award period and 1 year maintenance period. If PDG grant and performance agreements are not fully executed for any reason within one year from the date of this letter, NCBiotech's intent to provide funds through a PDG grant to Thermo Fisher will be terminated.

As negotiation of use of funds is an essential element of the PDG agreements, NCBiotech will be reaching out in the next 30 days to schedule a meeting between Thermo Fisher, the City of Greenville, and NCBiotech to begin this discussion and further outline expectations of the grant. NCBiotech looks forward to continuing our engagement with Thermo Fisher in support of your connectivity and success in North Carolina.

Sincerely,



William O. Bullock
Senior VP, Economic Development & Statewide Operations
15 TW Alexander Drive | Research Triangle Park, NC 27709
919-549-8829 | bill_bullock@ncbiotech.org



City of Greenville, North Carolina

Meeting Date: 06/09/2022

<u>Title of Item:</u>	Resolution Approving Amendment No. 1 to the Economic Development Agreement with Patheon Manufacturing Services LLC for Project Lucky
<u>Explanation:</u>	Patheon Manufacturing Services LLC is expanding and acquiring property in the City of Greenville's Extraterritorial Jurisdiction (ETJ) and intends to invest \$154 million in capital investment at their manufacturing and packaging campus and create up to 290 jobs with an average wage of \$66,000. On January 24, 2022, the City Council approved an Economic Development Agreement for development incentives to include a job creation grant of up to \$100,000 per year for a maximum of six (6) years. With this amendment, the City agrees to provide an additional economic development incentive which will include the waiver of building permit fees up to \$100,000 for the construction of a new building and the acquisition of new machinery and equipment at 5900 Martin Luther King Jr. Highway. The fees will be waived upon the completion and submission of the required application to the City and approval of the building permits requested from the City. Patheon will be responsible for all remaining building permit fees.
<u>Fiscal Note:</u>	The City of Greenville will waive up to \$100,000 in building permit fees for Patheon.
<u>Recommendation:</u>	City Council hold a public hearing on the waiver of fees and approve the resolution and Amendment No. 1 to the Economic Development Agreement with Patheon Manufacturing Services LLC

ATTACHMENTS

-  [1165061-RESOLUTION_FOR_PATHEON_AMENDMENT_1.pdf](#)
-  [1165062-PATHEON_EDA_AMENDMENT_1.pdf](#)

RESOLUTION NO. _____
RESOLUTION OF THE GREENVILLE CITY COUNCIL APPROVING AMENDMENT 1 TO
AN ECONOMIC DEVELOPMENT AGREEMENT FOR PROJECT LUCKY

WHEREAS, North Carolina General Statute § 158-7.1 grants authority to the City of Greenville (the “City”) to make appropriations for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the corporate limits of the City or in Pitt County, or for other purposes which the City Council finds, in its discretion, will increase employment, taxable property base, and business prospects of the City; and

WHEREAS, Patheon Manufacturing Services LLC (“Patheon”), a foreign corporation duly organized and existing under the laws of the State of Delaware, has a location in the City’s extraterritorial jurisdiction, and is a company that manufactures pharmaceutical products, technology and equipment, and does business throughout the United States; and

WHEREAS, on January 24, 2022, the Greenville City Council held a public hearing and approved participation in an economic development project including authorizing the Job Creation Grant (cash incentive) to be paid to Patheon upon satisfaction of the obligations, and subsequently, an economic development agreement (“Original Agreement”) was signed on January 27, 2022; and

WHEREAS, Patheon intends to invest \$154 million in capital investments at its Greenville, North Carolina manufacturing and packaging campus, and thereby enhance Pitt County’s tax base, and create up to 290 jobs (including 105 Plant Support/Supervisors, 80 Technicians, and 105 Production Jobs, all with an average wage of \$66,500), and persons filling the new positions shall work at the real properties (referenced above); and

WHEREAS, the City Council and Patheon desire to include additional economic development incentives as a part of the contemplated economic development project and will do so through an amendment to the Original Agreement; and

WHEREAS, the City Council does hereby find and determine that the economic development project will tend to increase the taxable property base of the City, increase the business prospects of the City, and create high-paying jobs, and that it is in the public interest to provide assistance, as authorized by North Carolina General Statute § 158-7.1, in order to encourage the Company to develop the project described herein;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that:

- The City approves an additional appropriation and expenditure of up to \$100,000 for the waiver of building permit fees for Patheon through the execution of an amendment to the Original Agreement.
- The Original Agreement between the City and Patheon which includes terms that require the Company to make taxable investments of \$154 million and creation of up to 290 new full-time jobs will remain in full force and effect, including if Patheon relocates outside of the City or the City’s ETJ during the term of the grant or within

three (3) years after receipt of the final grant installment, they will be required to repay a proportional amount of the grant.

- The Mayor or City Manager is authorized to execute the amendment to the Original Agreement and any other documents necessary to the project on behalf of the City.

Adopted this 9th day of June, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

**AMENDMENT NO. 1 TO ECONOMIC DEVELOPMENT AGREEMENT BETWEEN
PATHEON MANUFACTURING SERVICES, LLC AND CITY OF GREENVILLE
FOR JOB CREATION WITHIN CITY'S ETJ**

THIS IS AN AMENDMENT TO AGREEMENT ("Amendment No. 1") made and entered into this the ____ day of June, 2022, ("effective date"), by and between the City of Greenville, a municipal corporation organized and existing pursuant to the laws of the State of North Carolina, Party of the First Part and hereinafter referred to as the "City", and Patheon Manufacturing Services, LLC, a foreign corporation duly organized and existing under the laws of the State of Delaware, and authorized to conduct business in the State of North Carolina, Party of the Second Part and hereinafter referred to as "Patheon", and collectively as "Parties".

BACKGROUND. The City and Patheon entered into an agreement titled "ECONOMIC DEVELOPMENT AGREEMENT BETWEEN PATHEON MANUFACTURING SERVICES LLC AND CITY OF GREENVILLE FOR DEVELOPMENT INCENTIVE FOR PROJECT LUCKY" ("Original Agreement") dated January 27, 2022. The Original Agreement grants a Job Creation Grant of up to \$100,000 per year for a maximum of 6 years, which is an exception to the Job Creation Grant policy.

In addition to the creation of jobs, Patheon is investing approximately \$154,000,000 in capital investments to improve its property located at 5900 Martin Luther King Jr. Highway, Greenville, North Carolina, and construct a building at a to be determined location based on the schedule set forth in the Original Agreement, and acquisition of new machinery and equipment.

Patheon could have relocated the potential jobs and development to a different State, and the City funds are protected because the grant payment is only issued upon Patheon presenting

sufficient proof to the satisfaction of the City of qualified job creation and taxable investment in real property as provided in the Original Agreement.

Patheon is expending significant resources to support economic development in the City's ETJ through creating jobs and making capital investments which will increase the tax base, and the Parties now desire to negotiate additional economic development incentives, including waiver of building permit fees up to \$100,000.

The Original Agreement is amended as follows:

A. SECTION III-THE CITY, Paragraph 10 is updated to read:

“The City will allow the waiver of building permit fees up to \$100,000, as an economic development incentive covering the improvement and construction of Patheon's real property as required performance by Patheon in the Original Agreement. In addition, the City will only make one incentive payment in each of the calendar years in accordance with this Agreement, and such payments will be based upon the confirmed addition of the specified number of Qualified Jobs, and shall be made for a six (6) year period (calendar years 2022-2027) as follows:”

B. SECTION III-THE CITY, Paragraph 10 is updated to include a new paragraph labeled “10.3”, and it shall read as follows:

“10.3. Waiver of Building Permit Fees. Waiver of the building permit fees up to \$100,000 shall be permitted upon Patheon's completion and submission of the required application to the City which includes a reference to “Project Lucky” in the Scope of Work, and approval of the building permits requested from the City. At the time of invoice for the building permits, which shall only be after all land development approvals and building plan reviews are completed (and approved),

the invoice will include the amount of waiver up to \$100,000. If the initial invoice for building permit fees does not total \$100,000, amounts of waiver may be completed in increments until \$100,000 is reached. Regardless, Patheon shall be responsible for payment of remaining building permit fees after waiver up to \$100,000. Further, the City Council authorizes the City Manager or their designee to effectuate the waiver of building permit fees up to \$100,000. In no event shall waiver of building permit fees exceed \$100,000.

Except as set forth in this Amendment, all remaining terms and conditions of the Original Agreement are unaffected by this Amendment No. 1, and such provisions in the Original Agreement remain in full force and effect.

If there is a conflict between the Original Agreement, the terms of Amendment No. 1 will prevail.

[Signature Pages to Follow]

IN WITNESS WHEREOF the parties hereto have executed this Amendment to Agreement and have set their hands and seals as of the day and year first above written.

City of Greenville

BY: _____
P.J. Connelly, Mayor

Attest: (SEAL)

Valerie Shiuwegar, City Clerk

STATE OF NORTH CAROLINA, COUNTY OF PITT

I, _____, a Notary Public of said county and state, certify that Valerie Shiuwegar, City Clerk, personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipal corporation, and that by authority duly given and as the act of the City of Greenville, the foregoing instrument was signed in its name by its Mayor, sealed with the City Seal, and attested by herself as City Clerk.

Witness my hand and seal this the ___ day of _____, 2022.

Notary Public

My commission expires: _____

APPROVED AS TO FORM:

BY: _____
Emanuel McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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

BY: _____
Byron Hayes, Director of Financial Services

Patheon Manufacturing Services, LLC

By: _____
Pat McNally, Senior Director of Quality for
Drug Product Division North America, Thermo
Fisher Scientific, Inc.

STATE OF NORTH CAROLINA
COUNTY OF PITT

I, _____, a Notary Public in and for the aforesaid County and State, do hereby certify that _____, _____, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the limited liability company.

Witness my hand and seal this the _____ day of _____, 2022.

Notary Public

My commission expires: _____



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Resolution to Authorize Loan Terms for Arlington Trace Development and to Authorize Execution of Loan Documents

Explanation: The City has entered into an agreement with the United States Department of Housing and Urban Development ("HUD") to execute and implement the HOME Investment Partnerships Program ("HOME"), with a goal of expanding the supply of decent, safe, affordable housing for those of very low and low income.

This is a request to execute loan documents for an affordable housing developer, Arlington Trace, LLC. The requested commitment of \$1,000,000 of HOME Investment Partnerships funds are available. This agreement would authorize a 20-year term amortized over 30 years with a 0% interest rate. Borrower is developing a project known as Arlington Trace (the "Development"), which will increase the supply of rental housing by 180 units for Low Income households. Eighteen units will be set aside as HOME assistance units for Veterans and Domestic Violent Survivors.

On December 6, 2021, the Greenville City Council approved the allocation of HOME funds in the amount of \$1,000,000 for the Development construction hard costs pursuant to the authority of 24 C.F.R Part 92 which establishes the HOME Program, and other applicable federal statutes and regulations.

The HOME Loan is being made in conjunction with approval of allocation of low-income housing tax credits from the North Carolina Housing Finance Agency.

Fiscal Note: The requested commitment of \$1,000,000 of HOME Investment Partnerships funds are available. This agreement would authorize a 20-year term amortized over 30 years with a 0% interest rate.

Recommendation: Approval of the resolution authorizing the loan of \$1,000,000 from HOME

Investment Partnership Funds for Arlington Trace, LLC and authorizing the City Manager to execute required loan documents.

ATTACHMENTS

- [!\[\]\(95b42f0077faf7439a26242a54e021ec_img.jpg\) **Arlington Trace Resolution.DOCX**](#)
- [!\[\]\(e097ab4c08b8186dd0908330bbc2dc28_img.jpg\) **City of Greenville Non-Recourse Exception Agreement \(Arlington Trace\)\(HOME\) \(002\).DOCX**](#)
- [!\[\]\(1e9d865c5de095f8e3304757c49e79d7_img.jpg\) **City of Greenville Promissory Note \(Arlington Trace\)\(HOME Loan\).docx**](#)
- [!\[\]\(735b10d724a5f0ec5005c4eb3eb9c9d1_img.jpg\) **City of Greenville Deed of Trust \(Arlington Trace\)\(HOME\).docx**](#)
- [!\[\]\(e6250f05bc27fa93236b816562b699f9_img.jpg\) **City of Greenville Declaration of Deed Restrictions \(Arlington Trace\)\(HOME\).docx**](#)
- [!\[\]\(d190cc638f389909d4b049d6c19e4cb2_img.jpg\) **City of Greenville Loan Agreement \(Arlington Trace\)\(Home Loan\).DOCX**](#)

RESOLUTION NO. 0__-22
RESOLUTION AUTHORIZING COMMITMENT OF HOME INVESTMENT
PARTNERSHIPS FUNDS FOR
MULTIFAMILY RENTAL HOUSING DEVELOPMENT

WHEREAS, the City of Greenville recognizes the importance of affordable housing for low to moderate income families;

WHEREAS, the City has entered into an agreement with the United States Department of Housing and Urban Development ("HUD") to execute and implement the HOME Investment Partnerships Program ("HOME"), with a goal of expanding the supply of decent, safe, affordable housing for those of very low and low income;

WHEREAS, the Borrower is developing a project known as Arlington Trace (the "Development") that will increase the supply of rental housing units for Low Income households;

WHEREAS, on December 6, 2021, the Greenville City Council approved the allocation of HOME funds in the amount of \$1,000,000.00 for the Development construction hard costs pursuant to the authority of 24 C.F.R Part 92 which establishes the HOME Program, and other applicable federal statutes and regulations (the "HOME Loan"); and

WHEREAS, the HOME Loan is being made in conjunction with approval of allocation of low-income housing tax credits from the North Carolina Housing Finance Agency, that will be purchased by TowneBank and provide equity financing to Development financing, and other sources, including a tax-exempt multifamily note, in the amount not to exceed \$16,000,000.00, that will be privately placed with TowneBank during construction of the Development, and privately placed with Churchill Mortgage Investment LLC once the Development converts to permanent financing, to fund \$28,320,867.00 of Development costs; and

WHEREAS, the City acknowledges and confirms that Borrower is borrowing construction loan funds for the Development and that the HOME Loan is and shall be subordinate to debt financing provided by both TowneBank and Churchill Mortgage Investment LLC; and

WHEREAS, the City and the Borrower intend and agree that the HOME Loan be subject to the terms and conditions of the Agreement.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Greenville does hereby authorize commitment of HOME Investment Partnerships Funds in the amount of \$1,000,000 for a Multifamily Rental Housing Development Project and authorizes the City Manager to execute required loan documents.

This the 9th day of June, 2022

P. J. Connelly, Mayor

ATTEST: (Seal)

Valerie Shiuwegar, City Clerk
1165290

PITT COUNTY

NON-RECOURSE EXCEPTION AGREEMENT

NORTH CAROLINA

THIS AGREEMENT (the "Agreement") is made and entered into as of the ____day of July, 2022, by and between:

CITY OF GREENVILLE, NORTH CAROLINA, a municipal corporation of the State of North Carolina (the "City"), ARLINGTON TRACE, LLC, a North Carolina limited liability company with its principal place of business in Greenville, North Carolina (the "Borrower") and [] (the "Sponsor").

WITNESSETH:

WHEREAS, Borrower and City have entered into that certain City Loan Agreement dated July __, 2022 and have entered into certain other City Loan Documents (as defined in the City Loan Agreement);

and WHEREAS, Sponsor is the sponsor and affiliate of Borrower and its managing member; and

WHEREAS, the City Loan Documents, as defined in the City Loan Agreement, provide that the obligations of Borrower under the City Loan Documents are intended to be non-recourse obligations, with the liabilities of Borrower thereunder being limited to the interest in the collateral pledged to secure the City Loan (which includes without limitation the Project, as that term is defined in the City Loan Agreement); and

WHEREAS, the City Loan Documents provide that except for the interest of Borrower in the collateral pledged to secure obligations under the City Loan Documents, no other assets shall be available to satisfy any liabilities arising out of, or in connection with the City Loan Documents and, further provide that no deficiency or other judgment shall be rendered or entered against Borrower by City, it being acknowledged by City that it shall look solely to the interest in the collateral pledged to secure the City Loan and Borrower's interest therein with respect to any recoveries for Borrower liabilities under the City Loan Documents; and

WHEREAS, the City Loan Documents provide further that notwithstanding any of the foregoing, it is expressly understood and agreed that the aforesaid limitation on liability shall in no way affect or apply to the Borrower's continued liability for the payment to City of condemnation proceeds or hazard insurance proceeds which the Borrower may receive and to which the City is entitled pursuant to the terms of the City Deed of Trust, and any other City Loan Documents, and that the foregoing limitation shall not apply to any indemnities or guaranties, if any, which are delivered by any other person which by their terms provide that the non-recourse limitations do not apply; and

WHEREAS, this Agreement is made and entered into for the purpose of specifying certain matters which are and which shall be considered indemnities or guaranties, which are delivered by any other person to which the non-recourse limitations do not apply.

NOW, THEREFORE, IN CONSIDERATION OF the City Loan and in consideration of Ten and no/ 100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
NON-RECOURSE EXCEPTIONS

Each of the matters described in this Article are and shall be considered indemnities or guaranties, which are delivered by Borrower and Sponsor and to which the non-recourse limitations do not apply.

1.1 Environmental and other Indemnities of City Loan Agreement. The non-recourse limitations shall not apply to the agreements that relate to environmental or other indemnities as provided in Article IX of the City Loan Agreement, nor to any other provisions of the City Loan Documents which are necessary to the effective enforcement of the rights of the City and the agreements of the Borrower pursuant to such Article IX.

1.2 Failure to Maintain Insurance. The non-recourse limitations shall not apply to any failure of Borrower to maintain insurance on the Project as required by the City Loan Documents nor to any other provisions of the City Loan Documents which are necessary to the effective protection and maintenance of the properties pledged as collateral against loss due to any occurrence or omission for which the Borrower has failed to secure insurance as required by the City Loan Documents.

1.3 Failure to Comply with HOME Requirements. The non-recourse limitations shall not apply to any failure of Borrower to comply with the HOME Requirements on the Project as required by the City Loan Agreement and the HOME Loan Declaration of Deed Restrictions and other City Loan Documents.

1.4 Intentional Breach. The non-recourse limitations shall not apply to any damages, loss, cost or expense (including reasonable attorneys' fees) of the City that arises out of any intentional breach by Borrower of the City Loan Documents which causes material and substantial damage to the Project and was known at the time to be in violation of the City Loan Documents and likely to produce damage thereto or damages, loss, cost or expense to the City.

1.5 Misapplication of Funds. The non-recourse limitations shall not apply to any damages, loss, cost or expense of the City that arises out of any knowing misapplication of funds which is a breach by Borrower of the City Loan Documents.

1.6 Failure to Protect Proceeds. Subject to the rights of any senior lender, the non-recourse limitations shall not apply to limit any recovery for any failure of the Borrower to take all reasonable steps as may be necessary to protect the lien and security interest of the City in and to any condemnation proceeds, insurance proceeds or other proceeds or property or assets into which any collateral for the City Loan may be converted, it being understood that the security interests and liens of the City shall continue in all such proceeds, property and assets and that Borrower agrees and hereafter will take all steps as may be necessary to continue the lien and security interest of City in and to any such proceeds with the same priorities as exist in the collateral from which such proceeds were derived and subject to the rights of the Construction Lender.

1.7 Intentionally Deceptive Conduct or Fraud. The non-recourse limitations shall not apply to any damages, loss, cost or expense of the City that arises out of any intentionally deceptive conduct or conduct which amounts to actual or constructive fraud.

ARTICLE II
TREATMENT OF RECOURSE ITEMS

2.1 Enforcement, Rights and Remedies. With respect to the recourse items listed in Article I hereof, the rights of the City and the remedies shall all be enforceable as and to the extent provided in the City Loan Documents except that, with respect to such items, the Borrower and Sponsor shall be liable as if the non-recourse language did not appear therein.

2.2 No Limitation. The provisions of this Agreement are in addition to and not in limitation of any rights or remedies that may otherwise be available to the City under any of the City Loan Documents.

ARTICLE III
CURRENT AND FUTURE COMPLIANCE

3.1 Current Compliance. The Borrower warrants and represents that there is no liability hereunder as of the date hereof and that there currently exists no state of affairs or condition which with the giving of notice or the passage of time will create any liabilities hereunder.

