



## **Agenda**

### **Greenville City Council**

**October 10, 2022**

**6:00 PM**

**City Hall Council Chambers, 200 West 5th Street**

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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.

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**I. Call Meeting To Order**

**II. Invocation - Council Member Bell**

**III. Pledge of Allegiance**

**IV. Roll Call**

**V. Approval of Agenda**

**VI. Public Comment Period**

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

**VII. Consent Agenda**

1. 2023 Schedule of City Council Meetings

2. Budget Schedule for Fiscal Year 2023-2024
3. Involuntary Commitment (IVC) Transportation Agreement
4. City's Consent of Collateral Assignment of Development Agreement to Support Evans Street Hotel
5. City's Consent of Collateral Assignment of Parking Lease Agreement to Support Evans Street Hotel
6. Series Resolution for up to \$30,000,000 Greenville Utilities Commission Combined Enterprise System Revenue Bonds, Series 2022
7. Resolutions to Approve Subrecipient Agreement with State of North Carolina in connection with Affordable Housing Loan Fund and Authorizing Commitment of CDBG-DR Funds for Arlington Trace Development Project with Amended Loan Documents
8. Award a Design Contract to HH Architecture for the Improvements to the Dream Park Community Building and Authorize the Demolition of the Training Tower
9. Contract award for professional services for Construction Administration/Observation and Materials Testing on the BUILD Grant and resolution requesting concurrence in award from the Federal Highway Administration
10. Report on Bids and Contracts Awarded
11. Various tax refunds greater than \$100

**VIII. New Business**

12. Annual Board & Commission Presentations - Planning & Zoning Commission
13. Ordinance Approving Fiscal Year 2022-23 Capital Reserve Fund Designations
14. Budget Ordinance Amendment #3 to the 2022-2023 City of Greenville Budget (Ordinance #22-045), the Capital Projects Funds (Ordinance #17-024), and Engineering Capital Projects Fund (Ordinance #20-019).
15. Budget Ordinance Amendment to the ARPA Fund (Ordinance #21-053)

**IX. Review of October 13, 2022 City Council Agenda**

**X. City Manager's Report**

**XI. Comments from Mayor and City Council**

**XII. Adjournment**





# City of Greenville, North Carolina

Meeting Date: 10/10/2022

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**Title of Item:** 2023 Schedule of City Council Meetings

**Explanation:** A proposed schedule has been prepared for the City Council's consideration for the 2023 City Council meetings in accordance with Section 2-1-11 of the Greenville City Code, adjusted for City-observed holidays. Workshop meetings as approved by the City Council in February 2018 are included. Notes are provided below:

- NCLM Annual Conference – April 25 – 27
- NLC Congressional City Conference – March 26 – 28
- One-day Planning Session on Friday, January 27 beginning at 12 p.m.
- Monday, June 19, meeting has been omitted due to the Juneteenth holiday; substituted June 26 in place of June 19
- Monday, December 25, meeting has been omitted due to the Christmas holiday
- Note added on the schedule to clarify that the second Monday meetings are only held if needed with the City Council making that decision on a month-to-month basis

A 2023 calendar has been provided with this item to facilitate making any desired adjustments to the proposed schedule.

**Fiscal Note:** No direct fiscal impact.

**Recommendation:** Review and adopt the proposed 2023 City Council Meeting Schedule.

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## ATTACHMENTS

- 📄 [Proposed 2023 City Council Schedule of Meetings.pdf](#)
- 📄 [2023 Calendar.pdf](#)



# CITY OF GREENVILLE

## 2023 SCHEDULE OF CITY COUNCIL MEETINGS

Meetings are held in the Council Chambers, located in City Hall, 200 W. Fifth St., Greenville NC 27834, unless otherwise noted.

January 9 – 4:00 PM (Workshop, Conference Room 337, City Hall, 200 W. Fifth St., Greenville, NC 27834)

January 9 – 6:00 PM

January 12 – 6:00 PM

\*January 23 – 6:00 PM

January 27 – 12:00 PM (Planning Session)

February 6 – 4:00 PM – (Workshop, Conference Room 337, City Hall, 200 W. Fifth St., Greenville, NC 27834)

February 6 – 6:00 PM

February 9 – 6:00 PM

\*February 20 – 6:00 PM

March 6 – 4:00 PM – (Workshop, Conference Room 337, City Hall, 200 W. Fifth St., Greenville, NC 27834)

March 6 – 6:00 PM

March 9 – 6:00 PM

\*March 20 – 6:00 PM

April 10 – 4:00 PM – (Workshop, Conference Room 337, City Hall, 200 W. Fifth St., Greenville, NC 27834)

April 10 – 6:00 PM

April 13 – 6:00 PM

April 24 – 6:00 PM – (Joint City Council –GUC Meeting)

May 8 – 4:00 PM – (Workshop, Conference Room 337, City Hall, 200 W. Fifth St., Greenville, NC 27834)

May 8 – 6:00 PM – (Budget Presentation for City of Greenville)

May 11 – 6:00 PM – (Budget Presentation for Convention & Visitors, Sheppard Memorial Library, and GUC)

\*May 22 – 6:00 PM

June 5 – 4:00 PM – (Workshop, Conference Room 337, City Hall, 200 W. Fifth St., Greenville, NC 27834)

June 5 – 6:00 PM – (Budget Public Hearing)

June 8 – 6:00 PM – (Budget Adoption)

\*June 26 – 6:00 PM

August 7 – 4:00 PM – (Workshop, Conference Room 337, City Hall, 200 W. Fifth St., Greenville, NC 27834)

August 7 – 6:00 PM

August 10 – 6:00 PM

\*August 21 – 6:00 PM

September 11 – 4:00 PM – (Workshop, Conference Room 337, City Hall, 200 W. Fifth St., Greenville, NC 27834)

September 11 – 6:00 PM

September 14 – 6:00 PM

September 25 – 6:00 PM – (Joint City Council - GUC meeting)

October 9 – 4:00 PM – (Workshop, Conference Room 337, City Hall, 200 W. Fifth St., Greenville, NC 27834)

October 9 – 6:00 PM

October 12 – 6:00 PM

\*October 23 – 6:00 PM

November 6 – 4:00 PM – (Workshop, Conference Room 337, City Hall, 200 W. Fifth St., Greenville, NC 27834)

November 6 – 6:00 PM

November 9 – 6:00 PM

\*November 20 – 6:00 PM

December 11 – 6:00 PM – (Organizational Meeting)

December 14 – 6:00 PM

*\*Meetings scheduled per the meeting policy outlined in the City Code. The City Council may elect to hold or cancel these meetings as needed each month.*

January

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4
5	6	7	8	9	10	11

February

S	M	T	W	T	F	S
29	30	31	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	1	2	3	4
5	6	7	8	9	10	11

March

S	M	T	W	T	F	S
26	27	28	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1
2	3	4	5	6	7	8

April

S	M	T	W	T	F	S
26	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	1	2	3	4	5	6

May

S	M	T	W	T	F	S
30	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3
4	5	6	7	8	9	10

June

S	M	T	W	T	F	S
28	29	30	31	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	1
2	3	4	5	6	7	8

July

S	M	T	W	T	F	S
25	26	27	28	29	30	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31	1	2	3	4	5

August

S	M	T	W	T	F	S
30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9

September

S	M	T	W	T	F	S
27	28	29	30	31	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
1	2	3	4	5	6	7

October

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4
5	6	7	8	9	10	11

November

S	M	T	W	T	F	S
29	30	31	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	1	2
3	4	5	6	7	8	9

December

S	M	T	W	T	F	S
26	27	28	29	30	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1	2	3	4	5	6





City of Greenville,  
North Carolina

Meeting Date: 10/10/2022

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<b><u>Title of Item:</u></b>	Budget Schedule for Fiscal Year 2023-2024
<b><u>Explanation:</u></b>	The proposed budget schedule for the Fiscal Year 2023-2024 budget is presented to City Council for approval.
<b><u>Fiscal Note:</u></b>	No fiscal impact
<b><u>Recommendation:</u></b>	Approve the attached budget schedule for fiscal year 2023-2024

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ATTACHMENTS

 [Budget Schedule 2023-2024.DOCX](#)

## Budget and Capital Improvement Program (CIP) Schedule Fiscal Year 2023-2024 Budget

October 17, 2022	Monday	Personnel Verification changes submitted to HR New position and reclassification requests due to HR IT requests due to Information Technology
November 10, 2022	Thursday	CIP and FIP request forms due to Budget Office Recommended New Positions/Reclassifications due to Budget Office from HR Recommended Technology requests due to Budget Office from IT
November 16, 2022	Wednesday	Revenue Projections and Manual of Fees changes due to Budget Office Cost Recovery Benefits and Administration Meeting with HR
December 2, 2022	Friday	Department Mission Statement and Goals due to Budget Office Dept. budget requests and Increment/Decrement forms due to Budget Office
December 5 – 9, 2022	Monday – Friday	Department Head budget meetings with Assistant City Manager(s)
December 14 - 16, 2022	Wednesday – Friday	Assistant City Manager(s) budget meetings with City Manager, Finance Director and Department Heads
January 10, 2023	Tuesday	HR approved departmental Personnel Budget Preparation Worksheets submitted to Budget Office
January 19, 2023	Thursday	Revenue and Expense forecast finalized by Financial Services/Budget Office
February 14 – 17, 2023	Tuesday – Friday	Follow-Up budget meetings with Department Heads, Assistant City Manager(s), and City Manager
April 13, 2023	Thursday	City Council preview of Proposed City Budget
April 21, 2023	Friday	Proposed GUC, SML, and CVA budgets due to Budget Office
May 8, 2023	Monday	Proposed City budget presented to City Council
May 11, 2023	Thursday	Proposed GUC, SML and CVA budgets presented to City Council
May 25, 2023	Thursday	Public Display of balanced budgets prior to Public Hearing
June 5, 2023	Monday	Public Hearing – Fiscal Year 2023-2024 Budget
June 8, 2023	Thursday	Consideration of adoption of the Fiscal Year 2023-2024 Budget





# City of Greenville, North Carolina

Meeting Date: 10/10/2022

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**Title of Item:** Involuntary Commitment (IVC) Transportation Agreement

**Explanation:** Session Law 2018-33, specifically the amendment to N.C.G.S. Section 122C-251(g), states that "the governing body of a city or county shall adopt a plan known as an 'involuntary commitment transportation agreement' or 'transportation agreement' for the custody and transportation of respondents in involuntary commitment proceedings" under Chapter 122C, Article 5 of the North Carolina General Statutes. In conformance with this statutory mandate, the City of Greenville, to include the Greenville Police Department (GPD), Pitt County, and the Office of the Pitt County Sheriff (PCSO), entered into a Memorandum of Understanding Regarding Involuntary Commitment (IVC) Custody and Transportation agreement in October 2019. The agreement needs to be updated to reflect the new name of Vidant Medical Center, now ECU Health Medical Center, and to make minor corrections and statutory updates. The agreement as proposed will replace the existing agreement.

Per the agreement, ECU Health Medical Center will serve as the 24-hour facility and the commitment examiner for Pitt County. The Agreement is anticipated to be presented to the Pitt County Board of Commissioners at a meeting in October.

**Fiscal Note:** N/A

**Recommendation:** Staff recommends approval of the Involuntary Commitment (IVC) and Transportation Agreement

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## ATTACHMENTS

 [IVC Agreement.pdf](#)

**THIS INVOLUNTARY COMMITMENT (“IVC”) TRANSPORTATION AGREEMENT** (“Agreement”), which is an interlocal agreement in accordance with Chapter 160A, Article 20, Part 1 of the North Carolina General Statutes is, pursuant to N.C.G.S. § 160A-461 and N.C.G.S. § 122C-251(g), made and entered into the 1st day of October, 2022 (the “Effective Date”), by and between the City of Greenville, a municipal corporation in the State of North Carolina, which includes its police department, the Greenville Police Department (“GPD”) and all of GPD’s law enforcement officers as defined by N.C.G.S. § 122C-3(19) (“GPD LEOs”) (collectively the “City”); the County of Pitt, a body politic and corporate (the “County”); the Office of the Pitt County Sheriff (the “PCSO”) and all of PCSO’s law enforcement officers as defined by N.C.G.S. § 122C-3(19) (“PCSO LEOs”); and ECU Health Police Department, a designated company police agency as authorized by Chapter 74E of the North Carolina General Statutes and part of ECU Health Medical Center (“ECUHPD”) and all of ECUHPD law enforcement officers as defined by N.C.G.S. § 122C-3(19) (“ECUHPD LEOs”) (individually “Party” and collectively the “Parties”).

**RECITALS:**

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

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

**WHEREAS**, this Agreement hereby fully supplants the Memorandum of Understanding Regarding Involuntary Commitment (“IVC”) Custody and Transportation [sic], which had an effective date of October 1, 2019; and

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

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

## AGREEMENT

### ARTICLE I DEFINED TERMS

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

1.1 **LEO.** Law enforcement officer.

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

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

1.4 **Respondents.** Clients as defined by N.C.G.S. § 122C-3(6) and N.C.G.S. § 122C-4 who are subject to IVC proceedings pursuant to Chapter 122C, Article 5 of the North Carolina General Statutes, including IVC custody and transport.

1.5 **Trillium:** As defined by N.C.G.S. § 122C-3(1), N.C.G.S. § 122C-3(20b), and N.C.G.S. § 122C-3(20c), and pursuant to Chapter 122C of the North Carolina General Statutes, Trillium Health Resources is the area authority and Local Management Entity/Managed Care Organization (“LME/MCO”) for Pitt County. Trillium is designated by and functioning under the control of the NCDHHS to provide mental health, developmental disabilities, and substance abuse services in 26 eastern North Carolina counties; Trillium’s catchment area as defined by N.C.G.S. § 122C-3(4). Trillium’s services include reviewing and evaluating the area needs and programs in mental health, intellectual developmental disabilities, substance use and related fields, and developing jointly with the NCDHHS, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, an annual plan for the effective development, use and control of state and local facilities and resources in a comprehensive program of mental health service for the residents of the area. Trillium is governed by a 13 member board of directors appointed by the Boards of Commissioners from the catchment area. The Trillium board of directors is a policy-making body, which focuses on establishing and monitoring goals as well as the development of public policy. As an area authority pursuant to Chapter 122C, Trillium is empowered with the responsibility to oversee and control all activities related to mental health, developmental disabilities, and substance abuse services in its catchment area, which includes Pitt County. Trillium’s contact information is as follows:

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

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

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

ECU Health Medical Center

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

2100 Stantonsburg Road  
Greenville, North Carolina 27834  
Telephone: (252) 847-8791  
Telephone: (877) 718-1893  
Telephone: (252) 847-4100  
Website: <https://www.ecuhealth.org/>

**ARTICLE II**  
**APPLICABILITY**

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

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

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

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

**ARTICLE IV**  
**GENERAL TRANSPORTATION OBLIGATIONS**

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

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

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

4.3 **ECUHPD.** The County incorporates into this Agreement, and to the extent necessary reauthorizes, its resolution titled “Resolution Authorizing Involuntary Commitment Services With Vidant Health” adopted on November 3, 2014. In accordance with that Resolution and to further the interlocal cooperation among the Parties, the Parties authorize and agree that: ECUHPD shall perform all of the following:

- A. Receive IVC Custody Orders from a Pitt County Magistrate.
- B. Serve IVC Custody Orders on Respondents who are ECU Health Medical Center patients.
- C. Transport Respondents who are ECU Health Medical Center patients from the ECU Health Medical Center emergency department to ECU Health Medical Center inpatient behavioral health department.

**ARTICLE V**  
**TRANSPORTATION BETWEEN COUNTIES**

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

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

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

**ARTICLE VI**  
**SPECIFIC TRANSPORTATION OBLIGATIONS**

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

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

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

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

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

## **ARTICLE VII** **CRIMINAL OR CIVIL LIABILITY**

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

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

## **ARTICLE VIII** **OTHER AUTHORIZED TRANSPORT**

8.0 The Parties understand that pursuant to N.C.G.S. § 122C-251(f), a clerk, a magistrate, or a district court judge, where applicable, may authorize either a health care provider of the Respondent or the family or immediate friends of the Respondent, if they so request, to transport the Respondent in accordance with the procedures of Chapter 122C, Article 5 of the North Carolina General Statutes. This authorization shall only be granted in cases where the

danger to the public, the family, or friends of the Respondent, or the Respondent himself or herself is not substantial. The health care provider of the Respondent or the family or immediate friends of the Respondent shall bear the costs of providing this transportation.

## **ARTICLE IX**

### **COST AND EXPENSES OF CUSTODY AND TRANSPORTATION**

9.0 The cost and expenses of custody and transportation of a Respondent as required by the IVC procedures of Chapter 122C, Article 5, to the extent they are not reimbursed by a third-party insurer, are the responsibility of the county of residence of the Respondent. The State (when providing transportation under N.C.G.S. § 122C-408(b)), a city, or a county is entitled to recover the reasonable cost of transportation from the county of residence of the Respondent. The county of residence of the Respondent shall reimburse the State, another county, or a city the reasonable transportation costs incurred as authorized by N.C.G.S. § 122C-251(h). The county of residence of the Respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a city, or a county. Provided that the county of residence provides the Respondent or other individual liable for the Respondent's support a reasonable notice and opportunity to object to the reimbursement, the county of residence of the Respondent may recover that cost from:

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

## **ARTICLE X**

### **TRAINING**

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

## **ARTICLE XI**

### **OTHER**

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

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



11.2 **Notices.** Any notice or other communication required or contemplated by this Agreement shall be in writing, and shall be delivered in person, by U.S. registered or certified mail, by overnight courier, by email, or by telefacsimile to the intended designated contact at the address set forth below. Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which is sent by telefacsimile or email shall also be simultaneously sent by regular first-class mail deposited with the U.S. Postal Service or by overnight courier. Each Party may change its address for notification purposes by giving all other Parties written notice of the new address and the date upon which it shall become effective.

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

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

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

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

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

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

[The Remainder of This Page is Left Blank Intentionally]

[The Signature Pages Follow]

**CITY OF GREENVILLE**

**GREENVILLE POLICE DEPARTMENT**

By: \_\_\_\_\_  
Name: P. J. Connelly  
Title: Mayor

By: \_\_\_\_\_  
Name: Ted D. Sauls, Jr.  
Title: Interim Chief of Police

**Address for Notice and Designated Contact:**  
City of Greenville  
c/o Greenville Police Department  
Attn: Chief of Police  
Post Office Box 7207  
Greenville, North Carolina 27835-7207  
Fax: (252) 329-4792  
Email: [tsauls@greenvillenc.gov](mailto:tsauls@greenvillenc.gov)

**With a copy to:**  
City of Greenville  
c/o City Attorney's Office  
Attn: City Attorney  
Post Office Box 7207  
Greenville, North Carolina 27835-7207  
Fax: (252) 329-4626  
Email: [emcgirt@greenvillenc.gov](mailto:emcgirt@greenvillenc.gov)

**APPROVED AS TO FORM:**

BY: \_\_\_\_\_  
Emanuel D. McGirt, City Attorney

**CITY OF GREENVILLE: PRE-AUDIT CERTIFICATION:**

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

\_\_\_\_\_  
Byron Hayes, Director of Financial Services

Date: \_\_\_\_\_

Account Number \_\_\_\_\_

Project Code (if applicable) \_\_\_\_\_

[The Signature Pages Continue on Next Page]

**PITT COUNTY  
BOARD OF COMMISSIONERS**

**OFFICE OF THE PITT COUNTY SHERIFF**

By: \_\_\_\_\_  
Name: Michael C. Fitzpatrick  
Title: Chairman

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

**Address for Notice and Designated Contact:**

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

**With a copy to:**

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

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

**APPROVED AS TO FORM:**

BY: \_\_\_\_\_  
K. Jordan Smith, County Attorney

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

[The Signature Pages Continue on Next Page]

**ECU HEALTH POLICE DEPARTMENT**

By: \_\_\_\_\_  
Name: Randall W. Walston  
Title: Chief of Police

**Address for Notice and Designated Contact:**

Chief of Police  
ECU Health Police Department  
ECU Health Medical Center  
Post Office Box 6028  
Greenville, North Carolina 27835-6028  
Fax: (252) 847-7033  
Email: [rwalston@vidanthealth.com](mailto:rwalston@vidanthealth.com)

[End of Signature Pages; Agreement Participants Begin on Next Page]

**Agreement Participants**

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

<b>No.</b>	<b>Name</b>	<b>Title</b>	<b>Agency Represented</b>
1.	Donald K. Phillips	Assistant City Attorney	City of Greenville (Greenville Police Department)
2.	Ted D. Sauls, Jr.	Interim Chief of Police	City of Greenville (Greenville Police Department)
3.	D. Chris Ivey	Major Field Operations Bureau	City of Greenville (Greenville Police Department)
4.	K. Jordan Smith	County Attorney	Pitt County (Pitt County Sheriff's Office)
5.	Paula S. Dance	Sheriff of Pitt County	Office of the Pitt County Sheriff
6.	Randall W. Walston	Chief of Police	ECU Health Medical Center Police Department
7.	Li-Ling W. Wilford	Associate General Counsel	ECU Health
8.	M. Wayne Conner, Jr.	Associate General Counsel	ECU Health
9.	Dave Peterson, MA	Central Regional Director	Trillium Health Resources
10.	Glenn M. Simpson, MBA, MA, NCC	System Service Line Administrator	ECU Health Medical Center ECU Health Behavioral Health

[End of Document]



# City of Greenville, North Carolina

Meeting Date: 10/10/2022

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**Title of Item:** City's Consent of Collateral Assignment of Development Agreement to Support Evans Street Hotel

**Explanation:** The City and Greenville Ventures NC, LLC ("Borrower") entered into a Development Agreement dated August 31, 2020, as amended by that Amendment to Development Agreement dated August 9, 2021, under which Borrower purchased two (2) parcels of real property from the City for development and construction of a boutique hotel.

Customers Bank (Lender) is making a loan to Borrower in the principal sum of \$14,567,400.00 for the construction of a Hilton Garden Inn hotel on those parcels of land with an address of 419, 421 and 423 Evans Street, Greenville, North Carolina.

To secure the Loan, Borrower has agreed to assign to Lender, and Lender has agreed to take from Borrower an assignment of the Development Agreement for collateral purposes.

The City agrees to grant its consent for the Borrower to assign the Development Agreement to Lender as additional security for the Loan by acknowledging and signing the attached Assignment.

**Fiscal Note:** The City's Consent to the Collateral Assignment of Development Agreement has no direct financial impact on the City. The City is neither the Borrower nor the Lender, and the City is not responsible for repaying the loan.

**Recommendation:** City Council approve the attached Collateral Assignment of Development Agreement, and authorize the City Manager or City Attorney to make any non-substantive or clerical revisions to the instrument, including a revision involving the loan amount.

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## ATTACHMENTS

 [Evans Street Hotel Collateral Assignment of Development Agreement..pdf](#)

**NORTH CAROLINA  
PITT COUNTY**

**COLLATERAL ASSIGNMENT OF  
DEVELOPMENT AGREEMENT**

This COLLATERAL ASSIGNMENT OF DEVELOPMENT AGREEMENT (this “Assignment”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2022 by and between **Greenville Ventures NC, LLC**, a Florida limited liability company whose address is 648 Northeast Third Avenue, Fort Lauderdale, Florida 33304 (“**Borrower**”) and **Customers Bank**, a Pennsylvania banking corporation whose address is 40 General Warren Blvd, Suite 200, Malvern, Pennsylvania 19355 (“**Lender**”).

**WITNESSETH:**

WHEREAS, the City of Greenville, N.C., a municipal corporation (the “**City**”) and Borrower have entered into that certain Development Agreement dated August 31, 2020, as amended by that Amendment to Development Agreement dated August 9, 2021, incorporated by reference herein (the “**Development Agreement**”), under which Borrower purchased two (2) parcels of real property from the City for development and construction of a boutique hotel; and

WHEREAS, pursuant to that certain Loan Agreement to be entered into by Borrower and Lender (the “**Loan Agreement**”), Lender is making a loan to Borrower in the principal sum of \$14,567,400.00 (the “**Loan**”) for the construction of a Hilton Garden Inn hotel on those parcels of land with an address of 419, 421 and 423 Evans Street, Greenville, North Carolina (the “**Property**”). The Loan Agreement is incorporated into this Assignment and all capitalized terms not otherwise defined herein have the meanings set forth in the Loan Agreement;

WHEREAS, to secure the Loan, Borrower has agreed to assign to Lender, and Lender has agreed to take from Borrower an assignment of the Development Agreement for collateral purposes on the terms and conditions set forth herein;

WHEREAS, Section 23 of the Development Agreement provides that Borrower may not assign any interest in or obligation under the Development Agreement to any party, other than a subsidiary or affiliate of Borrower, without the prior express written consent of the City; and

WHEREAS, the City has agreed to grant its consent for the Borrower to assign the Development Agreement to Lender as additional security for the Loan by acknowledging and signing this Assignment.

NOW, THEREFORE, the parties hereto agree as follows:

1. Assignment. Borrower, in consideration of the Loan and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby absolutely and unconditionally GRANT, CONVEY, ASSIGN, TRANSFER, and SET OVER unto Lender all rights, interests, entitlements, credits, licenses, uses and estates of Borrower in, to and under the Development Agreement. The rights of Lender hereunder shall only be operative, at the option of Lender, once written notice has been provided by Lender to Borrower and to the City of the occurrence of an event of default by Borrower under any of the provisions of the Loan Agreement and all related documents executed in connection therewith,

including this Assignment (collectively, the “**Loan Documents**”), which event of default is not cured within any applicable cure period.

2. Representations and Warranties of Borrower. Borrower hereby represents and warrants to Lender that:

- (a) Borrower has the right to assign the Development Agreement hereby assigned;
- (b) Borrower has performed and will duly and punctually perform all of the terms, covenants, conditions and warranties of the Development Agreement;
- (c) Borrower has not at any time prior to the date hereof exercised any right to subordinate the Development Agreement to any deed of trust or mortgage or any other encumbrance of any kind;
- (d) Borrower has not previously assigned any of its rights under the Development Agreement to any other person or entity;
- (e) Borrower has performed no act or executed any other instrument which might prevent Lender from enjoying and exercising any of its rights and privileges evidenced hereby;
- (f) The Development Agreement is valid and subsisting and in full force and effect and unmodified;
- (g) There are no defaults now existing by Borrower or the City under the Development Agreement and no event has occurred which with the passage of time or the giving of notice, or both, would constitute such a default; and
- (h) Borrower will not pledge, transfer, mortgage or otherwise assign or encumber its rights under the Development Agreement.

3. Limitation of Lender’s Liability. Lender shall not be obligated to perform or discharge any obligation, duty or liability under the Development Agreement by reason of this Assignment or the exercise of rights or remedies hereunder. Borrower shall and does hereby agree to indemnify, defend and hold Lender harmless from and against any and all liability, loss or damage incurred under the Development Agreement by reason of this Assignment or the exercise of rights or remedies hereunder, and from any and all claims and demands whatsoever that may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Development Agreement, except for liability, loss, damage, claims and/or demands arising from Lender’s gross negligence or willful misconduct. Should Lender incur any such liability under the Development Agreement by reason of this Assignment or the exercise of rights or remedies hereunder, or in defense of any such claims or demands, the amount thereof, including costs, expense and reasonable attorney’s fees, shall be secured hereby and Borrower shall reimburse Lender therefore within thirty (30) days after Borrower’s receipt of written demand for such, failing which, Lender may, at its option, declare all indebtedness secured hereby and by the Loan Documents to be immediately due and payable.

4. Lender’s Rights. Borrower hereby authorizes and empowers Lender, at Lender’s option, to exercise any and all of the rights, powers and privileges conferred upon the Borrower by the Development Agreement in as full and ample a manner as the Borrower is or may be authorized and empowered to exercise the same. Lender shall also have the right, but not the duty, to take such action or actions as it deems necessary or appropriate to prevent or cure any default by the Borrower under the Development Agreement or to protect the rights of the Borrower or Lender under the Development Agreement, including

DM# 1171516



the right to continue under the Development Agreement in accordance with this Assignment. From and after the time of any default by the Borrower that remains uncured after all applicable notice, grace, and cure periods under any of the provisions of this Assignment, the Loan Documents or the Development Agreement, Lender may, at its option, exercise any right, power or privilege that the Borrower has under the Development Agreement.

5. No Assumption by Lender. Lender shall not be obligated to perform or discharge any obligation, duty or liability under the Development Agreement by reason of this Assignment or the exercise of rights or remedies hereunder. Lender does not assume any of Borrower's obligations under the Development Agreement. Unless and until Lender exercises its rights under this Assignment, Lender shall have no liability for performance of any obligations under the Development Agreement, including but not limited to payment of any sums due and owing under the terms of the Development Agreement.

6. Lender Remedies. This Assignment is primary in nature to the obligation evidenced and secured by the Loan, the Loan Documents and any other document given to secure and collateralize the indebtedness secured by the Loan Documents. Borrower agrees that Lender may enforce this Assignment without first resorting to or exhausting any other security or collateral; provided, however, that nothing herein contained shall prevent Lender from suing on the Loan, foreclosing the Loan Documents or exercising any other right under any document securing the payment of the Loan.

7. Power of Attorney. Borrower does hereby irrevocably constitute and appoint Lender its true and lawful attorney with full power of substitution for it and in its name, place and stead, to, upon the occurrence of an Event of Default (as defined in the Loan Documents), execute, deliver and file such agreements, documents, notices, statements and records and to do or undertake such other acts as Lender, in its sole discretion, deems necessary or advisable to effect the terms and conditions of this Assignment, the Loan Documents and to otherwise preserve, protect and perfect Lender's interest in the Development Agreement. The foregoing appointment is and the same shall be coupled with an interest in favor of Lender.

8. Default by Borrower Under Loan Documents. If Borrower defaults under the terms of the Loan Documents, Lender will provide written notice of default to the Borrower and the City. If, as a result of Borrower's default, Lender exercises its remedies under the Loan Documents and applicable law, and Lender, or another person or entity, acquires title to the Property by foreclosure, deed in lieu of foreclosure or otherwise, Lender may, at its option and with the City's consent, which shall not be unreasonably withheld, assign the Development Agreement and the Lender's rights under this Assignment to any such purchaser. The assignee of such rights shall have all of the rights of the Lender under this Assignment and all rights of Borrower under the Development Agreement.

9. No Waiver. Nothing contained herein and no act done or omitted by a party pursuant to the powers and rights granted hereunder shall be deemed to be a waiver by that party hereunder or under the Loan Documents, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by a party under the terms of the Loan Documents. The right of Lender to collect the interest and indebtedness evidenced by the Loan Documents and to enforce any other security therefor held by it may be exercised by Lender either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

10. Termination of Assignment. At such time as the Loan is paid in full and any applicable Loan Documents released or cancelled of record, this Assignment and all of Lender's right, title and interest hereunder with respect to the Development Agreement shall terminate.