3.2 Future Compliance. The Borrower warrants and represents that it will conduct its affairs and take such action as may be reasonably required at any time and from time to time so that no liabilities hereafter arise under this Agreement.

[Rest of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Borrower, City and Sponsor have executed this Agreement by authority duly given effective as of the date first above written.

BORROWER:

ARLINGTON TRACE, LLC,
a North Carolina limited liability company

By: Arlington Trace MM, LLC,
a North Carolina limited liability company,
its Managing Member

By: _____ [SEAL]

CITY:

CITY OF GREENVILLE, NORTH CAROLINA

BY: _____
[Anne E. Wall], City Manager

BY: _____
[Thomas Barnett], Planning & Development Services Director

SPONSOR:

[]

**CITY PROMISSORY NOTE
(HOME LOAN)**

\$1,000,000.00

**Greenville, North Carolina
July __, 2022**

FOR VALUE RECEIVED, the receipt of which is hereby acknowledged, **ARLINGTON TRACE, LLC**, a North Carolina limited liability company (the "Borrower") promises to pay to the **CITY OF GREENVILLE, NORTH CAROLINA** ("City") or order, at P.O. Box 7207, Greenville, North Carolina 27835-7207, the principal sum of One Million and 00/100 Dollars (\$1,000,000.00) (the "Loan") or such lesser amount as has actually been advanced to or for Borrower pursuant to the terms and conditions of this promissory note (the "Note") at the rate of Zero and 00/100 (0.00%) per annum simple interest.

1. **Interest and Repayment.** Payments of principal and interest are deferred until the Maturity Date. A balloon payment of total principal and interest due shall be due and payable on the Maturity Date.
2. **Maturity Date.** The earlier to occur of the following events (the "Maturity Date"):
 - A. Except as permitted in the City of Greenville HOME Investment Partnerships Program Loan Agreement between Borrower and City dated July __, 2022, (the "City Loan Agreement"), the City Deed of Trust (as that term is hereinafter defined), and any other City loan document evidencing and securing the Loan, including this Note, (collectively referred to herein as the "City Loan Documents"), upon the sale, ground lease or other transfer of all or any portion of the multifamily housing rental project commonly known as Arlington Trace, consisting of 180 units and located at approximately 2721 U.S. Highway 13 in the City of Greenville, North Carolina (the "Project") or an interest therein (except for a lease of individual units in the Project with a term of less than three years) and any easement, and/or license agreement except as reasonably necessary or desirable for the development and/or operation of the Project except for the purposes described in the City Loan Agreement; or
 - B. Upon any default (or upon the expiration of an applicable cure period) hereunder, under the City Loan Documents the terms of all of which are incorporated herein by reference, as more particularly provided herein below; or
 - C. July __, 2042.
3. **Application of Payments.** Any payments made hereunder shall be applied first to amounts advanced by City to protect the security hereof, then to late charges and interest on the unpaid principal balance and then to reduction of principal.
4. **Prepayment.** The indebtedness evidenced by this Note may be prepaid, in whole or in pmt, at any time without penalty.

5. **Security.** This Note is secured by a City HOME Loan Deed of Trust, Security Agreement and Assignment of Rents and Profits, dated July ____, 2022, executed and delivered by Borrower for the benefit of City which has been duly recorded in the office of the Register of Deeds of Pitt County, North Carolina (the "City Deed of Trust") and UCC-I financing statements duly recorded or filed as applicable in the offices of the Register of Deeds of Pitt County, North Carolina and the Office of the Secretary of State of North Carolina.
6. **Default Rate.** Upon any default hereunder beyond any applicable cure periods, under the terms of the City Loan Agreement, under the City Deed of Trust or under any of the other City Loan Documents, interest under this Note shall revert retroactively to a rate of seven percent (7%) per annum, and City shall have the right at its option and election, to accelerate the indebtedness evidenced by this Note and declare the entire principal balance immediately due and payable in full. Upon such acceleration by City, Borrower promises to pay the full principal amount unpaid hereunder in accordance with the terms of the City Loan Documents, together with all costs and expenses incurred in connection with the collection or attempted collection hereof and the protection of the security hereof of thereof, including reasonable attorney's fees, whether or not suit is instituted. Borrower's investor member shall have the right, but not the obligation, to cure a default hereunder within the same cure period as Borrower.
7. **Remedies; Costs and Expenses of Enforcement.** Borrower agrees to pay all principal and interest and in addition to pay all costs of collection, including reasonable attorneys' fees and all costs of suit, when the unpaid principal sum of this Note or any payment of principal or interest, or premium, is not paid when due, or when it becomes necessary to protect the security for the indebtedness evidenced hereby, or for the foreclosure instituted by City or other holder under the City Deed of Trust or other City Loan Documents or when City or other holder is made party to or affected by any litigation because of the existence of the indebtedness evidenced by this Note, or because of the existence of any of the City Loan Documents, or when the property which is security for this Note becomes subject to the jurisdiction of a bankruptcy court. This obligation shall exist regardless of whether or not suit is actually commenced.
8. **No Usury.** The parties hereto have intended in good faith to comply with all applicable usury laws. Notwithstanding anything to the contrary contained in this Note or any other of the City Loan Documents, Borrower shall not be obligated or required to pay interest at a rate which would subject City to either criminal or civil liability. If, by the terms of this Note, Borrower at any time is required or obligated to pay interest on the principal made available to Borrower in an amount or at a rate in excess of the applicable legal maximum, the interest due to City shall be immediately and automatically reduced to such maximum, the interest payable shall be computed at such maximum rate, and all prior interest payments in excess of such lawful maximum shall be immediately and automatically applied, and shall be deemed to have been treated as having been applied at the time of receipt, in reduction of the principal balance due under this Note.
9. **Delay Not to Be Construed as Waiver.** No delays on the part of City in exercising any right hereunder or under any of the City Loan Documents shall operate as a waiver thereof or preclude the exercise thereof at any time during the continuance of any default or during the continuance of any subsequent default.

10. **Non-Recourse.** This City Note is intended to be non-recourse except as described in the Non-Recourse Exception Agreement dated July ____, 2022. The liabilities of Borrower under this City Note are limited to the collateral pledged to secure this Note (which include without limitation the Project) and, other than with respect to its interest in collateral pledged to secure this Note, no other assets shall be available to satisfy any liabilities arising out of, or in connection with the City Loan and, further no deficiency or other judgment shall be rendered or entered against Borrower by City, it being acknowledged by City that it shall look solely to the collateral pledged to secure this Note and Borrower's interest therein with respect to any recoveries for Borrower liabilities under this City Note, except as described in the Non-Recourse Exception Agreement.

Notwithstanding the foregoing, it is expressly understood and agreed that the aforesaid limitation on liability shall in no way affect or apply to Borrower's continued liability, subject to rights of any senior lender, for the payment to the City of condemnation proceeds or hazard insurance proceeds which Borrower may receive and to which the City is entitled pursuant to the terms of the City Deed of Trust or any other City Loan Documents, and that the foregoing limitation shall not apply to any indemnities or guaranties, if any, which are delivered by Borrower which by their terms provide the non-recourse limitations do not apply.

11. **Additional Provisions.** Captions and headings in this Note are for convenience only and shall be disregarded in construing it. This Note may not be modified or terminate orally. This Note shall be construed and enforced in accordance with the laws of North Carolina.

IN WITNESS WHEREOF, Borrower has caused this Note to be duly executed under seal as of the day and year first above written.

BORROWER:

ARLINGTON TRACE, LLC,
a North Carolina limited liability company

By: Arlington Trace MM, LLC,
a North Carolina limited liability company,
its Managing Member

By: _____ [SEAL]

Name: []
Title: []

Prepared by and mail after recording to:

[]

The collateral includes fixtures.

**CITY HOME LOAN DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS AND PROFITS
(Real Property, Improvements and Other Property)**

THIS CITY HOME LOAN DEED OF TRUST (the "City Deed of Trust") is made this day of July __, 2022, by and between ARLINGTON TRACE, LLC, a North Carolina limited liability company, having a mailing address of c/o Taft Family Offices, 2217 Stantonsburg Road, Greenville, NC 27835 (hereinafter referred to as "Grantor") and Anne E. Wall, City Manager, , having an address of PO Box 7207, Greenville N.C. 27835 (hereinafter "Trustee") and the owner and holder of a promissory note, the CITY OF GREENVILLE, NORTH CAROLINA, a municipal corporation chartered by the State of North Carolina and having an address of P.O. Box 7207, Greenville, NC 27835-7207 (hereinafter "Beneficiary"); and

WHEREAS, Grantor is indebted to Beneficiary for money advanced and/or to be advanced pursuant to that certain City of Greenville Home Investment Partnerships Program Loan Agreement dated July 2022 between Grantor and Beneficiary (hereinafter referred to as the "City Loan Agreement"), and as evidenced by that certain City Promissory Note dated July 2022 executed by Grantor in the principal amount of One Million Dollars and 00/100 (\$1,000,000.00) (the "Loan") bearing interest and being payable as set forth therein (hereinafter called the "City Note"); and

WHEREAS, to induce Beneficiary to make the Loan, Grantor agreed to execute this City Deed of Trust as security for the full and punctual payment of said City Note and of the indebtedness evidenced thereby and the interest thereon, and of any renewal, refinancing, extension, amendment, replacement or substitution of said City Note, and the full performance of all the provisions, agreements and covenants therein and herein contained in the City Loan Documents; and

WHEREAS, this City Deed of Trust is given to secure present and/or future obligations of the Grantor as more particularly described below.

NOW, THEREFORE, in consideration of the debt and trust herein mentioned and created and in further consideration of the sum of One Dollar (\$1.00) paid by the Trustee to Grantor, receipt of which is hereby acknowledged, the Grantor has granted, bargained, sold, assigned, and conveyed and does by these presents grant, bargain, sell, assign, and convey unto the said Trustee, his heirs, successors and assigns, with power of sale, Interest, Improvements, Fixtures and Personality and Other Rights and Property (all of which are hereinafter sometimes referred to collectively as the "Project"), more particularly described as follows:

1. all that certain parcel of land more particularly described within Exhibit A attached hereto, together with any and all privileges and appurtenances thereto (the "Land"); and

2. all buildings, structures and other improvements of every nature whatsoever now or hereafter situated on the Land (the "Improvements"); and

3. all fixtures, equipment, general intangibles, inventory and personal property of every kind and nature whatsoever, now or hereafter owned by Grantor and/or located in, on, about or attached to the Land and/or Improvements or used or intended to be used with or in connection with the use, operation, maintenance or enjoyment of the Land and/or Improvements or relating or appertaining thereto, and all extensions, additions, improvements, betterments, renewals, replacements or proceeds (including, but not limited to, insurance and condemnation proceeds) of the foregoing, including, but not limited to, all goods, furniture, appliances, furnishings, apparatus, machinery, equipment, motors, fittings, ranges, refrigerators, awnings, shades, screens, blinds, carpeting, office equipment and other furnishings and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air conditioning and sprinkler equipment, telephone systems, television and television systems, computer systems and appurtenances thereto and all renewals or replacements thereof or articles in substitution thereof, all of which are hereby declared and shall be deemed to be accessions and a part of the Improvements as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the indebtedness herein mentioned and to be covered by this City Deed of Trust (the "Fixtures and Personalty"); and

4. all articles of personal property (including software embedded therein) now owned or hereafter acquired by Grantor and attached to, placed upon for an indefinite term, or used in connection with the Land and/or Improvements, together with all goods and other property that are, or at any time become, related to the Property that an interest in them arises under real estate law, or they are otherwise adjudged to be a "fixture" under applicable law (each a "Fixture," collectively "Fixtures"); and

5. all easements, rights-of-way, gores of land, utility vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating to or appertaining to the Project, or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by the Grantor, and the reversion and reversions, remainder and remainders, and all rents, issues, profits, revenues thereof (including, but not limited to, all condemnation payments, insurance proceeds, payments under leases and tenancies, sale proceeds, purchase deposits, tenant security deposits and escrow funds), and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Grantor of, in and to the same (the "Other Rights and Property").

TO HAVE AND TO HOLD, the Project, with all rights, privileges and appurtenances thereunto belonging to Trustee, upon the Trusts and for the uses and purposes hereinafter set out.

GRANTOR COVENANTS with Trustee and Beneficiary (and their respective heirs, successors, substitutes and assigns) as follows:

1. Affordability Restrictions. The Borrower hereby represents, covenants, warrants and agrees that the maximum incomes of tenant households shall be restricted as described in the City Loan Agreement and in that certain Declaration of Deed Restrictions recorded in Book _____ and Page _____ in the official records of Pitt County, North Carolina (the "Deed Restrictions").

2. City Note Payments. Grantor shall make timely payments of principal and interest on the abovementioned City Note in the amounts, in the manner and at the place set forth therein. This City Deed of Trust secures payment of said City Note as well as any amounts advanced or paid by the City pursuant to any of the City Loan Documents, according to the terms of each, each of which are incorporated herein by reference.

3. Taxes and Charges. Grantor shall pay all taxes, charges and assessments which may become a lien upon the Project hereby conveyed before any penalty or interest accrues thereon and shall promptly deliver to Beneficiary official receipts evidencing payment thereof. Grantor shall pay all recording fees, filing fees and documentary stamp taxes associated with the recording of this City Deed of Trust and any modifications, extensions or amendments thereto.

4. Insurance. Grantor shall continually maintain insurance against loss by fire, hazards included in the term "extended coverage" and such other hazards including flood as Beneficiary may reasonably require in such a manner and in such companies as Beneficiary may from time to time reasonably require on the improvements now or hereafter located on the Project, with the exception of those existing structures to be demolished or removed as approved by Beneficiary, and shall promptly pay all premiums, therefore, when due.

5. Care of Project. Grantor will keep the Project in good order and repair and will not commit or permit any waste, deterioration, impairment or any other thing whereby the value of the Project might be impaired. Except for those existing structures to be demolished or removed as approved by Beneficiary, Grantor will not remove or demolish any building or materially alter any part or all of the Project without the written consent of Beneficiary, which shall not be unreasonably withheld, conditioned or delayed.

6. Compliance with Laws. Grantor shall promptly comply with any applicable legal requirements of the State of North Carolina or other governmental entity, agency or instrumentality relating to the use or condition of the Project.

7. Condemnation Award. Any award for the taking of, or damages to, all or any part of the Project or any interest therein upon the lawful exercise of power of eminent domain shall be payable to Beneficiary who, after deducting its expenses, including attorneys' fees, may apply the sums so received to the portion of the City Note hereby secured last falling due or in such other manner as Beneficiary may desire. Grantor agrees to execute such further assignments of any compensation, awards, damages, claims, rights of action and proceeds as Beneficiary may require.

8. Insurance and Condemnation Proceeds. Grantor further authorizes Beneficiary, at Beneficiary's option and in Beneficiary's sole discretion, subject to the rights of any senior lender, and regardless of whether there is any impairment of the Project, (i) to apply the balance of such proceeds, or any portion of them, to pay or prepay some or all of the amounts due under the City Note in such order or proportion as Beneficiary may determine, or (ii) to hold the balance of such proceeds, or any portion of them, in an interest-bearing account to be used for the cost of reconstruction, repair or alteration of the Project, or (iii) to release the balance of such proceeds, or any portion of them, to Grantor. If the proceeds are held by Beneficiary to be used to reimburse Grantor for the costs of restoration and repair of the Project, the Project shall be restored to the equivalent of its original condition, or such other condition as Beneficiary may approve in writing, which shall not be unreasonably withheld, conditioned or delayed. Beneficiary may, at Beneficiary's option, condition disbursement of the proceeds on Beneficiary's approval of such plans and specifications prepared by an architect satisfactory to Beneficiary, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen, and such other evidence of costs, percentage of completion of construction, application of payments, and satisfaction of liens as Beneficiary may reasonably require.

9. Payments by Beneficiary. If Grantor shall be in default in the timely payment or performance of any obligation under this City Deed of Trust or the City Note or any of the City Loan Documents hereby secured, Beneficiary, at its option and without any obligation on its part to determine the validity or necessity thereof, may pay the sums for which Grantor is obligated. Further, Beneficiary, at its option, may advance, pay, or expend such sums as may be proper and necessary for the protection of the Project and the maintenance of

this trust including but not limited to sums to satisfy taxes or other levies, and assessments, liens, and/or encumbrances, to maintain insurance (including title insurance), to make repairs, to provide security guards, or to intervene in any condemnation proceedings or foreclosures or other proceedings or disputes affecting the Project or as may otherwise be permitted by any of the City Loan Documents. Any amounts so advanced, paid or expended shall be deemed principal advances secured by this City Deed of Trust (even though when added to other advances the sum thereof may exceed the face amount of the City Note), shall bear interest from the time advanced, paid or expended at the rate prescribed in the City Note secured hereby and be secured by this City Deed of Trust and its payment enforced as if it were part of the original debt. Any sum expended, paid or advanced under this paragraph shall be at Beneficiary's sole option and shall not constitute a waiver of any default or right arising from the breach by Grantor of any covenant or agreement contained herein or in the City Note or any of the City Loan Documents.

10. Rents and Profits. Grantor hereby assigns to Beneficiary all leases, income, rents, issues and profits, including tenant security deposits (whether held by Grantor or others or in a trust account), from the Project as additional security for the payment of the indebtedness hereby secured and full performance of the undertakings of the Grantor hereunder. Subject to the requirements of any senior lender, Beneficiary is given a prior and continuing lien thereon, and Grantor hereby appoints Beneficiary as its attorney-in-fact to collect such rents and profits with or without suit and apply the same (less expenses of collection) to said indebtedness and the performance of said undertakings in such manner as Beneficiary may desire. However, until default hereunder or under the City Note or any of the City Loan Documents secured hereby, Grantor may continue to collect and enjoy such rents and profits without accountability to Beneficiary, except as provided in the City Loan Agreement, the City Note and in the other City Loan Documents. This assignment shall be irrevocable and shall be in addition to other remedies herein provided for in Event of Default and Inay be put into effect by Beneficiary independently of or concurrently with any of said remedies.

11. Substitute Trustees. Beneficiary shall have the unqualified right to remove the Trustee and to appoint one or more substitute or successor Trustees by instruments filed for registration in the Office of the Register of Deeds where this City Deed of Trust is recorded. Any such removal or appointment may be made any time without notice, without specifying any reason therefor and without any court approval. Any such appointee shall become vested with title to the Project and with all rights, powers and duties conferred upon the Trustee herein in the same manner and to the same effect as though he were named herein as the original Trustee. The necessity of the Trustee herein named, or any successor in trust, making oath or giving bond is expressly waived.

12. Attorneys' Fees. In the event that Grantor shall default in its obligations hereunder and in the reasonable opinion of Trustee it becomes necessary or proper to employ an attorney to enforce compliance by Grantor with any of the provisions herein contained, or in the event the Trustee voluntarily or otherwise shall become a party to any suit or legal proceeding (including a proceeding conducted under the Bankruptcy Code) to protect the Project herein conveyed or to protect the lien of the City Deed of Trust, Grantor agrees to pay reasonable attorney's fees and all of the costs that may reasonably be incurred and such fees and costs shall be secured by this City Deed of Trust and its payment enforced as if it were a part of the City Note. Grantor shall be liable for such reasonable attorney's fees and costs of Trustee whether or not any suit or proceeding is commenced.

13. Anti-Marshalling Provision. The right is hereby given by Grantor to Trustee and Beneficiary to make a partial release or releases of security hereunder provided Grantor is not in default under the City Note or other City Loan Documents, (whether or not such releases are required by agreement among the parties) agreeable to Trustee and Beneficiary without notice to, or the consent, approval or agreement of other parties in interest, including junior lienors and purchasers subject to this lien, which partial release or releases shall not impair in any manner the validity of or priority of this City Deed of Trust on the Project remaining hereunder. Notwithstanding the existence of any other security interests in the Project held by Beneficiary or by any other party, Beneficiary shall have the right to detemline the order in which any or all

of the Project shall be subjected to the remedies provided herein. Beneficiary shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Grantor, any party who consents to this or who has actual or constructive notice hereof, hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

14. Notice to Grantor. All notices required to be given to Grantor shall be mailed or delivered to Grantor at the address stated herein or such other address as given in writing to Beneficiary, with a copy to the Grantor's investor member at the address set forth in the Loan Agreement.