11. Additional Rights of Lender.

DM# 1171516

(a) Lender may take or release other security for the payment of the Loan and other indebtedness secured by the Loan Documents, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the satisfaction of the Loan and such other indebtedness without prejudice to any of its rights under this Assignment.

(b) Lender may at any time and from time to time in writing: (i) waive compliance by Borrower with any covenant herein made by Borrower to the extent and in the manner specified in such writing; or (ii) consent to Borrower doing any act that hereunder Borrower is prohibited from doing, or consent to Borrower failing to do any act which hereunder Borrower is required to do, to the extent and in the manner specified in such writing. No such act shall in any way impair the rights of Lender hereunder except to the extent specifically agreed to by Lender in such writing.

(c) The rights and remedies of Lender hereunder shall not be impaired by any indulgence, including, but not limited to, (i) any renewal, extension, or modification that Lender may grant with respect to the Loan or any indebtedness secured hereby; or (ii) any release or indulgence granted to any endorser, guarantor or surety of the Loan or any indebtedness secured hereby.

12. Severability. A determination that any provision of this Assignment is unenforceable or invalid shall not affect the enforceability or validity of any other provision and any determination that the application of any provision of this Assignment to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

13. No Merger. Notwithstanding (a) the fact that the Development Agreement or the rights, interests and estates created thereby may be held, directly or indirectly, by or for the account of any person or entity that shall have an interest in the fee estate of the Property; (b) the operation of law; or (c) any other event, Borrower's rights, interests and estates under such Development Agreement shall not merge into the fee estate and Borrower shall remain obligated under such Development Agreement as assigned by this Assignment.

14. Binding. The terms, provisions, representations, and warranties herein contained shall inure to the benefit of, and bind, the parties hereto and their respective representatives, successor and assigns all and subsequent holders of the Loan Documents. All references in this Assignment to Borrower or Lender shall be deemed to include all such representatives, successors and assigns of such respective party.

15. Construction. Within this Assignment, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. The provisions of this Assignment are intended to supplement the provisions contained in the Loan Documents. In the event of any conflict between the terms of this Assignment and the terms of the Loan Documents, the terms of this Assignment shall prevail insofar as the Development Agreement is concerned, but the terms of the Loan Documents shall prevail in all other respects.

16. Counterparts. This Assignment may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument.

17. No Third-Party Beneficiaries. It is expressly agreed by the parties hereto that this Assignment shall not be construed or deemed made for the benefit of any third party or parties.

18. Notices. Except as otherwise set forth herein, all notices required or permitted hereunder shall be given in accordance with the terms of the Loan Agreement.

19. **GOVERNING LAW. THIS ASSIGNMENT SHALL BE DEEMED TO BE A CONTRACT ENTERED INTO PURSUANT TO THE LAWS OF THE STATE OF NORTH CAROLINA AND SHALL IN ALL RESPECTS BE GOVERNED, CONSTRUED, APPLIED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF NORTH CAROLINA AND APPLICABLE LAWS OF THE UNITED STATES OF AMERICA.**

20. Entire Agreement. This Assignment and the Loan Documents contain the entire agreement concerning the assignment of the Development Agreement between the parties hereto. No variations, modifications or changes herein or hereof shall be binding upon any party hereto, unless set forth in a document duly executed by both parties.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the date first written above.

**GREENVILLE VENTURES NC, LLC,**  
A Florida limited Liability Company

By: \_\_\_\_\_  
Name: John Sandlin  
Title: Manager

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, \_\_\_\_\_, a Notary Public, do hereby certify that John Sandlin personally came before me and acknowledged that he is the Manager of **Greenville Ventures NC, LLC**, a Florida limited liability company, and that he in such representative capacity voluntarily signed this document for the purposes stated therein.

Witness my hand and official stamp or notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Printed Name of Notary)

My Commission Expires: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the date first written above.

**CUSTOMERS BANK,**  
A Pennsylvania banking corporation

By: \_\_\_\_\_  
Name: Brad Neigel  
Title: Executive Vice President

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public, do hereby certify that Brad Neigel personally came before me and acknowledged that he is the Executive Vice President of **Customers Bank**, a Pennsylvania banking corporation, and that he in such representative capacity voluntarily signed this document for the purposes stated therein.

Witness my hand and official stamp or notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Printed Name of Notary)

My Commission Expires: \_\_\_\_\_

ACKNOWLEDGEMENT AND CONSENT TO ASSIGNMENT OF DEVELOPMENT AGREEMENT

The City of Greenville (“City”) acknowledges and consents to the foregoing assignment by the Borrower to Lender of the Development Agreement as additional security for the Loan. The City warrants and represents that to the best of its knowledge no default currently exists under the terms of the Development Agreement.

Upon the occurrence of both: (i) an event of default by Borrower under the Loan Documents which default is not cured within any applicable cure period or an event of default under the Assignment and (ii) written notice is provided by Lender to the City that Lender’s rights under this Assignment have become operative and that it will exercise Borrower’s rights under the Development Agreement, the City agrees to perform its obligations under the Development Agreement provided that Lender, or its assignee, performs its obligations under the Development Agreement.

The Lender may not assign the Development Agreement to any entity without the consent of the City, and City’s consent shall not be unreasonably withheld, conditioned, or delayed.

In the event of a default by Borrower under the terms of the Development Agreement between Borrower and the City, the City shall deliver notice of such default to Lender, by (i) certified United States mail, (ii) delivery by any reputable overnight courier service or (iii) by in-person delivery at the address for Lender contained in this Assignment and Lender shall have a reasonable time within which it shall have the right, but not the obligation, to cure Borrower’s default. In the event of a default by Borrower under the terms of any of the Loan Documents that is not cured within any applicable cure period, Lender shall deliver notice of such default to the City by one of the methods described above.

IN WITNESS WHEREOF, the City of Greenville, N.C. has executed this Assignment under seal as of the \_\_\_\_ day of \_\_\_\_\_, 2022.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

WITNESS:

CITY OF GREENVILLE, N.C.

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I certify that the following person personally appeared before this day, acknowledging to me that (s)he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, Mayor of the CITY OF GREENVILLE, N.C., a municipal corporation organized and existing under the laws of the State of North Carolina, and that by authority duly given and as the acts of the City of Greenville, N.C., the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its City Clerk.

Witness my hand and official seal, this \_\_\_\_ day of \_\_\_\_\_, 2022.

(Official Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



## City of Greenville, North Carolina

Meeting Date: 10/10/2022

- 
- Title of Item:** City's Consent of Collateral Assignment of Parking Lease Agreement to Support Evans Street Hotel
- Explanation:** The City and Greenville Ventures NC, LLC entered into a Lease Agreement dated May 13, 2022, as may be amended, (the "Lease"), where the City will lease parking spaces identified in the Lease located in the multi-story parking garage located on that certain parcel of land identified as Pitt County Parcel No. 15715 and located on the corner of Cotanche Street and East 4th Street, Greenville, North Carolina owned and operated by the City (the "Parking Deck"). Customers Bank ("Lender") is making a loan to Borrower in the principal sum of \$14,567,400.00 for the construction of a Hilton Garden Inn hotel on those parcels of land with an address of 419, 421 and 423 Evans Street, Greenville, North Carolina. To secure the Loan, Borrower has agreed to assign to Lender, and Lender has agreed to take from Borrower an assignment of the Lease for collateral purposes. The City agrees to grant its consent for the Borrower to assign the Lease to Lender as additional security for the Loan by acknowledging and signing the attached Assignment.
- Fiscal Note:** The City's Consent to the Collateral Assignments of Lease has no direct financial impact on the City. The City is neither the Borrower, nor the Lender, and the City is not responsible for repaying the loan.
- Recommendation:** City Council approve the attached Collateral Assignment of Parking Lease Agreement, and authorize the City Manager or City Attorney to make any non-substantive or clerical revisions to the instrument, including a revision involving the loan amount.
- 

### ATTACHMENTS

 [Evans Street Hotel-Assignment of Parking Agreement.pdf](#)



**NORTH CAROLINA  
PITT COUNTY**

**COLLATERAL ASSIGNMENT OF  
PARKING LEASE AGREEMENT**

This COLLATERAL ASSIGNMENT OF PARKING LEASE AGREEMENT (this "Assignment") is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2022 by and between **Greenville Ventures NC, LLC**, a Florida limited liability company whose address is 648 NE 3<sup>rd</sup> Avenue, Fort Lauderdale, FL 33304 ("**Borrower**") and **Customers Bank**, a Pennsylvania banking corporation, whose address is 40 General Warren Blvd, Suite 200, Malvern, Pennsylvania 19355 ("**Lender**").

**WITNESSETH:**

WHEREAS, the City of Greenville, a municipal corporation (the "**City**") and Borrower have entered into that certain Lease Agreement dated May 13, 2022, as may be amended, incorporated herein by reference (the "**Lease**"), where the City will lease parking spaces identified in the Lease located in the multi-story parking garage located on that certain parcel of land identified as Pitt County Parcel No. 15715 and located on the corner of Cotanche Street and East 4<sup>th</sup> Street, Greenville, North Carolina owned and operated by the City (the "**Parking Deck**") (such parking spaces being herein collectively as the "**Spaces**"); and

WHEREAS, pursuant to that certain Loan Agreement to be entered into by Borrower and Lender (the "**Loan Agreement**"), Lender is making a loan to Borrower in the principal sum of \$14,567,400.00 (the "**Loan**") for the construction of a Hilton Garden Inn hotel on those parcels of land with an address of 419, 421 and 423 Evans Street, Greenville, North Carolina (the "**Property**"). The Loan Agreement is incorporated into this Assignment and all capitalized terms not otherwise defined herein have the meanings set forth in the Loan Agreement;

WHEREAS, to secure the Loan, Borrower has agreed to assign to Lender, and Lender has agreed to take from Borrower an assignment of the Lease for collateral purposes on the terms and conditions set forth herein;

WHEREAS, Paragraph 19 of the Lease provides that Borrower may not assign any interest in or obligation under the Lease to any party, without the prior express written consent of the City; and

WHEREAS, the City has agreed to grant its consent for the Borrower to assign the Lease to Lender as additional security for the Loan by acknowledging and signing this Assignment.

NOW, THEREFORE, the parties hereto agree as follows:

1. Assignment. Borrower, in consideration of the Loan and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby absolutely and unconditionally GRANT, CONVEY, ASSIGN, TRANSFER, and SET OVER unto Lender all rights, interests, entitlements, credits, licenses, uses and estates of Borrower in, to and under the Lease. The rights of Lender shall only be operative, at the option of Lender, once written notice has been provided by Lender to Borrower and the City of the occurrence of an event of default by Borrower under any of the provisions of the Loan Agreement and all related documents executed in connection therewith, including this Assignment (collectively, the "**Loan Documents**") which event of default is not cured within any applicable cure period.

2. Representations and Warranties of Borrower. Borrower hereby represents and warrants to Lender that:

- (a) Borrower has the right to assign the Lease hereby assigned;
- (b) Borrower has performed and will duly and punctually perform all of the terms, covenants, conditions and warranties of the Lease;
- (c) Borrower has not at any time prior to the date hereof exercised any right to subordinate the License to any deed of trust or mortgage or any other encumbrance of any kind;
- (d) Borrower has not previously assigned any of its rights under the Lease to any other person or entity;
- (e) Borrower has performed no act or executed any other instrument which might prevent Lender from enjoying and exercising any of its rights and privileges evidenced hereby;
- (f) The Lease is valid and subsisting and in full force and effect and unmodified;
- (g) There are no defaults now existing under the Lease and no event has occurred which with the passage of time or the giving of notice, or both, would constitute such a default; and
- (h) Borrower will not pledge, transfer, mortgage or otherwise assign or encumber its rights under the Development Agreement.

3. Limitation of Lender's Liability. Lender shall not be obligated to perform or discharge any obligation, duty or liability under the Lease by reason of this Assignment or the exercise of rights or remedies hereunder. Borrower shall and does hereby agree to indemnify, defend and hold Lender harmless from and against any and all liability, loss or damage incurred under the Lease by reason of this Assignment or the exercise of rights or remedies hereunder, and from any and all claims and demands whatsoever that may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Lease except for liability, loss, damage, claims, and/or demands arising from Lender's gross negligence or willful misconduct. Should Lender incur any such liability under the Lease by reason of this Assignment or the exercise of rights or remedies hereunder, or in defense of any such claims or demands, the amount thereof, including costs, expense and reasonable attorney's fees, shall be secured hereby and Borrower shall reimburse Lender therefore within thirty (30) days after Borrower's receipt of written demand for such, failing which, Lender may, at its option, declare all indebtedness secured hereby and by the Loan Documents to be immediately due and payable. Until such time, if ever, Lender takes exclusive control and possession of the Spaces under the Lease, this Assignment shall not operate to place responsibility upon Lender for the control, care, management or repair of the Spaces or for the costs to be paid by Borrower relating to the Spaces, nor for the carrying out of any of the terms and conditions of the Lease; nor shall it operate to make Lender responsible or liable for any waste committed on the Spaces or for any dangerous or defective condition of the parking spaces, or for any negligence in the management, upkeep, repair, or control of the Spaces resulting in loss or injury or death to any tenant, licensee, employee or stranger. Notwithstanding the foregoing, nothing in this paragraph shall serve to relieve Lender from responsibility or liability resulting from property damage, personal injury, loss, or death to any person or entity arising from Lender's gross negligence or willful misconduct.

4. Lender's Rights. Borrower hereby authorizes and empowers Lender, at Lender's option, to exercise any and all of the rights, powers and privileges conferred upon the Borrower by the Lease in as full and ample a manner as the Borrower is or may be authorized and empowered to exercise the same. Lender shall also have the right, but not the duty, to take such action or actions as it deems necessary or appropriate to prevent or cure any default by the Borrower under the Lease or to protect the rights of the Borrower or Lender under the Lease, including the right to continue under the Lease in accordance with this Assignment. From and after the time of any default by the Borrower that remains uncured after all applicable notice, grace, and cure periods under any of the provisions of this Assignment, the Loan Documents or the Lease, Lender may, at its option, exercise any right, power or privilege that the Borrower has under the Lease.

5. No Assumption by Lender. Lender shall not be obligated to perform or discharge any obligation, duty or liability under the Lease by reason of this Assignment or the exercise of rights or remedies hereunder. Lender does not assume any of Borrower's obligations under the Lease. Unless and until Lender exercises its rights under this Assignment, Lender shall have no liability for performance of any obligations under the Lease, including but not limited to payment of any sums due and owing under the terms of the Lease.

6. Lender Remedies. This Assignment is primary in nature to the obligation evidenced and secured by the Loan, the Loan Documents and any other document given to secure and collateralize the indebtedness secured by the Loan Documents. Borrower agrees that Lender may enforce this Assignment without first resorting to or exhausting any other security or collateral; provided, however, that nothing herein contained shall prevent Lender from suing on the Loan, foreclosing the Loan Documents or exercising any other right under any document securing the payment of the Loan.

7. Power of Attorney. Borrower does hereby irrevocably constitute and appoint Lender its true and lawful attorney with full power of substitution for it and in its name, place and stead, to, upon the occurrence of an Event of Default (as defined in the Loan Documents), execute, deliver and file such agreements, documents, notices, statements and records and to do or undertake such other acts as Lender, in its sole discretion, deems necessary or advisable to effect the terms and conditions of this Assignment, the Loan Documents and to otherwise preserve, protect and perfect Lender's interest in the Lease. The foregoing appointment is and the same shall be coupled with an interest in favor of Lender.

8. Default by Borrower Under Loan Documents. If Borrower defaults under the terms of the Loan Documents, Lender will provide written notice of default to the Borrower and the City. If, as a result of Borrower's default, Lender exercises its remedies under the Loan Documents and applicable law, and Lender, or another person or entity, acquires title to the Property by foreclosure, deed in lieu of foreclosure or otherwise, Lender may, at its option and with the consent by the City, which shall not be unreasonably withheld, assign the Lease and the Lender's rights under this Assignment to any such purchaser. The assignee of such rights shall have all of the rights of the Lender under this Assignment and all rights of Borrower under the Lease.

9. No Waiver. Nothing contained herein and no act done or omitted by a party pursuant to the powers and rights granted hereunder shall be deemed to be a waiver by that party hereunder or under the Loan Documents, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by a party under the terms of the Loan Documents. The right of Lender to collect the interest and indebtedness evidenced by the Loan Documents and to enforce any other security therefor held by it may be exercised by Lender either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

10. Termination of Assignment. At such time as the Loan is paid in full and any applicable Loan Documents released or cancelled of record, this Assignment and all of Lender's right, title and interest hereunder with respect to the Lease shall terminate.

11. Additional Rights of Lender.

(a) Lender may take or release other security for the payment of the Loan and other indebtedness secured by the Loan Documents, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the satisfaction of the Loan and such other indebtedness without prejudice to any of its rights under this Assignment.

(b) Lender may at any time and from time to time in writing: (i) waive compliance by Borrower with any covenant herein made by Borrower to the extent and in the manner specified in such writing; (ii) consent to Borrower doing any act that hereunder Borrower is prohibited from doing, or consent to Borrower failing to do any act which hereunder Borrower is required to do, to the extent and in the manner specified in such writing; or (iii) release any portion of the Spaces and/or the Lease, or any interest therein, from this Assignment. No such act shall in any way impair the rights of Lender hereunder except to the extent specifically agreed to by Lender in such writing.

(c) The rights and remedies of Lender hereunder shall not be impaired by any indulgence, including, but not limited to, (i) any renewal, extension, or modification that Lender may grant with respect to the Loan or any indebtedness secured hereby; (ii) any surrender, compromise, release, renewal, extension, exchange, or substitution that Lender may grant in respect of any item of the Spaces and/or the Lease or any part thereof or any interest therein; or (iii) any release or indulgence granted to any endorser, guarantor or surety of the Loan or any indebtedness secured hereby.

12. Severability. A determination that any provision of this Assignment is unenforceable or invalid shall not affect the enforceability or validity of any other provision and any determination that the application of any provision of this Assignment to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

13. No Merger. Notwithstanding (a) the fact that the Lease or the rights, interests and estates created thereby may be held, directly or indirectly, by or for the account of any person or entity that shall have an interest in the fee estate of the Parking Deck; (b) the operation of law; or (c) any other event, Borrower's rights, interests and estates under such Lease shall not merge into the fee estate and Borrower shall remain obligated under such Lease as assigned by this Assignment.

14. Binding. The terms, provisions, representations, and warranties herein contained shall inure to the benefit of, and bind, the parties hereto and their respective representatives, successor and assigns all and subsequent holders of the Loan Documents. All references in this Assignment to Borrower or Lender shall be deemed to include all such representatives, successors and assigns of such respective party.

15. Construction. Within this Assignment, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. The provisions of this Assignment are intended to supplement the provisions contained in the Loan Documents. In the event of any conflict between the terms of this Assignment and the terms of the Loan Documents, the terms of this Assignment shall prevail insofar as the License is concerned, but the terms of the Loan Documents shall prevail in all other respects.

16. Counterparts. This Assignment may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument.

17. No Third-Party Beneficiaries. It is expressly agreed by the parties hereto that this Assignment shall not be construed or deemed made for the benefit of any third party or parties.

18. Notices. Except as otherwise set forth herein, all notices required or permitted hereunder shall be given in accordance with the terms of the Loan Agreement.

19. **GOVERNING LAW. THIS ASSIGNMENT SHALL BE DEEMED TO BE A CONTRACT ENTERED INTO PURSUANT TO THE LAWS OF THE STATE OF NORTH CAROLINA AND SHALL IN ALL RESPECTS BE GOVERNED, CONSTRUED, APPLIED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF NORTH CAROLINA AND APPLICABLE LAWS OF THE UNITED STATES OF AMERICA.**

20. Entire Agreement. This Assignment and the Loan Documents contain the entire agreement concerning the assignment of the Lease between the parties hereto. No variations, modifications or changes herein or hereof shall be binding upon any party hereto, unless set forth in a document duly executed by both parties.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the date first written above.

**GREENVILLE VENTURES NC, LLC,**  
a Florida limited liability company

By: \_\_\_\_\_  
Name: John Sandlin  
Title: Manager

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public, do hereby certify that John Sandlin personally came before me and acknowledged that he is the Manager of **Greenville Ventures NC, LLC**, a Florida limited liability company, and that he in such representative capacity voluntarily signed this document for the purposes stated therein.

Witness my hand and official stamp or notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Printed Name of Notary)

My Commission Expires: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the date first written above.

**CUSTOMERS BANK,**  
a Pennsylvania banking corporation

By: \_\_\_\_\_  
Name: Brad Neigel  
Title: Executive Vice President

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public, do hereby certify that Brad Neigel personally came before me and acknowledged that he is the Executive Vice President of **Customers Bank**, a Pennsylvania banking corporation, and that he in such representative capacity voluntarily signed this document for the purposes stated therein.

Witness my hand and official stamp or notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Printed Name of Notary)

My Commission Expires: \_\_\_\_\_

ACKNOWLEDGEMENT AND CONSENT TO ASSIGNMENT OF PARKING LEASE AGREEMENT

The City of Greenville (“City”) acknowledges and consents to the foregoing assignment by the Borrower to Lender of the Lease as additional security for the Loan. The City warrants and represents that to the best of its knowledge no default currently exists under the terms of the Lease.

Upon the occurrence of both: (i) an event of default by Borrower under the Loan Documents which default is not cured within any applicable cure period or an event of default under the Assignment and (ii) written notice is provided by Lender to the City that Lender’s rights under this Assignment have become operative and that it will exercise Borrower’s rights under the Lease, the City agrees to perform its obligations under the Lease provided that Lender, or its assignee, performs its obligations under the Lease. The Lender may not assign the Lease to any entity without the consent of the City, and City’s consent shall not be unreasonably withheld, conditioned, or delayed.

In the event of a default by Borrower under the terms of the Lease between Borrower and the City, the City shall deliver notice of such default to Lender, by (i) certified United States mail, (ii) delivery by any reputable overnight courier service or (iii) by in-person delivery at the address for Lender contained in this Assignment and Lender shall have a reasonable time within which it shall have the right, but not the obligation, to cure Borrower’s default. In the event of a default by Borrower under the terms of any of the Loan Documents that is not cured within any applicable cure period, Lender shall deliver notice of such default to the City by one of the methods described above.

IN WITNESS WHEREOF, the City of Greenville, N.C. has executed this Assignment under seal as of the \_\_\_\_ day of \_\_\_\_\_, 2022.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



WITNESS:

CITY OF GREENVILLE, N.C.

\_\_\_\_\_

By:

\_\_\_\_\_ (SEAL)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I certify that the following person personally appeared before this day, acknowledging to me that (s)he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, Mayor of the CITY OF GREENVILLE, N.C., a municipal corporation organized and existing under the laws of the State of North Carolina, and that by authority duly given and as the acts of the City of Greenville, N.C., the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by herself as its City Clerk.

Witness my hand and official seal, this \_\_\_\_ day of \_\_\_\_\_, 2022.

(Official Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



# City of Greenville, North Carolina

Meeting Date: 10/10/2022

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**Title of Item:** Series Resolution for up to \$30,000,000 Greenville Utilities Commission Combined Enterprise System Revenue Bonds, Series 2022

**Explanation:** In September of 2022, the City Council adopted a findings resolution authorizing certain actions with respect to the issuance of up to \$30 million in revenue bonds to fund capital projects previously adopted by the Greenville Utilities Commission and City Council. To continue to move forward with the revenue bond issuance, at its regular meeting on September 15, the GUC Board of Commissioners approved a resolution agreeing to:

- Making the findings and determination required by the Local Government Commission (LGC) in connection with the authorization and issuance of the Series 2022 Bonds.
- Approving the Preliminary Official Statement related to the Series 2022 Bonds in the form presented, the preparation of a final Official Statement reflecting the sale of the series 2022 Bonds, and the form of the Bond Purchase Agreement with the underwriter for the Series 2022 Bonds.
- Authorizing and directing the officers, agents and employees of the Commission to do all acts and things required of them by the provisions of the Series Resolution.
- Approving amendment providing the Commission with the flexibility to determine whether it wants to continue to treat the operating lease payments and subscription software services as Current Expenses or to apply the new GASB standard, provided it is consistent with how the Commission has calculated Current Expenses in prior years in accordance with the existing Bond Order.
- Advising the City Council of the Commission's recommendation to adopt a similar resolution.

**Fiscal Note:** No costs to the City.

**Recommendation:** Adopt the attached Series Resolution and approve the subsequent execution of all collateral documentation necessary to consummate the closing of this bond transaction within the provisions of the Series Resolution.

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## ATTACHMENTS

 [GUC City of Greenville Rev 2022 Series Resolution October 2022.pdf](#)

-  [JP Morgan - GUC 2022 Revenue Bonds - POS\(163737732.1\).pdf](#)
-  [JP Morgan - GUC 2022 Revenue Bonds - BPA\(164310792.1\).pdf](#)

A regular meeting of the City Council of the City of Greenville, North Carolina was held in the City Council Chamber at the City Hall in Greenville, North Carolina, the regular place of meeting, on October 10, 2022 at 6:00 p.m.

Present: Mayor P.J. Connelly, presiding, and Councilmembers

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Absent: \_\_\_\_\_

Also present: Ann Wall, City Manager; Valerie P. Shiuwegar, City Clerk; Emanuel D. McGirt, City Attorney; \_\_\_\_\_

\* \* \* \* \*

\_\_\_\_\_ introduced the following resolution, a copy of which had been provided to each Councilmember and which was read by its title:

**RESOLUTION NO. \_\_ - 22**

**SERIES RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$30,000,000 GREENVILLE UTILITIES COMMISSION COMBINED ENTERPRISE SYSTEM REVENUE BONDS, SERIES 2022 OF THE CITY OF GREENVILLE, NORTH CAROLINA, PURSUANT TO THE PROVISIONS OF THE BOND ORDER ADOPTED BY THE CITY COUNCIL OF SAID CITY ON AUGUST 11, 1994 AND AMENDED AND RESTATED AS OF APRIL 13, 2000, REQUESTING THE LOCAL GOVERNMENT COMMISSION OF NORTH CAROLINA TO SELL ALL THE BONDS BY NEGOTIATED SALE AND AMENDING CERTAIN PROVISIONS OF THE BOND ORDER**

WHEREAS, the City of Greenville, North Carolina (the “City”), a municipal corporation in Pitt County, North Carolina, owns certain public utility or public service enterprise facilities comprising an electric system, a natural gas system, a sanitary sewer system and a water system, within and without the corporate limits of the City (collectively, the “Combined Enterprise System”); and

WHEREAS, in accordance with Chapter 861 of the 1991 Session Laws of North Carolina, the Greenville Utilities Commission (the “Commission”) has been created for the proper management of the public utilities of the City, within and without the corporate limits of the City, with responsibility for the entire supervision and control of the management, operation,

maintenance, improvement and extension of the public utilities of the City, including the Combined Enterprise System; and

WHEREAS, the City Council of the City (the “City Council”) adopted on August 11, 1994 and amended and restated as of April 13, 2000 a Bond Order authorizing and securing Greenville Utilities Commission Combined Enterprise System Revenue Bonds of the City (the “Order”); and

WHEREAS, Section 210 of the Order authorizes the issuance of additional revenue bonds of the City in one or more series from time to time to provide funds to (a) pay all or any part of the cost of any Additional Improvements (as defined in the Order) and (b) pay expenses incidental and necessary or convenient thereto; and

WHEREAS, the Commission has determined that it is necessary to acquire and construct certain improvements to the Combined Enterprise System (the “2022 Additional Improvements”), which assets constitute Additional Improvements under the Order, and the Commission has requested the City to issue additional revenue bonds as authorized by Section 210 of the Order to finance the 2022 Additional Improvements, which revenue bonds would be designated “Combined Enterprise System Revenue Bonds, Series 2022 (the “Series 2022 Bonds”); and

WHEREAS, on September 8, 2022, the City Council adopted a resolution making certain findings and authorizing certain actions to proceed with the Series 2022 Bonds, and also authorizing and directing the City staff to proceed with filing an application with the Local Government Commission for approval of the issuance and sale of such Series 2022 Bonds; and

WHEREAS, the City Council has received information to the effect that the City will be able to satisfy the requirements of Section 210 of the Order with respect to such series of revenue bonds; and

WHEREAS, pursuant to Section 210 of the Order, such revenue bonds are to have such terms and provisions as may be provided by a series resolution to be adopted by the City Council prior to the issuance thereof; and

WHEREAS, the Commission has adopted a resolution to the effect that it approves the provisions of this resolution and recommends to the City Council that the City Council adopt this resolution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA DOES HEREBY DETERMINE AND RESOLVE, as follows:

Section 1. Definitions. Unless otherwise required by the context, capitalized words and terms used in this Resolution (this “Series Resolution”) and not otherwise defined herein shall have the same meanings in this Series Resolution as such words and terms are given in the Order, and the following words and terms shall have the following meanings:

“Securities Depository” means The Depository Trust Company, New York, New York or other recognized securities depository selected by the City, which maintains a book-entry system

in respect of municipal securities such as the Series 2022 Bonds, and shall include any substitute for or successor to the securities depository initially acting as Securities Depository.

“Securities Depository Nominee” means, as to any Securities Depository, such Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the registration books maintained by the Bond Registrar the Series 2022 Bond certificates to be delivered to and immobilized at such Securities Depository during the continuation with such Securities Depository of participation in its book-entry system.

“2022 Additional Improvements” means improvements to the Combined Enterprise System to be financed in whole or in part with the proceeds of the Series 2022 Bonds, including, but not limited to, the construction, acquisition and equipping of electric system substations, transformers and peak shaving generators, lagoon improvements and waste water treatment plant headworks improvements. All of the 2022 Additional Improvements constitute “Additional Improvements” as defined in the Order.

Section 2. Authorization and Details of the Series 2022 Bonds.

(A) Authorization of the Issuance of the Series 2022 Bonds. Pursuant to the Enabling Act and Section 210 of the Order, the City Council hereby authorizes the issuance of revenue bonds of the City to provide funds, together with any other available funds, to: (1) pay certain of the costs of the 2022 Additional Improvements, and (2) pay certain costs and expenses incurred in connection with the issuance of the revenue bonds. Such bonds shall be issued under the Order as a single series of Bonds designated “Greenville Utilities Commission Combined Enterprise System Revenue Bonds, Series 2022” (the “Series 2022 Bonds”) in the aggregate principal amount not to exceed \$30,000,000.

(B) Bond Provisions. The Series 2022 Bonds shall be dated, shall consist of Serial or Term Bonds, or a combination thereof, shall bear interest at the rates, shall mature, subject to optional redemption and mandatory sinking fund redemption, in the amounts and on the dates, all as hereinafter provided.

(C) Details, Interest Payment Dates. The Series 2022 Bonds shall be numbered consecutively 2022 R-1 and up, shall be in the denomination of five thousand dollars (\$5,000) and integral multiples thereof and shall be registered and exchangeable, and the transfer thereof may be registered, all in accordance with the provisions of the Order. Interest on the Series 2022 Bonds shall be payable semi-annually on the dates determined by a Delegate pursuant to Section 3(D) of this Series Resolution, until the Series 2022 Bonds are retired in accordance with the Order.