15. Notice to Beneficiary. All notices required to be given to Beneficiary by Grantor or any intervening lienor shall be mailed or delivered to Beneficiary, at the address stated herein or at such other address given to Grantor in writing.

16. Transfer of Project.

(a) If all or any part of the Project or any interest therein is sold, leased or otherwise transferred by deed, land sales contract or any other means, except by easement, and/or license agreement reasonably necessary or desirable for the development and/or operation of the Project for the purposes described in the City Loan Agreement, Beneficiary may, at Beneficiary's option, declare all sums secured by this City Deed of Trust to be immediately due and payable.

17. Except for the Permitted Exceptions set forth in Exhibit B attached hereto and incorporated herein, the execution or enforcement of any lien, security interest or other right whether subordinate, superior or equal to this City Deed of Trust, is executed or enforced without Beneficiary's prior written consent, Beneficiary may, at Beneficiary's option, declare all sums secured by this City Deed of Trust to be immediately due and payable.

18. Uniform Commercial Code Security Agreement. This City Deed of Trust constitutes a security agreement with respect to property referred to herein which may be subject to a security interest pursuant to the Uniform Commercial Code, and Grantor hereby grants Beneficiary a security interest in said property (and the proceeds thereof) included in the Project which might be deemed "personal property". If there is any conflict between this security agreement and another security agreement to Beneficiary, this security agreement will control as to fixtures and the other security agreement(s) will control as to non-fixtures. Grantor agrees that this City Deed of Trust is a financing statement filed as a fixture filing for the goods described herein which are or are to become fixtures. At Beneficiary's request, Grantor agrees to execute such other financing statements, extensions or amendments or other security agreements as Beneficiary may require to perfect a security interest with respect to the Project or other property. In the event of default, Beneficiary shall have, in addition to its other remedies, all rights and remedies provided for in the Uniform Commercial Code as enacted in North Carolina.

19. Appointment of Receiver. Beneficiary may immediately, after any default, under the terms and conditions of the City Deed of Trust, apply for the appointment of a receiver of the rents, income and profits from said Project, without notice, and Beneficiary shall be entitled to the appointment of such Receiver as a matter of right, without consideration to the value of the mortgage Project as security for the amounts due or the solvency of any person or persons liable for the payment of such amounts.

20. Use of Project. Unless required by applicable law or otherwise permitted under the City Loan Agreement, Grantor shall not initiate or acquiesce in a change in the zoning classification of the Project without Beneficiary's prior written consent.

21. Books and Records. Grantor shall keep and maintain at all times at Grantor's address as set forth herein, or such other place as Beneficiary may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly Grantor's financial condition and copies of all the written contracts, leases, rent schedules and other instruments which may affect the Project. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Beneficiary. Upon Beneficiary's request, Grantor shall furnish to Beneficiary within 60 days after the end of each fiscal year of Grantor, a balance sheet, a statement of income and expenses, and a statement of changes in financial position, each in reasonable detail and certified by Grantor and, if Beneficiary shall require, by an independent certified public accountant. Additionally, at the written request of Beneficiary, quarterly internally prepared financial statements are required within 30 days of each quarter end from Grantor.

22. Inspection. Beneficiary may make or cause to be made reasonable entries, with reasonable advance notice, upon and inspection of the Project and Grantor agrees to pay all costs incurred by Beneficiary in said inspection.

23. Definitions. The term "Grantor", as used herein, shall include all parties hereinabove named as Grantor, his heirs, legal representatives, successors and assigns, and subsequent owners of the Project hereby conveyed; the term "Beneficiary", as used herein, shall include any lawful owner or holder of the indebtedness secured hereby; the term "Trustee" shall include any subsequent or successor trustee or trustees hereunder; any other capitalized terms herein shall have the same meaning as set forth in the City Loan Agreement unless the context clearly implies otherwise; the singular as used herein shall include the plural; and the use of one gender shall include all genders.

24. Remedies. All remedies provided in this City Deed of Trust to Beneficiary are cumulative to any other right or remedy under this City Deed of Trust or, the City Loan Agreement or afforded by law or equity, and may be exercised concurrently, independently or successively and any costs, expenses or monetary rights (including rights of the Beneficiary to attorneys' fees) associated with the exercise of such remedy or remedies shall be secured by this City Deed of Trust in addition to all other obligations herein provided for.

25. Non-Recourse. Notwithstanding anything to the contrary contained herein or in the other City Loan Documents, the City Loan is intended to be non-recourse with the liabilities of Grantor under the City Loan being limited to the collateral pledged to secure the City Loan (which include without limitation, the Project) and, other than with respect to its interest in collateral pledged to secure the City Loan, no other assets shall be available to satisfy any liabilities arising out of, or in connection with the City Loan and, further no deficiency or other judgment shall be rendered or entered against Grantor by City, it being acknowledged by City that it shall look solely to the collateral pledged to secure the City Loan and Grantor's interest therein with respect to any recoveries for Grantor liabilities under this City Loan.

Notwithstanding the foregoing, it is expressly understood and agreed that the aforesaid limitation on liability shall in no way affect or apply to the Grantor 's continued liability for the payment to City of condemnation proceeds or hazard insurance proceeds which the Grantor may receive and to which the City is entitled pursuant to the terms of this City Deed of Trust, and any other City Loan Documents, and that the foregoing limitation shall not apply to any indemnities or guaranties, if any, including the Non-Recourse Exception Agreement, which are delivered by any other person which by their terms provide the non-recourse limitations do not apply.

It is specifically understood and agreed that the departments and divisions of the City, in the exercise of their governmental and police powers or by separate agreement or contract, may reasonably require or contract for actions, approvals or consents which are in addition to those provided herein, and that any such other contracts or agreements as well as the exercise of governmental and police powers, to the reasonable extent otherwise valid, are not hereby limited in any respect ; provided, however, that the foregoing shall not in any way diminish any requirement(s) expressly stated herein for the City to act in a reasonable manner, and such requirement(s) for the City to act in a reasonable manner shall extend to such other contracts or agreements as well as the exercise of governmental and police powers to the extent legally possible.

No agreement herein made by or on behalf of the City shall reduce or alter any requirement that the Grantor comply with any other contracts or agreements to which Grantor is a party or with any and all rules, regulations or laws of the City to the same extent as if the loan hereby made were made by a lender other than the City.

BUT THIS CONVEYANCE IS MADE UPON THIS SPECIAL TRUST: If the total amount of the debt, interest, advances and other sums secured hereby are paid in full in accordance with the terms of the above-mentioned City Note and each of the City Loan Documents and this City Deed of Trust, this conveyance shall be null and void and may be canceled of record at the request and cost of the Grantor and title shall revert as provided by law. If, however, there shall be a default in any of the terms and conditions of this City Deed of Trust, the City Note, City Loan Agreement, any of the City Loan Documents, any other instrument securing the City Note or any advance secured hereby, all sums owing to Beneficiary thereunder regardless of maturity and without notice shall immediately become due and payable at the option of Beneficiary; and, on application of Beneficiary, Trustee shall foreclose this City Deed of Trust by Judicial Proceedings or at Beneficiary's election Trustee shall sell (and is hereby empowered to sell) the Project at public sale to the last and highest bidder for cash (free of any equity of redemption, homestead, dower, curtesy or other exemption, all of which are expressly waived by Grantor) after compliance with applicable North Carolina laws relating to foreclosure sales under power of sale and shall execute a conveyance to the successful purchaser at said sale. Pursuant to the provisions of North Carolina General Statutes §45-21.8, the Trustee or Trustees are hereby empowered to sell any parcel of the Project, whether or not, in the judgment of the Trustee or Trustees, the proceeds of the parcel sold will be sufficient to satisfy the City Note and any and all other obligations of Grantor to Beneficiary secured hereby, and this provision shall govern the sale or sales of the parcels of Project. The proceeds of the Sale shall after the Trustee retains his commission, together with reasonable attorneys fees incurred by the Trustee in such proceedings, be applied to the costs of sale, including, but not limited to, costs of collection, taxes, assessments, costs of recording, service fees and incidental expenditures, the amount due on the Note hereby secured and advancements and other sums expended by the Beneficiary according to the provisions hereof and otherwise as required by the then existing law relating to foreclosures. The Trustee's commission shall be one percent (1%) of the gross sales price or the minimum sum of \$5,000.00 whichever is greater, for a completed foreclosure. In the event foreclosure is commenced, but not completed, the Grantor shall pay all expenses incurred by Trustee, including reasonable attorneys fees, and a partial commission computed on five per cent (5%) of the outstanding indebtedness or the above stated minimum sum, whichever is greater, in accordance with the following schedule, to-wit: one-fourth (1/4) thereof before the Trustee issues a notice of hearing on the right to foreclosure; one-half (1/2) thereof after issuance of said notice, three-fourths (3/4) thereof after such hearing; and the greater of the full commission or minimum sum after the initial sale. Beneficiary may bid and become the purchaser at any sale under this City Deed of Trust. At any such sale, Trustee may at its election require the successful bidder immediately to deposit •with Trustee cash or certified check in an amount equal to all or any part of the successful bid, and notice of any such requirement need not be included in the advertisement of the notice of such sale.

[signature page follows]

IN WITNESS WHEREOF Grantor has executed this Deed under seal as of the date first above written.

GRANTOR:

ARLINGTON TRACE, LLC,
a North Carolina limited liability company

By: Arlington Trace MM, LLC,
a North Carolina limited liability company,
its Managing Member

By: _____ [SEAL]

Name: []

Title: []

STATE OF

COUNTY OF _____

I, [], a Notary Public of the County and State aforesaid, certify that [], either being personally known to me or proven by satisfactory evidence, personally came before me this day and acknowledged that he is the [] of Arlington Trace MM, LLC, a North Carolina limited liability company, which is the Managing Member of Arlington Trace, LLC, a North Carolina limited liability company, and that he being authorized to do so, voluntarily executed the foregoing on behalf of said companies for the purposes stated therein.

WITNESS my hand and official stamp or seal, this day of _____, 2022.

My Commission Expires: _____

Notary Public

[NOTORIAL SEAL]

EXHIBIT A

LEGAL DESCRIPTION

[to be attached]

EXHIBIT B

PERMITTED EXCEPTIONS

[to be attached]

by and mail after recording to:

[]

NORTH CAROLINA
PITT COUNTY

HOME LOAN DECLARATION OF DEED RESTRICTIONS

THIS HOME LOAN DECLARATION OF DEED RESTRICTIONS (this "Declaration"), made and entered into as of July __, 2022 by and between ARLINGTON TRACE, LLC, a North Carolina limited liability company (the "Borrower") for the benefit of the CITY OF GREENVILLE, NORTH CAROLINA a body corporate and politic located in the State of North Carolina (the "City");

WITNESSETH:

In consideration of the mutual covenants and understandings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Borrower and the City hereby agree as follows:

Section 1 . Definitions and Interpretation. The following terms shall have the respective meanings set forth below:

(a) "City Loan Agreement" means the Loan Agreement by and between City and Borrower evidencing the Mortgage Loan.

(b) "Deed of Trust" means the deed of trust that secures the Mortgage Loan and constitutes a lien on a fee simple interest in the Project and Land.

(c) "Land" means the real property described in Exhibit A attached hereto.

(d) "Mortgage Loan" means the HOME loan made to the Borrower by the City to finance the Project.

(e) "Note" means the promissory note dated June , 2015 and which contains the promise of the Borrower to pay the sum of money stated herein at the time stated therein and that evidences the obligation of the Borrower to repay the Mortgage Loan.

(f) "Period of Affordability" means twenty (20) years after the date of Project completion as evidenced by a final certificate of occupancy, during which time the Borrower must maintain affordable housing at the Project.

(g) "Project" means a ninety-eight (98) unit affordable housing apartment complex, of which two (2) units will be HOME floating units, for elderly low-income persons, to be constructed and financed with the proceeds of the Mortgage Loan and to be located on the Land and to be known as Parkside Commons.

(h) "Regulations" means the rules and regulations promulgated by the Department of Housing and Urban Development in 24 CFR Part 92.

(i) "State" means the State of North Carolina.

Arlington Trace – Deed Restrictions

Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neuter gender shall be construed to include any other gender 'When appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

Section 2. Residential Property. The Borrower hereby represents, covenants, warrants and agrees that:

- (a) The Project will be constructed for the purpose of providing "affordable rental housing" as prescribed in 24 CFR Part 92.252. As required in this regulation, the specific rent and income restrictions for this project will be as follows for the entire Period of Affordability.
- (b) The maximum incomes of the tenant households shall be restricted as follows: [] units in the Project shall be floating HOME units which shall comply with HUD defined HOME Rents and shall be reserved for occupancy by eligible tenants with income no greater than sixty percent (60%) of the Pitt County, North Carolina median income;
- (c) Subject to the provisions of Section 4 below, the Project shall continue as affordable housing for the full Period of Affordability.

Section 3. Covenants to Run With the Land. The covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and, except as provided in Section 4 hereof, shall pass to and be binding upon the Borrower's assigns and successors in title to the Land or the Project; provided, however, that upon the termination of this Agreement in accordance with the terms hereof said covenant, reservations and restrictions shall expire. Except as provided in Section 4 hereof, each and every contract, deed or other instrument hereafter executed covering or conveying the Land or the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Project is conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Project.

Section 4. Term. This Agreement shall remain in full force and effect until the expiration of the Period of Affordability provided, however, that this Agreement shall automatically terminate in the event of foreclosure or transfer of title by deed in lieu of foreclosure. In the case of foreclosure or transfer of title by deed in lieu of foreclosure or similar event, such termination will cease to be in effect if, at any time during the remainder of the Period of Affordability, the Borrower of record immediately prior to the foreclosure or deed in lieu of foreclosure, or any newly formed entity that includes such former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Project or the Land.

Section 5. Correction of Noncompliance. The failure of the Borrower to comply with any of the provisions of Section 2 of this Agreement shall not be deemed a default hereunder unless such failure has not been corrected within a period of sixty (60) days following the date that any of the parties hereto learned of such failure or should have learned of such failure by the exercise of reasonable diligence.

Section 6. Remedies; Enforceability. If a violation of any of the provisions hereof occurs or is attempted, the City and its successors and assigns may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such violation or attempted violation, to compel specific performance hereunder, or to recover monetary damages caused by such violation or attempted violation. The provisions hereof are imposed upon and made applicable to the Land and shall run with

the Land and shall be enforceable against the Borrower or any other person or entity that has or had an ownership interest in the Project at the time of such violation or attempted violation. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violations hereof at any later time or times.

Section 7. Filing. This Agreement shall be duly recorded in the Office of the Register of Deeds of Pitt County, North Carolina.

Section 8. Governing Law. This Agreement shall be governed by the laws of North Carolina.

Section 9. Amendments. Except as provided in Section 4, this Agreement shall not be amended, revised, or terminated except by a written instrument, executed by the parties hereto or their successors in title, and duly recorded in the Office of the Register of Deeds of Pitt County, North Carolina.

Section 10. Notice. Any notice required to be given hereunder shall be given by certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

City: City of Greenville
P.O. Box 7207
Greenville, NC 27835-7207

Borrower: Arlington Trace, LLC
c/o Taft Family Offices
2217 Stantonsburg Road
Greenville, NC 27835

Notice shall be deemed given on the third business day after the date of mailing.

Section 11 . Severability. If any provision hereof shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

.Section 12. Multiple Counterparts. This Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

[Rest of Page Intentionally Left Blank]

IN WITNESS HEREOF, the Borrower has executed this Agreement as of the date first written herein above.

BORROWER:

ARLINGTON TRACE, LLC,
a North Carolina limited liability company

By: Arlington Trace MM, LLC,
a North Carolina limited liability company,
its Managing Member

By: _____ [SEAL]

Name: []

Title: []

STATE OF

COUNTY OF _____

I, [], a Notary Public of the County and State aforesaid, certify that [], either being personally known to me or proven by satisfactory evidence, personally came before me this day and acknowledged that he is the [] of Arlington Trace MM, LLC, a North Carolina limited liability company, which is the Managing Member of Arlington Trace, LLC, a North Carolina limited liability company, and that he being authorized to do so, voluntarily executed the foregoing on behalf of said companies for the purposes stated therein.

WITNESS my hand and official stamp or seal, this day of _____, 2022.

My Commission Expires: _____

Notary Public

[NOTORIAL SEAL]

EXHIBIT A

Legal Description

[to be attached]

**CITY OF GREENVILLE HOME INVESTMENT PARTNERSHIPS PROGRAM LOAN
AGREEMENT**

THIS AGREEMENT made and entered in triplicate this day of July ____, 2022 by and between the City of Greenville, North Carolina a municipal corporation of the State of North Carolina (hereinafter called the "City") and Arlington Trace, LLC, a North Carolina limited liability company (hereinafter referred to as the "Borrower").

FUNDING SOURCE: HOME Investment Partnerships Program

AMOUNT: \$1,000,000.00

PROJECT NAME: Arlington Trace

PROJECT TYPE: Rental/Construction

TERM OF AGREEMENT: See Section 1.11

AFFORDABILITY PERIOD: Twenty (20) years from completion of construction

HOME ASSISTED UNITS: Eighteen fixed units

PROPERTY ADDRESS: 2721 U.S. Highway 13, Greenville, North Carolina

ATTACHMENTS:

Attachment 1	Legal Description
Attachment 2	Scope of Work/Project Schedule
Attachment 3	Budget
Attachment 4	Form of Disbursement Agreement
Attachment 5	Affirmative Marketing Procedures and Responsibilities
Attachment 6	Form of Declaration of Restrictive Covenants
Attachment 7	Form of Rent Regulatory Agreement
Attachment 8	Signage Requirements
Attachment 9	Additional Insurance Requirements

RECITALS

WHEREAS, the City has entered into an agreement with the United States Department of Housing and Urban Development ("HUD") to execute and implement the HOME Investment Partnerships Program ("HOME"), with a goal of expanding the supply of decent, safe, affordable housing for those of very low and low income;

WHEREAS, the Borrower is developing a project known as Arlington Trace (the "Development") that will increase the supply of rental housing units for Low Income households; and

WHEREAS, on December 6, 2021, the Greenville City Council approved the allocation of HOME funds in the amount of \$1,000,000.00 for the Development construction hard costs pursuant to the authority of 24 C.F.R Part 92 which establishes the HOME Program, and other applicable federal statutes and regulations (the "HOME Loan"); and

WHEREAS, the HOME Loan is being made in conjunction with approval of allocation of low-income housing tax credits from the North Carolina Housing Finance Agency, that will be purchased by TowneBank and provide equity financing to Development financing, and other sources, including a tax-exempt multifamily note, in the amount not to exceed \$16,000,000.00, that will be privately placed with TowneBank during construction of the Development, and privately placed with Churchill Mortgage Investment LLC once the Development converts to permanent financing, to fund \$28,320,867.00 of Development costs; and

WHEREAS, the City acknowledges and confirms that Borrower is borrowing construction loan funds for the Development and that the HOME Loan is and shall be subordinate to debt financing provided by both TowneBank and Churchill Mortgage Investment LLC; and

WHEREAS, the City and the Borrower intend and agree that the HOME Loan be subject to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the hereto understand and agree as follows:

ARTICLE 1
DEFINITIONS

The City and the Borrower hereby agree that the capitalized terms used herein shall have the meanings set forth below unless the context requires otherwise:

- | | |
|-------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.1 <u>Affordability Period:</u> | The period of time commencing on the date of Development construction completion and ending twenty (20) years from said date. |
| 1.2 <u>Affordable:</u> | A project or unit that satisfies the requirements set 24 CFR 92. |
| 1.3 <u>HOME Program:</u> | The program created by the National Affordable Housing Act of 1990 to strengthen public/private partnerships to provide more Affordable housing to qualified persons. |
| 1.4 <u>HOME Requirements:</u> | The requirements contained in this Agreement, 24 CFR Part 92 and any other requirements imposed by the City. |
| 1.5 <u>HOME Funds or the Loan:</u> | The loan from the City to the Borrower in the amount of \$1,000,000.00 for the Development construction hard costs, as further provided in this Agreement and in a promissory note given by Borrower to the City (the "Note"). |

1.7 Project:

Arlington Trace is a proposed 180-unit workforce housing community. The Development will have a unit mix of 18 1-bedroom units, 102 2-bedroom units, and 60 3-bedroom units. The site will include eight residential buildings and a clubhouse. The clubhouse will include an on-site management office, a community room, fitness center, resident computer lab and a playground/tot lot. The Development will be constructed in accordance with the Development Schedule/Scope of Work and the plans and specifications (attached hereto and incorporated herein as Attachment "2") that will provide housing opportunities in accordance with HUD (as hereinafter defined) income guidelines.

1.8 Property:

The real property located along at 2721 U.S. Highway 13, Greenville, North Carolina on which the Development is being constructed, as legally described in Attachment "1" attached hereto and incorporated herein.

1.9 HOME/Loan Documents:

This Agreement and all other documents that may now or hereafter evidence or secure the HOME Funds, together with other documents executed in connection therewith or presented by the Borrower to the City in connection therewith or herewith, and all amendments, extensions and renewals to any of the foregoing.

1.10 Legal Requirements:

The HOME Requirements and all federal laws and regulations pertaining thereto which are described or referenced in 24 CFR Part 92, the Rules of the North Carolina Housing Finance Agency, if applicable, any requirements imposed by the City and all local, state and federal requirements relating thereto and/or pertaining to the development and/or construction of the Development under the HOME Program.

1.11 Term:

The Term of this Agreement is the period of time commencing on the Effective Date hereof and ending on the Maturity Date unless this Agreement is sooner terminated as provided for herein.

1.12 The Covenant:

A Declaration of Restrictive Covenants to be recorded in the Public Records of the Pitt County Registry, Pitt County, North Carolina to ensure that

1.13 Effective Date:

The U.S. Department of Housing and Urban Development.

1.14 HUD:

A person or family whose annual income does not exceed eighty percent (80%) of the median income for the area, as determined by HUD, with adjustments household size and with certain exceptions as provided in 24 CFR Part 92.

1.15 Low Income:

Eighteen for occupancy by low income families and individuals whose incomes do not exceed sixty percent of the median Income for the area, as determined by HUD, with adjustments for household size and with certain exceptions as provided in 24 CFR Part 92. Restrictions apply to all of the Development units as provided in this Agreement, the Covenant, the other HOME Documents and the Legal Requirements.

1.16 HOME Assisted Unit(s):

The Maturity Date for the HOME Loan is defined in the Note.

1.17 Maturity Date:

The date upon which construction of the Development is to be complete is [January 31, 2024]

1.18 Completion Date:

The date upon which the HOME Loan deed of trust and the Covenant are recorded and the HOME Loan funds are provided to Borrower.

1.19 Closing:

The date on which the City Clerk's attestation is affixed to this Agreement.

ARTICLE II

HOME FUNDS

Upon satisfaction of all conditions set forth herein, the City shall disburse the HOME Funds to the Borrower for the purposes herein set forth.

2.1 Use of Funds.

Arlington Trace is a 180-unit new construction rental project for low income families and individuals whose incomes do not exceed sixty percent (60%) of the median income for the area. The Development consists of [] units for the purposes of HOME assisted units.

The Development will have a unit mix of 18 1-bedroom units, 102 2-bedroom units, and 60 3-bedroom units. The site will include eight residential buildings and a clubhouse. The clubhouse will include an on-site management office, a community room, fitness center, resident computer lab and a playground/tot lot.

The HOME Funds shall be used for the Development construction hard costs in accordance with the Scope of Work attached hereto Attachment "2" and the Budget attached hereto as Attachment 3.

2.2 Disbursement.

The HOME Funds shall be disbursed as a reimbursement. When the Borrower provides the City with documentation of payment for services rendered, the City will then begin the reimbursement process. Only those payments for services which are eligible under the HOME Requirements will be reimbursed.

Notwithstanding any provision herein or in any of the Loan Documents to the contrary, the HOME Funds shall not be available for disbursement hereunder until the City has received all required HUD approvals to the release the HOME Funds for the HOME Loan. This Agreement and the City's obligations hereunder and under any and all of the Loan Documents, including, but not limited to the City's obligation to disburse HOME Funds for the HOME Loan hereunder, shall automatically terminate in the event that within six (6) months of the Effective Date hereof such aforesaid HUD approvals have not been obtained.

2.3 Repayment of the HOME Funds.

The Loan shall bear interest at the rate of zero percent (0%) per annum through July __, 2042 (20-year term), unless as otherwise provided in the Note. The Loan will be amortized over a 30-year period. All interest accrued thereon shall become due and payable as follows:

The Loan amount of \$1,000,000.00 is considered a deferred loan, and the Loan will be deferred (no payments of principal or interest) over a period of twenty (20) years as long as the Borrower does not default under the Loan Documents. However, a lump sum payment will be required if the Borrower fails to meet the terms of this Agreement.

All payments of principal and interest, if required hereunder, shall be subject to the existence of Net Cash Flow, as defined in the Amended and Restated Operating Agreement of the Borrower. The Borrower shall not agree to any transaction or agreement that will create additional mandatory superior payments without the City's prior written approval, except that the City expressly approves and agrees that Borrower will obtain financing for the Development by way of a construction loan, a permanent loan and low-income housing tax credit equity, and any payments or repayments of the HOME Loan will be subordinate to all financing sources and payable only from Net Cash Flow.

To the extent that Net Cash Flow is insufficient to make any payment of interest due, if any, such payment shall be deferred until the first payment date thereafter on which Net Cash Flow is sufficient to make the payment. Net Cash Flow shall be applied in the following order of priority: (a) current interest payment due on the Loan, and (b) interest payments on the Loan deferred from previous years.

The outstanding principal balance of the Loan, all unpaid interest accrued thereon, and all unpaid fees, charges and other obligations of the Borrower due under any of the Loan Documents, shall become due and payable in full upon the earlier of: (i) the Maturity Date,

or (ii) the occurrence of an Event of Default (as hereinafter defined) and the continuance of such Event of Default beyond the applicable cure period, if any.

2.4 Recapture Provision for HOME Funds Upon Default

The Borrower agrees that in the event:

- a) of a conveyance of any interest in the Development and/or the Property without City's prior written consent, provided that a conveyance as a result of condemnation or to obtain utility easements shall be exceptions and shall not trigger a default, or
- b) that the Borrower ceases to exist as an organization;
- c) that the Borrower does not maintain the [] HOME Assisted Units for eligible tenants for the Affordability Period; or
- d) Borrower does not abide by the HOME Requirements,

(each a "default"), then HOME Funds shall be subject to recapture and repayment by Borrower, upon notice of any such default and after Borrower is afforded a reasonable time and opportunity to cure any such default.

Recaptured HOME funds by the City of Greenville will be used for eligible HOME activities in accordance with the requirements of the HOME statute and regulations.

The recapture provision will ensure that each HOME assisted unit will remain affordable for a period of time determined by the recapture schedule below, established in accordance with 24 CFR 92.254(a)(4):

The Borrower shall immediately make a lump sum payment to the City in an amount equal to the outstanding principal balance of the Loan in connection with the Property and/or the Loan, and all unpaid fees, charges, and other obligations of the Borrower due under any of the Loan Documents within 90 days of default (after notice to Borrower and a reasonable time and opportunity to cure any such default).

ARTICLE III
DISBURSEMENT REOUREMENTS

3.1 CONDITIONS OF DISBURSEMENT OF HOME FUNDS.

The City shall not be obligated to disburse the HOME Funds unless and until the City has received the following:

3.1.1 Title Insurance.

A title insurance commitment issued by a title insurance company acceptable to the City identifying the City's insurable interest in the Property, together with copies of all instruments which appear as exceptions therein, The title commitment and policy shall be issued without exceptions, except for those exceptions permitted by the City, and shall include such affirmative coverage as the City shall require.

3.1.2 Survey.

An original current survey of the Property made by a registered surveyor satisfactory to the City and the title company and containing such certifications as the City and the title company may require.

3.1.3 Zoning.

Evidence that the Property and the proposed improvements comply with all applicable zoning ordinances.

3.1.4 Corporate Documents.

- (a) The certificate of articles of organization, or their equivalent, as appropriate, and a good standing or valid existence certificate for the Borrower, certified by the appropriate governmental authority.
- (b) Operating agreement, resolutions, and incumbency certificates, for the Borrower, certified by the Borrower's manager or other duly authorized signer, authorizing the consummation of the transactions contemplated hereby, all satisfactory to the City.

- (c) Evidence satisfactory to the City that Borrower is qualified to receive funds under the HOME Program in accordance with the HOME Requirements.

3.1.5 Insurance Policies.

- (a) Commercial General Liability with limits of at least \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate, protecting the City and the Borrower, if applicable, against bodily injury and property damage liability including coverage for completed operations, personal and advertisement injury, explosion, collapse and underground hazard and, independent contractors coverage.
- (b) Automobile Liability for all owned vehicles as well as coverage for non-owned and hired automobiles with a combined Single Limit of at least \$1,000,000.00.
- (c) Workers' compensation insurance as required by the laws of the State of North Carolina.

All such insurance shall require that the City be named as an additional insured. The Borrower shall be required to obtain and furnish evidence of any other insurance coverage the City may require during the Term of this Agreement, including, but not limited to that described on Attachment "9." All such policies shall provide the City with mandatory written notice of cancellation or material change from the insurer not less than thirty (30) days prior to any such cancellation or material change, and all such policies shall be written by insurance companies satisfactory to the City.

Failure of the Borrower to submit all required evidence of the specified insurance coverage, fourteen (14) calendar days prior the Borrower's request for the disbursement of funds hereunder shall delay the disbursement of the HOME Funds.

3.1.6 Operative Documents.

All Loan Documents duly and lawfully executed by the Borrower in connection with the Loan.

3.1.7 Appraisal.

A current appraisal of the Property shall be made by a member in good standing of the American Institute of Real Estate Appraisers.

3.1.8 List of Subcontractors.

A list of all of the Borrower's subcontractors as of the date of execution of this Agreement, and copies of all contracts in excess of \$50,000.00 for the performance of services or the supply of materials in connection with the Development, to be funded pursuant to this Agreement.

3.1.9 Compliance with HOME Requirements.

All documents required by the HOME Program, evidencing compliance with HOME Requirements. Compliance monitoring of the Development will be conducted by City agents or representatives per HUD guidelines.

3.1.10 Firm Commitments for Project Financing.

Evidence of firm commitments for full Development financing from other sources.

3.1.11 Evaluation of Project Costs.

The evaluation of the Project's costs as prepared by an independent engineer or third party accountant engaged by the Borrower to provide such evaluation.

3.1.12 Intentionally Deleted.

3.1.13 Environmental Reports.

The Borrower shall submit all information requested by the City with respect to the Development including, but not limited to, Phase I and Phase II Environmental Assessment Reports, as applicable.

3.1.14 Audit Reports.

The Borrower shall submit to the City audit reports as requested by the City and required herein.

3.1.15 Personnel Policies and Administrative Procedure Manuals.

The Borrower shall submit detailed documents describing the Borrower's internal corporate organizational structure, property management and procurement policies and procedures, personnel management, accounting policies and procedures, etc. Such information shall be submitted to the City within thirty (30) days of the execution of this Agreement and prior to the disbursement of any funds hereunder.

3.1.16 Certificate Regarding Lobbying.

Such certificate(s) regarding lobbying as may be requested by the City.

3.1.17 Certificate Regarding Debarment, Suspension, and Other Responsibility Matters.

Such certificate(s) regarding debarment, suspension and other responsibility matters as may be requested by the City.

3.1.18 Public Entity Crime Affidavit.

Such public entity crime affidavit as may be required by the City.

3.1.19 Environmental Clearance.

Development construction must not commence, or if the Development was already under construction at the time of application for federal funds, construction must cease immediately, until a HUD Release of Grant Conditions has been issued for the Development.

3.1.20 All other documents as may reasonably be required by the City.

ARTICLE IV
HOME PROGRAM REOUIREMENTS

The Borrower shall comply with the following HOME Requirements:

4.1 GENERAL.

- 4.1.1 The Borrower shall maintain current documentation that its activities qualify under the HOME Requirements.
- 4.1.2 The Borrower shall ensure and maintain documentation that conclusively demonstrates that each activity assisted in whole or in part with HOME Funds is an activity which benefits low income persons.
- 4.1.3 The Borrower shall comply with all applicable HOME Requirements.
- 4.1.4 The Borrower shall agree in writing to comply with any and all requirements as may be set forth in the Site Environmental Clearance Statement executed in connection herewith, as required by the City.
- 4.1.5 Attendance at such citizen participation committees/meetings as may be requested by the City.
- 4.1.6 The Borrower shall, to the greatest extent possible, give low income residents of the service community opportunities for training and employment.
- 4.1.7 The Borrower shall comply with all applicable displacement and relocation requirements.

4.2 REAL PROPERTY.

- 4.2.1 Any real property that was acquired or improved in whole or in part with HOME Funds received from the City shall be:
 - (a) Used to complete one of the HOME eligible activities as required for such period of time as determined by the City based on the eligible activity.

- (b) Disposed of in a manner that results in the City being reimbursed for the amount of the current fair market value of the Property as may be determined by the City in its sole and absolute discretion, less any proportionate portion of the value attributable to expenditures of non-HOME funds for the acquisition, or improvement, of the Property.

4.2.2 All real property purchased in whole or in part with funds for this Agreement and previous agreements with the City, or transferred to the Borrower after being purchased in whole or in part with funds from the City, shall be listed in the property records of the Borrower and shall include: a legal description; size; address and location; owner's name if different from the Borrower; information on the transfer or disposition of the property; and a map indicating whether property is in parcels, lots, or blocks and showing adjacent streets and roads. The property records shall describe the programmatic purpose for which the property was acquired and identify the HOME activity that will be completed. If the property was improved, the records shall describe the programmatic purpose for which the improvements were made and identify the HOME activity that will be completed.

4.3 PERSONAL PROPERTY.

4.3.1 Definitions.

- (a) Personal Property. Personal property of any kind except real property:
 - 1) Tangible. All personal property having physical existence.
 - 2) Intangible. All personal property having no physical existence such as patents, inventions and copyrights.
- (b) Non-expendable Personal Property. Tangible personal property of a non-consumable nature, with a value of \$500.00 or more per item, with a normal expected life of one (1) or more years, not fixed in place, and not an integral part of a structure, facility, or another piece of equipment.
- (c) Expendable Personal Property. All tangible personal property other than non-expendable property.

4.3.2 Requirements.

The Borrower shall comply with the non-expendable personal property requirements stated below:

- (a) All non-expendable personal property purchased in whole or in part with funds from this and previous agreements with the City shall be listed in the property records of the Borrower and shall include: a description of the property; location; model number; manufacturer's serial number; date of acquisition; funding source; unit cost; property inventory number; information on its condition; and information on the transfer, replacement, or disposition of the property.
- (b) All non-expendable personal property purchased in whole or in part with funds from this and previous agreements with the City shall be inventoried annually by the Borrower and an inventory report submitted to the City when and as requested by the City. The inventory report shall include the elements listed in Paragraph 4.3.2(a), above.
- (c) Ownership of all non-expendable personal property purchased in whole or in part with funds given to the Borrower pursuant to the terms of this Agreement shall vest in the City.

4.4 DISPOSITION.

While the Loan is outstanding, the Borrower shall obtain the prior written approval of the City for the disposition of real property, expendable personal property and nonexpendable personal property purchased in whole or in part with funds given to the Borrower or its subcontractors pursuant to the terms of this Agreement, and shall dispose of all such property in accordance with instructions from the City. Those instructions may require the return of all such property to the City.

4.5 SUBCONTRACTS AND ASSIGNMENTS.

4.5.1 The Borrower shall ensure that all subcontracts and assignments funded with HOME Funds hereunder:

- (a) Identify the full, correct, and legal name of all parties;

- (b) Describe the activities to be performed;
- (c) Present a complete and accurate breakdown of its price component;
- (d) Incorporate a provision requiring compliance with all applicable regulatory and other requirements of this Agreement, including but not limited to the City's MWBE program rules, and with any other conditions and/or approvals that the City may deem necessary. The requirements of this paragraph apply to subcontracts and assignments in which parties are engaged to carry out any eligible substantive programmatic service, as may be defined by the City, set forth in this Agreement. The City shall in its sole and absolute discretion determine when services are eligible substantive programmatic services and subject to the audit and record-keeping requirements described in this Agreement; and
- (e) Incorporate the language of the certificate(s) regarding lobbying executed in connection herewith.

4.5.2 The Borrower shall incorporate in all consultant and other subcontracts funded with HOME funds hereunder the following provision:

"[The Borrower] is not responsible for any insurance or other fringe benefits, e.g., social security, income tax withholding, retirement or leave benefits, for [the Consultant] or employees of [the Consultant], that are normally available to direct employees of [the Borrower]. [The Consultant] assumes full responsibility for the provision of all insurance and fringe benefits for himself/herself/itself and employees retained by [the Consultant] in carrying out the Scope of Services provided in this subcontract."

4.5.3 The Borrower shall be responsible for monitoring the contractual performance of all subcontracts.

4.5.4 The Borrower shall submit to the City for its review and confirmation any subcontract engaging any party to carry out any activities to be funded with the HOME Funds hereunder, to ensure its compliance with the requirements of this Agreement. The City's review and confirmation shall be obtained prior to the release of any funds for such subcontractor(s).

4.5.5 The Borrower shall receive written approval from the City prior to either assigning or transferring any obligations or responsibility set forth in this Agreement, provided that any assignment or transfer to an affiliate of Borrower shall be permitted.

4.5.6 Approval by the City of any subcontract or assignment shall not under any circumstances be deemed to be the City's agreement to incur any obligations in excess of the total dollar amount agreed upon in this Agreement.

4.5.7 The Borrower and its subcontractors shall comply with the Davis-Bacon Act, if applicable, the Copeland Anti-Kick Back Act, the Contract Work Hours and Safety-Standards Act, the Lead-Based Paint Poisoning Prevention Act, the Residential Lead Based Paint Hazard Reduction Act of 1992 (and implementing regulations at 24 CFR Part 35) and any other applicable laws, ordinances and regulations.

4.5.8 Intentionally deleted.

4.5.9 The City and its agents shall, at all times during construction, have the right of entry and free access to the Development and the right to inspect all work done and materials, equipment, and fixtures furnished, installed or stored in and about the Development, and to inspect all books, subcontracts, if HUD requests same and records of the Borrower relating to the Development.

4.6 REPORTING OBLIGATIONS.

4.6.1 The Borrower shall submit, as required, the following:

4.6.1.1 Progress Reports.

The Borrower shall submit status reports and projected completion dates to describe the progress made in achieving each of the objectives identified in Attachment "2." The Borrower shall also submit an earned income report. In such form as may be required by the City. Both the progress report and the earned income report shall be provided to the City on a quarterly basis until the Completion Date.

4.6.1.2 Inventory Report.

The Borrower shall report all real property and all non-expendable personal property as specified in Paragraphs 4.2 and 4.3 hereof. Such report shall be submitted as requested by the City.

4.6.1.3 Equity and Inclusion.

The Borrower shall report to the City such information relative to the equity and inclusion of Project employment opportunities, whenever requested by the City.

4.6.1.4 Assurance of Compliance with Section 504 of the Rehabilitation Act.

The Borrower shall report its compliance with section 504 of the Rehabilitation Act, whenever requested by the City.

4.6.1.5 Affirmative Marketing Plan and Report.

The Borrower shall report to the City annually on all actions taken to comply with the affirmative marketing requirements provided in Attachment "5."

4.6.1.6 List of Subcontractor(s).

The Borrower shall provide a list of all of the Project subcontractor(s), and copies of all contracts in excess of \$50,000.00 for the performance of services or the supply of materials in connection with the Development.

4.6.2 Federal, State and County Laws and Regulations.

4.6.2.1 The Borrower shall comply with all applicable provisions of federal, state, county and City laws, regulations, rules and administrative requirements, such as OMB Circular No. A-122, OMB Circular No. A110, OMB Circular No. A-21, and OMB Circular No. A-133, which

are incorporated herein by reference, as they may be revised from time to time.