(D) Book-Entry. The Depository Trust Company (“DTC”), New York, New York, is hereby appointed as Securities Depository for the Series 2022 Bonds. Upon the issuance of the Series 2022 Bonds, one fully registered Series 2022 Bond will be registered in the name of Cede & Co., as nominee for DTC, for each maturity. So long as Cede & Co. is the registered owner of the Series 2022 Bonds, as nominee of DTC, references herein to the Owners of the Series 2022 Bonds shall mean Cede & Co. and shall not mean the beneficial owners of the Series 2022 Bonds.

The interest of each of the beneficial owners of the Series 2022 Bonds will be recorded through the records of a DTC participant. Transfers of beneficial ownership interests in the Series 2022 Bonds which are registered in the name of Cede & Co. will be accomplished by book entries made by DTC and, in turn, by the DTC participants and indirect participants who act on behalf of the beneficial owners of Series 2022 Bonds.

DTC may determine to discontinue providing its service with respect to the Series 2022 Bonds at any time by giving notice to the City and the Trustee and discharging its responsibilities with respect thereto under applicable law. If there is no successor Securities Depository appointed by the City, the City shall deliver Series 2022 Bonds in definitive form to the beneficial owners thereof. The City may determine not to continue participation in the system of book-entry transfers through DTC (or a successor Securities Depository) at any time by giving reasonable notice to DTC (or a successor Securities Depository). In such event, the City will deliver Series 2022 Bonds in definitive form to the beneficial owners thereof pursuant to the Order and this Series Resolution. Prior to any transfer of the Series 2022 Bonds outside the Book-Entry Only system (including, but not limited to, the initial transfer outside the Book-Entry Only system) the transferor shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045, as amended. The Trustee shall conclusively rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

The City and the Bond Registrar shall recognize DTC or its nominee, Cede & Co., while the registered owner, as the Owner of the Series 2022 Bonds for all purposes, including notices and voting. Conveyance of notices and other communications by DTC to DTC participants and by DTC participants and indirect participants to beneficial owners of the Series 2022 Bonds will be governed by arrangements among DTC, DTC participants and indirect participants, subject to any statutory and regulatory requirements as may be in effect from time to time.

The City may enter into amendments to any agreement between the City and DTC or any successor Securities Depository relating to the book-entry system to be maintained with respect to the Series 2022 Bonds without the consent of the Owners or beneficial owners of the Series 2022 Bonds.

Section 3. Delegation and Standards. The City Council hereby delegates to each of the City Manager, the Director of Financial Services of the City, the General Manager/Chief Executive Officer of the Commission and the Chief Financial Officer of the Commission or her or his designee (each a “Delegate”), subject to the limitations contained herein, the power to determine and carry out the following with respect to the Series 2022 Bonds:

(A) Principal Amount. To determine the aggregate principal amount of the Series 2022 Bonds, such principal amount not to exceed \$30,000,000;

(B) Interest Rates. To determine the interest rate or rates on the Series 2022 Bonds; provided that the true interest cost of the Series 2022 Bonds shall not exceed five and one-half percent (5.50%) per annum;

(C) Maturities. To determine the maturities and maturity amounts of the Series 2022 Bonds, no such maturity to extend beyond December 31, 2046;

(D) Interest and Principal Payment Dates. To determine the semi-annual interest payment dates and the first interest payment date as well as the principal payment dates for the Series 2022 Bonds;

(E) Serial and Term Bonds. To determine which Series 2022 Bonds are Serial and Term Bonds, and the Sinking Fund Requirements for any such Term Bonds;

(F) Redemption Provisions. To determine the optional redemption provisions permitted by Section 5 of this Series Resolution, including the first optional redemption date and the Redemption Prices;

(G) Dated Date. To determine the dated date of the Series 2022 Bonds;

(H) Date of Sale. To determine the date of sale of the Series 2022 Bonds (such date of sale not to be later than February 28, 2023);

(I) Negotiated Sale. To approve the sale of the Series 2022 Bonds via a negotiated sale in accordance with the provisions of Section 13 of this Series Resolution;

(J) Parity Indebtedness Reserve Fund. To determine whether to make a deposit to the credit of the Parity Indebtedness Reserve Fund or to a separate account in the Parity Indebtedness Reserve Fund to specifically secure the Series 2022 Bonds; and

(K) Other Provisions. To determine any other provisions deemed advisable and not in conflict with the provisions of this Series Resolution.

The authorization to determine the foregoing matters is fully vested in each of the Delegates individually and does not have to be exercised by joint action. Each Delegate shall consult with the other Delegates as needed to carry out the duties so delegated.

Section 4. Series Certificate. A Delegate shall execute a certificate or certificates (collectively, the “Series Certificate”) evidencing determinations or other actions taken pursuant to the authority granted in Sections 3, 5 and 6 of this Series Resolution, and the Series Certificate shall be conclusive evidence of the action taken and the approval of the City Council.

Section 5. Optional Redemption of the Series 2022 Bonds. The Series 2022 Bonds shall be subject to redemption prior to maturity, at the option of the City and the Commission, in whole or in part on any date, from any moneys that may be made available for such purpose, on any date within the redemption periods and at the Redemption Prices, plus accrued interest thereon to the date fixed for redemption, as determined by a Delegate pursuant to Section 3(F) of this Series Resolution; provided, however, that the Series 2022 Bonds may be made non-callable.

Section 6. Sinking Fund Redemption Provisions for the Series 2022 Bonds. If any of the Series 2022 Bonds shall be designated in the Series Certificate to be Term Bonds, such Term Bonds shall be subject to mandatory redemption in part on each date specified in the Series



Certificate, in amounts equal to the respective Sinking Fund Requirements therefor set out in the Series Certificate, upon notice as provided in Article III of the Order except as hereinafter provided, at a Redemption Price equal to 100% of the principal amount of the Term Bonds to be redeemed, plus accrued interest thereon to the date fixed for redemption. The final Sinking Fund Requirement shall be due on the respective stated maturities of the Series 2022 Bonds that are Term Bonds.

Section 7. Redemption Notice. Notice of any redemption of the Series 2022 Bonds shall be given as provided in Article III of the Order.

Any notice of optional redemption of the Series 2022 Bonds may state that it is conditioned upon there being available an amount of money sufficient to pay the redemption price plus interest accrued and unpaid to the redemption date, and any conditional notice so given may be rescinded at any time before the payment of the redemption price if any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds on deposit under the terms of the Bond Order, the corresponding notice of redemption will be deemed to be revoked.

Section 8. Form of the Series 2022 Bonds. The Series 2022 Bonds and the Certificate of the Local Government Commission and the Certificate of Authentication to be endorsed on the Series 2022 Bonds shall be substantially in the following forms, with such variations, omissions and insertions as are required or permitted by the Order or this Series Resolution:

No. 2022 R -1 \$ \_\_\_\_\_

United States of America  
State of North Carolina

CITY OF GREENVILLE

Greenville Utilities Commission Combined Enterprise System  
Revenue Bonds, Series 2022

<u>Maturity Date</u>	<u>Dated Date</u>	<u>Interest Rate</u>	<u>CUSIP</u>
_____ 1, 20__	_____, 2022	%	

Principal Amount: \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_)

Registered Owner: CEDE & CO.

The City of Greenville (the “City”), a municipal corporation in Pitt County, North Carolina, exercising public and essential governmental functions, is justly indebted and for value received hereby promises to pay, solely from the special fund provided therefor as hereinafter set

forth, to the Registered Owner shown above or registered assigns or legal representative, on the maturity date specified above (or earlier as stated hereinafter), upon the presentation and surrender hereof at the designated corporate trust office of The Bank of New York Mellon Trust Company, N.A., in Jacksonville, Florida, or any successor bond registrar (the "Bond Registrar"), the Principal Amount shown above in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and to pay, solely from said special fund, in whose name this Series 2022 Bond (or one or more Predecessor Bonds, as defined in the Order hereinafter mentioned), is registered at the close of business on the regular record date for such interest, which shall be the 15th day of the calendar month next preceding an interest payment date (the "Regular Record Date"), interest on said principal sum from the date of this Series 2022 Bond or from the \_\_\_\_\_ 1 or \_\_\_\_\_ 1 next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is a \_\_\_\_\_ 1 or \_\_\_\_\_ 1 to which interest shall have been paid, in which case from such date, on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 in each year, commencing \_\_\_\_\_, in like coin or currency, at the rate per annum specified above until payment of said principal sum. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the person who was the registered owner on such Regular Record Date and may be paid to the person in whose name this Series 2022 Bond (or one or more Predecessor Bonds) is registered at the close of business on a Special Record Date (as defined in the Order) for the payment of such defaulted interest to be fixed by the Trustee hereinafter mentioned, notice whereof being given to registered owners not less than ten (10) days prior to such Special Record Date, or may be paid in any other lawful manner not inconsistent with the requirements of applicable law or any securities exchange on which the Series 2022 Bonds may be listed and upon such notice as may be required by such law or exchange, all as more fully provided in the Order.

This Series 2022 Bond is one of a duly authorized series of revenue bonds of the City, designated "Greenville Utilities Commission Combined Enterprise System Revenue Bonds, Series 2022", consisting of Serial Bonds maturing on \_\_\_\_\_ 1 in the years 20\_\_ through 20\_\_ [and Term Bonds maturing on \_\_\_\_\_ 1, 20\_\_ and \_\_\_\_\_ 1, 20\_\_]. The Series 2022 Bonds are being issued to provide funds, together with any other available funds, to (i) finance certain of the costs of improvements to the Combined Enterprise System (hereinafter defined) and (ii) pay certain costs and expenses incurred in connection with the issuance of the Series 2022 Bonds. Pursuant to the Enabling Act (as hereinafter defined), the Greenville Utilities Commission (the "Commission") is responsible for the management, operation, maintenance, improvement and extension of the Combined Enterprise System.

The Series 2022 Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Series Resolution, as hereinafter defined. One Series 2022 Bond certificate with respect to each date on which the Series 2022 Bonds are stated to mature, registered in the name of the Securities Depository Nominee (as defined in the Series Resolution) is being issued and required to be deposited with the Bond Registrar (as defined in the Series Resolution) and immobilized in its custody. The book-entry system will evidence positions held in the Series 2022 Bonds by the Securities Depository's participants, beneficial ownership of the Series 2022 Bonds in the principal amount of \$5,000 or any multiple thereof being evidenced in the records of such participants. Transfers of ownership will be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants.

The City, the Bond Registrar and the Trustee will recognize the Securities Depository Nominee, while the registered owner of this Series 2022 Bond, as the owner of this Series 2022 Bond for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Series 2022 Bond, (ii) notices and (iii) voting. Transfer of principal, interest and any redemption premium payments to participants of the Securities Depository will be the responsibility of the Securities Depository, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Series 2022 Bonds by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The City, the Bond Registrar and the Trustee will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository Nominee, the Securities Depository's participants or persons acting through such participants. While the Securities Depository Nominee is the registered owner of this Series 2022 Bond, notwithstanding the provisions hereinabove contained, payments of principal of, redemption premium, if any, and interest on this Series 2022 Bond shall be made in accordance with existing arrangements between the Bond Registrar or its successors under the Order and the Series Resolution and the Securities Depository.

All of the Series 2022 Bonds are issued under and pursuant to the Constitution and laws of the State of North Carolina, including Chapter 861 of the 1992 Session Laws of North Carolina and The State and Local Government Revenue Bond Act, as amended (collectively, the "Enabling Act"), a Bond Order duly adopted on August 11, 1994 and amended and restated as of April 13, 2000 (the "Order") by the City Council of the City (the "City Council"), and a series resolution duly adopted on October 10, 2022 (the "Series Resolution") by the City Council. The Order designates the assets comprising the electric system, natural gas system, sanitary sewer system and water system of the City as the "Combined Enterprise System"). The City has heretofore issued under the Order other bonds on a parity with this Series 2022 Bond, and provides for the issuance from time to time under the conditions, limitations and restrictions therein set forth of additional Bonds (as hereinafter defined) to provide funds for paying all or any part of the cost of acquiring and constructing other Additional Improvements (as defined in the Order) and to refund any Bonds issued under the Order and Indebtedness (as defined in the Order) other than Bonds (such additional Bonds, these Series 2022 Bonds and the parity bonds heretofore issued being herein collectively called the "Bonds"). The Order provides that such Bonds are secured by a pledge, charge and lien upon and payable from certain receipts and rights to receive receipts of the Combined Enterprise System (the "Receipts") after paying or making provision for the payment of Current Expenses (as defined in the Order) (the "Net Receipts").

Unless otherwise provided, Bonds issued under the Order are secured by the Net Receipts on a parity (such obligations and the Bonds being herein collectively called "Parity Indebtedness"). The Order provides that the City may issue other obligations that are secured by a pledge, charge and lien upon and payable from the Net Receipts subordinate and junior in right of payment to Parity Indebtedness ("Subordinate Indebtedness") or which are not secured by a pledge, charge or lien upon the Net Receipts but are payable from the Net Receipts ("Additional Indebtedness" and, together with the Existing Indebtedness, as defined in the Order, "Other Indebtedness") under the conditions, limitations and restrictions therein set forth. The Order also provides that the City may assume other indebtedness that is secured on a parity with Parity Indebtedness or Subordinate Indebtedness or that is payable from Net Receipts.

Reference is hereby made to the Order for provisions, among others, with respect to the custody and application of the proceeds of Bonds, the collection and disposition of Receipts, the special fund charged with and made available for the payment of the interest and the redemption premium, if any, on and the principal of the Bonds and any other Parity Indebtedness, the nature and extent of the security for the Bonds, the Existing Indebtedness and any other Parity Indebtedness, Subordinate Indebtedness and Additional Indebtedness thereby created, the terms and conditions on which the Bonds of each series are or may be issued or the payment of debt service on other Parity Indebtedness, Subordinate Indebtedness or Additional Indebtedness may be incurred or assumed, the rights, duties and obligations of the City, the Bond Registrar and the Trustee and the rights of the registered owners of the Bonds. A certified copy of the Order is on file at the corporate trust office of The Bank of New York Mellon Trust Company, N.A. (the “Trustee”), in the City of Jacksonville, Florida. By the acceptance of this Series 2022 Bond, the registered owner hereof assents to all of the provisions of the Order.

The Order provides for the creation of a special fund designated the “Greenville Utilities Commission Parity Indebtedness Service Fund” (the “Parity Indebtedness Service Fund”), which special fund is made available for and charged with the payment of the principal of and the interest on all Bonds and any other Parity Indebtedness, and also provides for the deposit to the credit of said special fund of the Net Receipts to the extent and in the manner provided in the Order. The Order further provides for transfers to the credit of the Parity Indebtedness Service Fund from other funds created by the Order and made available thereunder to make up any deficiencies in said Fund with respect to all Bonds and any other Parity Indebtedness, all to the extent and in the manner provided in the Order.

The Order provides for the charging, revising and collecting by the Commission of rates, fees and charges for the use of and for the services and facilities furnished or to be furnished by the Combined Enterprise System in order to produce at all times sufficient Receipts, together with certain other available funds, to pay the Current Expenses and to pay the principal of and interest on all Parity Indebtedness, Subordinate Indebtedness and Other Indebtedness as the same shall become due.

The Net Receipts are pledged by the Order to the payment of the principal of and the interest and any redemption premium on the Bonds and other Parity Indebtedness and then Subordinate Indebtedness as provided in the Order. In addition, the moneys in the Parity Indebtedness Service Fund and moneys in the Parity Indebtedness Reserve Fund or qualified reserve fund substitutes established in connection with the issuance of certain of the outstanding Bonds are pledged by the Order as further security for the payment of all Parity Indebtedness and the interest thereon as provided in the Order; provided, however, that pursuant to the Series Resolution, certain Bonds are not secured by such Parity Indebtedness Reserve Fund or qualified reserve fund substitutes. This Series 2022 Bond is not secured by the Parity Indebtedness Reserve Fund. The City is not obligated to pay the Bonds or Indebtedness other than Bonds except from the Net Receipts or other moneys made available therefor under the Order. Neither the faith and credit nor the taxing power of the State of North Carolina or any political subdivision thereof, including the City, is pledged to the payment of the principal of and the interest and any redemption premium on this bond.

The Series 2022 Bonds are issuable as fully registered Bonds, in such denominations as the City may by resolution determine. At the designated corporate trust office of the Bond Registrar, in the manner and subject to the limitations and conditions provided in the Order, Series 2022 Bonds may be exchanged for an equal aggregate principal amount of Series 2022 Bonds of the same maturity, of authorized denominations and bearing interest at the same rate.

The transfer of this Series 2022 Bond is registrable by the registered owner hereof in person or by his attorney or legal representative at the principal corporate trust office of the Bond Registrar but only in the manner and subject to the limitations and conditions provided in the Order and the Series Resolution and upon surrender and cancellation of this Series 2022 Bond. Upon any such registration of transfer the City shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Series 2022 Bond, a new bond or bonds, registered in the name of the transferee, of authorized denominations, in aggregate principal amount equal to the principal amount of this Series 2022 Bond, of the same series and maturity and bearing interest at the same rate. The City or the Bond Registrar may make a charge for every such exchange or registration of transfer of bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made to any registered owner for the privilege of exchanging or registering the transfer of bonds. Neither the City nor the Bond Registrar shall be required to make any such exchange or registration of transfer of Bonds of a series during the fifteen (15) days immediately preceding the date of first giving of notice of any redemption of Bonds of such series or any portion thereof or of any Bonds after such Bonds or any portion thereof has been selected for redemption.

The Series 2022 Bonds maturing on or after \_\_\_\_\_ 1, 20\_\_ are subject to redemption, at the option of the City, in whole or in part (by lot within a maturity), at any time on or after \_\_\_\_\_ 1, 20\_\_, at a redemption price equal to \_\_\_\_% of the principal amount of the Series 2022 Bonds plus accrued interest thereon to the redemption date.

Not more than ninety (90) days and at least thirty (30) days before the redemption date of any Series 2022 Bonds, the Bond Registrar shall cause a notice of any such redemption, either in whole or in part, signed by the Bond Registrar, to be mailed, first-class, postage prepaid, to the North Carolina Local Government Commission and all registered owners of Series 2022 Bonds or portions of Series 2022 Bonds to be redeemed at their addresses as they appear on the registration books of the City kept by the Bond Registrar, as provided in the Order, but failure so to mail any such notice shall not affect the validity of the proceedings for such redemption as to any registered owners to whom such notice was given as so required. The City shall also cause a notice of any such redemption to be given as provided in the Order. On the date designated for redemption, notice having been given as aforesaid, the Series 2022 Bonds or portions of Series 2022 Bonds so called for redemption shall become and be due and payable at the Redemption Price provided for the redemption of such Series 2022 Bonds or portions thereof on such date, and, if the moneys for payment of the Redemption Price and the accrued interest are held by the Bond Registrar, as provided in the Order, interest on such Series 2022 Bonds or portions thereof shall cease to accrue, such Series 2022 Bonds or portions thereof shall cease to be entitled to any benefit or security under the Order, and the registered owners thereof shall have no rights in respect of such Series 2022 Bonds or portions thereof except to receive payment of the redemption price thereof and the accrued interest so held by the Bond Registrar. If a portion of

this Series 2022 Bond shall be called for redemption, a new Series 2022 Bond or Bonds in principal amount equal to the unredeemed portion hereof will be issued to the registered owner upon surrender hereof.

Any notice of optional redemption of the Series 2022 Bonds may state that it is conditioned upon there being available an amount of money sufficient to pay the redemption price plus interest accrued and unpaid to the redemption date, and any conditional notice so given may be rescinded at any time before the payment of the redemption price if any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds under the terms of the Bond Order, the corresponding notice of redemption will be deemed to be revoked.

The moneys in the Parity Indebtedness Service Fund and the Redemption Fund (as defined in the Order) available for the purchase or redemption of Bonds shall be allocated to all series of Bonds outstanding under the Order in the manner provided in the Order.

In certain events, on the conditions, in the manner and with the effect set forth in the Order, the principal of all Bonds then outstanding under the Order may become or may be declared due and payable before their stated maturities, together with the interest accrued thereon.

Modifications or alterations of the Order may be made by the City only to the extent and in the circumstances permitted by the Order.

As declared by the Enabling Act, this Series 2022 Bond, subject only to the provisions for registration and registration of transfer stated herein and contained in the Order, is an investment security within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code of the State of North Carolina.

This Series 2022 Bond is issued with the intent that the laws of the State of North Carolina shall govern its construction.

All acts, conditions and things required by the Constitution and laws of the State of North Carolina, the Order and the Series Resolution to happen, exist and be performed precedent to and in the issuance of this Series 2022 Bond have happened, exist and have been performed as so required.

This Series 2022 Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Order until this Series 2022 Bond shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the City of Greenville, North Carolina has caused this Series 2022 Bond to be signed by the Mayor and the City Clerk of the City and the corporate seal of the City to be impressed hereon, all as of the Dated Date set forth above.

CITY OF GREENVILLE, NORTH CAROLINA

[SEAL]

By [manual signature]  
Mayor

[manual signature]  
City Clerk

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The issuance of the within Bonds has been approved under the provisions of The State and Local Government Revenue Bond Act of North Carolina.

[manual signature]  
Secretary, Local Government  
Commission of North Carolina

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the series designated therein and issued under the provisions of the within-mentioned Order.

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A.

as Bond Registrar

By \_\_\_\_\_

Date of authentication: \_\_\_\_\_

ASSIGNMENT

FOR VALUE RECEIVED the undersigned registered owner thereof hereby sells, assigns and transfers unto \_\_\_\_\_

\_\_\_\_\_ the within Bond and all rights thereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to register the transfer of said Bond on the books kept for registration thereof, with full power of substitution in the premises

Dated: \_\_\_\_\_

NOTICE: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

\_\_\_\_\_  
NOTICE: Signature must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

Section 9. Series 2022 Bonds Construction Account. A special construction account is hereby created in the Construction Fund created by the Order and designated "Greenville Utilities Commission Series 2022 Bonds Construction Account" (the "Series 2022 Bonds Construction Account"), to the credit of which such deposits will be made as are required by the provisions of Section 210 of the Order and Section 10 of this Series Resolution. The moneys in the Series 2022 Bonds Construction Account shall be applied to pay certain Costs of the 2022 Additional Improvements in accordance with the provisions of the Order and for costs of issuance for the Series 2022 Bonds.

Subject to the provisions of Article IV of the Order, any interest earned or other income derived from the investment or deposit of moneys held for the credit of the Series 2022 Bonds Construction Account shall be retained by the Trustee in the Series 2022 Bonds Construction Account or upon the written direction of the Chief Financial Officer of the Commission or his designee be applied to principal or interest payments on the Series 2022 Bonds.

Section 10. Application of Proceeds of the Series 2022 Bonds. Simultaneously with the delivery of the Series 2022 Bonds, the Trustee shall apply the proceeds of the Series 2022 Bonds or cause said proceeds to be applied, including any amount received as accrued interest, as follows:

- (A) the Parity Indebtedness Reserve Fund Deposit, if necessary; and
- (B) the remaining net proceeds of the Series 2022 Bonds shall be deposited to the Series 2022 Bonds Construction Account.

Section 11. Application of Certain Revenues. Subject to the provisions of Section 507 of the Order, the Commission shall, on or before the twenty-fifth (25th) day of the month preceding the months determined pursuant to Section 3(D) of this Series Resolution, withdraw from the Operating Checking Account moneys held for the credit of the Appropriate Operating Funds in such amounts as shall be necessary for the purpose of making the following transfers:

- (A) To the Trustee for deposit to the credit of the Interest Account created by the Order, such amount thereof (or the entire sum so withdrawn if less than the required amount) as is sufficient to make full and timely payment of the interest to become due and payable on



the Series 2022 Bonds on the next ensuing semi-annual interest payment date, after taking into account any amounts then held for the credit of the Interest Account created by the Order (including amounts transferred from the Construction Fund) for the payment of such interest.

(B) To the Trustee for deposit to the credit of the Principal Account created by the Order, such amount, if any, of the balance remaining after making the transfer under clause (i) above (or the entire balance if less than the required amount) as is sufficient to make full and timely payment of the principal of any Series 2022 Serial Bonds to become due and payable on the next ensuing principal payment date, after taking into account any amounts then held for the credit of the Principal Account created by the Order for the payment of such principal.

(C) If any of the Series 2022 Bonds shall be designated Term Bonds in the Series Certificate, to the Trustee for deposit to the credit of the Sinking Fund Account created by the Order, such amount, if any, of the balance remaining after making the transfers under clauses (i) and (ii) above (or the entire balance if less than the required amount) as is equal to the Sinking Fund Requirement for the Term Bonds to be retired on the next ensuing sinking fund payment date, after taking into account any amounts held for the credit of the Sinking Fund Account created by the Order for satisfaction of such Sinking Fund Requirement.

Section 12. Official Statement. The draft of the Preliminary Official Statement relating to the Series 2022 Bonds (the “Preliminary Official Statement”) is hereby approved. The City hereby authorizes the use and distribution of the Preliminary Official Statement by J.P. Morgan Securities LLC (the “Underwriter”) in substantially the form presented, together with such changes, modifications and deletions as the Mayor of the City or any Delegate, with the advice of counsel, may deem necessary and appropriate. The City authorizes and consents to the preparation and distribution of a final Official Statement relating to the Series 2022 Bonds (the “Official Statement”), in substantially the form of the Preliminary Official Statement, together with such changes as are necessary to reflect the final terms of the Series 2022 Bonds. The City Manager of the City (or if the City Manager is not available, the Director of Financial Services of the City) and the General Manager or the Chief Financial Officer of the Commission are each hereby authorized and directed to execute and deliver the Official Statement on behalf of the City and the Commission, in substantially the form of the Preliminary Official Statement, together with such changes, specifications, and deletions as any Delegate, with the advice of counsel, may deem necessary and appropriate; such execution and delivery shall be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 13. LGC Requested to Award the Series 2022 Bonds. The City Council hereby requests the Local Government Commission of North Carolina (the “LGC”) to award the Series 2022 Bonds at negotiated sale without advertisement to the Underwriter in the amount and at the interest rates fixed pursuant to this Series Resolution, subject to the approval thereof by any Delegate. If the LGC awards the Series 2022 Bonds as hereinabove requested, the provisions of the Bond Purchase Agreement between the Underwriter and the LGC relating to the purchase of the Series 2022 Bonds (the “Bond Purchase Agreement”) and presented to the City Council for its consideration are hereby approved in all respects, and each of the City Manager of the City and the Director of Financial Services are hereby authorized to signify such approval by the

execution of the Bond Purchase Agreement in substantially the form presented, such execution to be conclusive evidence of the approval thereof by the City. In addition, the Commission shall signify its approval of the Bond Purchase Agreement by the execution of the Bond Purchase Agreement by the General Manager or the Chief Financial Officer of the Commission.

Section 14. Continuing Disclosure. The City and the Commission hereby undertake, for the benefit of the beneficial owners of the Series 2022 Bonds, to provide to the Municipal Securities Rulemaking Board (the “MSRB”):

(A) by not later than seven months from the end of each Fiscal Year, commencing with the Fiscal Year ending June 30, 2023, audited financial statements of the Commission for such Fiscal Year, if available, prepared in accordance with Section 159-39 of the General Statutes of North Carolina, as it may be amended from time to time, or, if such audited financial statements of the Commission are not available by seven months from the end of such Fiscal Year, unaudited financial statements of the Commission for such Fiscal Year to be replaced subsequently by audited financial statements of the Commission to be delivered within 15 days after such audited financial statements become available for distribution;

(B) by not later than seven months from the end of each Fiscal Year, commencing with the Fiscal Year ending June 30, 2023, the financial and statistical data as of a date not earlier than the end of the preceding Fiscal Year for the type of information included under the following headings to the Official Statement relating to the Series 2022 Bonds (1) “The Combined Enterprise System - The Electric System (capacity and consumption figures) - Electric Service Rates, Number of Connections and - Major Users”; (2) “The Combined Enterprise System - The Water System (capacity and consumption figures) -- Water Service Rates, - Water Service Tap Fees, - Number of Connections and - Major Users;” (3) “The Combined Enterprise System - The Sanitary Sewer System (capacity figures)”; Sewer Service Rates, - Sewer Service Tap Fees, - Number of Connections and - Major Users”; (4) “The Combined Enterprise System - The Natural Gas System (capacity and consumption figures) - Natural Gas Rates, - Number of Connections, Gas Consumption and - Major Users”; and (5) “The Combined Enterprise System - Billing and Collection Procedures” to the extent such items are not included in the audited financial statements referred to in (A) above;

(C) in a timely manner, not in excess of ten business days after the occurrence of the event, notice of any of the following events with respect to the Series 2022 Bonds:

(1) principal and interest payment delinquencies;

(2) non-payment related defaults; if material

(3) unscheduled draws on debt service reserves reflecting financial difficulties;

(4) unscheduled draws on credit enhancements reflecting financial difficulties;

- (5) substitution of credit or liquidity providers, or their failure to perform;
  - (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 570-TEB) or other material notices or determinations with respect to or events affecting the tax-exempt status of the Series 2022 Bonds;
  - (7) modification to the rights of security holders; if material
  - (8) bond calls, other than calls for mandatory sinking fund redemption, if material, and tender offers;
  - (9) defeasances;
  - (10) release, substitution or sale of property securing repayment of the Series 2022 Bonds, if material;
  - (11) rating changes;
  - (12) bankruptcy, insolvency, receivership or similar event of the City or the Commission;
  - (13) the consummation of a merger, consolidation, or acquisition involving the City or the Commission or the sale of all or substantially all of the assets of the City or the Commission, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating any such actions, other than pursuant to its terms, if material;
  - (14) appointment of a successor or additional paying agent or the change of name of a paying agent, if material;
  - (15) incurrence of a financial obligation (as defined below) of the City or the Commission, if material, or agreement to covenants, events of default, remedies, priority rights or other similar terms of a financial obligation of the City or the Commission, any of which affect beneficial owners of the Series 2022 Bonds, if material; and
  - (16) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the City or the Commission, any of which reflect financial difficulties;
- (D) in a timely manner, notice of a failure of the City or the Commission to provide required annual financial information described in (A) or (B) above on or before the date specified.

All information provided to the MSRB as described in this Section shall be provided in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB.

The City may meet the continuing disclosure filing requirement described above by complying with any other procedure that may be authorized or required by the United States Securities and Exchange Commission.

For the purposes of this Section, “financial obligation” means (a) a debt obligation, (b) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (c) a guarantee of either clause (a) or (b). The term “financial obligation” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with Rule 15c2-12 issued under the Securities Exchange Act of 1934.

If the City or the Commission fails to comply with the undertaking described above, the Trustee (upon being indemnified to its satisfaction, to the extent allowable by law) or any beneficial owner of the Series 2022 Bonds then Outstanding may take action to protect and enforce the rights of beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be an event of default under the Order and shall not result in any acceleration of payment of the Series 2022 Bonds.