4.6.2.2 The Borrower shall comply with all applicable federal laws and regulations, such as: 24 CFR Part 92; 24 CFR Part 85 (an any successor regulations), Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap; Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, or national origin; the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; Title VII of the Civil Rights Act of 1968, as amended, and Executive Order 11063 which prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin; Executive Order 11246 which requires equal employment opportunities; and with the Energy Policy and Conservation Act (Pub. L. 94-163) which requires mandatory standards and policies relating to energy efficiency.

4.6.2.3 If the amount payable to the Borrower pursuant to the terms of this Agreement is in excess of \$100,000.00, the Borrower shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 7401 et. seq.), as amended; the Federal Water Pollution Control Act (33 U.S.C. 1251), as amended; Section 508 of the Clean Water Act (33 U.S.C. 1368);' Environmental Protection Agency regulations (40 CFR Part 15); and Executive Order 11738.

4.6.3 Audits and Records.

4.6.3.1 (a) The Borrower shall submit to the City an audit conducted by an independent certified public accountant or firm of independent certified public accountants in accordance with general accepted auditing standards, including audited financial statements and a report on compliance with laws and regulations based on the audit of financial statements. Two (2) copies of each such audit must be delivered to the City no later than six (6) months following the end of each Borrower fiscal year.

Each such audited financial statement is to be for the twelve

(12) months ending December 31 and shall include:

1. Comparative Balance Sheet with prior year and current year balances;
2. Statement of revenue and expenses;
3. Statement of changes in fund balances or equity;
4. Statement of cash flows; and
5. Notes

The financial statements shall be accompanied by a certification of the Borrower as to the accuracy of such financial statements.

- (b) A late fee of \$100.00 will be assessed by the City for failure to submit any of the required audited financial statements.

At the request of the City, the Borrower shall also furnish to the City unaudited financial statements of the Borrower certified by the Borrower's principal financial or accounting officer, covering such financial matters as the City may request, including without limitation, monthly statements with respect to the Development.

- 4.6.3.2** The Borrower shall maintain all Contract Records (as hereinafter defined) in which HOME Funds were used and in accordance with generally accepted accounting principles, procedures, and practices, which records shall sufficiently and properly reflect all revenues and expenditures of funds provided directly or indirectly by the City pursuant to the terms of this Agreement. "Contract Records" shall mean "any and all books, records, documents, information, data, papers, letters, materials, electronic storage data and media, whether written, printed, computerized, or electronic, however collected or preserved which is or was produced, developed, maintained, completed, received or compiled by or at the direction of the Borrower or any contractor of the Borrower in carrying out the duties and obligations required by the terms of this Agreement, including, but not limited to, financial books and records, ledgers, drawings, maps, pamphlets, designs, electronic tapes, computer drives and diskettes or surveys."

- 4.6.3.3** The Borrower shall ensure that the Contract Records shall be at all times subject to and available for full access and review, inspection or audit by the City and federal personnel and any other personnel duly authorized by the City.
- 4.6.3.4** The Borrower shall include in all subcontracts funded with HOME Funds hereunder, each of the record keeping and audit requirements detailed in this Agreement.
- 4.6.3.5** The City shall be responsible for monitoring and/or reviewing all aspects of the services provided by the Borrower under this agreement. The City shall have access to and be able to make copies and transcriptions of such records as may be necessary in the determination of the City or HUD to accomplish this monitoring and/or review. In order to properly monitor or review the performance under this agreement, the City shall make on-site inspections annually or as often as it deems necessary. Said review may be accomplished by the City through a management evaluation of the services provided under this agreement during the term of said agreement.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF THE BORROWER

The Borrower represents and warrants to the City as follows:

5.1 Organization and Existence.

The Borrower is a North Carolina limited liability Company, duly organized, validly existing and in good standing under the laws of the State of North Carolina, and has full power and authority to conduct its business as presently conducted, to receive the HOME Funds, and to own, operate and develop the Development.

The Development shall comply with all applicable HOME Requirements. The Borrower has full power and authority to perform the provisions hereof and of its agreements and undertakings with the City and to perform the transactions contemplated hereby, and such execution and performance have been duly authorized by all necessary corporate or other approvals and actions.

5.2 Correctness of Documents.

The cost estimates, budget, schedules, and all other documents furnished to the City in accordance with the HOME Program, this Agreement, and/or the other HOME Documents, are true and correct in all material respects and accurately set forth the facts contained therein and neither misstate any material fact nor, separately or in the aggregate, fail to state any material fact necessary to make the statements made therein not misleading.

5.3 Absence of Proceedings, Actions and Judgments.

To the best of knowledge of the Borrower, there are no conditions, circumstances, events, agreements, documents, instruments, restrictions, actions, suits or proceedings pending or threatened against or affecting the Borrower, the Development or the Property which could adversely affect the Borrower's ability to comply with the HOME Program, complete or operate the Development or to perform its obligations hereunder or which would constitute an Event of Default hereunder or under the other HOME Documents regardless of the giving of notice or the passage of time or both. There are no outstanding or unpaid judgments or arbitration awards against the Borrower.

5.4 Non-Default.

The Borrower is not in default or violation with respect to any Legal Requirements, nor is it in default under or in material breach of any instrument or agreement to which it is a party or by which it otherwise may be bound. The execution and delivery of this Agreement and the other HOME Documents, the consummation of the other transactions contemplated hereby, and the ownership and development of the Development as contemplated hereby and by the other HOME Documents: (i) do not and will not conflict with or result in violation of any Legal Requirements or in the breach or default under any indenture, contract, agreement or other instrument to which the Borrower is a party or by which it may be bound; and (ii) have been duly authorized by all necessary actions and approvals, whether corporate or otherwise.

5.5 Valid Obligations.

This Agreement and all of the other HOME Documents, when executed and delivered, shall constitute the duly authorized, legal, valid, and binding obligations of the Borrower and will be enforceable in accordance with their respective terms.

5.6 Marketable Title.

The Borrower has good and marketable title to the Property, subject only to the exceptions and other matters set forth in any commitment for title insurance by a legitimate title insurance company.

5.7 Compliance.

The completion and use of the Development in accordance with the Attachment 2 (Scope of Work/Project Schedule) will comply fully with all Legal Requirements, and with all limitations on the use of the Development, or any other condition, grant, easement, covenant, or restriction, whether recorded or not. All necessary approvals, permits and licenses for the construction, operation, and use of the Development have been unconditionally obtained and are in full force and effect, or if the present state of construction of the Development does not allow such issuance, then such approvals, permits and licenses will be issued when the Development is completed.

5.8 Encroachments.

When completed in accordance with the Attachment 2 (Scope of Work/Project Schedule), the Development will not encroach upon any building line, setback line, side yard line or other recorded or visible easements or other easements of which the Borrower is aware which exists (or which the Borrower has reason to believe may exist) with respect to the Development.

5.9 Scope of Work.

Except as otherwise disclosed to the City, the Scope of Work described in Attachment 2 is complete in all respects, and contains all details requisite for the Development which, when built in accordance therewith, shall be ready for the intended use and occupancy thereof.

5.10 Leases.

There are no leases, tenancies, licenses or agreements for use of any part of the Property other than as specifically disclosed to and approved by the City. The City approves residential leases of the tenants and any lease of laundry facilities or day care facilities contemplated as part of the Development.

5.11 Pending Assessments.

The Borrower has no knowledge of any pending or proposed governmental action that would impair the operation or value of the Development or result in a special assessment against the Development.

5.12 Waste.

The Borrower shall not commit or suffer waste or negligence on the Development.

5.13 Fraud.

No fraud by the Borrower has occurred in the qualification of the Development, the Borrower and/or the Property under the HOME Program, the negotiation of this Agreement and the other HOME Documents, nor in the transactions contemplated hereby.

5.14 No Casualty.

No part of the Property and/or the Development has been damaged or has been subjected to condemnation or other proceedings, and no such proceedings have been threatened,

5.15 No Changes.

Except as otherwise disclosed to the City, there have been no material adverse changes in projected costs and expenses of or from the Development or in the occupancy of the Property or any other features of the transactions contemplated hereby as submitted to the City.

5.16 Compliance with Laws and Regulations.

The Borrower will comply at all times with all Legal Requirements. The Borrower will comply at all times with the HOME Requirements affecting the ownership, use, construction, lease and operation of the Development.

5.17 Other Project Financing.

The Borrower has not applied for or received, and does not otherwise have available, in connection with the Development any other financing/funding, except for those funds, loans and/or loan commitments previously identified in writing to, and approved, by the City.

5.18 Reaffirmation.

Each of the representations and warranties set forth in this Article shall be true at all times and the acceptance of each draw of HOME Funds hereunder by the Borrower shall be deemed to be a reaffirmation of each of the representations and warranties given in this Agreement.

ARTICLE VI **BORROWER'S OBLIGATIONS**

6.1 Scope of Work.

The Borrower shall perform the Scope of Work as set forth herein and on Attachment 2.

The Borrower shall:

1. Meet all of its obligations under all of the Loan Documents executed in connection herewith;
2. Obtain all required certificates of occupancy for the Development on or before completion of Development construction;
3. Rent the HOME Assisted Units to low income families and/or individuals whose incomes do not exceed sixty percent (60%) of the median income for the area, and in compliance with all other requirements of this Agreement, and provide to the

City a certified rent roll evidencing the same throughout the Affordability Period;
and

4. Comply with all applicable HOME Requirements and all applicable requirements hereof and in the other Loan Documents throughout the Affordability Period.

6.2 Reporting Obligations.

The Borrower shall submit to the City all reports as described in Section 4.6 hereof, and all other reports that the City may reasonably require, in such form, manner, and frequency as the City may reasonably require to monitor the progress of the Development and the Borrower's performance and compliance with this Agreement and all Legal Requirements.

6.3 Retention of Records.

The Borrower shall retain all Contract Records for five (5) years after the Maturity Date (hereinafter referred to as "Retention Period") subject to the limitations set forth below:

- (a) If the City or the Borrower has received or given notice of any kind indicating any threatened or pending litigation, claim or audit arising out of the activities relating to the Development or the Scope of Work or under the terms of this Agreement, the Retention Period shall be extended until such time as the threatened or pending litigation, claim or audit is, in the sole and absolute discretion of the City, fully, completely and finally resolved.
- (b) The Borrower shall allow the City or any person authorized by the City full access to and the right to examine any of the Contract Records during the required Retention Period.
- (c) The Borrower shall notify the City in writing, both during the pendency of this Agreement and after its expiration termination, of the address where all Contract Records will be retained.

6.4 Provision of Records.

All of the Contract Records are subject to the provisions of the "Public Records Law." The Borrower shall provide to the City, upon request, copies of all Contract Records. The City shall have the unlimited right to all books, articles, or other copyrightable materials developed in the performance of this Agreement, including, but not limited to, the right of royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the Contract Records for public purposes.

If the Borrower receives funds from, or is under regulatory control of, other governmental agencies for the construction of Arlington Trace and those agencies issue monitoring reports, regulatory examinations, or other similar reports, the Borrower shall provide a copy of each such report and any follow-up communications and reports to the City immediately upon such issuance unless disclosure is a violation of those agencies' rules.

6.5 Prior Approval.

The Borrower shall obtain the City's prior written approval prior to undertaking any of the following with respect to the Development and/or the Property:

- (a) Except for a transfer of limited partner and/or special limited partner interest or transfers allowed hereunder the sale, assignment, pledge, transfer, hypothecation or other encumbrance or disposition of any proprietary or beneficial interest in the Borrower, the Development or the Property, or any change in the operating control of the Borrower, which shall require the prior approval of the City, as appropriate. Notwithstanding the foregoing, any limited or investor partner shall be permitted to (a) remove any general partner for cause, without consent of the City, and (b) transfer its limited partnership interests in Borrower, without consent of the City.
- (b) Except for transfers allowed hereunder the disposition of any real property or any expendable personal property or non-expendable personal property as defined in Paragraph 4.3.1.
- (c) The use of Program Income, as applicable, other than as specifically provided in the Development Budget and/or approved by the City.
- (d) Any proposed solicitation notice, invitation for bids or request for proposals.

- (e) The disposal of any Contract Records relating to Loan.

6.6 Monitoring.

The Borrower shall permit the City and other persons duly authorized by the City to inspect all Contract Records, facilities, goods, and activities of the Borrower that are in any way connected to the activities undertaken pursuant to the terms of this Agreement, and/or to interview any clients, employees, subcontractors, or assignees of the Borrower. Following such inspection or interviews, the City will deliver to the Borrower a report of its findings. The Borrower will rectify all deficiencies cited by the City within the period of time specified in the report, or provide the City with a reasonable justification for not correcting the deficiencies. The City will determine, in its sole and absolute discretion, whether or not the Borrower's justification is acceptable.

Monitoring of the Development will be conducted by City agents or representatives per HUD guidelines for rental projects using HOME Investment Partnerships funds.

6.7 Conflict of Interest.

- (a) The Borrower is aware of the applicable conflicts of interest laws and rules codified in the laws of the State of North Carolina that apply to the City, the City's Code of Ordinance and the HOME Requirements and agrees that it will fully comply in all respects with the terms thereof and any future amendments.
- (b) The Borrower covenants that no person or entity under its employ, presently exercising any functions or responsibilities in connections with this Agreement, has any personal financial interests, direct or indirect, with the City. The Borrower further covenants that, in the performance of the Agreement, no person or entity having such conflicting interest shall be utilized in respect to the Scope or Work or services provided hereunder. Any such conflict of interest(s) on the part of the Borrower, its employees or associated persons or entities shall be disclosed in writing to the City.

- (c) The Borrower guarantees that no member of, or delegate to, the Congress of the United States shall be admitted to any share or part of this contract or to any benefit to arise from the same. The Borrower agrees that no members of the governing body of the locality in which the Borrower is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Agreement during his/her tenure, or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the services performed under this Agreement. Unless expressly permitted by HUD, Borrower agrees that no person who is an employee, agent, consultant, officer of the Borrower or is an elected or appointed public official, and who exercises or has exercised any functions or responsibilities with respect to activities assisted with HOME funds, or who is in a position to participate in a decision making process to gain inside information with regard to such HOME-assisted activities, may obtain a financial interest or benefit from the HOME-assisted activity, or have any interest in any contract, subcontract, or agreement with respect thereto, or the proceeds there under, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one (1) year thereafter. Unless expressly permitted by the City, no officer, employee, agent or consultant of the Borrower may occupy a HOME-Assisted affordable housing unit in a project.
- (d) The Borrower shall disclose any possible conflicts of interest or apparent improprieties of any party under or in connection with the Legal Requirements, including the standards for procurement.
- (e) The Borrower shall make any such disclosure to the City in writing and immediately upon the Borrower's discovery of such possible conflict. The City's determination regarding the possible conflict of interest shall be binding on all parties.
- (f) No employee, agent, consultant, elected official or appointed official of the City, exercising any functions or responsibilities in connection with the City's HOME Program or this Agreement, or who is in a position to participate in the decision-making process or gain inside information regarding HOME-Assisted activities, has any personal financial interest, direct or indirect, in this Agreement, the proceeds hereunder, the Development or the Borrower, either for themselves or

for those with whom they have family or business ties, during their tenure or for one year thereafter.

6.8 Related Parties.

The Borrower shall report to the City the name, purpose for, and any other relevant information in connection with any related-party transaction. The term “related party transaction” includes, but is not limited to, a transaction or relationship between the Borrower and a for-profit or nonprofit subsidiary or affiliate organization, an organization with an overlapping board of directors, and an organization for which the Borrower is responsible for appointing memberships. The Borrower shall report this information to the City upon forming the relationship, or if already formed, shall report such relationship prior to or simultaneously with the execution of this Agreement. Any supplemental information shall be promptly reported to the City no later than in the next required Progress Report, as described above.

6.9 Publicity and Advertisements.

The Borrower shall ensure that all Development publicity and advertisements prepared and released by the Borrower, such as pamphlets and news releases, related to activities funded by this Agreement, and all events carried out to publicize the accomplishments of any activities funded by this Agreement, recognize the City as one of its funding sources.

6.10 Additional Funding.

The Borrower shall not procure any other financing in connection with the Development or the Property without the prior written consent of the City, other than those financings disclosed to the City in writing as of the date hereof.

6.11 Reversion of Assets.

Intentionally deleted.

6.12 Repayment of Funds Procedures.

If for any reason during the Affordability Period any HOME Assisted Unit fails to comply with the Affordability requirements of this agreement, the Borrower shall repay to the City all funds received by the Borrower pursuant to this Agreement, all unpaid interest accrued thereon, and all unpaid fees, charges and other obligations of the Borrower due under any of the Loan Documents. Notwithstanding, anything to the contrary, the Borrower shall be allowed to come into compliance within a reasonable period of time, after notice and an opportunity to cure any such default or alleged noncompliance.

6.13 Affirmative Marketing.

The Borrower shall comply with the affirmative marketing requirements and procedures provided on Attachment "5."

6.14 Section 3 Clause.

The Borrower shall comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended:

- (a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall to the greatest extent feasible, be directed to low income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, as amended, which implement Section 3 (the "Section 3 Regulations"). As evidenced by their execution of this contract, the hereby certifies that it is under no contractual or other impediment that would prevent it from complying with the Section 3 Regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or worker's representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth

minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with the Section 3 Regulations, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the Section 3 Regulations.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the Section 3 Regulations require employment opportunities to be directed, were not filed to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with the Section 3 Regulations may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.
- (g) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

6.15 Signage, Acknowledgement, Publicity.

During the Term of this Agreement, the Borrower shall furnish signage identifying the Project and shall acknowledge the contribution of the City by incorporating the seal of the City and the names of the City Council and officials in all documents, literature, pamphlets, advertisements, and signage, permanent or otherwise. All such acknowledgments shall be in a form acceptable to the City, as provided in Attachment 8.

The Borrower shall ensure that all publicity and advertisements related to the Development, such as pamphlets and news releases, and all events carried out to publicize the Development, shall recognize the City as one of the Development's funding sources.

6.16 Equal Opportunity.

The Borrower shall not discriminate on the basis of race, color, national origin, sex, religion, age, sexual orientation, marital or family status or handicap/disability in connection with its performance under this Agreement or the occupancy of any Project unit.

6.17 Previously Funded City Projects.

The Borrower shall comply with: (1) all applicable reporting requirements relating to previously funded City projects which are under construction or in their respective affordability period, including OMB Circular A-133, and (2) all applicable insurance requirements relating to such projects.

6.18 Compliance with Safety Precautions.

The Borrower shall allow City inspectors, agents or representatives the ability to monitor its compliance with safety precautions as required by federal, state or local laws, rules, regulations and ordinances. By performing these inspections the City, its agents, or representatives are not assuming any liability by virtue of such laws, rules, regulations and ordinances. The Borrower shall have no recourse against the City, its agents, or representatives for the occurrence, non-occurrence or result of such inspection(s).

The Borrower shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act ("ADA") in the course of providing any work, labor or services funded by the City, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability) and all applicable regulations, guidelines and standards.

6.19 Funding.

The City will provide the Borrower with the Loan funds pursuant to Paragraph 2.2 and Article 3.

6.20 Procurement From Minority/Women Owned Businesses.

The Borrower shall make a positive effort to procure supplies, equipment, construction, or services for the Development from minority- and women-owned businesses, and to provide these sources the maximum feasible opportunity to compete for subcontracts to be performed pursuant to this Agreement. To the maximum extent feasible, these businesses shall be located in or owned by residents of the community development areas designated by the City.

ARTICLE VII
DEFAULT

7.1 The happening of any one or more of the following events shall constitute an Event of Default:

- (a) Failure of any of the HOME Assisted-Units to remain Affordable at any time during the Term hereof.
- (b) If any term, condition or representation contained in this Agreement or any of the other Loan Documents is untrue, substantially inaccurate or incomplete, or, if there is a material misrepresentation of fact or fraud contained in any document(s) submitted in support of this Agreement.
- (c) Except for force majeure, the substantial discontinuance of the construction of the Development for a period of fourteen (14) days which discontinuance is, in the sole determination of the City, without satisfactory cause.
- (d) Except as permitted herein, the sale, assignment, pledge, transfer, hypothecation or other encumbrance or disposition of any proprietary or beneficial interest in the Borrower or the Property, or any change in operating control of the Borrower, without the prior approval of the City. Notwithstanding the foregoing, any limited or investor partner shall be permitted to (a) remove any general partner for cause, without consent of the City or City Council, and (b) transfer its limited partnership interests in the Borrower, without consent of the City or City Council.