The City and the Commission reserve the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the City and the Commission, provided that:

(a) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the City or the Commission; and

(b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 (“Rule 15c2-12”) as of the date of the Official Statement, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and

(c) any such modification does not materially impair the interests of the beneficial owners, as determined either by parties unaffiliated with the City or the Commission (such as Bond Counsel), or by approving vote of the registered owners of not less than a majority in principal amount of the Series 2022 Bonds then Outstanding pursuant to the terms of the Bond Order, as it may be amended from time to time.

The City and the Commission agree that any such modification shall not take effect except upon thirty (30) days’ prior written notice to the Underwriter, unless waived in writing by such Underwriter.

The City and the Commission also agree that the annual financial information containing the amended operating data or financial information will explain, in narrative form, the reasons for the amendments and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Section 13 shall terminate upon payment, or provision having been made for payment in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Series 2022 Bonds.

Section 15. Authorization to City and Commission Officials. The officers, agents and employees of the City and the Commission and the officers and agents of the Trustee and the Bond Registrar are hereby authorized and directed to do all acts and things required of them by the provisions of the Series 2022 Bonds, the Order, the Bond Purchase Agreement, this Series Resolution and any other documents relating to the issuance of the Series 2022 Bonds for the full, punctual and complete performance of the terms, covenants, provisions and agreements therein.

Section 16. Ratification. Any and all actions heretofore taken by the City and the officers, agents and employees of the City in connection with the transactions authorized and approved hereby are hereby ratified and confirmed.

Section 17. Conflicts. Any and all resolutions of the City or portions thereof in conflict with the provisions of this Resolution are hereby repealed to the extent of such conflict.

Section 18. No Broker Confirmations. Although the City and the Commission each recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the City and the Commission agree that broker confirmations of investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered by the Trustee.

Section 19. Electronic Communications to the Trustee. The Trustee shall have the right to accept and act upon directions or instructions delivered using Electronic Means (defined below); provided, however, that the City or the Commission, as the case may be, shall provide to the Trustee an incumbency certificate listing Authorized Officers with the authority to provide such directions or instructions (each an "Authorized Officer") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the City or the Commission elects to give the Trustee directions or instructions using Electronic Means and the Trustee in its discretion elects to act upon such directions or instructions, the Trustees' understanding of such directions or instructions shall be deemed controlling. The City and the Commission each understands and agrees that the Trustee cannot determine the identity of the actual sender of such directions or instructions and that the Trustee shall conclusively presume that directions or instructions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The City and the Commission, as the case may be, shall each be responsible for ensuring that only Authorized Officers transmit such directions or instructions to the Trustee and that all Authorized Officers treat applicable user and authorization codes, passwords and/or authentication keys as

confidential and with extreme care. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such directions or instructions notwithstanding such directions or instructions conflict or are inconsistent with a subsequent written direction or written instruction. Each of the City and the Commission agree: (i) to assume all risks arising out of the use of Electronic Means to submit directions or instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized directions or instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting directions or instructions to the Trustee and that there may be more secure methods of transmitting directions or instructions; (iii) that the security procedures (if any) to be followed in connection with its transmission of directions or instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures. "Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

Section 20. Amendment of the Order pursuant to Section 1101 of the Order.

(A) Section 1101 of the Order provides that the City may, from time to time, adopt such orders supplemental to the Order, without obtaining the consent of the Holders, to cure any ambiguity in the Order or to make any other change which, in the opinion of the Trustee, would not materially adversely affect the security for the Parity Indebtedness.

(B) The City has determined to amend the Order pursuant to Section 1101 to clarify the effects of certain changes to generally accepted accounting principles on the definition of Current Expenses. Such changes to generally accepted accounting principles became or will become effective following the original adoption date of the Order and the issuance of the Outstanding Parity Indebtedness.

(C) The definition of Current Expenses in Section 101 of the Order is hereby amended to add the following at the end of the existing definition in the Order:

"Notwithstanding the foregoing, except as hereinafter provided, any calculation of Current Expenses shall be determined or made in accordance with generally accepted accounting principles in effect on the date of calculation. If after the original adoption of this Order there are changes to generally accepted accounting principles that would result in a different amount of Current Expenses than would be the amount computed prior to applying the changes, then, at the option of the Commission, any subsequent calculation of Current Expenses may be made in accordance with generally accepted accounting principles in effect on the date of the original adoption of this Order if such subsequent computation is made on a basis consistent with the calculations of Current Expenses for fiscal periods prior to the changes to generally accepted accounting principles."

(D) The amendment set forth in this Section 20 shall take effect upon its adoption and following the 30-day notice period set forth in Section 11 of the Order. For all purposes of the Order, Section 20 of this resolution shall constitute a supplemental order.

Section 21. Effective Date. This Series Resolution shall take effect immediately upon its adoption.

Passed and adopted this the 10<sup>th</sup> day of October, 2022.

After consideration of the foregoing resolution, Council member \_\_\_\_\_ moved for the passage thereof, which motion was duly seconded by Council member \_\_\_\_\_, and the foregoing resolution was passed by the following vote:

Ayes: \_\_\_\_\_

\_\_\_\_\_.

Noes: \_\_\_\_\_

\_\_\_\_\_.

\* \* \* \* \*

I, Valerie P. Shiuwegar, City Clerk of the City of Greenville, North Carolina, DO HEREBY CERTIFY that the foregoing accurately reflects the proceedings as recorded in the minutes of the City Council of said City at a meeting held on October 10, 2022 and contains the verbatim text of Resolution No. \_\_-22 which was duly adopted by said City Council at said meeting.

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

WITNESS my hand and the official seal of said City, this \_\_\_ day of October, 2022.

\_\_\_\_\_  
City Clerk  
City of Greenville, North Carolina

[SEAL]



**PRELIMINARY OFFICIAL STATEMENT DATED NOVEMBER \_\_, 2022**

**New Issue/Book-Entry-Only**

**Ratings: Moody's: \_\_\_\_  
Fitch: \_\_\_\_  
(See "RATINGS" herein)**

*In the opinion of Womble Bond Dickinson (US) LLP, as bond counsel ("Bond Counsel"), which is based on existing law and assumes continuing compliance by the City and the Utilities Commission (as such terms are defined herein) with certain covenants to comply with the requirements of the Internal Revenue Code of 1986, as amended (the "Code"), as described herein, interest on the 2022 Bonds will not be includable in the gross income of the owners thereof for purposes of federal income taxation. Interest on the 2022 Bonds will not be a specific preference item for purposes of the alternative minimum tax imposed by the Code; however, for tax years beginning after December 31, 2022, interest on the 2022 Bonds held by certain corporations is included in the computation of "adjusted financial statement income" for purposes of the federal alternative minimum tax imposed on such corporations. In the opinion of Bond Counsel, which is based on existing law, interest on the 2022 Bonds will be exempt from all State of North Carolina income taxes. See "TAX TREATMENT" herein.*

\$ \_\_\_\_\_  
\*  
**CITY OF GREENVILLE, NORTH CAROLINA  
Greenville Utilities Commission  
Combined Enterprise System Revenue Bonds  
Series 2022**

**Dated: Date of Delivery**

**Due: December 1, as shown on inside cover**

The bonds offered hereby (the "2022 Bonds") will be special obligations of the City of Greenville, North Carolina (the "City"), solely secured by and payable from the Net Receipts of the Greenville Utilities Commission (the "Utilities Commission") from the City's ownership and the Utilities Commission's operation of the Combined Enterprise System. The 2022 Bonds are being issued to (a) finance improvements to the Combined Enterprise System as more particularly described herein and (b) pay financing costs. **Neither the faith and credit nor the taxing power of the City is pledged for the payment of principal of, premium, if any, or interest on the 2022 Bonds, and no registered owner of the 2022 Bonds has the right to compel the exercise of the taxing power by the City or the forfeiture of any of its property other than Net Receipts and certain other moneys in connection with any default on the 2022 Bonds.**

The 2022 Bonds initially will be issued in book-entry only form. See Appendix F hereto.

The 2022 Bonds are subject to optional and mandatory sinking fund redemption as described herein.

The 2022 Bonds are offered subject to prior sale, when, as and if issued and accepted by the Underwriter, subject to the approval of their validity and certain other matters by Womble Bond Dickinson (US) LLP, Raleigh, North Carolina, Bond Counsel. Certain legal matters will be passed upon for the City by Emanuel D. McGirt, Esq., Greenville, North Carolina, City Attorney, for the Utilities Commission by Phillip R. Dixon, Esq., Greenville, North Carolina, counsel to the Utilities Commission, and for the Underwriter by McGuireWoods LLP, Raleigh, North Carolina, counsel to the Underwriter. Burns & McDonnell Consultants, Inc., Kansas City, Missouri, has prepared the financial feasibility evaluation included in Appendix D hereto. First Tryon Advisors, LLC, Charlotte, North Carolina, is acting as financial advisor to the City and the Utilities Commission in connection with the sale and issuance of the 2022 Bonds. It is expected that the 2022 Bonds will be available for delivery through the facilities of DTC on or about December \_\_, 2022.

**J.P. Morgan**

December \_\_, 2022

\_\_\_\_\_  
\* Preliminary; subject to change.

THIS PRELIMINARY OFFICIAL STATEMENT AND THE INFORMATION CONTAINED HEREIN ARE SUBJECT TO COMPLETION OR AMENDMENT IN A FINAL OFFICIAL STATEMENT. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy, and there shall not be any sale of the 2022 Bonds offered hereby in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of that jurisdiction.

**MATURITY SCHEDULE\***

**Combined Enterprise System Revenue Bonds, Series 2022**

\$ \_\_\_\_\_ Serial 2022 Bonds

<b>Due December 1</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Yield</b>	<b>CUSIP**</b>
2024				
2025				
2026				
2027				
2028				
2029				
2030				
2031				
2032				
2033				
2034				
2035				
2036				
2037				
2038				
2039				
2040				
2041				
2042				
2043				
2044				
2045				
2046				

\*Preliminary; subject to change.

\*\*Copyright 2022, American Bankers Association. CUSIP numbers herein are provided by CUSIP Global Services, managed by Standard & Poor's Financial Services LLC on behalf of the American Bankers Association, and are set forth herein for the convenience of reference only. Neither the City nor the Underwriter takes any responsibility for the selection or accuracy of such numbers set forth herein.

**CITY OF GREENVILLE**

**City Council**

P.J. Connelly	Mayor
Rose H. Glover	Mayor Pro Tempore
Will Bell	Council Member
Marion Blackburn	Council Member
Monica Daniels	Council Member
Les Robinson	Council Member
Rick Smiley	Council Member

**City Staff**

Ann E. Wall	City Manager
Byron Hayes	Director of Financial Services
Emanuel D. McGirt	City Attorney

**Greenville Utilities Commission**

Kelly L. Darden, Jr.	Chair
Peter Geiger	Chair-Elect
Lindsey Griffin	Secretary
Ferrell Blount III	Commissioner
Kristin Braswell	Commissioner
Marcus Jones	Commissioner
Tommy Stoughton	Commissioner
Ann Wall	Commissioner

**Utilities Commission Staff**

Anthony C. Cannon	General Manager/CEO
Christopher N. Padgett	Assistant General Manager/CAO
Jeff W. McCauley	Chief Financial Officer
Phillip R. Dixon	General Counsel

No dealer, broker, salesman or other person has been authorized to give any information or to make any representation other than those contained in this Official Statement in connection with the offering described herein, and, if given or made, such other information or representation must not be relied upon as having been authorized. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy any securities other than the 2022 Bonds offered hereby, nor shall there be any offer or solicitation of such offer or sale of the 2022 Bonds in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. Neither the delivery of this Official Statement nor the sale of any of the 2022 Bonds implies that the information herein is correct as of any date subsequent to the date thereof.

The information contained herein has been obtained from the City, the Utilities Commission and other sources believed to be reliable. The information contained herein is subject to change after the date of this Official Statement, and this Official Statement speaks only as of its date.

The Underwriter has provided the following sentence for inclusion in this Official Statement. The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, their respective responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

**IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE 2022 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.**

None of the 2022 Bonds, the Bond Order or the Series Resolution (each as defined herein) have been registered with the Securities and Exchange Commission by reason of the provisions of Section 3(a)(2) of the Securities Act of 1933, as amended, and Section 304(a)(4) of the Trust Indenture Act of 1939, as amended. Any registration or qualification of the 2022 Bonds, the Bond Order or the Series Resolution in accordance with applicable provisions of securities laws of the states in which the 2022 Bonds, the Bond Order or the Series Resolution have been registered or qualified, if so required, and the exemption from registration or qualification in other states, shall not be regarded as a recommendation thereof.

References to web site addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader's convenience. Unless specified otherwise, such web sites and the information or links contained therein are not incorporated into, and are not part of, this Official Statement for purposes of, and as that term is defined in, Rule 15c2-12 (as defined herein).

This Official Statement is deemed to be a final official statement with respect to the 2022 Bonds within the meaning of Rule 15c2-12, except, when it is in preliminary form, for the omission of certain pricing and other information authorized to be omitted by Rule 15c2-12.

Certain statements included or incorporated by reference in this Official Statement constitute forward-looking statements. Such statements are generally identifiable by the terminology used such as "plan," "expectations," "estimate," "project," "budget" or other similar words. The achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. No assurance is given that actual results will meet the expectations of the City in any way, regardless of the level of optimism communicated in the information. The City is not obligated to issue, nor does it plan to issue any updates or revisions to the forward-looking statements.

**TABLE OF CONTENTS**

	<u>Page</u>
INTRODUCTION .....	1
THE 2022 BONDS .....	2
Authorization .....	2
General.....	3
Book-Entry-Only System.....	3
Redemption Provisions .....	3
SECURITY AND SOURCES OF PAYMENT .....	4
General.....	4
Pledge of Net Receipts.....	5
Rate Covenant.....	5
Construction Fund.....	6
Collection and Safekeeping of Receipts .....	6
Parity Indebtedness Service Fund.....	6
Application of Moneys .....	6
Repayment of Any Transfer from City; Required Transfer to City.....	8
Parity, Subordinate and Additional Indebtedness.....	8
General Obligation Bonds.....	9
Disposition and Additions of Certain Property and/or Systems .....	9
THE PLAN OF FINANCE.....	9
ESTIMATED SOURCES AND USES OF FUNDS .....	10
ANNUAL DEBT SERVICE REQUIREMENTS.....	11
PROJECTED OPERATING RESULTS .....	11
THE COMBINED ENTERPRISE SYSTEM.....	14
Organization and Management .....	14
The Electric System .....	17
The Water System.....	23
The Sanitary Sewer System .....	26
The Natural Gas System .....	29
Billing and Collection Procedures .....	33
Operating and Capital Budget Procedures.....	34
History of Capital Expenditures.....	34
Future Capital Expenditures and Debt Outlook.....	35
Historical Operating Results.....	35
Impact of the COVID-19 Pandemic .....	37
Pension Plans .....	39
Other Post-Employment Benefits .....	40
Cybersecurity .....	40
Climate Change.....	41
THE CITY .....	41
General Description .....	41
Demographic Characteristics .....	41
Commerce and Industry .....	42
Employment.....	46

Pension Plans .....	46
Other Post-Employment Benefits .....	46
LITIGATION.....	47
LEGAL MATTERS.....	47
TAX TREATMENT .....	48
Opinion of Bond Counsel .....	48
Original Issue Premium .....	48
Original Issue Discount.....	48
Other Tax Consequences .....	49
CONTINUING DISCLOSURE.....	50
LEGALITY FOR INVESTMENT .....	52
RATINGS .....	53
FINANCIAL ADVISOR .....	53
UNDERWRITING .....	53
MISCELLANEOUS .....	53

Appendix A – Audited Financial Statements of the Utilities Commission

Appendix B – Definitions and Summary of Certain Provisions of the Bond Order

Appendix C – Proposed Form of Bond Counsel’s Opinion

Appendix D – Burns & McDonnell Consultants, Inc.

Appendix E – The North Carolina Local Government Commission

Appendix F – The Depository Trust Company



LOCAL GOVERNMENT COMMISSION  
STATE AND LOCAL GOVERNMENT FINANCE DIVISION  
SHARON EDMUNDSON, DEPUTY TREASURER

**Official Statement  
of the North Carolina Local Government Commission  
Concerning**

\$ \_\_\_\_\_\*  
**CITY OF GREENVILLE, NORTH CAROLINA  
Greenville Utilities Commission  
Combined Enterprise System Revenue Bonds  
Series 2022**

**INTRODUCTION**

The purpose of this Official Statement, which includes the cover, inside cover and Appendices, is to provide certain information in connection with the issuance of \$ \_\_\_\_\_\* Greenville Utilities Commission Combined Enterprise System Revenue Bonds, Series 2022 (the "2022 Bonds") by the City of Greenville, North Carolina (the "City"). The 2022 Bonds are being issued pursuant to The State and Local Government Revenue Bond Act, Article 5 of Chapter 159, as amended, of the General Statutes of North Carolina (the "Act"), a bond order adopted by the City Council of the City on August 11, 1994, and amended and restated as of April 13, 2000 (the "Bond Order"), and a series resolution (the "Series Resolution") which the Greenville Utilities Commission (the "Utilities Commission") approved and recommended to the City Council of the City (the "City Council") for adoption and the City Council adopted on October 10, 2022.

This introduction provides certain limited information to serve as a guide to the Official Statement and is expressly qualified by the Official Statement as a whole. Investors should review the entire Official Statement and the documents summarized or described herein.

For the definition of certain terms used herein and a summary of certain provisions of the Bond Order and the Series Resolution, see "Definitions and Summary of Certain Provisions of the Bond Order" in Appendix B. Capitalized terms used herein and not otherwise defined shall have the same meanings given such terms in the Bond Order and the Series Resolution unless otherwise indicated.

Security. The 2022 Bonds will be special obligations of the City, solely secured by and payable from the Net Receipts derived by or for the account of the Utilities Commission from the City's ownership and the Utilities Commission's operation of the City's electric system, water system, sanitary sewer system and natural gas system (the "Combined Enterprise System"), except to the extent payable from proceeds of

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\* Preliminary; subject to change.

the 2022 Bonds, investment earnings and certain other moneys, pledged to the payment of the principal of and interest on the 2022 Bonds and any other Parity Indebtedness to the extent herein described.

Pursuant to the Bond Order, the City has heretofore issued several series of bonds that are no longer outstanding. In addition, the City has heretofore issued (i) \$62,685,000 Greenville Utilities Commission Combined Enterprise System Revenue Bonds, Series 2016 (the “2016 Bonds”), of which \$53,495,000 is currently outstanding, (ii) \$48,635,000 Greenville Utilities Commission Combined Enterprise System Revenue Bonds, Series 2019 (the “2019 Bonds”), of which \$47,035,000 is currently outstanding, and (iii) \$28,635,000 Greenville Utilities Commission Combined Enterprise System Revenue Bonds, Series 2021A (the “2021 Bonds”), of which \$25,820,000 is currently outstanding.

The pledge, lien and charge of the 2022 Bonds on the Net Receipts will be on a parity with that of the outstanding 2010 Bond, 2016 Bonds, 2019 Bonds, 2021 Bonds and any additional Bonds and Parity Debt (collectively, “Parity Indebtedness”) and superior to the provision for payment of debt service on the City’s outstanding general obligation bonds issued for the benefit of the enterprises included in the Combined Enterprise System. In the future, the City may elect to issue general obligation bonds for the benefit of the Combined Enterprise System as Parity Debt or as Other Indebtedness subordinate to Parity Indebtedness in its right to payment from Net Receipts.

NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY IS PLEDGED TO THE PAYMENT OF PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE 2022 BONDS, AND NO OWNER OF THE 2022 BONDS HAS THE RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER BY THE CITY OR THE FORFEITURE OF ANY OF ITS PROPERTY OTHER THAN NET RECEIPTS AND CERTAIN OTHER MONEYS IN CONNECTION WITH ANY DEFAULT ON THE 2022 BONDS. See “SECURITY AND SOURCES OF PAYMENT” herein and Appendix B hereto.

Purpose. The 2022 Bonds are being issued for the purpose of providing funds, together with any other available funds, to (1) finance the construction, acquisition and equipping of electric system substations, transformers and peak shaving generators, lagoon improvements and waste water treatment plant headworks improvements (the “2022 Additional Improvements”) and (2) pay certain financing costs.

Tax Status. See “TAX TREATMENT” herein.

Professionals. J.P. Morgan Securities LLC, Cary, North Carolina (the “Underwriter”) is underwriting the 2022 Bonds. Womble Bond Dickinson (US) LLP, Raleigh, North Carolina, is serving as Bond Counsel. Emanuel D. McGirt, Esq., Greenville, North Carolina, is the City Attorney and Phillip R. Dixon, Esq., Greenville, North Carolina, is the Utilities Commission Attorney. McGuireWoods LLP, Raleigh, North Carolina, is serving as counsel to the Underwriter. First Tryon Advisors, LLC, Charlotte, North Carolina, is serving as Financial Advisor to the City and the Utilities Commission. Burns & McDonnell Consultants, Inc., Kansas City, Missouri, has prepared the financial feasibility evaluations included in Appendix D hereto. The Bank of New York Mellon Trust Company, N.A., Jacksonville, Florida, is serving as Trustee and Bond Registrar for the 2022 Bonds.

## THE 2022 BONDS

### Authorization

The 2022 Bonds will be issued pursuant to the Act, the Bond Order and the Series Resolution.



The City’s issuance of the 2022 Bonds received the required approval of the North Carolina Local Government Commission (the “LGC”) on November 1, 2022. The LGC is a division of the State Treasurer’s office charged with general oversight of local government finance in the State of North Carolina (the “State”). The LGC’s approval is required for all bond issues and substantially all other local government financing arrangements in the State. In determining whether to allow bonds to be issued under the Act, the LGC has been given wide statutory discretion to consider the need for and feasibility of the projects to be financed, the local government’s capability to repay the amount financed from the pledged revenue sources and the local government’s general compliance with State budget and finance laws. Under the Act, the LGC is also responsible, with the issuing unit’s approval, for selling bonds issued pursuant to the Act. See Appendix E for additional information on the LGC and its powers and duties.

**General**

The 2022 Bonds will be dated their date of delivery. The 2022 Bonds will bear interest from their date payable on June 1, 2023, and thereafter semiannually on each June 1 and December 1 at the rates shown on the inside cover of this Official Statement, and will mature, subject to prior redemption, as described herein, on December 1 in the years and amounts shown on the inside cover of this Official Statement. Individual purchases of the 2022 Bonds by the beneficial owners will be made in denominations of \$5,000 or any integral multiple thereof.

**Book-Entry-Only System**

The Depository Trust Company, New York, New York (“DTC”), will act as securities depository for the 2022 Bonds. The 2022 Bonds will be issued as fully-registered 2022 Bonds registered in the name of Cede & Co., DTC’s partnership nominee. One fully-registered 2022 Bond certificate will be issued for each maturity of the 2022 Bonds, as set forth on the inside cover of this Official Statement, each in the aggregate principal amount of such maturity, and will be deposited with DTC. SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE 2022 BONDS, AS DTC’S PARTNERSHIP NOMINEE, REFERENCE HEREIN TO THE HOLDERS OR REGISTERED OWNERS OF THE 2022 BONDS SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE 2022 BONDS. For a more complete description of DTC and the book-entry-only system, see Appendix F hereto.

**Redemption Provisions**

Optional Redemption of 2022 Bonds.

The 2022 Bonds maturing on or after December 1, 20\_\_ shall be subject to redemption prior to maturity, at the option of the City, in whole or in part on any date, from moneys that may be made available for such purpose, on or after December 1, 20\_\_, and at a redemption price not to exceed 100%, plus accrued interest thereon to the date fixed for redemption.

Mandatory Sinking Fund Redemption. The 2022 Bonds maturing on December 1, 20\_\_ will be subject to mandatory sinking fund redemption on December 1, 20\_\_ and on each December 1 thereafter, at a redemption price equal to 100% of the principal amount of the 2022 Bonds being redeemed, plus interest accrued to the redemption date, as follows:

<u>Year</u>	<u>Amount</u>
-------------	---------------

\_\_\_\_\_  
\*Maturity

Notice of Redemption, Selection of 2022 Bonds for Redemption and the Effect of Call for Redemption. Not more than ninety (90) days and at least thirty (30) days before the redemption date of any 2022 Bonds, the Bond Registrar shall cause a notice of any such redemption, either in whole or in part, signed by the Bond Registrar, to be mailed, first-class, postage prepaid, to the North Carolina Local Government Commission and all registered owners of 2022 Bonds to be redeemed at their addresses as they appear on the registration books of the City kept by the Bond Registrar; provided, however, that, so long as the 2022 Bonds are held by DTC, any notice of redemption will be made in accordance with DTC's procedures. If less than all of the 2022 Bonds are called for redemption, the maturities of the 2022 Bonds or portions thereof to be redeemed shall be selected by the City in its discretion. The selection of the particular 2022 Bonds to be redeemed will be made in accordance with DTC's procedures. On the date designated for redemption, the 2022 Bonds or portions of 2022 Bonds called for redemption shall become and be due and payable at the redemption price provided for the redemption of such 2022 Bonds or portions of 2022 Bonds on such date plus accrued interest to such date, and, if moneys or Defeasance Obligations, or a combination of both, sufficient for payment of the redemption price and the accrued interest are held in separate accounts by the Trustee or the Bond Registrar in trust for the Owners of the 2022 Bonds or portions thereof are to be redeemed, as provided in the Bond Order, interest on the 2022 Bonds or portions of 2022 Bonds so called for redemption shall cease to accrue, such 2022 Bonds or portions of 2022 Bonds shall cease to be entitled to any benefit or security under the Bond Order or be deemed Outstanding, and the Owners of such 2022 Bonds or portions of 2022 Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof and the accrued interest and, to the extent provided in the Bond Order, to receive new 2022 Bonds for any unredeemed portions of 2022 Bonds.

Any notice of optional redemption of the 2022 Bonds may state that it is conditioned upon there being available an amount of money sufficient to pay the redemption price plus interest accrued and unpaid to the redemption date, and any conditional notice so given may be rescinded at any time before the payment of the redemption price if any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds on deposit under the terms of the Bond Order, the corresponding notice of redemption will be deemed to be revoked.

## SECURITY AND SOURCES OF PAYMENT

### General

The 2022 Bonds will be special obligations of the City, solely secured by and payable from the Net Receipts of the Combined Enterprise System, except to the extent paid from proceeds of 2022 Bonds, investment earnings and certain other moneys. **Neither the faith and credit nor the taxing power of the City is pledged to the payment of principal of, premium, if any, or interest on the 2022 Bonds, and no Owner of the 2022 Bonds has the right to compel the exercise of the taxing power by the City or the forfeiture of any of its property other than Net Receipts and certain other moneys in connection with any default on the 2022 Bonds.**

The Combined Enterprise System is currently composed of the electric system, water system, sanitary sewer system and the natural gas system owned by the City and operated by the Utilities Commission, including improvements thereto financed by Bonds and Receipts (the "Existing Facilities"). The Bond Order authorizes additions or improvements to the Combined Enterprise System ("Additional Improvements") which, together with the Existing Facilities, will comprise the Combined Enterprise System. See "THE COMBINED ENTERPRISE SYSTEM" herein. The City may also add to and remove from the Combined Enterprise System entire enterprise systems. See Appendix B – "DEFINITIONS AND SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDER – Adding or Deleting an Enterprise."

## **Pledge of Net Receipts**

The Net Receipts of the Combined Enterprise System are pledged to the payment of, and as security for, the 2022 Bonds and all other Indebtedness secured by the Bond Order. Net Receipts consist of Receipts after payment of Current Expenses or making provision for the payment of Current Expenses from Receipts. Receipts generally include all payments, proceeds, fees, charges, rents and all other moneys received by or for the account of the Utilities Commission from the ownership by the City and operation by the Utilities Commission of the Combined Enterprise System and all rights to receive the same, whether in the form of accounts receivable, contract rights or other rights, and the proceeds of such rights whether now owned or held or hereafter coming into existence. Current Expenses generally include the reasonable and necessary current expenses of operation, maintenance and repair of the Combined Enterprise System as determined in accordance with generally accepted accounting principles. In particular, the City and the Utilities Commission are obligated to pay as an operating expense of the electric system monthly payments to the North Carolina Eastern Municipal Power Agency (the "Power Agency") for the City's all requirements electric bulk power supply. The City's payment obligations to the Power Agency for its all requirements electric bulk power supply are contained in certain agreements between the City and the Power Agency. See "THE COMBINED ENTERPRISE SYSTEM – The Electric System – North Carolina Eastern Municipal Power Agency". See "Definitions of Certain Terms" in Appendix B for complete definitions of "Receipts" and "Current Expenses."

## **Rate Covenant**

The rates, fees and charges for the use of and for the services and facilities furnished or to be furnished by the Combined Enterprise System shall be determined by the Rate Resolution of the Utilities Commission as it may be amended from time to time.

In the Bond Order, the City covenants that the Utilities Commission will revise such rates, fees and charges from time to time and as often as it appears necessary in order that:

(a) the Receipts, together with any other available funds excluding any transfers from the City, will be sufficient to permit the deposit to the credit of the appropriate operating funds under the Bond Order in each Fiscal Year of a sum equal to the total of the Current Expenses to be paid or provided for in such Fiscal Year and the amounts needed for making the cash deposits or transfers in such Fiscal Year required under the Bond Order to make the payments as described by (a) through (i) under "Application of Moneys" herein; and

(b) (i) the Net Revenues in each Fiscal Year will not be less than 125% of the Principal and Interest Requirements for such Fiscal Year on account of the Parity Indebtedness constituting Long-Term Indebtedness then Outstanding and (ii) the Net Revenues for such Fiscal Year, less an amount equal to 100% of the Principal and Interest Requirements for such Fiscal Year on account of the Parity Indebtedness constituting Long-Term Indebtedness then Outstanding, will not be less than 100% of the Principal and Interest Requirements for such Fiscal Year on account of the Subordinate Indebtedness and the Other Indebtedness constituting Long-Term Indebtedness then Outstanding.

As defined in the Bond Order, "Revenues," generally, means all income, excluding certain extraordinary items, derived by or for the account of the Utilities Commission from the ownership by the City and operation by the Utilities Commission of the Combined Enterprise System, determined in accordance with generally accepted accounting principles. "Net Revenues" means, for a given period, the excess of Revenues over Current Expenses, determined in accordance with generally accepted accounting

principles, during that period. See Appendix B – “Definitions of Certain Terms” for the complete definition of such term.