- (e) In the event that the City determines, in its sole and absolute discretion, that the Project is not being erected in a good and workmanlike manner in accordance with the Scope of Work, or that the Borrower is failing to comply promptly with any requirement or notice of violation of law issued by or filed by the City or any department of any governmental authority having jurisdiction over the Borrower or the Property.
- (f) Failure by the Borrower to comply with any term, covenant or obligation of this Agreement or any of the Loan Documents, or the occurrence of an event of default under any of the other Loan Documents.
- (g) Unless the Property is otherwise grandfathered, any change in zoning requirements or zoning classification of the Property, which in the City's sole discretion would materially interfere with the completion of the Development construction or the ultimate operation of the Development as contemplated herein.
- (h) In the event that the City determines, in its sole and absolute discretion, that there exists an event of default under and pursuant to the terms of any other agreement or obligation of any kind or nature whatsoever of the Borrower to the City, direct or contingent, whether now or hereafter due, existing, created or arising relating solely to the Development, which event of default continues beyond applicable cure period.
- (i) In the event that there exists an event of default under and pursuant to the terms of any other agreement or obligation of any kind or nature whatsoever of any other sponsor of the Development to the City, direct or contingent, whether now or hereafter due, existing, created or arising, relating solely to the Development, which event of default continues beyond applicable cure period.

ARTICLE VIII
REMEDIES

- 8.1** Upon the occurrence and continuance beyond any applicable cure period of any Event of Default, the City shall have the absolute right to refuse to disburse any undisbursed portion of the Loan.

The City shall provide written notice of the occurrence of an Event of Default to the Borrower, after which the Borrower shall have thirty (30) days to cure said default (except for the events described in Article VII (a), (b), (h) and (i) above for which the aforementioned cure period shall not apply).

If an Event of Default shall continue uncured for a period of thirty (30) consecutive days following written notice thereof to the Borrower (except for the events described in Article VII (a), (b), (h) and (i) above for which the aforementioned cure period shall not apply), and subject to the provisions of the last paragraph of this Section, the City shall have the absolute right, at its option and election and in its sole discretion to:

- (a) Specific Performance. Institute appropriate proceedings to specifically enforce performance of the terms and conditions of this Agreement;
- (b) Recapture of HOME Funds. Demand that the Borrower reimburse the City for the HOME Funds disbursed to the Borrower pursuant to this Agreement. The Borrower shall reimburse City in the amount of the HOME Funds disbursed to the Borrower pursuant to this Agreement, and, pay to the City all unpaid interest accrued thereon, all Program Income (as defined hereinabove) derived therefrom or in connection therewith, and all unpaid fees, charges and other obligations of the Borrower due under any of the Loan Documents;
- (c) Other Remedies. Exercise any other right, privilege or remedy available to the City as may be provided by applicable law, or in any of the other HOME Documents.

It is understood and agreed that the occurrence of an event of default under Article VII (a), (b), (h) or (i) shall immediately entitle the City to exercise any of the above described remedies without the need to give the Borrower notice thereof or the opportunity to cure.

The rights and remedies of the City hereunder shall be cumulative and not mutually exclusive, and the City may resort to any one or more or all of said remedies without exclusion of any other. No party other than the City, whether the Borrower or a materialman, laborer, subcontractor or supplier, shall have any interest in the HOME Funds withheld because of a default hereunder, and shall not have any right to garnish or require or compel that payment thereof be applied toward the discharge or satisfaction of any claim or lien which any of them may have.

8.2 In addition to any other remedies provided for herein or in any of the other Loan Documents, upon the occurrence of an Event of Default:

- (a) All sums outstanding under Note shall bear interest at a rate of []% from the date of disbursement (the "Default Rate"), upon notice to the Borrower or any guarantor or endorser of the Note, and without any other affirmative action or declaration on the part of the City;
- (b) The Covenant shall remain as a restriction on the Property throughout the Affordability Period; provided however, the Covenant shall be terminated if the funds are paid back and recaptured (or in the event of foreclosure by a senior lender);
- (c) The Borrower, Project developer, managing member of the Borrower and/or other individuals, principals and/or other entities as determined by the City, will be debarred from receiving any City funding for a period of five (5) years.

ARTICLE IX **INDEMNIFICATION**

The Borrower shall indemnify and hold the City and its past, present and future employees and agents harmless from any and all claims, liabilities, losses, and causes of action which may arise out of the actions, negligence, or omission, in whole or in part, of the Borrower, its officers, agents, employees, or assignees in the fulfillment of this Agreement. The Borrower shall pay all claims and losses of any nature in connection therewith, and shall defend all suits, in the name of the City when applicable, and shall pay all costs and judgments which may issue thereon.

ARTICLE X **TERMINATION**

The Borrower acknowledges that this Agreement may be terminated if the Borrower materially fails to comply with the terms contained herein.

10.1 Termination Because of Lack of Funds.

In the event the City does not receive from its funding source funds to finance this Agreement, or in the event that the City's funding source de-obligates the funds allocated

to finance this Agreement, the City may terminate this Agreement upon not less than twenty-four (24) hours prior notice in writing to the Borrower. Said notice shall be delivered by certified mail, return receipt requested, or by in person delivery with proof of delivery. The City shall determine, in its sole and absolute discretion, whether or not funds are available.

10.2 Termination for Breach.

The City may terminate this Agreement, in whole or in part, in the event the City determines, in its sole and absolute discretion, that the Borrower is not making sufficient progress with regard to the Development (thereby endangering its ultimate performance under this Agreement) or is not materially complying with any term or provision of this Agreement resulting in an Event of Default, which remains uncured beyond any applicable cure period.

The City may terminate this Agreement, in whole or in part, in the event that the City determines, in its sole and absolute discretion, that there exists an event of default under and pursuant to the terms of any other agreement or obligation of any kind or nature whatsoever of the Borrower to the City, direct or contingent, whether now or hereafter due, existing, created or arising, which event of default has continued beyond any applicable cure period.

The City may terminate this Agreement, in whole or in part, in the event that the City determines, in its sole and absolute discretion, that there exists an event of default under and pursuant to the terms of any other agreement or obligation of any other Borrower, or of any individual or entity executing this Agreement, to the City, direct or contingent, whether now or hereafter due, existing, created or arising, which event of default has continued beyond any applicable cure period.

- 10.3** Upon the occurrence of an Event of Default and the expiration of any cure period (in those circumstances for which a cure period is otherwise provided in this Agreement), and unless the Borrower's breach is waived by the City in writing, the City may, by written notice to the Borrower, terminate this Agreement upon not less than twenty-four (24) hours prior written notice. Said notice shall be delivered by certified mail, return receipt requested, or by in person delivery with proof of delivery. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement. The provisions hereof are

not intended to be, and shall not be, construed to limit the City's right to legal or equitable remedies.

ARTICLE XI
SUSPENSION

11.1 The City may, for reasonable cause, suspend the Borrower's authority to obligate funds under this Agreement or withhold payments to the Borrower, or both, pending necessary corrective action by the Borrower. Reasonable cause shall be determined by the City in its sole and absolute discretion and may include:

- (a) Ineffective or improper use of the HOME Funds by the Borrower;
- (b) Failure of the Borrower to materially comply with any term or provision of this Agreement;
- (c) Failure of the Borrower to submit any documents required by this Agreement; or
- (d) The Borrower's submittal of incorrect or incomplete documents.

11.2 The determinations and actions described in paragraph 11.1 above may be applied to all or any part of the activities funded pursuant to this Agreement.

11.3 The City will notify the Borrower in writing of the type of action taken pursuant to this Article, by certified mail, return receipt requested, or by in person delivery with proof of delivery. The notification will include the reason(s) for such action, any conditions relating to the action, and the necessary corrective action(s).

ARTICLE XII
MISCELLANEOUS

12.1 Enforcement Methods.

As a means of enforcing compliance with the HOME Program, the City may utilize any enforcement measures it deems necessary.

12.2 Renegotiation or Modification.

Modification of provisions of this Agreement shall be valid only when in writing and signed by the parties hereto. The parties agree to modify this Agreement if the City determines, in its sole and absolute discretion, that federal, state, and/or local governmental revisions of any applicable laws or regulations, or increases or decreases in budget allocations, make changes to this Agreement necessary. The City shall be the final authority in determining whether or not funds for this Agreement are available due to federal, state and/or local governmental revisions of any applicable laws or regulations, or increases or decreases in budget allocations.

12.3 Right to Waive.

The City may, for good and sufficient cause, as determined by the City in its sole and absolute discretion, waive provisions of this Agreement or seek to obtain such waiver from an appropriate authority. Waiver requests from the Borrower shall be in writing. A waiver shall not be construed to be a modification of this Agreement.

12.4 Budget and HOME Eligibility Activity Title Revisions.

Proposed revisions to the Budget shall be submitted to the City in writing, and shall require the prior written approval of the City; however, such revisions, if approved, shall not necessitate an amendment hereto unless the amount of the Loan to be granted hereunder is changed, or unless otherwise required by the City.

A revision to the HOME eligibility activity titles under which this Agreement's objectives are classified shall not require an amendment hereto.

12.5 Disputes.

In the event an unresolved dispute exists between the Borrower and the City, the City shall refer the issue, including the views of all interested parties and the recommendation of the City, to the City Manager, his designee, or such other official of the City who shall be authorized to exercise the authority of the City Manager in this regard ("City Manager")

for determination. The City Manager will issue a determination within thirty (30) calendar days of receipt of a written request for resolution of the dispute and so advise the City and the Borrower. In the event additional time is necessary, the City Manager will notify the interested parties within the thirty (30) day period that additional time is necessary. If the Borrower does not accept the City Manager's determination, the parties may resort to the court for litigation of the matter.

12.6 Headings.

The article and paragraph headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

12.7 Proceedings.

The Agreement shall be construed in accordance with the laws of the State of North Carolina and any legal or litigation proceedings arising between the parties in any manner pertaining or relating to this Agreement shall, to the extent permitted by law, be held in Pitt County, North Carolina.

12.8 Notices and Contact.

All notices under this Agreement shall be in writing and addressed as follows:

TO THE CITY:	City of Greenville P.O. Box 7207 Greenville, NC 27835-7207
TO THE BORROWER:	Arlington Trace, LLC c/o Taft Family Offices 2217 Stantonsburg Road Greenville, NC 27835

Except as otherwise provided in this Agreement, notice shall be deemed given upon hand delivery or five (5) business days after depositing the same with the U.S. Postal Service.

The address or designated representative of the parties may be changed by notice given in accordance with this section.

12.9 Conflicts with Applicable Laws.

If any provision of this Agreement conflicts with any applicable law or regulation, only the conflicting provision shall be deemed by the parties hereto to be modified, or to be deleted if modification is inappropriate, to cause the provision to be consistent with the law or regulation. However, the obligations under this Agreement, as modified, shall continue and all other provisions of this Agreement shall remain in full force and effect.

12.10 Entire Agreement.

This Agreement and its Exhibits described as follows contain all the terms and conditions of the Agreement between the parties:

Attachment 1	Legal Description
Attachment 2	Scope of Work /Project Schedule
Attachment 3	Budget
Attachment 4	Form of Disbursement Agreement
Attachment 5	Affirmative Marketing Procedures and Responsibilities
Attachment 6	Form of Declaration of Restrictive Covenants
Attachment 7	Form of Rent Regulatory Agreement
Attachment 8	Signage Requirements
Attachment 9	Additional Insurance Requirements

12.11 Waiver of Jury Trial.

Intentionally deleted.

12.12 Acknowledgement.

Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the HUD as well as its determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review.

[Signature Pages to Follow]

AUTHORIZATION

IN WITNESS WHEREOF, the authorized representatives hereto have caused their names to be affixed on the day and year first above written and for the purposes herein expressed.

CITY OF GREENVILLE, NORTH CAROLINA

BY: _____
[Anne E. Wall], City Manager Date

BY: _____
[Thomas Barnett], Community Development Date

ATTESTED: _____
[Valerie Shiuwegar], City Clerk Date

**NORTH CAROLINA
PITT COUNTY**

I, _____, a Notary Public for said County and State, certify that [Valerie Shiuwegar] personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, North Carolina, a North Carolina municipal corporation, and that by authority duly given and as the act of said municipal corporation, the foregoing instrument was signed in its name by its City Manager, [Anne E. Wall], sealed with the corporate seal, and attested by herself as its City Clerk.

WITNESS my hand and official seal, this the _____ day of 2022.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

[SEAL-STAMP]

ARLINGTON TRACE, LLC,
a North Carolina limited liability
company

By: Arlington Trace MM, LLC,
a North Carolina limited liability company,
its Managing Member

By: _____ [SEAL]

Name: []

Title: []

STATE OF

COUNTY OF _____

I, [], a Notary Public of the County and State aforesaid, certify that [], either being personally known to me or proven by satisfactory evidence, personally came before me this day and acknowledged that he is the [] of Arlington Trace MM, LLC, a North Carolina limited liability company, which is the Managing Member of Arlington Trace, LLC, a North Carolina limited liability company, and that he being authorized to do so, voluntarily executed the foregoing on behalf of said companies for the purposes stated therein.

WITNESS my hand and official stamp or seal, this day of _____, 2022.

My Commission Expires: _____

Notary Public

[NOTORIAL SEAL]

Attachment 1

Legal Description of the Property

[to be attached]

Attachment 2

Scope of Work and Project Schedule

[to be attached]

Attachment 3

Budget

[to be attached]

Attachment 4

Disbursement Agreement

The HOME Funds shall be disbursed as a reimbursement, When the Borrower provides the City with documentation of payment for services rendered, the City will then begin the reimbursement process. Only those payments for services which are eligible under the HOME Rule will be reimbursed.

Notwithstanding any provision herein or in any of the Loan Documents to the contrary, the HOME Funds shall not be available for disbursement hereunder until all required HUD approvals have been obtained for the Development. This Agreement and the City's obligations hereunder and under any and all of the Loan Documents, including, but not limited to the City's obligation to disburse HOME Funds hereunder, shall automatically terminate in the event that within six (6) months of the Effective Date hereof such HUD Release of Grant Conditions has not been obtained for the Development.

Attachment 5

Affirmative Marketing Procedures

[to be attached]

Attachment 6

Form of Declaration of Restrictive Covenant

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants (the "Covenant") made as of this ____ day July 2020, by Arlington Trace, LLC, a North Carolina limited liability company (hereinafter referred to as the "Borrower") in favor of the City of Greenville, North Carolina, a municipal corporation of the State of North Carolina (hereinafter referred to as the "Lender").

RECITALS

WHEREAS, Borrower is the owner of the Property legally described as part of the Declaration of Restrictive Covenant;

WHEREAS, the Lender has made a loan to Borrower in the amount of \$1,000,000.00 (the "Loan") for eligible Project (defined below) costs for the Arlington Trace, a one hundred eighty (180) unit project, [] apartments of which are rent-restricted, that will provide housing for Low-Income households (the "Project"); and

WHEREAS, in accordance with the requirements set forth in (i) that certain HOME Investment Partnerships Program ("HOME") Loan Agreement of even date herewith between the Lender and Borrower, the HOME-Assisted residential Project units must remain affordable for Low-Income households for a prescribed period of time;

WHEREAS, in consideration of the Loan, Borrower, has agreed to make a binding commitment to assure that the Property is maintained and operated in accordance with the provisions of this Covenant; and

NOW THEREFORE, Borrower voluntarily covenants and agrees that the Property shall be subject to the following restrictions that are intended and shall be deemed to be covenants running with the land and binding upon Borrower, and its successors and assigns as follows:

Section 1. Recitals. The recitals and findings set forth in the preamble of this Covenant are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

Section 2. Use of Property: All of the residential units in the Project shall remain affordable to Low Income households for twenty (20) years from the date of Project construction completion (the "Affordability Period"). "Low-Income" shall mean a household whose annual income does not exceed 80 percent of the median income for the area, as determined by United States Department of Housing and Urban Development ("HUD"), with adjustments and certain exceptions as provided in 24 CFR Part 92.

Notwithstanding the foregoing, [] Project units shall be set aside for occupancy by Low Income families and individuals whose incomes do not exceed sixty percent (60%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families and with certain exceptions as provided in 24 CPR Part 92.

Section 3. Requirements During the Affordability Period: Borrower shall comply with the following requirements throughout the Affordability Period:

- A. Rent [] units to Low Income families and individuals in accordance with the requirements of this Covenant and the Rent Regulatory Agreement between Borrower and the Lender, a copy of which is attached as Attachment "B."
- B. Comply with all applicable HOME requirements relating to the operation of the Project.
- C. Ensure that upon completion of the Project and throughout the Affordability Period, the housing meets the property standards contained in 24 CPR §92.251 and the lead based paint requirements of 24 CPR Part 35, subparts A, B, J, K, M and R.
- D. Comply with all Project housing quality standards imposed by the Lender.
- E. Facilitate the Lender's monitoring of Project rents and tenant incomes.

Section 4. Term of Covenant: This Covenant shall remain in full force and effect and shall be binding upon Borrower, its successors and assigns for twenty (20) years from the date of Project construction completion.

Section 5. Prohibited Conveyances. Except as permitted in this Agreement, Borrower covenants and agrees not to encumber or convey any interest in the Project and/or the Property without prior written consent of the Lender, as required by the Agreement. For the purposes of this Covenant, any change in the ownership or control of Borrower shall be deemed a conveyance of an interest in the Project. Notwithstanding the foregoing, any limited or investor partner shall be permitted to (a) remove any general partner for cause, without Lender's consent, and (b) transfer its limited partnership interests in Borrower, without Lender's consent.

Section 6. Repayment Upon Default. Borrower covenants and agrees that in the event of (i) a conveyance of any interest in the Project and/or the Property without Lender's prior written consent, or except as set forth above, (ii) that Borrower ceases to exist as an organization, Borrower shall immediately make payment to the Lender in an amount equal to the outstanding principal balance of

the Loan, with interest thereon as provided in the Notes, all Program Income (as defined in 24 CFR Part 92) derived from or in connection with the Property and/or the Loan, and all unpaid fees, charges and other obligations of Borrower due under any of the Loan Documents.

Section 7. Inspection and Enforcement: It is understood and agreed that any official inspector of the City shall have the right any time during normal working hours to enter and investigate the use of the Project to determine whether the conditions of this Covenant are being complied with, subject to the rights of all tenants under the respective leases.

Section 8. Amendment and Modification: This Covenant may be modified or amended as to any portion of the Project by a written instrument executed by Lender and by Borrower. Should this instrument be modified, amended or released, the Lender shall execute a written instrument in recordable form to be recorded in the Public Records of Pitt County, North Carolina, effectuating and acknowledging such modification, amendment, or release.

Section 9. Severability: Invalidation of one of the provisions of this Covenant by judgment of Court shall not affect any of the other provisions of the Covenant, which shall remain in full force and effect.

Section 10. Recordation: This Covenant shall be filed of record among the Public Records of Pitt County, North Carolina, at the sole cost and expense of Borrower.

Section 11. Covenant Runs With Land Term: This Covenant is a covenant running with the land. After the expiration of the Affordability Period, this Covenant shall lapse and be of no further force and effect.

Section 12. Definitions: All capitalized terms not defined herein shall have the meanings provided in the Agreement.

[Signature Pages to Follow]

IN WITNESS WHEREOF, the Borrower has caused this Declaration of Restrictive Covenants to be executed by its duly authorized officer(s) on the day and year first above- written.

ARLINGTON TRACE, LLC,
a North Carolina limited liability company

By: Arlington Trace MM, LLC,
a North Carolina limited liability company,
its Managing Member

By: _____[SEAL]

Name: []

Title: []

STATE OF

COUNTY OF _____

I, [], a Notary Public of the County and State aforesaid, certify that [], either being personally known to me or proven by satisfactory evidence, personally came before me this day and acknowledged that he is the [] of Arlington Trace MM, LLC, a North Carolina limited liability company, which is the Managing Member of Arlington Trace, LLC, a North Carolina limited liability company, and that he being authorized to do so, voluntarily executed the foregoing on behalf of said companies for the purposes stated therein.