### **Construction Fund**

The proceeds of the 2022 Bonds will be deposited in the Series 2022 Bonds Construction Account as created under the Series Resolution within the Construction Fund created under the Bond Order and held by the Trustee. Amounts deposited in the account of the Construction Fund, including interest earnings thereon, will be used to pay the Cost of the Additional Improvements and costs of issuance related to the 2022 Bonds. Interest earned or other income derived from the investment or deposit of moneys held for the credit of the account of the Construction Fund may also be applied, upon the written direction of the Chief Financial Officer of the Utilities Commission or his designee, to the principal or interest payments of the 2022 Bonds. Amounts on deposit in the respective accounts of the Construction Fund are, to the extent permitted by law, subject to a pledge, charge and lien in favor of the Owners of the 2022 Bonds pending the application of such amounts to paying the Cost of the Additional Improvements.

### **Collection and Safekeeping of Receipts**

The Utilities Commission will deposit all Receipts as received on a daily basis, to the extent practicable, with an appropriate depository. The Utilities Commission will pay Current Expenses from such Receipts as due, and will cause transfers of the Receipts to be made to the Trustee and others as described below under “Application of Moneys.” After an event of default under the Bond Order, however, or if the Receipts or the Net Revenues are less than the amounts required by the rate covenant as set forth under “Rate Covenant” above for two consecutive Fiscal Years, the Utilities Commission will deposit all Receipts, as received, with the Trustee until such time as the event of default has been cured or the Receipts and the Net Revenues for one Fiscal Year are not less than the amounts required by the rate covenant. The Trustee first will apply such Receipts in such amounts as it shall determine to pay Current Expenses and thereafter will make the transfers or deposits to each of the accounts and funds as prescribed by the Bond Order to make the payments as described under “Application of Moneys” herein.

### **Parity Indebtedness Service Fund**

The Parity Indebtedness Service Fund, which is established with the Trustee, contains three separate accounts: the Interest Account, the Principal Account and the Sinking Fund Account. Moneys on deposit in the Parity Indebtedness Service Fund, and the three accounts contained therein, will be used to pay the scheduled payments of principal of and interest on the Bonds and any additional Bonds and other Parity Indebtedness, including amounts payable pursuant to mandatory Sinking Fund Requirements. Moneys on deposit in the Parity Indebtedness Service Fund will be held in trust and, pending application as provided for in the Bond Order, will be subject to a pledge, charge and lien in favor of the Owners of the Bonds issued and Outstanding under the Bond Order and the Holders of Parity Debt for the further security of such Owners and Holders.

### **Application of Moneys**

Except as described below, the Utilities Commission will withdraw Receipts from the Operating Checking Account and transfer the following amounts, for application in the following manner and order, provided that (i) the Utilities Commission will withdraw only amounts representing Receipts for the purpose of making the transfers or deposits pursuant to (a) through (i) below, (ii) payment or the provision for payment of Current Expenses has been made and (iii) in making such withdrawals the Utilities Commission will not reduce the balance of moneys held for the credit of any Fund under the Bond Order to less than the reserve amounts required to be maintained therein:

(a) To the Trustee for deposit to the credit of the Interest Account on the dates specified in the applicable Series Resolution, such amount as is sufficient to make full and timely payment of the interest to become due and payable on each Series of Bonds then Outstanding. In the case of the 2022 Bonds, the transfers to the Interest Account are to be made on or before the 25<sup>th</sup> day of the month preceding each June 1 and December 1 in an amount equal to the interest due and payable on the 2022 Bonds on such dates (after taking into account any amounts transferred from the Construction Fund for the payment of such interest).

(b) To the Trustee for deposit to the credit of the Principal Account on the dates specified in the applicable Series Resolution, such amount as is sufficient to make full and timely payment of the principal to become on the next ensuing principal payment date due and payable on each Series of Bonds then Outstanding. In the case of the 2022 Bonds, the transfers to the Principal Account are to be made on or before the 25<sup>th</sup> day of the month preceding each December 1 in an amount equal to the principal to become due and payable on the next ensuing December 1.

(c) To the Trustee for deposit to the credit of the Sinking Fund Account, such amount as is equal to the Sinking Fund Requirements and amortization requirements, if any, as specified in the applicable Series Resolution, for each Series of Bonds then Outstanding and to be retired on the next ensuing sinking fund redemption date, plus the premiums, if any, on such principal amount of the Term Bonds to be redeemed.

(d) (i) To the Trustee for deposit to the credit of the Parity Indebtedness Reserve Fund, a portion of such amount as is required to make the amount in the Parity Indebtedness Reserve Fund, including each account which separately secures any Series of Bonds or Parity Debt, equal to the amount required to be therein as provided for in the Bond Order or in the applicable Series Resolution or other applicable resolutions of the City Council of the City authorizing the incurrence or assumption of Parity Debt.

(ii) To the Trustee or to the issuer of a Qualified Reserve Fund Substitute, such amount as is required to reimburse such issuer with respect to a draw on such Qualified Reserve Fund Substitute; provided that the City Council may provide that the transfers described in this paragraph (ii) may be made prior to or at the same time as the transfers described in paragraph (d)(i) above.

(e) To the Trustee for deposit to the credit of such funds and accounts as shall be established by each resolution of the City Council authorizing the incurrence or assumption of Subordinate Indebtedness, such amount as is equal to the amount of interest on and principal of Subordinate Indebtedness then Outstanding and the funding of any related debt service reserve then required pursuant to such resolution.

(f) To the City or such other person or persons as may be appropriate for deposit to the credit of such funds and accounts as shall be established by each resolution of the City Council authorizing the incurrence or assumption of Other Indebtedness (which includes the City's outstanding general obligation bonds issued for the benefit of the enterprise systems included in the Combined Enterprise System), such amount as is equal to the amount of interest on and principal of Other Indebtedness then Outstanding and the funding of any related debt service reserve pursuant to such resolution.

(g) To the City such amount as is equal to the amount representing any transfer received by the Utilities Commission from the City in the preceding Fiscal Year pursuant to the Utilities Commission Charter (as hereinafter defined) with interest thereon which is then to be

repaid as provided in the Annual Budget or as otherwise agreed to by the City and the Utilities Commission.

(h) To the City such amount as is equal to the amount representing the transfers required to be made by the Utilities Commission to the City in the current Fiscal Year pursuant to the Utilities Commission Charter as provided in the Annual Budget or otherwise agreed to by the City and the Utilities Commission.

(i) To the credit of any applicable capital projects fund or reserve such amounts as are equal to the amounts then required to be so transferred as provided in the Annual Budget.

The Bond Order permits the City to provide for a disposition of Receipts in addition to the transfers or deposits described under (a) through (i) above and prior to the transfers or deposits mentioned in (f) through (i) above but only after the transfers or deposits described in (a) through (e) above.

Moneys on deposit in the accounts and funds set forth in (a) through (c) above will be used to pay the scheduled payments of principal of and interest on the 2022 Bonds, including amounts payable pursuant to mandatory sinking fund redemptions. The Trustee will hold the Parity Indebtedness Service Fund (and the three accounts therein). The Parity Indebtedness Service Fund is pledged as security for the 2022 Bonds.

#### **Repayment of Any Transfer from City; Required Transfer to City**

If there are available moneys remaining from the Receipts after making the required transfers or deposits described in (a) through (f) under “Application of Moneys” above, then (i) the Utilities Commission will repay to the City, with interest, the amount of any transfer made by the City to the Utilities Commission to be applied to the necessary expenses of the Utilities Commission if charges and rentals are insufficient to pay such necessary expenses as provided for in Chapter 861 of the 1991 Session Laws of North Carolina (the “Utilities Commission Charter”) and (ii) the Utilities Commission will thereafter transfer annually to the City, unless such transfer is reduced by the City Council of the City, an amount equal to 6% of the difference between the electric and natural gas systems’ net fixed assets and total bonded indebtedness plus an amount equal to 50% of the Utilities Commission’s retail cost of service for the City’s public lighting as required by the Utilities Commission Charter. For the fiscal year ended June 30, 2022, the transfer from the Utilities Commission to the City as described in (ii) above was \$ [REDACTED].

The City and the Utilities Commission do not anticipate that any transfer by the City to the Utilities Commission as described in (i) above will be necessary, and the requirement that such a transfer be made is in no way a part of the security for the 2022 Bonds, nor will the Owners of the 2022 Bonds have any right to require or enforce such a transfer from the City to the Utilities Commission.

#### **Parity, Subordinate and Additional Indebtedness**

The outstanding Bonds are secured by a pledge, charge and lien upon Net Receipts on a parity with the 2022 Bonds. Under the conditions described in the Bond Order, and without the approval or consent of the Owners of the 2022 Bonds or any other Parity Indebtedness then Outstanding, the City may incur or assume additional Parity Indebtedness (including additional Bonds), Subordinate Indebtedness or Additional Indebtedness. Parity Indebtedness and Subordinate Indebtedness are both secured by a lien on Net Receipts. Additional Indebtedness is not secured by a lien on Net Receipts but is payable from Net Receipts as provided in the Bond Order. Parity Indebtedness, Subordinate Indebtedness and Additional Indebtedness may be incurred or assumed to pay costs (including costs of issuance) of (1) completing the Additional Improvements, (2) constructing and acquiring Additional Improvements to the Combined Enterprise System and (3) refunding Parity Indebtedness, Subordinate Indebtedness or Additional

Indebtedness. Parity Indebtedness other than Bonds, Subordinate Indebtedness and Additional Indebtedness may also be incurred or assumed for any other lawful purpose of the City related to the ownership or operation of the Combined Enterprise System. See “ANNUAL DEBT SERVICE REQUIREMENTS” herein.

As of June 30, 2022, the City had approximately \$\_\_\_\_\_ million in State Revolving Fund Loans from the State of North Carolina, which have been designated as Subordinate Indebtedness under the Bond Order.

### **General Obligation Bonds**

Subject to compliance with the applicable provisions of North Carolina law, the City is authorized to issue general obligation bonds, secured by the taxing power of the City, to finance the costs of improvements to the various components of the Combined Enterprise System. Certain of the components of the existing Combined Enterprise System were financed with the proceeds of general obligation bonds; however, such general obligation bonds are no longer outstanding.

The City may in the future issue general obligation bonds to finance improvements to the Combined Enterprise System. The City and the Utilities Commission, however, do not anticipate any such issue of general obligation bonds in the next five years. Pursuant to the Bond Order, any such general obligation bonds would not be secured by a pledge and lien upon the Net Receipts, but would be payable from Net Receipts following the payment of the Bonds and other Parity Indebtedness, Subordinate Indebtedness and any required transfers to reserve funds.

### **Disposition and Additions of Certain Property and/or Systems**

The Bond Order authorizes the sale, exchange, lease or other disposal of or encumbrance of property comprising the Combined Enterprise System, including a component part of the Combined Enterprise System, under the conditions set forth in the Bond Order. See Appendix B – DEFINITIONS AND SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDER – Covenant against Sale or Encumbrance and Exceptions Thereto.” The City may also add to and remove from the Combined Enterprise System entire enterprise systems. See Appendix B – “DEFINITIONS AND SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDER – Adding or Deleting an Enterprise.”

## **THE PLAN OF FINANCE**

The proceeds of the 2022 Bonds will be used to (a) acquire the 2022 Additional Improvements and (b) pay certain financing costs.

The 2022 Additional Improvements consist of the construction, acquisition and equipping of electric system substations, transformers and peak shaving generators, lagoon improvements and waste water treatment plant headworks improvements. The total estimated cost of the 2022 Additional Improvements is **\$33,682,660**.

**ESTIMATED SOURCES AND USES OF FUNDS**

The City estimates the sources and uses of the proceeds to be received from the sale of the 2022 Bonds to be as follows:

Sources:

Par Amount of 2022 Bonds  
Net Original Issue Premium/Discount

Total

Uses:

Costs of 2022 Additional Improvements  
Costs of Issuance<sup>(1)</sup>

Total

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<sup>(1)</sup> Includes underwriter's discount, legal fees, financial advisor fees, printing costs, rating agency fees, fees and expenses of the Trustee, the Bond Registrar, and miscellaneous fees and expenses.

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## ANNUAL DEBT SERVICE REQUIREMENTS

The following table sets forth the amounts required in each Fiscal Year for payment of the principal of and interest on debt relating to the Combined Enterprise System. Specifically, the table sets forth principal and interest requirements for the City’s Additional Indebtedness and State Revolving Fund Loans which constitute Subordinate Indebtedness relating to the Combined Enterprise System (collectively referred to below as “Junior Indebtedness”), all of the outstanding 2010 Bond, 2016 Bonds, 2019 Bonds and 2021 Bonds (collectively referred to below as “Existing Revenue Bonds”) and the 2022 Bonds. Totals may not foot due to rounding.

Fiscal Year Ending June 30,	Combined Enterprise Fund Indebtedness						
	Parity Indebtedness						Total Debt Service
	Debt Service on Existing Revenue Bonds <sup>1</sup>	2022 Bonds		2022 Bonds Debt Service	Total Revenue Bonds Debt Service	Junior Indebtedness <sup>2</sup>	
	Principal	Interest					
2023	\$11,214,175					\$356,488	
2024	11,070,050					2,608,398	
2025	11,054,050					2,773,636	
2026	11,064,050					2,749,110	
2027	10,557,300					2,724,584	
2028	10,010,800					2,700,058	
2029	9,976,925					2,675,532	
2030	10,046,425					2,651,006	
2031	9,164,925					2,552,926	
2032	9,130,800					2,527,281	
2033	8,683,150					2,502,755	
2034	7,948,650					2,478,229	
2035	6,236,675					2,453,703	
2036	6,236,875					2,429,177	
2037	6,228,375					2,304,779	
2038	5,931,050					2,280,253	
2039	5,938,525					2,111,000	
2040	5,935,081					2,088,800	
2041	5,930,894					2,066,600	
2042	5,730,375					2,044,400	
2043	5,727,700					2,022,200	
2044	5,724,650					-	
2045	5,730,525					-	
2046	2,366,000					-	
2047	-					-	
<b>TOTAL</b>	<b>\$187,638,025</b>					<b>\$49,100,913</b>	

<sup>1</sup> Principal and interest requirements.

<sup>2</sup> Includes principal and interest requirements on the outstanding Additional Indebtedness and State Revolving Fund Loans relating to the Combined Enterprise System. Such indebtedness is payable from the Net Receipts after the payment of debt service on the Parity Indebtedness. See “SECURITY AND SOURCES OF PAYMENT – Parity, Subordinate and Additional Indebtedness – and – General Obligation Bonds” above. Requirements on State Revolving Fund Loans are based on estimated draw down schedules for such loans.

## PROJECTED OPERATING RESULTS

Appendix D hereto sets forth the Feasibility Evaluation of Burns & McDonnell Consultants, Inc. of the financial projections prepared by the Utilities Commission for the operation of its electric and gas

utility systems for the six fiscal years ending June 30, 2023 through June 30, 2027. Such report was prepared in accordance with the industry guidelines and procedures referred to therein. Such report was based upon certain factual matters and assumptions as to the occurrence of future events that are referenced in the report. The report should be read in their entirety.

Such report presents debt service coverage ratios on a system-by-system basis whereby the indebtedness allocated to each individual system is measured against the net revenues of such system. These ratios are presented for informational purposes only. The rate covenant imposed by the Bond Order as described under “SECURITIES AND SOURCES OF PAYMENT – Rate Covenant” above applies to the rates, fees and charges for the entire Combined Enterprise System and not on a system-by-system basis.

The following table sets forth a summary compilation of the financial projections of the Utilities Commission for the operation of the electric, gas, water and sewer systems for the six fiscal years ending June 30, 2027. Such compilation was prepared by the Utilities Commission and is derived from the data set forth in the report referenced in the preceding paragraph, and should be read in light of the entire report from which such data is taken.

[Remainder of Page Intentionally Left Blank]

[add forecast table]

## **THE COMBINED ENTERPRISE SYSTEM**

The Utilities Commission operates the Combined Enterprise System, serving nearly 165,000 connections almost entirely within Pitt County, North Carolina (the “County”).

Established in 1905, the Utilities Commission operates under a separate charter issued by the North Carolina General Assembly (the “Utilities Commission Charter”). In compliance with Chapter 159 of the General Statutes of North Carolina and the Utilities Commission Charter, the Utilities Commission prepares and submits to the City Council, for its approval, the coming year’s budget. In addition, the City Council must approve the issuance of any debt for the Utilities Commission and the debt is then issued through the City. Under the provisions of the Utilities Commission Charter, the Utilities Commission has the authority and responsibility to supervise and manage the operation, maintenance, improvement and extension of water, sewer, electric and natural gas facilities in the City and surrounding service area (the extension of sewer facilities outside the City limits must be approved by the City Council).

The Utilities Commission is governed by an eight-member Board of Commissioners responsible for approving rates, development plans and the annual budget and for setting policy that is carried out by the Utilities Commission’s General Manager. All eight board members (including the City Manager of the City who serves as a full voting member) are appointed by the City Council, with two such board members being nominated by the Pitt County Board of Commissioners. All board members are appointed to serve three-year staggered terms with a maximum of two consecutive terms.

The Board of Commissioners is responsible for setting rates for the Combined Enterprise System and the City Council’s approval is not required in connection with the setting of rates. The Board of Commissioners is also responsible for employing and approving the pay plan of the Utilities Commission’s General Manager, as well as approving the pay plan for all Utilities Commission employees.

Real property of the Utilities Commission is held in the name of the City, and most litigation (including condemnation) must also be in the name of the City. Rules and regulations of the Utilities Commission are adopted into the City Code of the City by reference.

The Bond Order authorizes the sale, exchange, lease or other disposal of or encumbrance of property comprising the Combined Enterprise System, including a component part of the Combined Enterprise System, under the conditions set forth in the Bond Order. See Appendix B – “DEFINITIONS AND SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDER – Covenant Against Sale or Encumbrance and Exceptions Thereto.” The City may also add to and remove from the Combined Enterprise System entire enterprise systems. See Appendix B – “DEFINITIONS AND SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDER – Adding or Deleting an Enterprise.”

### **Organization and Management**

The Utilities Commission has three operating departments: (1) electric system, (2) water resources (water and sewer) and (3) gas system.

Anthony C. Cannon has served as General Manager/CEO of the Utilities Commission since 2012. As General Manager/CEO, Mr. Cannon is responsible for overall operations of the Utilities Commission. Prior to his appointment as General Manager/CEO, Mr. Cannon served as Assistant General Manager for six years. Mr. Cannon has been employed at the Utilities Commission since 2006 and has worked in the municipal utility field for more than 30 years. He serves on the Board of Directors for the North Carolina Eastern Municipal Power Agency and the American Public Power Association. Mr. Cannon received a

Master's degree in Organizational Management and a Bachelor's degree in Business Administration from Southern Wesleyan University.

Chris N. Padgett currently serves as the Assistant General Manager/Chief Administrative Officer and is responsible for directing strategic initiatives associated with the Utilities Commission's Customer Relations, Information Technology, Human Resources, Business Development and Public Information divisions. Mr. Padgett works closely with the Board of Commissioners and leads special projects for the organization. Mr. Padgett joined Greenville Utilities Commission in 2015 as the Chief Administrative Officer and has served in government planning and management for over 20 years. Mr. Padgett received a Master's degree in Public Administration and a Bachelor's degree in Urban Regional Planning from East Carolina University.

Jeff W. McCauley, CPA, joined the Utilities Commission as Chief Financial Officer in 2009. As Chief Financial Officer, Mr. McCauley is responsible for overseeing the Utilities Commission's Financial Management, Risk Management, Facilities Management, Stores Warehouse, and Fleet Management divisions. Mr. McCauley has served in the government financial sector field for over 30 years joining the Utilities Commission from the City of Raleigh. Mr. McCauley holds a Bachelor of Arts degree in Accounting, Business Management, and Economics from North Carolina State University and is a licensed Certified Public Accountant in the State of North Carolina.

[Add bio for Director of Financial Services & Accounting if position filled prior to posting]

John Worrell was promoted to the Director of Electric Systems in January 2021 after previously serving as the Assistant Director of Electric Systems since 2017. Mr. Worrell has been employed with the Utilities Commission since 1987 and has previously served as the Substation Engineering Coordinator and Electric Planning Engineer. He is a graduate of East Carolina University with a Bachelor of Science degree in Electric Technology.

Randall D. Emory, P.E. has served as Director of Water Resources since 2003. Mr. Emory has been employed at the Utilities Commission since 1986. Mr. Emory received a Bachelor of Science degree in Civil Engineering, Construction Option, from North Carolina State University and is a registered Professional Engineer in North Carolina.

Anthony L. Miller has served as Director of Gas Systems since 1991. Mr. Miller has been employed at the Utilities Commission since 1988. A graduate of North Carolina State University, Mr. Miller holds a Bachelor of Science degree in Aerospace Engineering.

The Utilities Commission, through its electric system department, water resources department and gas system department, together with administrative and support personnel, currently employs approximately 475 employees. In order to secure the continuation of a quality Utilities Commission workforce in the future, the Utilities Commission has developed a multifaceted workforce retention and enhancement program, which includes increasing annual allowances for its tuition assistance program, providing scholarships, offering internships, offering pre-apprentice/apprentice programs, providing an essential skills development program custom-designed for individual employees and implementing a leadership skills program designed to identify and develop individuals as potential successors for critical/key positions within the Utilities Commission. In 2020, the Utilities Commission received an Excellence Award from the International Public Management Association for Human Resources (IPMA-HR) recognizing these innovative approaches to talent acquisition, talent development, recruiting, and training efforts.

In 2021, the Utilities Commission’s Electric Department received the American Public Power Association’s (APPA) highest award, the Reliable Public Power Provider (RP3) Diamond Designation, for providing customers with the highest degree of safe and reliable electric service. Public power utilities must demonstrate proficiency in reliability, safety, workforce development, and system improvement. The Utilities Commission’s overall system reliability is at 99.5%. The designation is good for three years.

In 2020, the American Public Power Association (APPA) recognized the Utilities Commission as a Smart Energy Provider (SEP) for demonstrating commitment to and proficiency in energy efficiency, distributed generation, and environmental initiatives that support a goal of providing low-cost, quality, safe, and reliable electric service. The SEP designation, which lasts for two years recognizes public power utilities for demonstrating leading practices in four key disciplines: smart energy program structure; energy efficiency and distributed energy programs; environmental and sustainability initiatives; and the customer experience. The Utilities Commission was one of 28 public power utilities nationwide that received the SEP designation in 2020. In total, 94 public power utilities nation-wide hold the SEP designation.

The Water Treatment Plant (WTP) received two awards in 2020: the North Carolina Area Wide Optimization Award (AWOP) and the national Partnership for Safe Water Directors Award. This was the fifth year in a row that the WTP has received the State award. The NC Division of Water Resources has included the Utilities Commission among the 64 out of 149 water treatment plants in the State honored for surpassing federal and state drinking water standards in 2020. The award recognition is a state effort to enhance the performance of existing surface water treatment facilities. The WTP also received the “Directors Award” from the Partnership for Safe Water in 2020. This is a program developed by the Environmental Protection Agency (EPA) and American Water Works Association (AWWA) to guide water suppliers towards improving water quality by optimizing system operations. It is similar in nature to AWOP, but goes a step further with a four-phased approach and a peer review, with Phase IV being the highest level of achievement. The Utilities Commission was the only award recipient from North Carolina in 2020 and the eighth water treatment plant from the State to ever receive this prestigious award.

The Wastewater Treatment Plant (WWTP) “Smooth Operators” team made history in 2021 when they became the first team in the United States and Canada to place 1<sup>st</sup> Overall in the brand-new Division III of the Water Environment Federation (WEF) Operators Challenge. The competition showcases how operators and technicians overcome challenges and emergencies. The WEF has developed what is considered the industry’s most rigorous professional development program – the WEFtec Operations Challenge.

The Utilities Commission Public Information Office was recognized by the Association of Marketing and Communication Professionals (AMCP) in 2021 with a gold award for two virtual tour videos produced in 2020. The Public Information Office submitted two video entries for the Viddy Awards. The “Water and Wastewater Treatment Plant Tours” video won gold in the long form educational category while the “Remembering Hurricane Floyd” video received an honorable mention in the long form historical category.

Safety is a top priority for the Utilities Commission. Each year, staff from various departments attend the NC Department of Labor (NCDOL) and Greenville-Pitt County Chamber of Commerce’s annual Safety Banquet to recognize the Utilities Commission’s safety record, along with other local businesses. For some departments, this was the 14th consecutive year earning awards. In all, the Utilities Commission was honored with 7 safety awards in 2021. Gold Level Awards were presented to companies with days away from work, job transfers, or restricted time rates at least 50% below industry average. Awards at this level went to Human Resources (14th year), WWTP (14th year), Customer Relations (8th year), Red Banks Office (7th year), WTP (4th year), Electric (2nd year), and Express Office (1st

year). NCDOL’s Safety Awards Program was established in 1946 and recognizes private and public firms throughout the state that maintain good safety records.

The Government Finance Officers Association of the United States and Canada (GFOA) presented the Distinguished Budget Presentation Award to the Utilities Commission for its annual budget for the fiscal year beginning July 1, 2021. In order to receive this award, a governmental unit must publish a budget document that meets program criteria as a policy document, an operations guide, a financial plan, and a communications device. The Utilities Commission has received this award for the past six years. The Utilities Commission also earned the GFOA Certificate of Achievement for Excellence in Financial Reporting for the twelfth consecutive year. The purpose of the Annual Comprehensive Financial Report is to prepare financial reports of the highest quality for the benefit of its citizens and other parties with a vital interest in the Utilities Commission’s finances.

For the eleventh year in a row, the Utilities Commission’s Purchasing division received the Sustained Professional Purchasing Award, presented by the Carolinas Association of Governmental Purchasing. The Utilities Commission is one of 14 member agencies throughout North Carolina and South Carolina to receive this designation for fiscal year 2021. The Utilities Commission was also recognized for working 1 million hours without a lost workday due to injury.

### **The Electric System**

The Utilities Commission operates an electric distribution system serving the City and approximately seventy-five percent (75%) of the rural portion of the County with approximately 71,359 connections. The Utilities Commission’s electric system is the second largest municipal electric system in the State, both in terms of number of customers served and quantity of electricity purchased and distributed. The Utilities Commission’s electric system service area runs north close to the Town of Robersonville, south to the Town of Ayden, east to the Town of Grimesland and west beyond the Town of Falkland. In addition, the Utilities Commission provides electricity wheeling service to the Town of Winterville, which has a separate purchase agreement with NTE Energy. Neighboring areas are primarily served by Dominion Energy - North Carolina Power or Duke Energy Progress (“DEP”).

The electric system consists of 72 miles of high voltage transmission lines at 115,000 and 34,500 volts, as well as 1,209 miles of overhead distribution lines, 1,796 miles of underground distribution lines at 12,470 volts and 103 miles of fiber optic lines. In addition, the electric system consists of 19 distribution substations with a combined base rating capacity of 560 MVA (megavolt amps), two sub-transmission substations with a combined base rating capacity of 50 MVA, and three 115 kV (kilovolts) transmission substations with a combined base load capacity of 720 MVA.

The Utilities Commission is a leader in the State of North Carolina in residential load management and has device controls for over 44,000 appliances including customer heat pumps, air conditioners, water heaters and electric furnaces. Approximately thirty percent (30%) of the Utilities Commission’s residential customers currently participate in this program.

Electric Service Rates. Electric service rates are the same for customers inside and outside the City limits. Electric service rates (residential service and general service) in effect on **June 30, 2021** are set forth below. All rates are currently subject to a 7% State sales tax.

#### Residential Service

Base facilities charge per billing month:	\$21.00
Energy charges (per kWh):	\$0.09414

<u>Residential Time of Use with Demand Net Metering<sup>(1)</sup></u>	
Base facilities charge (per billing month):	\$27.47
Demand charge (per kW):	\$5.67
Energy charges (per kWh):	
1. all on-peak kWh	\$0.14228
2. all off-peak kWh	\$0.03569
<u>Small General Service<sup>(2)</sup></u>	
Base facilities charge (per billing month):	\$21.00
Energy charges (per kWh):	
1. first 1,000 kWh	\$0.11066
2. next 5,000 kWh	\$0.10447
3. all additional kWh	\$0.08585
<u>Medium General Service<sup>(3)</sup></u>	
Base facilities charge (per billing month):	\$50.00
Demand charges (per kW):	
1. first 35 kW	No charge
2. all additional kW	\$4.17
Energy charges (per kWh):	
1. first 12,500 kWh	\$0.09592
2. all additional kWh	\$0.08028
<u>Medium General Service – Coincident Peak<sup>(4)</sup></u>	
Base facilities charge (per billing month):	\$50.00
kW demand charges (per kW):	
1. all coincident peak demand <sup>(5)</sup>	\$18.13
2. allocated non-coincident peak demand	\$15.61
3. all non-coincident peak demand in excess of allocation	\$5.38
rkVA demand charges <sup>(6)</sup> (per rkVA)	\$0.25
Energy charges (per kWh):	\$0.02827
<u>Large General Service<sup>(7)</sup></u>	
Base facilities charge (per billing month):	\$150.00
kW demand charges (per kW):	
1. all coincident peak demand <sup>(5)</sup>	\$23.68
2. allocated non-coincident peak demand	\$13.13
3. all non-coincident peak demand in excess of allocation	\$6.82
rkVA demand charges <sup>(6)</sup> (per rkVA)	\$0.25
Energy charges (per kWh):	\$0.02357

(1) Experimental rate for customers with solar energy facilities.

(2) Small general service customers are typically less than 35 kW.

(3) Medium general customers are typically greater than 35 kW but less than 750 kW.

(4) Medium general service coincident peak customers are typically greater than 35 kW but less than 750 kW with some form of demand control capability, such as peaking generators, that operate in conjunction with the Utilities Commission's load management program.

(5) Coincident peak demand is the charge for customer's portion (in kW) of the Utilities Commission's 60 minute peak demand during each billing cycle.

(6) rkVA is a charge by the Utilities Commission to certain large customers based upon a measurement of the amount of electric energy flowing alternatively to the customer and away from the customer.

(7) Large general service coincident peak customers are typically greater than 750 kW.



All retail electric rates are subject to a purchased power adjustment (“PPA”), which was authorized in 2015, that provides for increases and decreases in customer rates as commodity costs for purchased electricity change.

Number of Connections. The table below shows the number of electric system connections by class served at the end of each of the most recent five fiscal years ended June 30:

<u>Fiscal Year</u>	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>	<u>Total</u>
2017	58,769	7,714	22	66,508
2018	60,132	7,805	24	67,964
2019	60,974	7,893	24	68,894
2020	62,074	7,972	24	70,073
2021	63,286	8,047	23	71,359

Kilowatt Hours Sales and Peak Demand. The table below sets forth sales in kilowatt hours and annual peak demand in kilowatts for each of the most recent five fiscal years ended June 30:

<u>Fiscal Year</u>	<u>Class of Account</u>				<u>Peak</u>
	<u>Residential</u> <u>(000 kWh)</u>	<u>Commercial</u> <u>(000 kWh)</u>	<u>Industrial</u> <u>(000 kWh)</u>	<u>Total Sales</u> <u>(000 kWh)</u>	<u>Demand</u> <u>(kW)</u>
2017	716,215	496,947	503,812	1,716,974	367,388
2018	754,541	497,750	512,515	1,764,806	383,229
2019	755,989	488,131	537,462	1,781,582	353,633
2020	733,802	454,285	527,707	1,715,794	376,855
2021	790,404	447,104	505,668	1,743,176	378,579

Major Users. The following table presents information on the ten major users of the electric system (by revenues) during the fiscal year ended **June 30, 2021**:

<u>Customer</u>	<u>Product/Service</u>	<u>Revenues</u>	<u>% of</u> <u>Total</u>	<u>Annual</u> <u>kWh</u>	<u>% of</u> <u>Total</u>
Patheon <sup>(1)</sup>	Pharmaceuticals	\$5,211,576	3.03%	79,948,800	4.59%
DSM Protective Materials	High Performance Fibers	4,103,863	2.39	61,810,320	3.55
Vidant Medical Center <sup>(2)</sup>	Health Care	3,795,549	2.21	58,209,840	3.34
Attends Healthcare Products	Medical Products	3,409,872	1.98	54,564,960	3.13
East Carolina University <sup>(2)</sup>	Education	3,199,614	1.86	44,279,220	2.54
East Carolina University <sup>(2)</sup>	Education	2,463,106	1.43	36,028,800	2.07
East Carolina University <sup>(2)</sup>	Education	2,409,697	1.40	31,790,400	1.82
Vidant Medical Center <sup>(2)</sup>	Health Care	2,112,927	1.23	32,227,200	1.85
City of Greenville	Government	2,112,927	1.08	5,298,611	0.30
Mayne Pharma Inc.	Pharmaceuticals	<u>1,580,482</u>	<u>0.92</u>	<u>24,038,496</u>	<u>1.38</u>
Total		\$30,141,942	17.53%	428,196,647	24.57%

<sup>(1)</sup> Patheon is now part of Thermo Fisher Scientific.

<sup>(2)</sup> Customers having separate accounts for different locations are listed separately.

History of Rate Changes. The Utilities Commission considers rate changes annually and as needed if circumstances change. The Utilities Commission has endeavored to keep rates high enough to provide

for a strong financial position yet low enough to be rate competitive. The following table presents historical information on residential electric rate charges made by the Utilities Commission.

<u>Effective Date</u>	<u>Electric Charge</u> <sup>(1)</sup>	<u>Increase/(Decrease)</u>
April 1, 2013	\$127.27	1.4%
August 1, 2015	118.03	(7.0)
July 1, 2016	113.31	(4.0)
April 1, 2017	109.31	(3.5)
[Any more recent to report?]		

<sup>(1)</sup> Electric charge based on 1,000 kWh/month.

Electric Rate Study. The Utilities Commission completed the most recent study in January 2020 which was performed by an outside consultant. This study ensured that revenues are sufficient to meet the current and future costs associated with providing electric service to customers and accommodating the growth of the system. The next rate study is projected to begin in the summer of 2023.

North Carolina Eastern Municipal Power Agency. The Utilities Commission and 31 other North Carolina municipalities are members (“Participants”) of the North Carolina Eastern Municipal Power Agency (“Power Agency”), a joint agency created by the Participants pursuant to the laws of the State. The Power Agency is the wholesale electric power supplier to the Utilities Commission.

During the late 1970s and 1980s, the Power Agency entered into arrangements with an investor-owned utility and others under which the Power Agency had a joint-ownership interest in three nuclear and two coal-fired generating facilities. The Power Agency financed its ownership interest through the issuance of revenue bonds, which were mostly payable from revenues from the sale of power from the Power Agency to the Participants. The Power Agency and the Participants entered into a series of agreements under which the Power Agency became the wholesale power provider to the Participants. In July 2015, the Power Agency completed arrangements for the sale of substantially all of its base load electric generating assets to Duke Energy Progress (DEP) for approximately \$1.25 billion. The proceeds from the sale were used, together with certain reserves held by the Power Agency and the proceeds of a new \$421,430,000 bond issue by Power Agency to defease the debt related to the generating assets.

In connection with the sale by the Power Agency of the generating assets, the Power Agency and each Participant entered into two new agreements. First, the Power Agency and each Participant entered into a Full Requirements Power Sales Agreement, under which the Participant will purchase its full requirements bulk power supply, net of certain other resources, from the Power Agency. Second, the Power Agency and each Participant entered into a Debt Service Support Contract, under which the Participant agreed to pay its share of the amount necessary for the Power Agency to pay all debt service payments on the new bonds issued by the Power Agency to fund the balance of the defeasance costs of the Power Agency’s prior bonds. Payments under the Debt Service Support Contracts are due through July 2025. In order to have the electric power resources to meet its obligations to the Participants under the Full Requirements Power Sales Agreements, the Power Agency entered into an additional agreement with DEP for DEP to sell to the Power Agency, and the Power Agency to purchase from DEP, power and energy in the amounts required by the Power Agency to serve the current and future electrical loads of the Participants. The new Full Requirements Power Sales Agreements are “take and pay” contracts, and the direct liability associated with the operation and decommissioning of the nuclear and coal generation assets has been eliminated.

The transaction by the Power Agency reduced the Power Agency’s debt allocable to the Utilities Commission’s from approximately \$277.8 million to \$85 million. Under the new arrangements, part of the

reduction in debt service payments on its bonds by the Power Agency will be replaced by payments to be paid to DEP under the Full Requirements Power Sales Agreements, which will be passed to the Participants in wholesale power costs. Nevertheless, the reduced debt service costs and the lower costs of wholesale power allowed the Utilities Commission to reduce its electric retail rates by approximately 15% since July 2015. During the fiscal year ended **June 30, 2021**, the Utilities Commission purchased 1,778,733,470 kilowatt hours of energy from Power Agency, at a cost of \$123,082,828.

[update][**Electric Rate Stabilization Fund**. In connection with the above-described sale of assets by the Power Agency, the Utilities Commission implemented a strategy to avoid increases in electric retail rates from 2015 through 2021. A portion of the wholesale rate decrease was used to create an electric rate stabilization fund with an initial targeted balance of approximately \$20 million. Subsequent reductions in wholesale rates enabled the Utilities Commission to reduce retail power rates to customers in August 2015, July 2016 and April 2017 and to build the rate stabilization fund to approximately \$24.3 million. Beginning in 2021, if future wholesale rates increase, the Utilities Commission will rely, in part, on the rate stabilization fund to offset any rate increases received. The Utilities Commission's Financial Reserves Policy sets the minimum and maximum rate stabilization fund levels at 1.5% and 15% of Rates and Charges, respectively. All revenues are recorded in the financial statements when earned and future uses of the rate stabilization fund will not increase revenues but will provide operating cash to offset any retail rate increases.]

Factors Affecting the Electric Utility Industry. While aging infrastructure, aging workforces, and safety continue to be primary concerns for the electric industry, interest in decarbonization is driving the expansion of renewable energy resource development and implementation with potential impacts on system resiliency and reliability. Growth in the use of distributed energy resources (DER) and changes in customer usage patterns can lead to unpredictable load patterns requiring increased need for technology advancements in grid performance monitoring and automation. Expanded system connectivity and utilization of digital technologies requires significant diligence in assessment of new cybersecurity risks and implementation of mitigation measures.

New transmission investment continues to face challenges with site permitting, evolving incentives policies, and return-on-equity determinations. Additionally, potential transmission equipment supply chain interruptions could lead to longer transformer delivery lead times. The Federal Energy Regulatory Commission's (FERC) Order 841, which introduced battery energy storage systems (BESS) to the wholesale energy markets, may positively impact transmission investment serving as a partial alternative to build new transmission infrastructure.

Recent force majeure events including the COVID-19 pandemic and major winter weather event in Texas caused significant disruptions in energy supply and demand and will lead to industry responses to fortify infrastructure reliability. The U.S. Energy Information Administration reported that "the 2020 downturn in the U.S. economy stems from a series of demand shocks, both direct and indirect, that have resulted in large part from responses to the COVID-19 pandemic. Demand for energy delivered to the four U.S. end-use sectors (residential, commercial, transportation, and industrial) decreased to 90% of its 2019 level in 2020; a steeper decline than seen in real GDP."

As energy sources and markets, consumer demands, and regulatory requirements evolve, recovering operating and capital costs through appropriately designed rates will continue to be a challenge.

The electric utility industry is undergoing pervasive and fundamental changes. One such change is increased competition, in both wholesale and retail markets, for the sale of electricity generation services. In large measure, this increase in competition is the outgrowth of statutory changes and regulatory initiatives at the federal and state levels. It is manifested in a number of ways, including the following:

inter-fuel competition; municipal and industrial self-generation; the availability of open access wholesale transmission services under standardized tariffs; the emergence of independent power producers and other merchant generators; and the greater use of alternative and renewable energy resources and demand response. In many areas of the United States, electric utilities no longer have a monopoly in power generation in their service areas, and are no longer the sole power supply option for at least some of their customers. In many instances, electric utilities that serve retail loads have found it necessary to grant rate concessions to larger commercial or industrial customers, sometimes with corresponding adverse effects on the rates paid by residential and other customers. Utilities with comparatively high-cost power supply resources often find it difficult to retain customers and recover through rates the full cost of their resources.

Electric utilities also are subject to increasing federal, state and local statutory and regulatory requirements affecting a broad range of matters, including the following: the siting and construction of new generation and transmission facilities; mandatory reliability standards for the bulk electric power system; homeland security, including protection of critical infrastructure facilities from damage or attack; employee safety; renewable resource mandates; and air, water quality, land use and other environmental factors.

Neither the Utilities Commission nor the City can predict what effects these factors may have on the business operations and financial condition of the electric system.

[any updates needed?] Coal Ash. In September 2014, the Coal Ash Management Act (“CAMA”) became law in the State. CAMA was the first state-level legislation in the country to address the handling, disposal and remediation of Coal Combustion Residuals (“CCRs”) or, as more commonly known, coal ash, at coal fired electric generating facilities. Subsequent to the passage of CAMA, the federal Environmental Protection Agency (the “EPA”) in October 2015 issued its own regulations relating to CCRs. The EPA regulations and CAMA require Duke Energy Corporation (“Duke Energy”) and certain of its affiliated entities, including DEP, to take certain remedial actions related to its plants producing CCRs. In April 2019, the North Carolina Department of Environmental Quality (“NCDEQ”) ordered Duke Energy to excavate all of its remaining coal ash ponds in the State and move the coal ash to lined landfills.

The total remedial costs for Duke Energy and its affiliated entities to comply with CAMA, the EPA regulations and the NCDEQ order and close all coal ash basins in North Carolina and South Carolina have been estimated to be \$8 to \$9 billion. Duke Energy filed rate cases with the North Carolina Utilities Commission (NCUC) in 2017 and 2019 seeking to recover a portion of such remedial costs from its retail and wholesale customers in the form of rate increases. NCUC entered orders in the 2017 rate cases that allowed for Duke Energy to recover certain remedial costs in the form of rate increases, but these orders were subsequently challenged by the North Carolina Attorney General, Public Staff at the NCUC and the Sierra Club. Duke Energy reached a settlement with the North Carolina Attorney General, NCUC Public Staff and the Sierra Club relating to the 2017 and 2019 rate cases that was approved by the NCUC on March 31, 2021. The settlement reduces the amount of coal ash management costs expected to be recovered through customer rate increases between 2015 and 2030 from approximately \$4 billion to \$2.9 billion.

As described under “North Carolina Eastern Municipal Power Agency” above, the Utilities Commission purchases wholesale electricity from the Power Agency as a Participant, and the Power Agency purchases power and energy from DEP to serve the current and future electrical loads of Participants.

The Power Agency accounts for less than 10% of DEP’s sales in the State, and the Utilities Commission accounts for approximately 24% of the Power Agency’s sales to Participants. The Utilities Commission believes that any remedial costs for CCRs that the Utilities Commission would ultimately bear in the form of future wholesale electric cost increases would not likely have a material adverse impact on the financial condition or operations of the electric system. The Utilities Commission currently maintains

funds in its electric rate stabilization fund and other reserves that could be used to pay any such remedial costs and to buffer against any future electric rate increases or surcharges that might be required to be levied against the Utilities Commission’s electric customers to recoup amounts for allocable remedial costs that are passed on to the Utilities Commission as a Participant of the Power Agency. Any costs that are not covered by such fund and other reserves could be passed through to the Utilities Commission’s electric customers through electric rates if necessary.

## The Water System

The Utilities Commission operates a water treatment and distribution system that serves the City and a portion of the County. The distribution system currently consists of approximately 639 miles of line with approximately 37,801 connections. Raw water is supplied by the Tar River and three deep wells. The current average daily withdrawal from the Tar River is 14.556 million gallons per day (“MGD”). River modeling indicates that the Tar River’s maximum withdrawal capacity for the Utilities Commission is 128 MGD. Treatment is accomplished through a modern water treatment plant placed in operation in 1983 and expanded in 2002 with a present capacity of 22.5 MGD. With the 1.0 MGD peaking capacity of the supplemental supply from the three deep wells, the total peak day capacity of the water system is 23.5 MGD.

Average daily water use in the fiscal year ended **June 30, 2021** was approximately 14.108 MGD, with a maximum daily usage of approximately 17.987 MGD. Approximately 86% of the water system’s 37,801 connections are located within the City limits.

The water system’s rate structure is designed to generate sufficient revenues to allow the water system to cover costs of water operations and the portion of the debt incurred to finance water system improvements.

NCDEQ regulates the quality of water sold by the Utilities Commission to its customers, and the water treatment plant operates in compliance with NCDEQ regulations. The water system meets the current standards of the Federal Safe Drinking Water Act.

NCDEQ has implemented rules restricting water use from certain aquifers in areas of eastern North Carolina. Although the Utilities Commission’s primary water supply, which is the Tar River, is not affected by these restrictions, several neighboring communities are mandated to reduce their aquifer withdrawals and are seeking supplemental water supplies. Foresight and long-range planning in the areas of water treatment and aquifer storage have positioned the Utilities Commission to form partnerships with these neighboring communities to provide water service to areas outside the traditional service area. The Utilities Commission has entered into contracts to deliver water to the neighboring communities of Farmville, Stokes, Winterville and Greene County. Previously, the Town of Bethel was also a wholesale customer, however, the Utilities Commission recently acquired the Town of Bethel’s water and sewer systems and brought over all the Town of Bethel’s customers as retail customer.

Water Service Rates. Base charges are the same for all customers based on meter size. Water rates in effect on **June 30, 2021** are set forth below based on meter size and volume:

<u>Monthly Base Charge</u>		
<u>Meter Size</u>	<u>Inside City</u>	<u>Outside City</u>
¾”	\$ 8.00	\$ 9.20
1”	13.04	15.00
1-½”	24.56	28.24

<u>Meter Size</u>	<u>Inside City</u>	<u>Outside City</u>
2"	38.96	44.80
3"	85.04	97.80
4"	144.80	166.52
6"	301.04	346.20
8"	432.80	497.72
10"	697.04	801.60
12"	1,032.56	1,187.44
16"	1,800.80	2,070.92

Volume Charge (per thousand gallons)

<u>Type of Service</u>	<u>Inside City</u>	<u>Outside City</u>
(a) Residential	\$4.77	\$7.40
(b) Commercial	3.99	6.18
(c) Industrial	3.75	3.75
(d) Irrigation (Residential)	7.16	11.10
(d) Irrigation (Commercial)	7.16	11.10
(e) Irrigation (Industrial)	7.16	7.16

Volume Charge (Wholesale Rates for Municipalities) [confirm]

Winterville	Tier 1	\$2.100
	Tier 2	\$3.750
	Capital Charge	\$6,000.00
Stokes	Base kGal Cost	\$1.786
	Meter Charge	\$346.20
Farmville	Base kGal Cost	\$2.148
	Meter Charge	\$2,070.92
Bethel	Base kGal Cost	\$1.863
	Meter Charge	\$497.72

Water Service Tap Fees. The Utilities Commission charges a one-time water service tap fee, the purpose of which is to recover the cost of services, including the installation of water meters. The tap fee is intended to recover both the direct and indirect cost associated with the installation of service taps. The water service tap fee schedule set forth below is the same for locations inside and outside the City limits. The fees are reviewed annually by the Utilities Commission's Board and reviewed periodically by an outside consultant. The fee schedule in effect since July 1, 2018 is set forth below.

<u>Water Tap Size</u>	<u>Tier 1*</u>	<u>Tier 2**</u>
¾"	\$695	\$2,131
1"	764	2,335
1 ½"	1,577	3,026
2"	1,626	3,075

- (1) Tier 1 – Water service tap fee applies to those services for which the service lines are existing (service lateral and meter box).  
(2) Tier 2 – Water service tap fee shall apply to those services which require the Utilities Commission to provide the service

connection from the main water pipeline.

The Tap Fee for all water services larger than 2", which are installed by the Utilities Commission, are billed at the total cost of labor and materials to install.

System Development Fees. The Utilities Commission charges water system development fees on new developments in accordance with North Carolina General Statute 162A Article 8 the "Public Water and Sewer System Development Fee Act" (the "System Development Fee Act"). The purpose of the system development fees is to fund costs of capital improvements necessitated by and attributable to such new development, to recoup costs of existing facilities which serve such new development, or a combination of those costs. The fees are reviewed annually by the Utilities Commission's Board and reviewed periodically by an outside consultant. The fee schedule in effect since July 1, 2018 is set forth below. In accordance with the Bond Order, system development fees are not included in Revenues.

<u>Water Meter Size</u>	<u>Water System Development Fee</u>
3/4"	\$ 724
1"	1,209
1 1/2"	2,411
2"	3,859
2 1/2"	5,285
3"	7,725
4"	12,069
6"	24,131
8"	38,611
10"	57,920
12"	104,676
16"	162,900

Water Rate Study. The water system's rate structure is designed to generate sufficient revenues to allow the water system to cover costs of water maintenance and operations and the portion of the debt incurred to finance water system improvements. Water rates are set to recover costs from each class of customers. Periodically, the Utilities Commission contracts with an outside firm to review revenue requirements, rates and rate structure to ensure adequate recovery of costs. The most recent study was completed in November 2018.

Number of Connections. The table below shows the number of water connections at the end of each of the last five fiscal years and the millions of gallons of water sold:

<u>At June 30</u>	<u>Number of Connections</u>	<u>Water Sold (Millions of Gallons)</u>
2017	35,794	4,019
2018	36,338	4,113
2019	36,673	4,143
2020	37,195	4,162
2021	37,801	4,206

The City has a mandatory water service connection policy in effect within the City limits. The City does not provide free water service to any customers. Substantially all developed areas within the City limits have City water service available.



Major Users. The following table provides information on the largest users of the Utilities Commission's water system (by revenues) for the fiscal year ended **June 30, 2021**:

<u>Customer</u>	<u>Product/Service</u>	<u>Revenues</u>	<u>% of Total</u>	<u>Total k/gallons</u>	<u>% of Total</u>
Town of Farmville	Government	\$986,063	4.28%	447,491	10.64
Patheon <sup>(1)</sup>	Pharmaceuticals	822,898	3.57	217,847	5.18
Town of Winterville	Government	365,992	1.59	138,217	3.29
Vidant Health <sup>(2)</sup>	Health Care	269,432	1.17	66,621	1.58
DSM Protective Materials <sup>(2)</sup>	High Performance Fibers	191,638	0.83	49,996	1.19
Vidant Health <sup>(2)</sup>	Health Care	184,070	0.80	45,557	1.08
Fuji Silysia Chemical USA, Ltd.	Silica Gel	183,195	0.80	47,259	1.12
Vidant Health <sup>(2)</sup>	Health Care	161,323	0.70	39,996	0.95
Mayne Pharma, Inc.	Pharmaceuticals	101,328	0.44	24,407	0.58
Stokes Regional Water Corp.	Water Utility	<u>83,191</u>	<u>0.36</u>	<u>44,258</u>	<u>1.05</u>
<b>Total</b>		<b><u>\$3,349,130</u></b>	<b><u>14.54%</u></b>	<b><u>1,121,649</u></b>	<b><u>26.66%</u></b>

<sup>(1)</sup> Patheon is now part of Thermo Fisher Scientific.

<sup>(2)</sup> Customers having separate accounts for different locations are listed separately.

History of Rate Changes. The Utilities Commission considers rate changes annually and as needed if circumstances change. The following table presents historical information on residential water rate changes made by the Utilities Commission.

<u>Effective Date</u>	<u>Water Charge<sup>(1)</sup></u>	<u>Increase</u>
April 1, 2011	\$26.71	8.4%
May 1, 2014	28.58	7.0
July 1, 2015	30.14	5.5
July 1, 2016	31.80	5.5
July 1, 2018	34.22	7.6
July 1, 2019	36.62	7.0
<b>[Any more recent to report?]</b>		

<sup>(1)</sup> Water charge based on 6,000 gallons/month.

### **The Sanitary Sewer System**

The Utilities Commission operates a wastewater collection and treatment system that serves the City as well as some adjacent areas. The collection system consists of approximately 489 miles of lines with over 31,366 connections. The wastewater treatment plant, placed online in 1985 and expanded in 1995, is rated to biologically treat a 30-day average of 17.5 million gallons per day (MGD). The annual average daily biological flow during the fiscal year ended **June 30, 2021** was 12.051 million gallons with a single day hydraulic maximum of 24.796 MGD. The sanitary sewer system's rate structure is designed to allow the system to be self-supporting.

Mandatory connection is required by Utilities Commission rules and regulations which are incorporated into the City code by reference. All areas within the City limits have Utilities Commission sewer service available.



Treated wastewater is discharged into the Tar River. The Utilities Commission operates an Industrial Pretreatment program, which has six participants: Hyster-Yale Group, Inc., Patheon (now part of Thermo Fisher Scientific), DSM Dyneema, Inc., The Hammock Source, Fuji Silysia and Metrics Contract Services (a subsidiary of Mayne Pharma Group Limited).

The wastewater treatment plant is regulated by the NCDEQ, which enforces federal standards through the National Pollutant Discharge Elimination system as defined in the Clean Water Act. The treatment plant routinely meets all federal and state regulatory standards. The Utilities Commission has entered into a sanitary sewer interlocal agreement with the neighboring community of Grimesland.

Sewer Service Rates. The Utilities Commission does not charge higher rates for users outside the City limits, however higher rates are charged for users who are provided water service by a water provider other than the Utilities Commission. The sewer volume charge is based on 93.5% of the monthly water usage billed by the provider. When the customer has provided a wastewater metering facility, the volume charge is based on 100 percent of the monthly metered wastewater discharged into the Utilities Commission's sewer system and billed monthly at \$7.20 per thousand gallons. Sewer rates in effect on **June 30, 2021** are set forth below based on meter size and volume discharge:

<u>Monthly Base Charge</u>		
<u>Meter Size</u>	<u>All Classes of Water and Sewer Customers</u>	<u>Sewer Only</u>
¾"	\$11.70	\$17.55
1"	19.21	28.82
1-½"	36.38	54.57
2"	57.84	86.76
3"	126.51	189.77
4"	215.57	323.36
6"	448.41	672.62
8"	644.77	967.16
10"	1,038.56	1,557.84
12"	1,538.58	2,307.87
16"	2,683.47	4,025.21

<u>Volume Charge (per thousand gallons)</u>	
<u>Type of Service</u>	<u>Monthly Charge</u>
(a) Residential	\$5.90
(b) Commercial/Industrial	6.53
(c) Metered wastewater	7.20
(d) Municipalities	5.60 <sup>(1)</sup>

<sup>(1)</sup> Added to this charge are any other applicable charges, including charges in any interlocal agreement with another municipality, charges in other sewer charge schedules or charges in the Utilities Commission's regulations.

Volume Charge (Wholesale Rates for Municipalities)

Grimesland	Base kGal Cost	\$5.60
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Sewer Service Tap Fees. Sewer service tap fees are applicable to all customers who connect to the sanitary sewer system. This fee is intended to recover the cost of services, including the installation of sewer cleanouts. Fees in effect since July 1, 2018 are set forth below:

<u>Sewer Tap Size</u>	<u>Tier 1*</u>	<u>Tier 2**</u>
4" w/ 3/4" water meter	\$695	\$3,604
4" w/ 1" water meter	\$716	\$3,625
4"/6" w/ 1 1/2" water meter	\$785	\$3,694
4"/6" w/ 2" water meter	\$826	\$3,735

(1) Tier 1 - Service Tap Fee shall apply to those services for which the service lines are existing (service lateral and cleanout).

(2) Tier 2 - Service Tap Fee shall apply to those services which require the Utilities Commission forces to provide the service connection from the main sewer pipeline.

The tap fee for all sewer services larger than 6", which are installed by the Utilities Commission, is billed at the total cost of labor and materials to install.

System Development Fees. The Utilities Commission charges sewer system development fees on new developments in accordance with the System Development Fee Act. The purpose of the system development fees is to fund costs of capital improvements necessitated by and attributable to such new development, to recoup costs of existing facilities which serve such new development, or a combination of those costs. The fees are reviewed annually by the Utilities Commission's Board and reviewed periodically by an outside consultant. The fee schedule in effect since July 1, 2018 is set forth below. In accordance with the Bond Order, system development fees are not included in Revenues.

<u>Water Meter Size</u>	<u>Wastewater System Development Fee</u>
3/4"	\$881
1"	1,471
1 1/2"	2,934
2"	4,696
2 1/2"	6,431
3"	9,400
4"	14,686
6"	29,364
8"	46,984
10"	70,480
12"	127,375
16"	198,225

Sewer Rate Study. The sewer system's rate structure is designed to generate sufficient revenues to allow it to cover costs of sewer operations and the portion of the debt incurred to finance sewer system capital improvements. Sewer rates are set to recover costs from each customer class. Periodically, the Utilities Commission contracts with an outside consultant to review the sewer system's revenue requirements, rates and rate structure to ensure adequate recovery of costs. The most recent rate study was completed in November 2018.

Number of Connections. The table below shows the number of sewer connections at the end of each of the last five fiscal years:

<u>At June 30,</u>	<u>Number of Accounts</u>
2017	29,478
2018	30,034
2019	30,363
2020	30,828

Major Users: The following table provides information on the largest users of the Utilities Commission's sewer system (by revenues) during the fiscal year ended **June 30, 2021**:

<u>Customer</u>	<u>Product/Service</u>	<u>Revenues</u>	<u>% of Total</u>
Patheon <sup>(1)</sup>	Pharmaceuticals	\$843,225	3.53%
Town of Bethel	Government	693,686	2.90
DSM Protective Materials	High Performance Fibers	539,968	2.26
Vidant Health <sup>(2)</sup>	Health Care	412,141	1.72
Fuji Silysia Chemical USA, Ltd.	Silica Gel	296,282	1.24
Vidant Health <sup>(2)</sup>	Health Care	280,559	1.17
Vidant Health <sup>(2)</sup>	Health Care	246,786	1.03
Mayne Pharma Inc.	Pharmaceuticals	154,194	0.65
East Carolina University	Education	96,807	0.40
Greenville Housing Authority	Apartments	<u>93,259</u>	<u>0.39</u>
Total		\$3,656,907	<u>15.29%</u>

<sup>(1)</sup> Patheon is now part of Thermo Fisher Scientific.

<sup>(2)</sup> Customers having separate accounts for different locations are listed separately.

History of Rate Changes. The Utilities Commission considers rate changes annually and as needed if circumstances change. The following table presents historical information on residential sewer rate changes made by the Utilities Commission.

<u>Effective Date</u>	<u>Sewer Charge<sup>(1)</sup></u>	<u>Increase</u>
April 1, 2011	\$35.20	8.9%
May 1, 2014	38.28	8.7
July 1, 2015	40.81	6.6
July 1, 2016	43.45	6.5
July 1, 2018	44.80	3.1
[Any more recent to report?]		

<sup>(1)</sup> Sewer charge based on 6,000 gallons/month water bill.

## The Natural Gas System

The Utilities Commission operates a natural gas distribution system that services the City as well as some adjacent areas. The natural gas system consists of 748 miles of pipeline and 485 miles of service lines with 24,162 connections. During the fiscal year ended **June 30, 2021**, the Utilities Commission moved 3,507,569 dekatherms of natural gas through their distribution system.

The Utilities Commission secures its natural gas supplies through various marketers and uses marketing firms to buy and sell natural gas contracts on its behalf. The Utilities Commission typically enters into contracts whereby it purchases and fixes a portion of its gas supply in advance. **At June 30, 2020, the Utilities Commission has commitments to take delivery on a total of 1,200,000 dekatherms at fixed prices ranging from \$2.116 to \$3.658 per dekatherm and in varying amounts from July 2020 through June 2021. In addition, the Utilities Commission has commitments to take delivery on 1,204,300 additional dekatherms during the period July 2020 through June 2021 for which it has not yet fixed a price.**

[update?] On November 1, 2005, the Utilities Commission entered into an agreement with Piedmont Natural Gas (PNG) that allows the Utilities Commission to purchase all its natural gas requirements on the open market. The terms of the contract require PNG to transport natural gas through its pipeline to the Utilities Commission in exchange for annual payments of \$2,987,328. The contract was renewed effective January 5, 2010 for a period of 10 years with a Maximum Daily Quantity (MDQ) of 20,000 dekatherms and an annual payment of \$3,698,544. At the end of the original contract term, the agreement automatically renews for additional terms of one year each unless terminated by either party. The Utilities Commission may be allowed to exceed its MDQ to accommodate interruptible demand as capacity is available.

[update] The Utilities Commission entered a 15-year agreement with Patriots Energy Group (PEG), effective February 1, 2007 to purchase 20 percent of the Utilities Commission's firm volumes (2,000 dekatherms per day during the winter period, November through March). The Utilities Commission receives a price discount projected to be between \$0.42 and \$0.47 per dekatherm and pays a fee of \$0.015 per dekatherm to PEG to cover the administrative costs of the agreement.

The Utilities Commission entered a 30-year agreement with The Black Belt Energy Gas District (Black Belt Energy), effective March 1, 2018 to purchase 40 percent of Utilities Commission's firm volumes (1,600 dekatherms per day during the summer period, April to October, and 2,500 dekatherms per day during the winter period, November through March). The Utilities Commission receives a price discount projected to be \$0.40 per dekatherm during the initial reset period from November 1, 2018 to October 31, 2023 and pays a fee of \$0.03 per dekatherm to Black Belt Energy to cover the administrative costs of the agreement. The Utilities Commission may elect to remarket the commodity in future reset periods when the available discount realized from the initial reset period through the end of such reset period is less than \$0.25 per dekatherm, excluding any period for which the Utilities Commission delivered a remarking election.

The Utilities Commission entered into two 30-year agreements with Public Energy Authority of Kentucky (PEAK), effective December 4, 2018, and February 14, 2019, respectively, to purchase approximately 12 percent of Utilities Commission's total volumes (500 dekatherms per day through January 2022, then 500 dekatherms per day during the summer period, April to October, and 2,000 dekatherms per day during the winter period, November through March). The Utilities Commission receives a price discount projected to be \$0.3875 per dekatherm during the initial reset period from July 1, 2019 to April 30, 2025 and pays a fee of \$0.03 per dekatherm to Public Energy Authority of Kentucky to cover the administrative costs of the agreement. The Utilities Commission may elect to remarket the commodity in future reset periods when the available discount realized from the initial reset period through the end of such reset period is less than \$0.23 per dekatherm, excluding any period for which the Utilities Commission delivered a remarking election. In addition, the Utilities Commission may elect to remarket the commodity in the event of a loss of load on its system.