WITNESS my hand and official stamp or seal, this day of _____, 2022.

My Commission Expires: _____

Notary Public

[NOTORIAL SEAL]

Attachment 7

Rent Regulatory Agreement

City of Greenville
Rent Regulatory Agreement

Date: July 2020

Owner: Arlington Trace, LLC_____

Subject Property Address: Arlington Trace. 2721 U.S. Highway 13, Greenville, North Carolina.

In consideration for HOME funding for construction of the subject rental property, Owner hereby agrees to the following terms and conditions:

- 1) Rental unit(s) will be occupied by households who, at the time of unit occupancy, have incomes at or below 60% of the median income for the City of Greenville as adjusted for family size.
- 2) Compliance information will be provided to the City of Greenville Community Development Department Housing Division annually (no later than March 31st of each year) on each unit assisted under this program certifying (1) the rent charged, including utilities, and (2) the income of the household at the time of their initial occupancy. Owner agrees to maintain adequate documentation (copies of tax returns, third party verifications of income, IRS W2 Forms, etc.) of each household's income at the time of their occupancy.
- 3) Unit rent, including utilities, will not exceed rent levels specified in the FY 2022 Fair Market Rents, attached hereto. Maximum rent levels may be adjusted by the HOME Program annually to reflect changes in the Greenville median income. In calculating maximum rents including utilities, utilities shall include electric, heat, water, sewer, garbage and shall be based on Section 8 Utility Allowances applicable to Greenville.
- 4) All units must be maintained to meet Local Housing Standards.
- 5) Failure to comply with the terms and conditions of this agreement may, at the City's option, cause the loan amount to become immediately due and payable.

[signature pages to follow]

IN WITNESS WHEREOF, the Owner has caused this Rent Regulatory Agreement to be executed by its duly authorized officer(s) on the day and year first above- written.

ARLINGTON TRACE, LLC,
a North Carolina limited liability company

By: Arlington Trace MM, LLC,
a North Carolina limited liability company,
its Managing Member

By: _____[SEAL]

Name: []

Title: []

STATE OF

COUNTY OF _____

I, [], a Notary Public of the County and State aforesaid, certify that [], either being personally known to me or proven by satisfactory evidence, personally came before me this day and acknowledged that he is the [] of Arlington Trace MM, LLC, a North Carolina limited liability company, which is the Managing Member of Arlington Trace, LLC, a North Carolina limited liability company, and that he being authorized to do so, voluntarily executed the foregoing on behalf of said companies for the purposes stated therein.

WITNESS my hand and official stamp or seal, this day of _____, 2022.

My Commission Expires: _____

Notary Public

[NOTORIAL SEAL]

CITY OF GREENVILLE

RENT REGULATORY AGREEMENT UNIT AFFORDABILITY .

SEE Attached FY 2022 Pitt County FMRs for all Bedroom Sizes and Attached City of Greenville Income Limits 2022

Definition of Household Income: Household income is based on the following guidelines:

- 1) Gross family income includes income received by all household members, aged 18 years and older, which is taxable under the IRS guidelines.
- 2) The following sources of income, and any other taxable income as defined by the Internal Revenue Code, must be considered in determining gross family income.
 - a. All income in the form of wages, salary, bonuses, and tips.
 - b. The full amount received from social security, pensions, and annuities.
 - c. Payments in lieu of earnings, such as unemployment compensation, other social security benefits, and dismissal wages.
 - d. Benefits in lieu of earnings other than lump sum payments under health and accident insurance. e.g. Alimony, child support and the like.
 - e. Subsistence allowance or receipts in connection with education / training.
 - f. Income from earning assets.

City of Greenville, North Carolina

Rent Regulatory Agreement Compliance Information

Date: _____

Unit Number:

Unit Address:

Occupant:

Number in Household:

Gross Annual Household Income:

Rent Paid by Tenant: \$ _____ / Month

Tenant Pays Utilities

Landlord Pays Utilities

Heat

Electric

Water/Sewer

Garbage

I certify the above information to be true.

Signature

Date

City of Greenville/Pitt County
Home Income Limits 2022

(to be attached)

2022 Fair Market Rent Pitt County

(to be attached)

Attachment 8

Signage Requirements

Attachment 9

Insurance Requirements

Insurance Policies.

- a) Commercial General Liability with limits of at Least \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate, protecting the City and the Project Sponsor, if applicable, against bodily injury and property damage liability including coverage for completed operations, personal and advertisement injury, explosion, collapse and underground hazard and, independent contractors coverage.
- b) If the Borrower has employees, workers' compensation insurance as required by the laws of the State of North Carolina.

All such insurance shall require that the City be named as an additional insured. The Borrower shall be required to obtain and furnish evidence of any other insurance coverage the City may require during the term of the Loan Agreement. Such policies shall provide the City with mandatory written notice of cancellation or material change from the insurer not less than thirty (30) days prior to any such cancellation or material change, and all such policies shall be written by insurance companies satisfactory to the City.

Failure of the Borrower to submit all required evidence of the specified insurance coverage, fourteen (14) calendar days prior the Borrower request for the disbursement of funds hereunder shall delay or prevent the disbursement of the HOME Funds.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Pitt County Arts Council at Emerge Fiscal Year 2022-23 Contract for Services

Explanation: One of City Council's adopted strategic goals is to Build a Thriving and Attractive Community by Creating Vibrant Neighborhoods and Expanding Artistic, Cultural and Recreational Opportunities. The City's partnership with the Pitt County Arts Council at Emerge serves as a strategic priority used to move this Council goal forward. The FY 2022-23 Contract for Services between the City and the Arts Council includes a work plan centered around tasks that work toward achieving this goal. The following are the priorities included in the work plan for FY 2022-23:

- Arts Administration and Civic Arts Facilitation
- Public Art Program
- Arts District Coordination
- SmART City Program: The Emerald Loop

The following is a summary of the key components for each of the priorities identified:

Arts Administration and Civic Arts Facilitation

- Continue as the Civic Arts Facilitator for the CITY, serving as an advisor, liaison, and administrator for public art. This includes administering the Civic Arts Committee and the Greenville Mural Group. For specific nonscheduled projects that the CITY requests, there will be an additional 10% facilitator fee based on the estimated cost of the public art.
- Manage the Greenway Sculpture Program, integrating the DownEast Sculpture Exhibition placements with donated and/or loaned sculptures along the Greenway. The ARTS COUNCIL will monitor the public art, communicate with artists, and continue to plan expansions when realistic.
- Manage the call for artists for the rotating art for the CITY as part of the DownEast sculpture exhibition, and provide administrative oversight of call for artists, jurying, logistics, and honorarium.
- Co-Coordinate PirateFest, the CITY'S signature festival, overseeing the vendors, logistics and mapping, utilities, volunteers, and Co-Coordinate the Youth Arts Festival on the Town Common, overseeing sponsorships, artists, vendors, logistics and mapping, volunteers and marketing and communication.
- Oversee The Art Lab, an Arts Incubator, serving as a gallery and

temporary studio space for 5-6 local artists who are simultaneously learning business skills.

- Serve as a representative on the African American Cultural Trail Committee

Public Art Program

- Coordinate the rental of sculptures as part of the DownEast Sculpture Exhibition.
- Locate a new piece of public art in the Uptown area each year, or prepare for a public art project if the funding is combined to the next year.
- Provide administration of the Public Art conservation and maintenance fund.

Arts District Coordination

- Work in partnership with Uptown Greenville, the Greenville-Pitt County Convention and Visitors Bureau, and the City of Greenville to oversee the Arts District Committee and the Art Lab.

SmART City Program: The Emerald Loop

- Coordinate the SmART City project, specifically the Emerald Loop, overseeing all planning, implementation, budgeting, and fundraising. The Emerald Loop is a 5-year project, with FY 2022-23 being Year 3.
- Oversee the North Carolina Arts Council's "SmART Communities" Grant, the National Endowment for the Arts "Our Town Grant, and additional grant funds from local stakeholders for the Emerald Loop project. The Arts Council's grant fund budget for FY 2022-23 is \$200,000.
- Collaborate with the African American Cultural Trail of Greenville-Pitt County to coordinate efforts to help connect the Emerald Loop and the African American Cultural Trail and reinforce the marketing, visibility, and many of the stops on the Trail.
- Coordinate the planning and implementation of the Emerald Loop Public Art Projects

The contract for FY 2022-23 provides for a list of deliverable projects based on the priorities listed above. The following is a summary of the projects as included in the contract:

- DownEast Sculpture Exhibition implementation and rotation
- Greenway Public Art implementation and rotation
- African American Cultural Trail Mural on Albemarle Avenue Side of Overpass
- Possible Relocation of Venue for the Black Creatives of Pitt County
- Continued planning for West Fifth Street/Elizabeth Street/Albemarle Avenue Roundabout Black Creatives ArtWork and Lighting Project
- Emerald Loop Sheltered Bench on Town Common
- Implementation for art retrofitting of Emerald Express
- Design of Emerald Express Trolley Stops and 2 other Sheltered Benches

- Oversee the Emerald Loop Lighting Plan, serving as the liaison between the lighting designer and public and private entities to help coordinate a district wide lighting plan.
- Plan additional public art on the Emerald Loop Route will be presented to City Council.

Fiscal Note:

The cost of the contract is \$91,000 for Fiscal Year 2022-23, which does not represent a change from the Fiscal Year 2021-22 contract. The cost of the contract is included in the Fiscal Year 2022-23 Budget.

Recommendation:

Approve the Fiscal Year 2022-23 Contract for Services and authorize the City Manager to execute the Contract with the Pitt County Arts Council at Emerge

ATTACHMENTS

 [116598-FY_2022-23_Contract_with_Pitt_County_Arts_Council.pdf](#)

NORTH CAROLINA
PITT COUNTY

CONTRACT FOR SERVICES

This CONTRACT is made the ____ day of June, 2022, by and between the City of Greenville, a North Carolina municipal corporation (the CITY), and the Pitt County Arts Council at Emerge, a North Carolina nonprofit corporation (ARTS COUNCIL);

WITNESSETH

1. Consideration.

The consideration of this CONTRACT are the services to be performed by the ARTS COUNCIL for the CITY for the 2022-23 fiscal year, and the sum of \$91,000 paid by the CITY to the ARTS COUNCIL, broken down as follows:

\$25,000:	Administrative and Civic Art Facilitator Services
\$21,000:	Public Art Program
\$40,000:	SmART City Grant Match for Emerald Loop
\$5,000:	The Art Lab and Artist in Residence
\$91,000:	TOTAL

2. General Work to be Performed

The ARTS COUNCIL will use its best efforts to publicize the economic, educational, social, and cultural benefits of the ARTS COUNCIL, assist in promoting the arts to businesses and residents as an economic driver, and provide information on an ARTS COUNCIL district plan to key stakeholder groups for community acceptance and buy-in to create a parent organization for the arts. The ARTS COUNCIL will collaborate with the CITY's planning efforts to improve the quality of life in Greenville.

3. Specific Work to be Performed

The ARTS COUNCIL will perform the following specific services:

a) **Arts Administration and Civic Art Facilitation:** The ARTS COUNCIL will continue to serve the CITY by administering the following arts services as the Civic Art Facilitator and Countywide Arts Council (\$25,000):

- 1) Develop, promote and support the arts in the City.
- 2) Serve as the voice for artists and arts organizations to better engage, support, and grow our arts within the community.
- 3) Partner and plan with stakeholders and the CITY to ensure that the arts are a part of future development, streetscapes, and plans within the community.

- 4) Continue as the Civic Arts Facilitator for the CITY, serving as an advisor, liaison, and administrator for public art. This includes administering the Civic Arts Committee and the Greenville Mural Group. For specific non-scheduled projects that the CITY requests, there will be an additional 10% facilitator fee based on the estimated cost of the public art component.
- 5) Seek additional funding for public art and arts programming throughout Greenville.
- 6) Manage the call for artists for the rotating art for the CITY as part of the DownEast sculpture exhibition, and provide administrative oversight of call for artists, jurying, logistics, honorarium and installation.
- 7) Manage the Greenway Sculpture Program, integrating the DownEast Sculpture Exhibition placements with donated and/or loaned sculptures along the Greenway. The ARTS COUNCIL will monitor the public art, communicate with artists, and continue to plan expansions when realistic.
- 8) Co-Coordinate PirateFest, the CITY'S signature festival, overseeing the vendors, logistics and mapping, utilities, volunteers, and communication.
- 9) Co-Coordinate the Youth Arts Festival on the Town Common, overseeing sponsorships, artists, vendors, logistics and mapping, volunteers and marketing and communication.
- 10) Oversee Arts District planning for the Emerald Arts District, including collaborating with the First Friday ArtWalk, district-wide programming, and The Art Lab as part of A Time for Science.
- 11) Serve as the fiscal agent and umbrella organization for the Black Creatives of Pitt County.
- 12) Serve as a representative on the African American Cultural Trail Committee.

Deliverables:

- An annual work plan will be presented to the City Council for scheduled public art projects on public property as included in Appendix A.
- ARTS COUNCIL shall submit a final sketch of each public art project ("project") on public property to the City Manager, and the City Manager will forward the project to the City Council for final review and approval. The City Council reserves the right to reject the project. Project here means the final sketch of the public art project.

- An annual report will be presented to the City Administration showing the success of the items listed above.

b) **Public Art Program:** The ARTS COUNCIL will oversee the Public Art Program for the CITY (\$21,000):

- 1) \$9,000 for the “rental” of five to six sculptures located at Reade/Cotanche, City Hall, another location in the Uptown area, and on several locations along the Greenway
- 2) \$10,000 toward a public art piece in the Uptown area (i.e. mural or sculpture) or toward the Public Art Fund for a larger project another year.
- 3) \$2,000 toward the Public Art conservation and maintenance fund administered by the ARTS COUNCIL.

Deliverables:

- Coordination of the rental of sculptures as part of the DownEast Sculpture Exhibition.
- A new piece of public art in the Uptown area each year, or preparation for a public art project if the funding is combined to the next year.
- Administration of the Public Art conservation and maintenance fund.
- ARTS COUNCIL shall submit a final sketch of each public art project (“project”) on public property to the City Manager, and the City Manager will forward the project to the City Council for final review and approval. The City Council reserves the right to reject the project. Project here means the final sketch of the public art project.

c) **Arts District Coordination:** The ARTS COUNCIL, working in partnership with Uptown Greenville, the Greenville-Pitt County Convention and Visitors Bureau and the City of Greenville, will oversee the Arts District Committee and the Art Lab (\$5,000):

- 1) Artist in Residence at The Art Lab:
 - Work with N.C. Museum of Natural Science to have an arts incubator.
- 2) Arts District Planning and Implementation
 - The Arts District Planning will continue; however, the launch of the Emerald Arts District will coincide with the release of the Emerald Loop and Emerald Express or other vehicle.

Deliverables:

- An annual report will be submitted to City Administration.

d) **SmART City Program: The Emerald Loop:** The ARTS COUNCIL will oversee and administer the Emerald Loop project in coordination with the CITY. The Emerald Loop is a multimodal urban arts trail that will connect Greenville’s cultural gems including artistic and cultural assets, diverse communities, and bring economic development to the Center City spurring tourism for visitors and quality of life for residents (\$40,000):

- 1) Coordinate the SmART City project, specifically the Emerald Loop, overseeing all planning, implementation, budgeting, and fundraising. The Emerald Loop is a 5-year project, with FY 2022-23 being Year 3.
- 2) Oversee the North Carolina Arts Council’s “SmART Communities” Grant, the National Endowment for the Arts “Our Town” Grant, and additional grant funds from local stakeholders for the Emerald Loop project. The Arts Council’s grant fund budget for FY 2022-23 is \$200,000.
- 3) Collaborate with the African American Cultural Trail of Greenville-Pitt County to coordinate efforts to help connect the Emerald Loop and the African American Cultural Trail and reinforce the marketing, visibility, and many of the stops on the Trail.
- 4) Coordinate the planning and implementation of the Emerald Loop Public Art Projects as included in Appendix B.

Deliverables:

- An annual report will be submitted to City Administration.
- ARTS COUNCIL shall submit a final sketch of each public art project (“project”) on public property to the City Manager, and the City Manager will forward the project to the City Council for final review and approval. The City Council reserves the right to reject the project. Project here means the final sketch of the public art project.

4. Schedule of Payments

Payment will be made by the CITY to the ARTS COUNCIL on a quarterly basis with the first payment to be made within 30 days of the effective date of this contract for services.

5. Reports

The ARTS COUNCIL shall provide a written report to the City Council of the significant achievements of the ARTS COUNCIL with regard to the work performed under Sections 2 and 3 of this CONTRACT. The report shall include a financial statement for the previous fiscal year.

6. Duration, Termination, and Amendment

The CONTRACT shall commence on July 1, 2022, and terminate on June 30, 2023. The CONTRACT may be amended with the consent of both parties when such an amendment is made in writing and signed by an authorized officer of each party.

7. Iran Divestment Act Certification

The ARTS COUNCIL hereby certifies that it is not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. § 147- 86.58. The ARTS COUNCIL shall not utilize in the performance of the CONTRACT any subcontractor that is identified on the Iran Final Divestment List.

8. E-Verify Compliance

The ARTS COUNCIL shall comply with the requirements of Chapter 64, Article 2 of the North Carolina General Statutes. Further, if the ARTS COUNCIL utilizes a subcontractor, the ARTS COUNCIL shall require the subcontractor to comply with the requirements of Chapter 64, Article 2 of the North Carolina General Statutes. The ARTS COUNCIL represents that it and its subcontractors are in compliance with the requirements of Chapter 64, Article 2 of the North Carolina General Statutes.

IN WITNESS WHEREOF, the parties hereto have executed this contract, in duplicate originals, this the day and year first written above.

PITT COUNTY ARTS COUNCIL

Authorized Representative

ATTEST:

Secretary

CITY OF GREENVILLE

Ann E. Wall, City Manager

ATTEST:

Valerie Shiuwegar, City Clerk

APPROVED AS TO FORM:

BY: _____
Emanuel D. McGirt, City Attorney

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: 010-01-10-10-000-000-521500

CONTRACT FOR SERVICES

APPENDIX A

The following is the Civic Arts Work Plan art projects in the City of Greenville public spaces for Fiscal Year 2022-23:

1. DownEast Sculpture Exhibition
2. Greenway Public Art
3. African American Cultural Trail Mural on Albemarle Avenue Side of Overpass
4. Possible Relocation of Venue for the Black Creatives of Pitt County
5. Emerald Loop Public Art Projects (See Appendix B)

Request to add additional projects to the Civic Arts Work Plan during the contract period shall be approved by Council in a City Council meeting following a presentation of the public art in the workshop presented the month before.

CONTRACT FOR SERVICES

APPENDIX B

The following is the Emerald Loop Work Plan art projects in the City of Greenville public spaces for Fiscal Year 2022-2023:

1. Continued planning for West Fifth Street/Elizabeth Street/Albemarle Avenue Roundabout Black Creatives ArtWork and Lighting Project
2. Emerald Loop Sheltered Bench on Town Common
3. Implementation for art retrofitting of Emerald Express
4. Design of Emerald Express Trolley Stops and 2 other Sheltered Benches
5. Overseeing the Emerald Loop Lighting Plan, serving as the liaison between the lighting designer and public and private entities to help coordinate a district wide lighting plan.
6. Planning for additional public art on the Emerald Loop Route will be presented to City Council.

Request to add additional projects to the Emerald Loop Implementation Plan during the contract period shall be approved by Council in a City Council meeting following a presentation of the public art in the workshop presented the month before.



City of Greenville, North Carolina

Meeting Date: 06/09/2022

Title of Item: Budget Ordinance Amendment #11 to the 2021-22 City of Greenville Budget (Ordinance #21-035), the Engineering Capital Projects Fund (Ordinance #20-019), the Capital Projects Funds (Ordinance #17-024), the Special Revenue Grants Fund (Ordinance #11-003), and the Occupancy Tax Fund (Ordinance #11-003)

Explanation: Attached for consideration at the June 9, 2022 City Council meeting is an ordinance amending the 2021-22 City of Greenville Budget (Ordinance #21-035), the Engineering Capital Projects Fund (Ordinance #20-019), the Capital Projects Funds (Ordinance #17-024), the Special Revenue Grants Fund (Ordinance #11-003), and the Occupancy Tax Fund (Ordinance #11-003).

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	To recognize grant funding received for the Police Department Support Team Assisted Response (STAR) Program	Special Revenue	\$330,000
B	To recognize money received as a donation for the Wildwood Mountain Bike Trails	Rec & Parks Capital	\$507,500
C	To recognize grant revenue received for additional ADA transit service provided in the current fiscal year	General Fund Transit Fund	-
D	Move funding budgeted for the Employee Parking lot to the correct project fund	Public Works Capital Engineering Capital	-

E	To increase the Fleet Maintenance Fund to account for increased fuel expenses for City vehicles	Fleet Maintenance	\$350,000
F	To reallocate bond proceeds from the 2021 Limited Obligation Bond issuance to properly reflect final construction costs of each project	Fire/Rescue Capital Rec & Parks Capital	-
G	To recognize revenue received from the One NC Fund as pass-thru grant funding for World Cat	Special Revenue Grant	\$180,000
H	To reallocate a portion of the Sanitation Fund VRF payment for leased sideloader payments within the fund	Vehicle Replacement	-
I	To reallocate additional funds needed from the General Fund Rec & Parks department to the Rec & Parks Capital Projects for the Comprehensive Master Plan project	General Fund Rec & Parks Capital	\$22,000
J	To adjust FY 2021-22 General Fund revenues to projected actual and record projected year-end appropriations	General Fund	-
K	To reallocate excess funds from Public Works Capital Projects fund to the General Fund to cover parking lot paving	Public Works Capital General Fund	-

L	To recognize additional Occupancy Tax received in the current fiscal year	Occupancy Tax	226,538
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Fiscal Note:

The Budget Ordinance Amendment affects the following funds:

<u>Fund</u>	<u>2021-22 Original Budget</u>	<u>Amendment #11</u>	<u>2021-22 Budget per Amendment #11</u>
General	\$95,002,736	\$22,037	\$095,024,773
Debt Service	7,012,030	-	7,012,030
Public Transportation (Transit)	3,490,375	-	3,490,375
Fleet Maintenance	5,388,888	350,000	5,738,888
Sanitation	8,200,307	-	8,200,307
Stormwater	9,564,890	-	9,564,890
Housing	1,973,978	-	1,973,978
Health Insurance	14,258,648	-	14,258,648
Vehicle Replacement	7,258,784	-	7,258,784
Facilities Improvement	1,950,546	-	1,950,546
Recreation & Parks Capital Projects	14,421,884	363,672	14,785,556
Public Works Capital Projects	58,276,644	<614,253>	57,662,391
ARPA Fund	24,689,311	-	24,689,311
Engineering Capital Projects	27,108,960	614,253	27,723,213
Occupancy Tax	3,454,590	226,538	3,681,128
Special Revenue Grants	11,919,379	510,000	12,429,379
Donations	432,687	-	432,687
Community Development Capital Projects	19,254,227	-	19,254,227
Fire/Rescue Capital Projects	7,398,700	95,828	7,494,528

Recommendation:

Approve Budget Ordinance Amendment #11 to the 2021-2022 City of Greenville Budget (Ordinance #21-035), the Engineering Capital Projects Fund (Ordinance #20-019), the Capital Projects Funds (Ordinance #17-024), the Special Revenue Grants Fund (Ordinance #11-003), and the Occupancy Tax Fund (Ordinance #11-003).

ATTACHMENTS

 [BA__11 Final.xlsx](#)

ORDINANCE NO. 22-
CITY OF GREENVILLE, NORTH CAROLINA
Ordinance (#11) Amending the 2021-22 Budget (Ordinance #21-035), the Engineering Capital Projects Fund (Ordinance #20-019),
the Capital Projects Funds (Ordinance #17-024), the Special Revenue Grants Fund (Ordinance #11-003), and the Occupancy Tax Fund (Ordinance #11-003)

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

Section I: Estimated Revenues and Appropriations. General Fund, of Ordinance #21-035 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	Budget Amendment #11							2021-22 Budget per Amend #11
	2021-22 Revised Budget	C.	I.	J.	K.	Total Amend #11		
ESTIMATED REVENUES								
Property Tax	\$ 36,938,258	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 36,938,258
Sales Tax	24,159,244	-	-	-	-	-	-	24,159,244
Video Prog. & Telecom. Service Tax	783,083	-	-	-	-	-	-	783,083
Rental Vehicle Gross Receipts	170,995	-	-	-	-	-	-	170,995
Utilities Franchise Tax	6,700,000	-	-	-	-	-	-	6,700,000
Motor Vehicle Tax	1,734,556	-	-	-	-	-	-	1,734,556
Other Unrestricted Intergov't	877,968	-	-	-	-	-	-	877,968
Powell Bill	2,123,924	-	-	-	-	-	-	2,123,924
Restricted Intergov't Revenues	1,006,200	-	-	-	-	-	-	1,006,200
Licenses, Permits and Fees	4,795,521	-	-	-	-	-	-	4,795,521
Rescue Service Transport	3,200,000	-	-	-	-	-	-	3,200,000
Parking Violation Penalties, Leases,	150,000	-	-	-	-	-	-	150,000
Other Sales & Services	314,868	-	-	-	-	-	-	314,868
Other Revenues	762,603	-	-	-	-	-	-	762,603
Interest on Investments	744,389	-	-	-	-	-	-	744,389
Transfers In GUC	6,579,431	-	-	-	-	-	-	6,579,431
Appropriated Fund Balance	3,865,910	-	-	-	-	-	-	3,865,910
Transfer from Debt Service	40,786	-	-	-	-	-	-	40,786
Transfer from Capital Project Fund	55,000	-	-	-	22,037	-	22,037	77,037
Total Revenues	\$ 95,002,736	\$ -	\$ -	\$ -	\$ 22,037	\$ -	\$ 22,037	\$ 95,024,773
APPROPRIATIONS								
Mayor/City Council	\$ 506,207	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 506,207
City Manager	3,262,168	-	-	(150,000)	-	-	(150,000)	3,112,168
City Clerk	247,565	-	-	75,000	-	-	75,000	322,565
City Attorney	646,989	-	-	50,000	-	-	50,000	696,989
Human Resources	3,123,986	-	-	150,000	-	-	150,000	3,273,986
Information Technology	3,282,171	-	-	-	-	-	-	3,282,171
Engineering	4,901,989	-	-	-	-	-	-	4,901,989
Fire/Rescue	16,730,171	-	-	500,000	-	-	500,000	17,230,171
Financial Services	2,839,736	-	-	25,000	-	-	25,000	2,864,736
Recreation & Parks	7,648,446	-	(22,000)	-	-	-	(22,000)	7,626,446
Police	28,745,726	-	-	(700,000)	-	-	(700,000)	28,045,726
Public Works	7,114,113	31,688	-	-	22,037	-	53,725	7,167,838
Planning & Development	3,262,194	-	-	50,000	-	-	50,000	3,312,194
OPEB	600,000	-	-	-	-	-	-	600,000
Contingency	10,000	-	-	-	-	-	-	10,000
Indirect Cost Reimbursement	(1,950,887)	-	-	-	-	-	-	(1,950,887)
Total Appropriations	\$ 80,970,574	\$ 31,688	\$ (22,000)	\$ -	\$ 22,037	\$ -	\$ 31,725	\$ 81,002,299
OTHER FINANCING SOURCES								
Transfers to Other Funds	\$ 14,032,162	\$ (31,688)	\$ 22,000	\$ -	\$ -	\$ -	\$ (9,688)	\$ 14,022,474
Total Other Financing Sources	\$ 14,032,162	\$ (31,688)	\$ 22,000	\$ -	\$ -	\$ -	\$ (9,688)	\$ 14,022,474
Total Approp & Other Fin Sources	\$ 95,002,736	\$ -	\$ -	\$ -	\$ 22,037	\$ -	\$ 22,037	\$ 95,024,773

Section II: Estimated Revenues and Appropriations. Public Works Capital Project Fund, of Ordinance #17-024 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Revised Budget	D.	K.	Total Amend #11	2021-22 Budget per Amend #11
ESTIMATED REVENUES					
Occupancy Tax	\$ 422,610	\$ -	\$ -	\$ -	\$ 422,610
Transfers from Other Funds	20,081,989	(614,253)	-	(614,253)	19,467,736
Other Income	2,731,245	-	-	-	2,731,245
Spec Fed/State/Loc Grant	24,698,934	-	-	-	24,698,934
Bond Proceeds	6,200,000	-	-	-	6,200,000
Appropriated Fund Balance	2,141,866	-	-	-	2,141,866
Total Revenues	\$ 56,276,644	\$ (614,253)	\$ -	\$ (614,253)	\$ 55,662,391
APPROPRIATIONS					
Stantonsburg Rd./10th St Con Project	\$ 6,194,950	\$ -	\$ -	\$ -	\$ 6,194,950
Computerized Traffic Signal System	8,883,151	-	-	-	8,883,151
Sidewalk Development Project	1,405,540	(614,253)	-	(614,253)	791,287
GTAC Project	9,336,917	-	-	-	9,336,917
Energy Efficiency Project	777,600	-	-	-	777,600
King George Bridge Project	1,341,089	-	-	-	1,341,089
Energy Savings Equipment Project	2,591,373	-	-	-	2,591,373
Convention Center Expansion Project	4,718,000	-	-	-	4,718,000
Pedestrian Improvement Project	210,761	-	-	-	210,761
Street Lights & Cameras	1,751,225	-	-	-	1,751,225
F/R Station 3 Parking Lot	139,551	-	-	-	139,551
F/R Station 2 Bay Expansion	244,655	-	-	-	244,655
Parking Lot Enhancements	166,903	-	(22,037)	(22,037)	144,866
Street Improvements Project	14,282,805	-	-	-	14,282,805
Safe Routes to School	1,409,463	-	-	-	1,409,463
Imperial Demolition	238,464	-	-	-	238,464
Parking Deck Safety Improvements	135,000	-	-	-	135,000
Salt/Sand Storage Facility	185,000	-	-	-	185,000
Emerald Loop Lighting Upgrades	200,000	-	-	-	200,000
Transfer to Other Funds	1,866,866	-	-	-	1,866,866
Transfer to General Fund	614,764	-	22,037	22,037	636,801
Transfer to Street Improvement	1,002,567	-	-	-	1,002,567
Transfer to Recreation & Parks Capital	30,000	-	-	-	30,000
Transfer to Facilities Improvement	300,000	-	-	-	300,000
Transfer to IT Capital Projects Fund	250,000	-	-	-	250,000
Total Appropriations	\$ 58,276,644	\$ (614,253)	\$ -	\$ (614,253)	\$ 57,662,391

Section III: Estimated Revenues and Appropriations. Vehicle Replacement Fund, of Ordinance #21-035 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Revised Budget	H.	Total Amend #11	2021-22 Budget per Amend #11
ESTIMATED REVENUES				
Sale of Property	\$ 234,775	\$ -	\$ -	\$ 234,775
Transfer from Sanitation Fund	1,181,380	(251,692)	(251,692)	929,688
Transfer from Other Funds	474,340	-	-	474,340
Transfer from General Fund	2,946,991	-	-	2,946,991
Appropriated Fund Balance	2,421,298	251,692	-	2,672,990
Total Revenues	\$ 7,258,784	\$ -	\$ -	\$ 7,258,784
APPROPRIATIONS				
Vehicle Replacement Fund	\$ 7,258,784	\$ -	\$ -	\$ 7,258,784
Total Appropriations	\$ 7,258,784	\$ -	\$ -	\$ 7,258,784

Section IV: Estimated Revenues and Appropriations. Engineering Capital Projects Fund, of Ordinance #20-019 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Revised Budget	D.	Total Amend #11	2021-22 Budget per Amend #11
ESTIMATED REVENUES				
Special Fed/State/Loc Grant	\$ 15,000,000	\$ -	\$ -	\$ 15,000,000
Transfer from Capital Reserve	2,016,882	-	-	2,016,882
Transfer from Street Improvement Bond Fund	2,555,921	-	-	2,555,921
Transfer from Other Funds	-	614,253	614,253	614,253
Other In-kind Contributions	1,170,000	-	-	1,170,000
Transfer from General Fund	6,366,157	-	-	6,366,157
Total Revenues	\$ 27,108,960	\$ 614,253	\$ 614,253	\$ 27,723,213
APPROPRIATIONS				
BUILD	\$ 24,000,000	\$ -	\$ -	\$ 24,000,000
Pavement Management Program	2,800,000	-	-	2,800,000
Employee Parking Lot	308,960	614,253	614,253	923,213
Total Appropriations	\$ 27,108,960	\$ 614,253	\$ 614,253	\$ 27,723,213

Section V: Estimated Revenues and Appropriations. Special Revenue Grant Fund, of Ordinance #11-003 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Revised Budget	A.	G.	Total Amend #11	2021-22 Budget per Amend #11
ESTIMATED REVENUES					
Special Fed/State/Loc Grant	\$ 8,864,628	\$ 330,000	\$ 180,000	\$ 510,000	\$ 9,374,628
CARES Act Funding	1,594,927	-	-	-	1,594,927
Transfer From General Fund	1,387,170	-	-	-	1,387,170
Transfer From Pre-1994 Entitlement	27,419	-	-	-	27,419
Transfer from Other Funds	45,235	-	-	-	45,235
Total Revenues	\$ 11,919,379	\$ 330,000	\$ 180,000	510,000	\$ 12,429,379
APPROPRIATIONS					
Personnel	\$ 2,264,108	\$ -	\$ -	\$ -	\$ 2,264,108
Operating	5,622,674	-	180,000	180,000	5,802,674
Capital Outlay	2,006,385	-	-	-	2,006,385
Transfers	27,419	-	-	-	27,419
COVID-19	1,560,518	-	-	-	1,560,518
Rural Housing Recovery Grant	350,000	-	-	-	350,000
STAR Grant	-	330,000	-	330,000	330,000
Environmental Enhancement Grant	88,275	-	-	-	88,275
Total Appropriations	\$ 11,919,379	\$ 330,000	\$ 180,000	510,000	\$ 12,429,379

Section VI: Estimated Revenues and Appropriations. Fleet Maintenance Fund, of Ordinance #21-035 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Original Budget	E.	Total Amend #11	2021-22 Budget per Amend #11
ESTIMATED REVENUES				
Fuel Markup	\$ 1,380,000	\$ 350,000	\$ 350,000	\$ 1,730,000
Labor Fees	1,556,550	-	-	1,556,550
Parts Markup	1,551,500	-	-	1,551,500
Commercial Labor Markup	805,000	-	-	805,000
Other Revenues	2,500	-	-	2,500
Appropriated Fund Balance	93,338	-	-	93,338
Total Revenues	\$ 5,388,888	\$ -	\$ -	\$ 5,738,888
APPROPRIATIONS				
Fleet Maintenance	\$ 5,388,888	\$ 350,000	\$ 350,000	\$ 5,738,888
Total Appropriations	\$ 5,388,888	\$ 350,000	\$ 350,000	\$ 5,738,888

Section VII: Estimated Revenues and Appropriations. Recreation & Parks Capital Project Fund, of Ordinance #17-024 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Revised Budget	B.	F.	I.	Total Amend #11	2021-22 Budget per Amend #11
ESTIMATED REVENUES						
Restricted Intergovernmental	\$ 705,857	\$ -	\$ -	\$ -	\$ -	\$ 705,857
Transfer from General Fund	1,992,312	-	(165,828)	22,000	(143,828)	1,848,484
Transfer from Capital Reserve	128,822	-	-	-	-	128,822
Transfer from CD Cap Project Fund	82,965	-	-	-	-	82,965
Transfer from FIP	44,818	-	-	-	-	44,818
Transfer from FEMA-Hurricane	117,340	-	-	-	-	117,340
Transfer from Public Works Capital	30,000	-	-	-	-	30,000
Special Donations	132,000	507,500	-	-	507,500	639,500
Miscellaneous Revenue	567,148	-	-	-	-	567,148
Appropriated Fund Balance	572,874	-	-	-	-	572,874
Long Term Financing	10,047,748	-	-	-	-	10,047,748
Total Revenues	\$ 14,421,884	\$ 507,500	\$ (165,828)	\$ 22,000	\$ 363,672	\$ 14,785,556
APPROPRIATIONS						
Water Sports Facility Project	\$ 794,675	\$ -	\$ -	\$ -	\$ -	\$ 794,675
Wildwood Park	7,512,441	507,500	(243,928)	-	263,572	7,776,013
Transfer to General Fund	9,000	-	-	-	-	9,000
Eppes Remodel	1,350,000	-	19,792	-	19,792	1,369,792
Parks Improvements	45,000	-	-	-	-	45,000
Pool Replacement	4,261,385	-	58,308	-	58,308	4,319,693
GAFC Bathrooms	125,000	-	-	-	-	125,000
Off-Leash Dog Park	175,000	-	-	-	-	175,000
Parks Comprehensive Master Plan	125,000	-	-	22,000	22,000	147,000
Transfer to Other Fund	24,383	-	-	-	-	24,383
Total Appropriations	\$ 14,421,884	\$ 507,500	\$ (165,828)	\$ 22,000	\$ 363,672	\$ 14,785,556

Section VIII: Estimated Revenues and Appropriations. Fire/Rescue Capital Project Fund, of Ordinance #17-024 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Revised Budget	F.	Total Amend #11	2021-22 Budget per Amend #11
ESTIMATED REVENUES				
Debt Proceeds	\$ 6,698,700	\$ 95,828	\$ 95,828	\$ 6,794,528
Transfer from General Fund	220,000	-	-	220,000
Sale of Property	480,000	-	-	480,000
Total Revenues	\$ 7,398,700	\$ 95,828	\$ 95,828	\$ 7,494,528
APPROPRIATIONS				
Fire Station #7	\$ 6,683,500	\$ 82,643	\$ 82,643	\$ 6,766,143
Fire Station # 1 Bay Extension	715,200	13,185	13,185	728,385
Total Appropriations	\$ 7,398,700	\$ 95,828	\$ 95,828	\$ 7,494,528

Section IX: Estimated Revenues and Appropriations. Public Transportation Fund, of Ordinance #21-035 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Revised Budget	C	Total Amend #11	2021-22 Budget per Amend #11
ESTIMATED REVENUES				
Grant Income	\$ 3,151,748	\$ 31,688	\$ 31,688	\$ 3,183,436
Bus Fare Ticket Sales	287,670	-	-	287,670
Appropriated Fund Balance	14,950	-	-	14,950
Transfer from General Fund	36,007	(31,688)	(31,688)	4,319
Total Revenues	\$ 3,490,375	\$ -	\$ -	\$ 3,490,375
APPROPRIATIONS				
Public Transportation	\$ 3,490,375	\$ -	\$ -	\$ 3,490,375
Total Appropriations	\$ 3,490,375	\$ -	\$ -	\$ 3,490,375

Section X: Estimated Revenues and Appropriations. Occupancy Tax Fund, of Ordinance #11-003 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Revised Budget	L	Total Amend #11	2021-22 Budget per Amend #11
ESTIMATED REVENUES				
Occupancy Tax	\$ -	\$ 651,538	\$ 651,538	\$ 651,538
Transfer from Public Works Capital Projects	1,866,866	-	-	1,866,866
Transfer from Debt Service	1,162,724	-	-	1,162,724
Transfer from General Fund	-	-	-	-
Transfer from Other Funds	-	-	-	-
Appropriated Fund Balance	425,000	(425,000)	(425,000)	-
Total Revenues	\$ 3,454,590	\$ 226,538	\$ 226,538	\$ 3,681,128
APPROPRIATIONS				
Occupancy Tax Reserves	\$ 2,929,590	\$ 218,538	\$ 218,538	\$ 3,148,128
Service Charge/Collection Fee	-	8,000	8,000	8,000
Payments to CVB	425,000	-	-	425,000
Transfer to Facilities Improvement	100,000	-	-	100,000
Total Appropriations	\$ 3,454,590	\$ 226,538	\$ 226,538	\$ 3,681,128

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

Adopted this 9th day of June, 2022

P. J. Connelly, Mayor

ATTEST:

Valerie P. Shiuwegar, City Clerk