The Utilities Commission utilizes liquefied natural gas ("LNG") as a supply source for the peak day natural gas requirements. The utilization of LNG as a natural gas supply for peak day requirements is part of a long-range plan to enhance the natural gas system's reliability, control natural gas costs and offer additional services to the Utilities Commission's customers. The Utilities Commission completed a permanent facility that stores and vaporizes LNG into gas in December 1997. An expansion of that facility, which doubled storage capacity, was substantially completed in the fall of 2001 and enhancements to the security features at the site were completed in 2004. A second expansion, completed in December 2006, doubled the send out capacity and added redundancy and reliability to the operations of the facility. During fiscal year 2015, two additional storage tanks were installed at the facility, bringing the total storage capacity to 330,000 gallons. The volume of LNG stored at the facility would supply the Utilities Commission's customers for more than a week should the gas supply be cut off due to an emergency.

The policy of the Utilities Commission is to set natural gas system rates at a level to generate sufficient revenue to allow the natural gas system to be self-supporting. To achieve such result, the Utilities Commission has adopted a purchased gas adjustment clause as a rate change mechanism to provide that all purchased gas costs incurred by the Utilities Commission are passed along to natural gas customers.

Natural Gas Rates. Natural gas rates in effect on **June 30, 2021** are set forth below:

Residential Service:

A. Basic Facilities Charge (per billing month):	\$13.00
B. Commodity Charge (per ccf):	\$0.9365

Residential Service – Heat Only:

A. Basic Facilities Charge (per billing month):	\$15.00
B. Commodity Charge (per ccf):	\$1.0164

Commercial Service:

A. Basic Facilities Charge (per billing month):	\$27.00
B. Commodity Charge (per ccf):	First 500 ccf \$0.9943 per ccf
	Over 500 ccf \$0.8393 per ccf

Industrial Service:

A. Basic Facilities Charge (per billing month):	\$115.00
B. Commodity Charge (per ccf):	First 500 ccf \$0.8050
	Over 500 ccf \$0.7516

Interruptible Service:

A. Basic Facilities Charge (per billing month):	\$215.00
B. Commodity Charge (per ccf):	Negotiated

Seasonal Service:

A. Basic Facilities Charge (per billing month):	\$41.00
B. Commodity Charge (per ccf):	\$0.7328

LNG Storage Service:

A. Reservation Charge (per mcf per month):	\$ 1.6200
B. Daily Demand Charge (per mcf per month):	\$7.2500
C. Commodity Charge (per mcf):	\$12.5500

All firm natural gas rates are subject to a purchased gas adjustment (“PGA”) schedule which provides for increases and decreases in customer rates commensurate with increases and decreases in commodity costs. Actual commodity costs are evaluated monthly to determine necessary changes to the PGA. An 8.7% decrease was previously implemented in April 2020. A 12.8% increase in the PGA became effective in November 2020. A 14.7% decrease in the PGA became effective April 2021. The rates in the above table are reflective of the most recent decrease.

Number of Connections. The table below shows the number of gas connections by class at the end of the last five fiscal years:

<u>At June 30,</u>	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>	<u>Interruptible</u>	<u>Total</u>
2017	20,930	2,152	12	14	23,108
2018	21,165	2,188	12	14	23,379
2019	21,271	2,195	13	14	23,493
2020	21,543	2,214	13	14	23,784
2021	21,905	2,231	15	11	24,162

Gas Consumption. The table below sets forth natural gas consumption for the last five fiscal years in hundreds of cubic feet (ccf):

<u>Fiscal Year Ended June 30,</u>	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>	<u>Interruptible</u>	<u>Total</u>
2017	6,941,053	5,671,707	1,865,882	15,419,520	29,898,162
2018	9,010,170	6,829,540	2,618,575	16,009,496	34,467,781
2019	7,968,341	6,321,242	2,804,196	17,394,338	34,488,117
2020	7,298,902	5,731,286	2,744,829	16,680,380	32,455,397
2021	8,621,566	6,390,882	2,954,202	15,769,310	33,735,960

Major Users. The following table presents information on the largest users of the Utilities Commission's natural gas system (by revenues) during the fiscal year ended **June 30, 2021**:

<u>Customer Name</u>	<u>Product/Service</u>	<u>Revenues</u>	<u>% of Total</u>	<u>Total Usage (ccf's)</u>	<u>% of Total</u>
Patheon <sup>(1)</sup>	Pharmaceuticals	\$3,095,222	9.45%	4,697,227	13.92%
East Carolina University <sup>(2)</sup>	Education	2,040,890	6.23	3,215,731	9.53
Vidant Health <sup>(2)</sup>	Health Care	1,504,468	4.59	2,141,312	6.35
Vidant Health <sup>(2)</sup>	Health Care	969,726	2.96	1,384,767	4.10
Mayne Pharma Inc.	Pharmaceuticals	948,895	2.90	1,166,592	3.46
DSM Protective Materials <sup>(2)</sup>	High Performance Fibers	822,155	2.51	1,236,140	3.66
East Carolina University <sup>(2)</sup>	Education	700,902	2.14	1,102,348	3.27
Fuji Silysia Chemical USA, Ltd.	Silica Gel	587,045	1.79	793,321	2.35
Hyster Yale Group	Lift Trucks	539,952	1.65	663,412	1.97
Metallix Inc.	Precious Metals Recycling	<u>396,153</u>	1.21	<u>490,103</u>	1.45
<b>Total</b>		<b><u>\$11,605,408</u></b>	<b><u>35.43%</u></b>	<b><u>16,890,953</u></b>	<b><u>50.06%</u></b>

<sup>(1)</sup> Patheon is now part of Thermo Fisher Scientific.

<sup>(2)</sup> Customers having separate accounts for different locations are listed separately.

History of Rate Changes. The Utilities Commission considers rate changes annually and as needed if circumstances change. The following table presents historical information on residential natural gas rate changes made by the Utilities Commission.

<u>Effective Date</u> <sup>(1)</sup>	<u>Natural Gas Charge</u> <sup>(2)</sup>	<u>Increase</u> <sup>(3)</sup>
December 1, 2012	\$62.44	4.0%
April 1, 2013	61.56	(1.4)
January 1, 2014	66.24	7.6
March 1, 2014	68.97	4.1
May 1, 2015	63.55	(7.9)
September 1, 2015	59.32	(6.7)
August 1, 2016	57.97	(2.3)
November 1, 2016	61.13	5.5
February 1, 2017	63.25	3.5
July 1, 2017	66.42	5.0
January 9, 2018	71.43	7.5
July 1, 2018	71.79	0.5
March 1, 2019	63.25	(11.9)
April 1, 2019	60.59	(4.2)
December 1, 2019	63.94	5.5
April 1, 2020	61.00	(4.6)
November 1, 2020	64.96	6.5
April 1, 2021	59.83	(7.9)

[Any more recent to report?]

(1) Further changes may occur between the date of the Official Statement and the date of delivery of the 2022 Bonds.

(2) Natural gas based on monthly usage of 50 ccf.

(3) Natural gas increases/decreases generally reflect seasonal changes in the market price for natural gas.

### **Billing and Collection Procedures**

The Utilities Commission uses electronic meter recording devices and an Automated Meter Reading (AMR) system to read water, electric, and gas meters for billing purposes. The Utilities Commission's meter reading and billing processes are divided into 16 cycles, which accordingly take 16 working days per month to complete. After each day's cycle is read, the readings are uploaded at night and an exception report is generated, which is analyzed the next day. All meters are read and billed on a monthly basis, and bills are mailed within two working days of the meter being read.

Currently, bills are considered delinquent on the twentieth day after billing. Five days later a delinquent notice is mailed to the customer and a 1% fee is added to delinquent bills over \$50. On the thirty-fifth day, if the bill remains unpaid, the customer's electric service is disconnected and seven days later, if the bill still is unpaid, any additional services are disconnected. All unpaid final bills are turned over to a collection agency ninety days after the account closes.

Before establishing service, utility customers must make an application. During the application process, a security deposit is established based on the services provided as well as the customer’s credit standing. The security deposits in effect on **June 30, 2021** for residential service are as follows:

Water Only	\$ 50
Sewer Only	50
Gas Only	100
Electric Only	100
Electric & Water	150
Electric & Gas	200
Electric, Water & Gas	250

### Operating and Capital Budget Procedures

The Utilities Commission’s operating and capital budgets are developed in accordance with local and State laws. Annual budgets are developed and approved by the Utilities Commission and adopted by the City Council by June 30 of each year. The Utilities Commission develops a five-year capital project plan each year. The five-year capital project plan is used to estimate the dollar amount of work that will be completed in any given year. Possible projects to be financed are often “rolled” from one year to the next until a decision is made by staff and/or developers to proceed with the particular project. Capital project budgets are developed as needed as project time schedules dictate.

### History of Capital Expenditures

The following tables provide information on capital improvements to the Combined Enterprise System funded from operations and from debt for the fiscal years ended/ending June 30, 2018 through 2022, with respect to the electric, water, sanitary sewer and natural gas systems:

	Total Capital Expenditures (\$000s)				
	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Electric	\$10,745	\$31,030	\$31,862		
Water	2,854	4,223	9,851		
Sanitary Sewer	4,800	2,821	7,903		
Natural Gas	<u>2,160</u>	<u>1,284</u>	<u>6,149</u>		
Total	<u>\$20,559</u>	<u>\$39,358</u>	<u>\$55,765</u>		



## Future Capital Expenditures and Debt Outlook

The Utilities Commission has an annual budget process and a five-year capital project planning process to identify needed system changes. The Utilities Commission’s plans for improvements to the Combined Enterprise System are designed to foster constant growth and rehabilitation of facilities and systems. Rates are modified and expenses changed to accommodate these objectives. The Utilities Commission’s current five-year capital plan is summarized below.

	<u>Total Projected Capital Expenditures (\$000s)</u>				
	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>
Electric	\$20,048	\$21,573	\$24,086	\$15,882	
Water	20,457	20,175	6,781	8,205	
Sanitary Sewer	13,211	6,636	2,464	1,901	
Natural Gas	5,763	6,817	5,768	3,965	
Total	<u>\$59,479</u>	<u>\$55,201</u>	<u>\$39,099</u>	<u>\$29,953</u>	

The Utilities Commission expects to fund a significant portion of the projected capital expenditures set forth above from internally generated funds on a pay-as-you-go basis. The balance will be financed from a combination of revenue bonds, special reserves, special revenues and other third party contributions. Approximately \$ \_\_\_\_\_ million of the proceeds of the 2022 Bonds are being used to pay for projects set forth in the capital improvement plan. The Utilities Commission expects to issue additional revenue bonds in fiscal year 2024 to fund approximately \$33.03 million in projects and in fiscal year \_\_\_\_\_ to fund approximately \$ \_\_\_\_\_ million in projects. No assurance can be given as to which, if any, of the capital expenditures will be recommended for approval nor can assurances be given as to the method of finance to be employed to fund approved capital projects.

In addition to the projected capital expenditures set forth above, the Utilities Commission is evaluating options for additional liquid natural gas storage and vaporization facilities to meet peak demands during extreme weather events. The Utilities Commission is conducting this evaluation particularly in light of the consequences of an extreme weather event in January 2018 that interrupted ground transportation of liquid natural gas to its present facilities, requiring the Utilities Commission to rely on more expensive resources to meet its customer’s requirements. At present, the Utilities Commission is evaluating options, which may include facilities financed and constructed by the Utilities Commission or facilities developed in partnership with other entities, but there are no definitive plans to proceed with any such arrangements at this time.

## Historical Operating Results

Management’s Discussion. For the fiscal year ended June 30, 2021, the assets and deferred outflows of resources of the Utilities Commission exceeded its liabilities and deferred inflows of resources at the close of the most recent fiscal year by \$417,526,844 (net position). Of this amount, \$112,171,233 (unrestricted net position) may be used to meet the Utilities Commission’s ongoing obligations to its customers and creditors. Operating revenues increased by \$7,884,127 or 3.2% and total revenues and contributions increased by \$1,736,159 or 0.7% due primarily to higher volumes delivered to customers in the electric and gas funds. The Utilities Commission’s total net position increased by \$8,595,631 primarily due to positive operating income. The Utilities Commission’s total debt increased by \$10,684,504 or 6.5% during the last fiscal year. The key factor in this increase was the issuance of \$43,915,203 of debt, and the net increase in discounts and premiums totaling \$5,323,331, which exceeded the retirement of \$38,554,030 of existing debt.

Summary Financial Information. The following table presents information on the financial performance of the Combined Enterprise System for the past five fiscal years. This information has been drawn from the Utilities Commission's audited financial statements and adjusted to correspond to definitions in the Bond Order. Information for the fiscal year ended **June 30, 2021**, should be read in conjunction with the Utilities Commission's audited financial statements and notes thereto in Appendix A hereto.

### HISTORICAL OPERATING RESULTS

STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN FUND NET ASSETS (000'S)	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>Line #</u>
Operating Revenues						
Charges for Service	\$245,486	\$254,569	\$259,044	\$248,349		1
Other Operating Revenues	519	923	1,037	824		2
Total Operating Revenues	<u>246,005</u>	<u>255,492</u>	<u>260,081</u>	<u>249,173</u>		3
Operating Expenses						
Administrative and General	22,322	21,710	24,985	29,245		4
Operations and Maintenance	39,474	39,467	41,344	41,442		5
Purchased Power and Gas	145,675	149,657	148,465	141,309		6
Depreciation	20,999	21,404	22,204	23,072		7
Total Operating Expenses	<u>228,470</u>	<u>232,238</u>	<u>236,998</u>	<u>235,068</u>		8
Operating Income (Loss)	<u>17,535</u>	<u>23,254</u>	<u>23,083</u>	<u>14,105</u>		9
Nonoperating Revenues (Expenses)						
Interest Income	528	1,160	3,558	4,016		10
Debt Interest Expense and Services Charges	(3,358)	(4,153)	(4,883)	(5,272)		11
Other nonoperating revenues	4,229	3,752	2,741	2,753		12
Other nonoperating expenses	-	(637)	(249)	-		13
Total Nonoperating Revenues (Expenses)	<u>1,399</u>	<u>122</u>	<u>1,167</u>	<u>1,497</u>		14
Income Before Operating Transfers	<u>18,934</u>	<u>23,376</u>	<u>24,250</u>	<u>15,602</u>		15
Operating Transfers						
Capital Contributions	135	1,214	1,828	5,528		16
Transfer to City of Greenville, General Fund	(5,900)	(5,853)	(5,909)	(5,770)		17
Transfer to City of Greenville, Street Lighting	(765)	(748)	(809)	(885)		18
Total Operating Transfers	<u>(6,530)</u>	<u>(5,387)</u>	<u>(4,890)</u>	<u>(1,127)</u>		19
Changes in Net Position	<u>12,404</u>	<u>17,989</u>	<u>19,360</u>	<u>14,475</u>		20
Net Position, Beginning of Year, Previously Reported	366,522	378,926	375,096	394,456		21
Restatement	-	(21,819)				22
Net Position, Beginning of Year, Restated	<u>366,522</u>	<u>357,107</u>	<u>375,096</u>	<u>394,456</u>		23
Net Position, End of Year	<u>\$378,926</u>	<u>\$375,096</u>	<u>\$394,456</u>	<u>\$408,931</u>		24

**DEBT COVERAGE CALCULATION  
(000'S)**

<b>Revenues</b>					
Operating Revenues	\$246,005	\$255,492	\$260,081	\$249,173	25
Interest Income	528	1,160	3,558	4,016	26
Miscellaneous Revenues	4,229	3,752	2,741	2,753	27
Revenues Not Available for Debt Service <sup>(1)</sup>	(2,423)	(1,458)	(3,301)	(3,961)	28
<b>Total Revenues Available for Debt Service</b>	<b>248,339</b>	<b>258,946</b>	<b>263,079</b>	<b>251,981</b>	<b>29</b>
<b>Current Expenses</b>					
Operations	61,796	61,177	66,329	70,687	30
Purchased Power and Gas	145,675	149,657	148,465	141,309	31
Other Nonoperating Expenses	-	637	249	-	32
Unfunded OPEB and Pension Expense	(756)	190	(1,554)	(4,649)	33
<b>Total Current Expenses</b>	<b>206,715</b>	<b>211,661</b>	<b>213,489</b>	<b>207,347</b>	<b>34</b>
<b>Net Revenues/Funds Available for Debt Service</b>	<b>\$41,624</b>	<b>\$47,285</b>	<b>\$49,590</b>	<b>\$44,634</b>	<b>35</b>
<b>Debt Service</b>					
Parity Indebtedness	9,826	10,592	12,158	8,196	36
Subordinate, Additional and G.O.	3,255	3,692	3,829	3,712	37
<b>Indebtedness</b>					
<b>Total Debt Service<sup>(2)</sup></b>	<b>\$13,081</b>	<b>\$14,284</b>	<b>\$15,987</b>	<b>\$11,908</b>	<b>38</b>
<b>Coverage Ratios</b>					
Parity Debt Service Coverage Requirement = 1.25x <sup>(3)</sup>	4.24	4.46	4.08	5.45	39
Total Debt Service Coverage, Requirement = 1.00x <sup>(4)</sup>	3.18	3.31	3.10	3.75	40
Debt Service Coverage after Transfers <sup>(5)</sup>	2.67	2.85	2.68	3.19	41
<b>OPERATING CASH</b>	<b>\$95,614</b>	<b>\$101,695</b>	<b>\$104,298</b>	<b>\$111,431</b>	<b>42</b>
<b>DAYS CASH ON HAND</b>	<b>168</b>	<b>175</b>	<b>177</b>	<b>192</b>	<b>43</b>
<b>UNAPPROPRIATED FUND BALANCE</b>	<b>\$54,094</b>	<b>\$54,513</b>	<b>\$58,233</b>	<b>\$55,861</b>	<b>44</b>
<b>Fund Balance as % of Total Expenditures</b>	<b>23%</b>	<b>22%</b>	<b>23%</b>	<b>23%</b>	<b>45</b>

(1) Includes interest earnings on revenue bond funds and other restricted revenues.

(2) Line 36 plus Line 37.

(3) Line 35 divided by Line 36.

(4) Line 35 divided by Line 38.

(5) (Line 35 plus Line 17 plus Line 18) divided by Line 38.

**Impact of the COVID-19 Pandemic**

[to be updated] On March 11, 2020, the World Health Organization declared a global pandemic following the outbreak of COVID-19, a respiratory disease caused by a new strain of coronavirus. The COVID-19 outbreak is altering the behavior of businesses and people and has affected travel, commerce and financial markets globally in a manner that is having negative effects on global and local economies, including Pitt County. Within the United States, the Federal government and various state and local governments, as well as private entities and institutions, have implemented a variety of efforts aimed at preventing the spread of COVID-19 including, but not limited to, travel restrictions, voluntary and mandatory quarantines, event postponement and cancellations, voluntary and mandatory work from home arrangements, and facility closures. Many states, including North Carolina, have declared a state of emergency and issued “shelter-in-place” orders designed to reduce physical human interactions to slow the spread of the virus.

The impact of these various measures, as well as general concerns related to the global and national public health emergency and other contributing factors, have also resulted in significant volatility in the financial markets and a general consensus that the global and national economies are distressed. Continued

declines or volatility in the financial markets may constrain market access and credit availability to borrowers, including governmental entities.

On March 10, 2020, Governor Roy Cooper issued an executive order declaring a state of emergency in the State in order to coordinate emergency response and to implement protective actions to prevent the spread of COVID-19. In response to the outbreak growing in the state, on March 27, 2020, Governor Cooper issued a statewide Stay-at-Home Order effective March 30, 2020 through April 30, 2020, directing people to stay home except to visit essential businesses, exercise outdoors, or help a family member, specifically banning gatherings of more than 10 people and requiring social distancing. Since the Governor's initial Stay-at-Home Order, the Governor has issued numerous executive orders expanding the reasons people can leave home, allowing certain businesses to open at reduced capacities, easing the restrictions on the size of mass gatherings both indoors and outdoors, requiring a curfew and various other mandates.

On February 24, 2021, Governor Cooper issued Executive Order 195, which (1) lifted the original Stay-at-Home Order, (2) removed the existing curfew, (3) removed the 100 guest limitation for commercial businesses and houses of worship previously operating at 30%, (4) permitted museums, personal care businesses, restaurants and retail businesses to operate at 50% of capacity, (5) permitted bars, movie theaters, sporting arenas, meeting spaces and conference centers, and other indoor venues to operate at 30% of capacity, or 250 guests, whichever is less, (6) permitted larger indoor sporting arenas with a capacity of more than 5,000 to operate at 15% of capacity and (7) increased the limits on mass gatherings to 25 people indoors and 50 people outdoors.

On March 23, 2021, Governor Cooper issued Executive Order 204, which, among other things, (1) increased the capacity for retail businesses, salons and museums to 100%, (2) increased the capacity for restaurants, wineries, breweries, amusement parks, gyms, pools and recreation establishments to 75% capacity indoors and 100% capacity outdoors, (3) increased the capacity for bars, conference centers, reception venues, sports arenas and live performance venues to 50% capacity indoors and outdoors, and (4) increased the limits on mass gatherings to 50 people indoors and 100 people outdoors.

On April 28, 2021, Governor Cooper issued Executive Order 209, which, among other things, (1) lifted the requirement that masks be worn outdoors and (2) increased the limits on mass gatherings to 50 people indoors and 100 people outdoors.

People are still required to wear face coverings in indoor spaces if there are non-household members present, regardless of distance away; in gyms and fitness facilities; and in restaurants, guests are required to wear face coverings at their table unless they are actively eating or drinking.

The Governor's plans for the continuation of these restrictions or the implementation of additional restrictions are uncertain.

Out of concern for the potential impact of COVID-19 on the organization and its customers, the Utilities Commission closed its lobbies and public areas on March 18, 2020. While the Utilities Commission closed areas to the public, it continued to keep its call center and its drive-thru windows at the Greenville Boulevard Express Office open to the public, both with extended hours. On March 25, 2020, certain renovations to the Utilities Commission's main office were completed, allowing the Utilities Commission to open four new drive-thru windows at the main office, also serving customers for extended hours.

Beginning March 19, 2020, the Utilities Commission staggered the times work crews reported to work in an effort to reduce the number of people gathered in any area at one time. Employees were given

special personal protective equipment, workplaces were cleaned and sanitized frequently and shift starting times were staggered. All out of town Commission-related travel was restricted, and procedures were developed for personal travel, pandemic leave to care for children, and work situations for employees who were at high-risk of contracting the virus. The Utilities Commission also implemented procedures for remote working, identified employees who could work from home and gathered equipment for such employees. On March 23, 2020, employees who could do their work from home were asked to do so until further notice.

From March 13, 2020 to September 9, 2020, the Utilities Commission temporarily suspended utility disconnections for nonpayment. While such accounts were not suspended, customers remain responsible for charges on services used during this time. To minimize the financial impact on both customers who were falling behind on their bills due to COVID-19 and the Utilities Commission, delinquent customers were encouraged to contact the Utilities Commission by phone, and representatives were directed to work with customers on an individual basis to keep them from falling too far behind. The Utilities Commission utilized social media, ads, commercials, press releases, its website, and even an automated calling system to directly reach out to customers who reached a certain threshold, encouraging them to call for assistance. A new payment vendor was contracted and an overhaul of the online account management website was completed in an effort to make online and over-the-phone payments faster, easier, and with lower or eliminated convenience fees. The Utilities Commission has also been working closely with State and local officials to ensure that COVID-relief funding is being properly distributed and applied to customers' bills. Historic delays in mail delivery in December 2020 through February 2021 led the Utilities Commission to temporarily suspend late fees and disconnections for non-payment again. The automated calling system was employed to let customers whose bills were likely delayed know of the delay and that there would not be a penalty for late payment. Customers were encouraged to manage their accounts utilizing the website or to pay by phone. Since that time, more regular mail delivery times have resumed and the late fees and account disconnections have resumed.

The potential impact of COVID-19 on the Utilities Commission and its operations and its financial condition cannot be predicted at this time and will depend on future developments, which are highly uncertain, including the duration and severity of the COVID-19 outbreak and further directives of federal, State and local officials.

### **Pension Plans**

The following information on the pension plans is presented on the calendar year basis, whereas the information in the independent auditor's footnotes included in Appendix A to this Official Statement is presented on the fiscal year basis.

The Utilities Commission participates in the North Carolina Local Governmental Employees' Retirement System (the "System"). The System is a service agency administered through a board of trustees by the State for public employees of counties, cities, boards, commissions and other similar governmental entities. While the State Treasurer is the custodian of System funds, administrative costs are borne by the participating employer governmental entities. The State makes no contributions to the System.

The System provides, on a uniform System-wide basis, retirement and, at each employer's option, death benefits from contributions made by employers and employees. Employee members contribute 6% of their individual compensation. Each employer makes a normal contribution plus, where applicable, a contribution to fund any accrued liability over a 12-year period. The employer contribution rate for the fiscal year ended **June 30, 2021**, was 10.15%. The accrued liability contribution rate is determined separately for each employer and covers the liability of the employer for benefits based on employees' service rendered prior to the date the employer joins the System.

Members qualify for a vested deferred benefit at age 50 with at least 20 years of service or at age 60 after at least five years of creditable service to the unit of local government. Unreduced benefits are available: at age 65, with at least five years of creditable service; at age 60, with at least 25 years of creditable service; or after 30 years of creditable service, regardless of age. Benefit payments are computed by taking an average of the annual compensation for the four consecutive years of membership service yielding the highest average. This average is then adjusted by a percentage formula, by a total years of service factor and by an age service factor if the individual is not eligible for unreduced benefits.

Contributions to the System are determined on an actuarial basis.

For information concerning the Utilities Commission's participation in the North Carolina Local Governmental Employees' Retirement System and the Supplemental Retirement Income Plan of North Carolina, see the Notes to the Utilities Commission's audited financial statements included in Appendix A to this Official Statement.

Financial statements and required supplementary information for the North Carolina Local Governmental Employees' Retirement System are included in the Annual Comprehensive Financial Report ("ACFR") for the State. Please refer to the State's ACFR for additional information.

### **Other Post-Employment Benefits**

The Utilities Commission provides certain post-employment health care and other benefits ("OPEB") as part of the total compensation package offered to attract and retain the services of qualified employees. These benefits are available to retirees who participate in the System and who, at the time of their retirement, meet certain service requirements.

To meet the post-employment health care and other benefits reporting requirements of GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits other Than Pensions*, the Utilities Commission obtained an actuarial valuation of its OPEB based on data for June 30, 2020. The actuarial valuation quantified an actuarial total liability of \$59,619,861. The plan fiduciary net position as of **June 30, 2021** was \$5,257,070 resulting in a net OPEB liability of \$54,362,791. The valuation was completed using a 3.41% single equivalent interest rate.

The Utilities Commission largely funds OPEB on an annual pay-as-you-go basis under a self-insured plan, with actual benefits paid of approximately \$2,315,244, net of retiree contributions, for the fiscal year ended **June 30, 2021**. The Utilities Commission also makes an annual contribution in the amount of \$500,000 to the Utilities Commission's OPEB Trust administered by the State Treasurer's Office. The Utilities Commission had \$7,005,050 on deposit in the OPEB Trust as of **June 30, 2021**.

For additional information concerning OPEB and the Utilities Commission's requirements, see the Notes to the Utilities Commission's audited financial statements included in Appendix A to this Official Statement.

### **Cybersecurity**

The Utilities Commission, like many other large public and private entities, relies on a large and complex technology environment to conduct its operations, including operation of the Combined Enterprise System, and faces multiple cybersecurity threats including, but not limited to, hacking, phishing, viruses, malware and other attacks on its computing and other digital networks and systems (collectively, "Systems Technology"). As a recipient and provider of personal, private, or sensitive information, the Utilities

Commission may be the target of cybersecurity incidents that could result in adverse consequences to the Utilities Commission and its Systems Technology, requiring a response action to mitigate the consequences.

Cybersecurity incidents could result from unintentional events, or from deliberate attacks by unauthorized entities or individuals attempting to gain access to the Utilities Commission’s System Technology for the purposes of misappropriating assets or information or causing operational disruption and damage. To mitigate the risk of business operations impact and/or damage from cybersecurity incidents or cyber-attacks, the Utilities Commission invests in multiple forms of cybersecurity and operational safeguards.

While the Utilities Commission’s cybersecurity and operational safeguards are periodically tested, no assurances can be given by the Utilities Commission that such measures will ensure against other cybersecurity threats and attacks. Cybersecurity breaches could cause material disruption to the Utilities Commission's finances or operations. The costs of remedying any such damage or protecting against future attacks could be substantial. Further, cybersecurity breaches could expose the Utilities Commission to material litigation and other legal risks, which could cause the Utilities Commission to incur material costs related to such legal claims or proceedings.

### **Climate Change**

The region served by the Utilities Commission is susceptible to the effects of extreme weather events and natural disasters, including floods, droughts and hurricanes, and has experienced severe weather events in the past. These effects may be amplified by a prolonged global temperature increase over the next several decades (commonly referred to as “climate change”). No assurances can be given that a future extreme weather event driven by climate change will not adversely affect the operations of the Utilities Commission or the Combined Enterprise System.

## **THE CITY**

### **General Description**

The City is situated on the Tar River in the central coastal plain of North Carolina. It was founded by English settlers in 1774 and named Martinsborough. It was soon named and continues to serve as the seat of Pitt County (the “County”). In 1786, the residents changed the name to Greenville to honor revolutionary war hero and fellow North Carolinian, Nathaniel Greene. The City covers an area of approximately 35 square miles. On December 31, 1992, the United States Department of Housing and Urban Development classified the City as a Metropolitan Statistical Area (“MSA”).

### **Demographic Characteristics**

The United States Department of Commerce, Bureau of the Census, has recorded the population of the City to be as follows:

<u>2000</u>	<u>2010</u>	<u>2020</u>	<u>2021</u>
62,432	84,554	87,882	88,728



Per capita income data for the County and the State are presented in the following table:

<u>Year</u>	<u>County<sup>1</sup></u>	<u>State</u>
2016	\$38,077	\$42,574
2017	39,225	44,094
2018	41,163	45,758
2019	42,882	47,660
2020	45,169	50,305

<sup>(1)</sup> Separate data for the City are not available.

Source: United States Department of Commerce, Bureau of Economic Analysis (latest data available).

## Commerce and Industry

The City is a commercial, educational, cultural and medical hub for eastern North Carolina. The area is one of the fastest growing urban centers in the State. The area is also a leading retail center in the eastern part of the State and is one of only a dozen billion-dollar retail markets in the State. The local economy is well diversified with government, wholesale/retail trade and manufacturing each accounting for approximately 25% of total employment. A well-diversified economy helps the region thrive with industries in advanced manufacturing, pharmaceuticals, life science and food processing leading the way. In 2021, an internationally circulated business publication covering corporate real estate and economic development ranked North Carolina and Georgia as the states with the top business climates in the United States. *Site Selection* magazine ranked the two southeastern states as tied for first place.

Agriculture is also a strong contributor to the economy; tobacco, corn, soybeans, wheat, peanuts, eggs, livestock, poultry and vegetables are the primary agricultural products. The Greenville-ENC Alliance (Alliance), a public-private partnership that focuses on the economic development efforts of public and private sectors, was founded in 2019. The Alliance is charged with helping ensure the growth and success of existing industries, building a capable and qualified workforce, strengthening the region’s competitive position and facilitating investments that build capacity, generate prosperity and enhance economic vitality.

Despite the setbacks of COVID-19, the City of Greenville saw expansions in local businesses and completed infrastructure projects. During 2022, revenue was up █% and local builders reported a █% increase in new home sales. In 2020, Greenville was also the No. 1 city per capita for inbound moves according to Updater, an online company that helps people move.

The diversity, quality and availability of the human resources in the City are among the primary reasons many large corporations locate in the area. Major industries and employers in the area include:

**East Carolina University** (“ECU”) is the third largest university in the State with more than 28,000 students and 5,670 employees. ECU is a member of the 17-campus University of North Carolina system and is accredited by the Southern Association of Colleges and Schools. The University began as a two-year Teacher Training School in 1909 and has grown to include 11 colleges/schools plus the Graduate School. ECU has 13 doctoral degree programs, 6 professional degree programs and more than 70 master’s degree programs. ECU has also undertaken several major construction projects in recent years. A new, 220,000 square foot, \$122 million student union building and adjacent 720-car parking garage opened in January 2019 on the main campus. A new \$90 million Life Sciences and Biotechnology building is currently under construction as one of the first new phases of ECU’s Millennial Campus. ECU’s millennial campus will connect the talents of university researchers and partners in industry, government, military and more to discover innovations that boost rural and coastal prosperity. The millennial campus will consist of 328.35 acres on four sites and will be a \$141 million investment in the



City. ECU received a \$1.9 million grant from the Golden LEAF Foundation to build a pharmaceutical manufacturing-training center which will train students and pharmaceutical employees to address the need for pharmaceutical workers with four-year college degrees. Pitt, Johnston, Wilson, Nash, and Edgecombe Community Colleges are all part of the five-year project. The Eastern Region Pharma Center will employ three new faculty members and two academic advisers.

**Vidant Health** operates Vidant Medical Center in the City. Vidant Medical Center is one of four academic medical centers in the State and is the teaching hospital for ECU's Brody School of Medicine. The 909-bed medical center offers a regional heart center and a level one trauma center which serves over 1.4 million residents in the region. Vidant Medical Center employs over 6,760 employees. A new \$170 million, six-story, 96 bed cancer center opened at Vidant Medical Center in 2018.

**Thermo Fisher Scientific** has become one of North Carolina's largest pharma manufacturers and recently announced that it is investing \$500 million to create a 130,000 square foot facility in the City by 2022. It is anticipated that the expansion will result in nearly 500 new jobs which will add to the company's existing workforce in the City of more than 1,200 employees. The company's current facility is 1.5 million square feet and is a multipurpose pharmaceutical manufacturing campus, including packaging, covering 640 acres.

**DSM Protective Materials** manufactures a proprietary medical-grade ultra-high molecular weight polyethylene fiber known as dyneema, which is used in medical applications, such as orthopedic implants. DSM is also used in safety gloves for the metalworking industry and in fine yarns for applications in sporting goods and the medical sector. In addition, DSM's products are used in bullet resistant armor and clothing for police and military personnel and are an important component in ropes, cables and nets in the fishing, shipping and offshore industries. DSM employs over 330 people.

**Pitt Community College**, a community college in Winterville, serves more than 23,000 students annually and is the sixth-largest in the 58-member N.C. Community College System. The college awards degrees in more than 60 programs and provides adult basic education, literacy training and occupational extension courses. Recently completed projects include the addition of a \$19 million Science and Technology Building and a \$3.4 million Early College High School. A new \$10 million Student Advancement Center is currently under construction. The college employs over 1,100 people.

**Hyster-Yale Group, Inc.** designs, engineers, and manufactures materials handling equipment, including warehouse trucks, counterbalanced trucks, and large capacity cargo and container handling trucks. Hyster-Yale Group, Inc. formerly known as NACCO Materials Handling Group, Inc., employs approximately 1,226 employees.

**Mayne Pharma** is a specialty pharmaceutical company which focuses on applying its drug delivery expertise to commercialize branded and generic pharmaceuticals. The company currently employs over 600 people and in connection with the 126,000 square foot, \$80 million manufacturing expansion completed in 2018, the company added roughly 100 new jobs. Mayne Pharma recently launched new drugs that will be made at its new facility.

**The Roberts Company** is a fully integrated fabrication, construction and plant services company designed to work specifically with heavy and light industrial clients. The company provides services to the following industries: chemical, specialty chemical, mining, power port facilities/terminals, pulp and paper, oil and gas, light industrial pharmaceutical and manufacturing. The company employs approximately 485 people.

**Grady-White Boats** completed the expansion of their manufacturing facility in 2019. This \$6 million project added over 70,000 square feet to create additional production capacity, added at least 65 new jobs, and continues to make additional investments in the Greenville area.

**Victra, Inc.**, the largest, exclusive, premium retail partner for Verizon Wireless announced in 2020 they would expand their operations in Greenville adding 125 position by the end of 2023 and an additional 75 jobs by the end of 2025. Victra will be located in the former Wells Fargo Call Center. New positions will include sales associates, IT professionals, Human Resources staff, operations analyst, and executive leadership.

**World Cat**, owned by HC Composites, LLC, the world's largest maker of power catamarans, announced that it will expand operations in the City and open a new boat manufacturing facility. The company will occupy the former Camping World Distribution Center to allow for the production of 36 to 50-foot custom catamarans. **World Cat plans to make an \$8.8 million investment and hire 60 full-time employees in the City.**

**Grover Gaming**, a software development and design company founded in Greenville, announced in 2020 a local expansion that it expected to bring 200 new jobs and \$12.5 million in capital investment over five years to the Greenville and Pitt County region. The new location will be home to the company's newly expanded headquarters and is expected to employ 350 people total.

**MetroNet plans to invest more than \$40 million in the community and bring fiber optic internet, TV, and phone services to businesses and residents. Construction began in January 2021.**

The City and the County are also an educational center for the eastern part of the State. In addition to the higher education opportunities available at ECU, Pitt Community College ("PCC") offers associate degree programs, certificate programs, diploma programs and college transfer programs. It is a member of the North Carolina Community College system. PCC is the sixth largest community college in the State and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to award associate degrees. The college serves over 23,000 students and employs over 1,100 people. Pitt County Public Schools serves over 24,000 students in 38 schools and employs approximately 3,699 employees. The student-teacher ratio is approximately 14 to 1.

The transportation industry is expanding in the City and the County. The North Carolina Department of Transportation (NCDOT) completed a 12.5-mile interstate-type Southwest Bypass costing \$200 million in the Fall of 2019. To ease the flow of traffic from the City to Vidant Medical Center, the NCDOT opened a 1.4-mile highway costing \$35 million in April 2019. During the calendar year 2018, the \$8.4 million GK Butterfield Transportation Center was successfully completed. The center is designed to encourage multiple modes of transportation within the City, provide a central access point where people can transfer from one mode to another, and create a hub not only for transportation within the City, but also serve as a catalyst for revitalization and economic development.

In 2020, the City was selected as the new home of the Little League International's Little League Softball World Series for a period of five years. The World Series will be hosted at Greenville's Elm Street Park and will be broadcast for over a week each summer on ESPN.

The first phase of Wildwood Park, a new 164-acre adventure park along the north bank of the Tar River in the City, was completed in 2021. The second phase of construction is currently underway.

The following table indicates the total taxable sales for the County<sup>(1)</sup> during the five fiscal years ended June 30, 2022:

Fiscal Year Ended <u>June 30,</u>	Total Taxable <u>Sales</u>	Increase over Previous <u>Year</u>
2018	\$2,356,000,000	1.1%
2019	2,457,257,762	4.3
2020	2,551,848,073	3.8
2021	2,929,521,574	14.8
2022	3,225,920,776	10.1

<sup>(1)</sup> Separate data for the City are not available.  
Source: North Carolina Department of Revenue.

The following table lists the ten largest employers in or within a few miles of the City:

<u>Company/Institution</u>	<u>Product/Service</u>	<u>Approximate Number of Employees</u>
Vidant Health	Health Care	6,760
East Carolina University	Education	5,672
Pitt County Public Schools	Education	3,699
Pathon, Inc. (Thermo Fisher Scientific)	Pharmaceuticals	1,261
Hyster-Yale Group, Inc. (NACCO)	Lift Trucks	1,226
City of Greenville	Government Administration	1,132
Pitt Community College	Education	1,100
County of Pitt	Government Administration	1,000
Asmo Greenville of North Carolina	Electric Motors	722
Mayne Pharma, Inc.	Pharmaceuticals	629

Source: City of Greenville Annual Comprehensive Financial Report for the fiscal year ended **June 30, 2021**.

The following table indicates construction activity in the City, including the type, number and value of building permits issued by the City:

<u>Calendar Year</u>	<u>Commercial</u>		<u>Residential</u>		<u>Total Value</u>
	<u>Number</u>	<u>Value</u>	<u>Number</u>	<u>Value</u>	
2017	34	\$56,341,709	432	\$131,935,786	\$188,277,495
2018	17	12,444,259	442	90,168,065	102,612,324
2019	36	125,036,410	388	69,676,950	194,713,360
2020	61	45,166,998	325	71,692,211	116,859,209
2021					

Source: City Inspections Department.

## Employment

The North Carolina Department of Commerce, Labor & Economic Analysis Division, has estimated the percentage of unemployment in the County to be as follows:

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>		<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
January	4.5%	4.4%	4.0%	6.0%	3.9%	July	4.9%	4.9%	8.9%	5.6%	
February	4.5	4.1	3.8	5.8	3.9	August	4.8	4.8	6.3	5.3	
March	4.2	4.0	4.7	5.3	3.8	September	3.9	3.8	6.0	4.4	
April	3.9	3.6	10.6	5.2	3.7	October	4.0	3.9	5.0	4.4	
May	4.4	4.3	9.8	5.4	4.0	November	4.0	3.9	5.3	3.9	
June	5.1	4.9	9.3	5.8	4.6	December	4.0	3.6	5.6	3.4	

## Pension Plans

The City participates in the North Carolina Local Governmental Employees' Retirement System (the "System"). The System is a service agency administered through a board of trustees by the State for public employees of counties, cities, boards, commissions and other similar governmental entities. While the State Treasurer is the custodian of System funds, administrative costs are borne by the participating employer governmental entities. The State makes no contributions to the System.

The System provides, on a uniform System-wide basis, retirement and, at each employer's option, death benefits from contributions made by employers and employees. Employee members contribute six percent of their individual compensation. The City's contractually required contribution rate for the year ended June 30, 2022 was 11.35% for general employees and firefighters and 12.10% for law enforcement officers, respectively, of annual covered payroll. The accrued liability contribution rate is determined separately for each employer and covers the liability of the employer for benefits based on employees' service rendered prior to the date the employer joins the System.

Members qualify for a vested deferred benefit at age 50 with at least 20 years of service or at age 60 after at least five years of creditable service to the unit of local government. Unreduced benefits are available: at age 65, with at least five years of creditable service; at age 60, with at least 25 years of creditable service; or after 30 years of creditable service, regardless of age. Benefit payments are computed by taking an average of the annual compensation for the four consecutive years of membership service yielding the highest average. This average is then adjusted by a percentage formula, by a total years of service factor and by an age service factor if the individual is not eligible for unreduced benefits.

Contributions to the System are determined on an actuarial basis.

Financial statements and required supplementary information for the System are included in the Annual Comprehensive Financial Report ("ACFR") for the State. Please refer to the State's ACFR for additional information.

The City also participates in the (1) Law Enforcement Officers' Special Separation Allowance, (2) Supplemental Retirement Income Plan for Law Enforcement Officers and (3) Supplemental Retirement Income Plan for all Other Employees.

## Other Post-Employment Benefits

The City provides certain post-employment health care and other benefits ("OPEB") as part of the total compensation package offered to attract and retain the services of qualified employees (excluding

employees of the Utilities Commission). These benefits are available to retirees who participate in the System and who, at the time of their retirement, meet certain service requirements. Members hired prior to July 1, 2011 who retire with at least 20 years of service contribute 5% of the estimated cost for pre-65 healthcare coverage for the retiree. Members hired prior to July 1, 2011 who retire with less than 20 years of service contribute 100% of the estimated cost for pre-65 healthcare coverage for the retiree. Retirees who elect to have dependent healthcare coverage contribute 100% of the estimated cost of coverage. Participating retired employees hired prior to July 1, 2011 with a minimum of 20 years of service shall have their coverage transferred to a Medicare Supplemental plan after qualifying for Medicare, with the City continuing to pay the same dollars towards the premium cost as it pays for retirees under the base plan. For retired employees hired on or after July 1, 2011 with a minimum of 20 years of service, the contribution rate for post-65 benefits consists of a \$250 monthly stipend defined contribution amount. The City pays 50% of the total life insurance premium cost for those retirees who have that benefit. Members hired on or after July 1, 2011 who retire with less than 20 years of service will not be eligible for post-retirement coverage.

The City currently funds its OPEB on an annual pay-as-you-go basis. The City's funding for retiree health benefits for the fiscal year ended **June 30, 2021** was \$3,088,605.

To meet the post-employment health care and other benefits reporting requirements of GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits other Than Pensions*, the City obtained an actuarial valuation of its OPEB based on data for June 30, 2020. The actuarial valuation quantified an actuarial total liability of \$56,310,153. The plan fiduciary net position as of June 30, 2020 was \$6,461,785 resulting in a net OPEB liability of \$49,848,368. The valuation was completed using a 7.0% single equivalent interest rate. The study was done under an assumption that the plan is funded on a pay-as-you-go basis.

## LITIGATION

**[to be confirmed]** No litigation is now pending or, to the best of the City's or Utilities Commission's knowledge, threatened against or affecting the City or the Utilities Commission seeking to restrain or enjoin the adoption, approval, authorization, execution or delivery of the 2022 Bonds, the Bond Order or the Series Resolution or contesting the validity or the authority or proceedings for the adoption, approval, authorization, execution or delivery of the 2022 Bonds, the Bond Order or the Series Resolution or the City's or Utilities Commission's creation, organization or existence, or the title of any of the City's or Utilities Commission's present officers to their respective offices or the authority or proceedings for the City's or Utilities Commission's adoption, approval, authorization, execution and delivery of the 2022 Bonds, the Bond Order or the Series Resolution or the City's or Utilities Commission's authority to carry out its obligations thereunder, or which would have a material adverse impact on the City's or Utilities Commission's condition, financial or otherwise.

## LEGAL MATTERS

Legal matters related to the authorization, execution, sale and delivery of the 2022 Bonds are subject to the approval of Womble Bond Dickinson (US) LLP, Raleigh, North Carolina, Bond Counsel. Certain legal matters will be passed upon for the City by Emanuel D. McGirt, Esq., Greenville, North Carolina, City Attorney, for the Utilities Commission by Phillip R. Dixon, Esq., Greenville, North Carolina, Counsel to the Utilities Commission, and for the Underwriter by McGuireWoods LLP, Raleigh, North Carolina, counsel to the Underwriter.

## TAX TREATMENT

### Opinion of Bond Counsel

In the opinion of Bond Counsel, under existing law and assuming continuing compliance by the City and the Utilities Commission with certain covenants to comply with the requirements of the Internal Revenue Code of 1986, as amended (the “Code”), regarding, among other matters, the use, expenditure and investment of 2022 Bond proceeds and the timely payment of certain investment earnings to the United States Treasury, interest on the 2022 Bonds will not be includable in the gross income of the owners thereof for purposes of federal income taxation. Bond Counsel is also of the opinion that interest on the 2022 Bonds will not be a specific preference item for purposes of the alternative minimum tax imposed by the Code; however, for tax years beginning after December 31, 2022, interest on the 2022 Bonds held by certain corporations is included in the computation of “adjusted financial statement income” for purposes of the federal alternative minimum tax imposed on such corporations. In addition, in the opinion of Bond Counsel, under existing law, interest on the 2022 Bonds will be exempt from all State of North Carolina income taxes.

The Code and other laws of taxation, including the laws of taxation of the State of North Carolina, of other states and of local jurisdictions, may contain other provisions that could result in tax consequences, upon which Bond Counsel expresses no opinion, as a result of ownership or transfer of the 2022 Bonds.

### Original Issue Premium

The initial public offering prices of the 2022 Bonds maturing on December 1, \_\_\_\_ (the “Premium Bonds”) are greater than the amounts payable at maturity. The difference between (a) the initial offering prices to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters, placement agents, wholesalers or other intermediaries) at which a substantial amount of each maturity of the Premium Bonds is sold and (b) the principal amount payable at maturity of such Premium Bonds constitutes original issue premium. In general, an owner of a Premium Bond must amortize the bond premium over the remaining term of the Premium Bond based on the owner’s yield over the remaining term of the Premium Bond, determined based on constant yield principles (in certain cases involving a Premium Bond callable prior to its stated maturity date, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such Premium Bond). An owner of a Premium Bond must amortize the bond premium by offsetting the qualified stated interest allocable to each interest accrual period under the owner’s regular method of accounting against the bond premium allocable to that period. If the bond premium allocable to an accrual period exceeds the qualified stated interest allocable to that accrual period, the excess is a nondeductible loss. Under certain circumstances, the owner of a Premium Bond may realize a taxable gain upon disposition of the Premium Bond even though it is sold or redeemed for an amount less than or equal to the owner’s original acquisition cost.

Owners for and prospective purchasers of Premium Bonds should consult their own tax advisors regarding the treatment of bond premium federal income tax purposes, including various special rules relating thereto, and state and local tax consequences in connection with the ownership and disposition of Premium Bonds.

### Original Issue Discount

The initial public offering prices of the 2022 Bonds maturing on December 1, \_\_\_\_ (the “Discount Bonds”) are less than the amounts payable at maturity. An amount not less than the difference between the initial offering prices to the public (excluding bond houses, brokers or similar persons or organizations

acting in the capacity of underwriters, placement agents, wholesalers or other intermediaries) of the Discount Bonds and the amounts payable at maturity constitutes original issue discount. Under existing federal income tax law and regulations, the original issue discount on a Discount Bond is interest not includable in the gross income of an owner who purchases such Discount Bond in the original offering at the initial public offering price thereof and holds it to maturity, and such owner will not realize taxable gain upon payment of such Discount Bond at maturity. Owners who purchase Discount Bonds at a price other than the initial offering price or who do not purchase Discount Bonds in the initial public offering should consult their tax advisors with respect to the consequences of the ownership of such Discount Bonds. An owner who purchases a Discount Bond in the initial offering at the initial offering price and holds such Discount Bond to maturity is deemed under existing federal tax laws and regulations to accrue original issue discount on a constant yield basis under Section 1288 of the Code from the date of original issue. An owner's adjusted basis in a Discount Bond is increased by accrued original issue discount for purposes of determining gain or loss on sale, exchange or other disposition of such Discount Bond. Accrued original issue discount may be taken into account as an increase in the amount of tax-exempt interest received or deemed to have been received for purposes of determining various other tax consequences of owning a Discount Bond even though there will not be a corresponding cash payment.

Owners and prospective purchasers of Discount Bonds should consult their own tax advisors regarding the calculation of accrued original issue discount for federal income tax purposes, including various special rules relating thereto, and state and local tax consequences, in connection with the ownership or disposition of Discount Bonds.

### **Other Tax Consequences**

Ownership or transfer of, or the accrual or receipt of interest on, the 2022 Bonds may result in collateral federal, State of North Carolina, other state or local tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, certain foreign corporations doing business in the United States, certain S corporations with excess passive income, individual recipients of Social Security or Railroad Retirement benefits, taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, taxpayers who may be eligible for the federal earned income tax credit, and taxpayers subject to franchise, estate, inheritance, gift or capital gains taxes. Owners and prospective purchasers of the 2022 Bonds should consult their tax advisors as to any such possible tax consequences. Except to the extent covered in its legal opinion, Bond Counsel expresses no opinion regarding any such collateral tax consequences.

No assurance can be given that future legislation, including amendments to the Code or interpretations thereof, if enacted into law, or certain litigation or judicial decisions, if upheld, will not contain provisions or produce results which could, directly or indirectly, reduce the benefit of the excludability of interest on the 2022 Bonds from gross income for federal income tax purposes.

The Internal Revenue Service (the "Service") has an ongoing program of auditing tax-exempt obligations to determine whether, in the view of the Service, interest on such tax-exempt obligations is includable in the gross income of the owners thereof for federal income tax purposes. No assurances can be given as to whether or not the Service will commence an audit of the 2022 Bonds.

Interest paid on tax-exempt obligations, such as the 2022 Bonds, will be subject to information reporting in a manner similar to interest paid on taxable obligations. Although such reporting requirement does not, in and of itself, affect the excludability of interest with respect to the 2022 Bonds from gross income for federal income tax purposes, such reporting requirement causes the payment of interest with respect to the 2022 Bonds to be subject to backup withholding if such interest is paid to beneficial owners who (a) are not "exempt recipients," and (b) either fail to provide certain identifying information (such as

the beneficial owner's taxpayer identification number) in the required manner or have been identified by the Service as having failed to report all interest and dividends required to be shown on their income tax returns. Generally, individuals are not exempt recipients, whereas corporations and certain other entities generally are exempt recipients. Amounts withheld under the backup withholding rules from a payment to a beneficial owner would be allowed as a refund or credit against such beneficial owner's federal income tax liability provided the required information is furnished to the Service.

### CONTINUING DISCLOSURE

In the Series Resolution, the City and the Utilities Commission have undertaken, for the benefit of the beneficial owners of the 2022 Bonds, to provide to the Municipal Securities Rulemaking Board (the "MSRB"):

(a) by not later than seven months from the end of each Fiscal Year, commencing with the Fiscal Year [ended June 30, 2022][ending June 30, 2023], audited financial statements of the Utilities Commission for such Fiscal Year, if available, prepared in accordance with Section 159-39 of the General Statutes of North Carolina, as it may be amended from time to time, or, if such audited financial statements of the Utilities Commission are not available by seven months from the end of such Fiscal Year, unaudited financial statements of the Utilities Commission for such Fiscal Year to be replaced subsequently by audited financial statements of the Utilities Commission to be delivered within 15 days after such audited financial statements become available for distribution;

(b) by not later than seven months from the end of each Fiscal Year, commencing with the Fiscal Year [ended June 30, 2022][ending June 30, 2023], the financial and statistical data as of a date not earlier than the end of the preceding Fiscal Year for the type of information included under the following headings in this Official Statement (1) "The Combined Enterprise System - The Electric System (capacity and consumption figures) - Electric Service Rates, - Number of Connections, and - Major Users"; (2) "The Combined Enterprise System - The Water System (capacity and consumption figures) -- Water Service Rates, - Water Service Tap Fees, - Number of Connections and - Major Users;" (3) "The Combined Enterprise System - The Sanitary Sewer System (capacity figures) - Sewer Service Rates, - Sewer Service Tap Fees, - Number of Connections and - Major Users"; (4) "The Combined Enterprise System - The Natural Gas System (capacity and consumption figures) - Natural Gas Rates, - Number of Connections, - Gas Consumption and - Major Users"; and (5) "The Combined Enterprise System - Billing and Collection Procedures" to the extent such items are not included in the audited financial statements referred to in (A) above;

(c) in a timely manner, not in excess of ten business days after the occurrence of the event, notice of any of the following events with respect to the 2022 Bonds:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults; if material
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 570-TEB) or other material



notices or determinations with respect to or events affecting the tax-exempt status of the 2022 Bonds;

- (7) modification to the rights of security holders; if material
- (8) bond calls, other than mandatory sinking fund redemption, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution or sale of property securing repayment of the 2022 Bonds, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the City or the Utilities Commission; which event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City or the Utilities Commission in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets of business of the City or the Utilities Commission, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court of governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City or the Utilities Commission;
- (13) the consummation of a merger, consolidation, or acquisition involving the City or the Utilities Commission or the sale of all or substantially all of the assets of the City or the Utilities Commission, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating any such actions, other than pursuant to its terms, if material;
- (14) appointment of a successor or additional paying agent or the change of name of a paying agent, if material;
- (15) incurrence of a financial obligation (as defined below) of the City or the Utilities Commission, if material, or agreement to covenants, events of default, remedies, priority rights or other similar terms of a financial obligation of the City or the Utilities Commission, any of which affect beneficial owners of the 2022 Bonds, if material; and
- (16) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the City or the Utilities Commission, any of which reflect financial difficulties; and

(d) in a timely manner, notice of a failure of the City or the Utilities Commission to provide required annual financial information described in (a) or (b) above on or before the date specified.

For the purposes hereof, “financial obligation” means (a) a debt obligation, (b) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (c) a guarantee of either clause (a) or (b). The term “financial obligation”

shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with Rule 15c2-12 issued under the Securities Exchange Act of 1934.

If the City or the Utilities Commission fails to comply with the undertaking described above, the Trustee or any beneficial owner of the 2022 Bonds then Outstanding may take action to protect and enforce the rights of beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be an event of default under the Order and shall not result in any acceleration of payment of the 2022 Bonds.

The City and the Utilities Commission reserve the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the City and the Utilities Commission, provided that:

(a) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the City or the Utilities Commission;

(b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 (“Rule 15c2-12”) as of the date of this Official Statement, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and

(c) any such modification does not materially impair the interests of the beneficial owners, as determined either by parties unaffiliated with the City or the Utilities Commission (such as Bond Counsel), or by approving vote of the registered owners of not less than a majority in principal amount of the 2022 Bonds then Outstanding pursuant to the terms of the Bond Order, as it may be amended from time to time.

The City and the Utilities Commission agree that any such modification shall not take effect except upon thirty (30) days’ prior written notice to the Underwriter, unless waived in writing by such Underwriter.

The City and the Utilities Commission also agree that the annual financial information containing the amended operating data or financial information will explain, in narrative form, the reasons for the amendments and the impact of the change in the type of operating data or financial information being provided.

[to be confirmed][The City and the Utilities Commission are not aware of any failure to comply materially with their undertakings under Rule 15c2-12 in the last five years.]

## LEGALITY FOR INVESTMENT

Section 159-40 of the General Statutes of North Carolina provides that the 2022 Bonds are securities in which all public officers and public bodies of the State of North Carolina and its political subdivisions and agencies and all insurance companies, trust companies, investment companies, banks, savings banks, building and loan associations, savings and loan associates, credit unions, pension or retirement funds, other financial institutions engaged in business in the State of North Carolina, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them, and the 2022 Bonds are securities which may properly and legally be deposited with and received by any State of North Carolina or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds, notes or obligations of the State is now or may hereafter be authorized by law.

## **RATINGS**

Moody's Investors Service ("Moody's") and Fitch Ratings, Inc. ("Fitch") have given the 2022 Bonds the respective ratings set forth on the front cover. Further explanation of the significance of such ratings may be obtained from Moody's and Fitch. The Utilities Commission has provided to Moody's and Fitch certain information that has not been included in this Official Statement. The ratings are not a recommendation to buy, sell or hold the 2022 Bonds and should be evaluated independently. There is no assurance that such ratings will continue for any given period of time or that the ratings will not be revised or withdrawn entirely by Moody's or Fitch, if, in the judgment of Moody's or Fitch, circumstances so warrant. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the 2022 Bonds. None of the City, the Utilities Commission, or the Underwriter has undertaken any responsibility after the issuance of the 2022 Bonds to assure maintenance of the ratings or to oppose any such proposed revision or withdrawal.

## **FINANCIAL ADVISOR**

First Tryon Advisors, LLC ("First Tryon"), is serving as financial advisor in connection with the issuance and sale of the 2022 Bonds. Although First Tryon has assisted in the preparation of the Official Statement, First Tryon is not obligated to undertake, and has not undertaken to make, an independent verification or to assume responsibility for the accuracy, completeness or fairness of the information contained in the Official Statement or any of the other legal documents, and further First Tryon does not assume any responsibility for the information, covenants and representations with respect to the federal income tax status of the 2022 Bonds, or the possible impact of any present, pending or future actions taken by any legislative or judicial bodies or rating agencies.

## **UNDERWRITING**

The Underwriter has entered into a Bond Purchase Agreement to purchase all of the 2022 Bonds, if any of the 2022 Bonds are to be purchased, at a purchase price equal to 100% of the principal amount thereof, plus a net original issue premium of \$\_\_\_\_\_ and less an underwriter's discount of \$\_\_\_\_\_. The obligation of the Underwriter to pay for the 2022 Bonds is subject to certain terms and conditions set forth in the Bond Purchase Agreement.

The Underwriter may offer and sell the 2022 Bonds to certain dealers (including dealers depositing the 2022 Bonds into investment trusts) and others at prices lower than the initial public offering prices stated on the inside cover page hereof. The public offering prices may be changed from time to time by the Underwriter.

J.P. Morgan Securities LLC ("JPMS"), the Underwriter of the 2022 Bonds, has entered into negotiated dealer agreements (each, a "Dealer Agreement") with each of Charles Schwab & Co., Inc. ("CS&Co.") and LPL Financial LLC ("LPL") for the retail distribution of certain securities offerings at the original issue prices. Pursuant to each Dealer Agreement, each of CS&Co. and LPL may purchase 2022 Bonds from JPMS at the original issue price less a negotiated portion of the selling concession applicable to any 2022 Bonds that such firm sells.

## **MISCELLANEOUS**

Members of the LGC staff have participated in the preparation of this Official Statement and other documents related to the issuance of the 2022 Bonds, but the LGC and its staff assume no responsibility for the accuracy or completeness of any representation or statement in this Official Statement, other than those used in Appendix E.

The LGC, the City and the Utilities Commission have each duly authorized the execution and delivery of this Official Statement.

LOCAL GOVERNMENT COMMISSION  
OF NORTH CAROLINA

By: \_\_\_\_\_  
Secretary

CITY OF GREENVILLE, NORTH CAROLINA

By: \_\_\_\_\_  
City Manager

GREENVILLE UTILITIES COMMISSION

By: \_\_\_\_\_  
Chief Financial Officer

**APPENDIX A**  
**AUDITED FINANCIAL STATEMENTS OF THE UTILITIES COMMISSION**

**APPENDIX B**  
**DEFINITIONS AND SUMMARY OF CERTAIN PROVISIONS OF**  
**THE BOND ORDER**

**APPENDIX C**  
**PROPOSED FORM OF BOND COUNSEL'S OPINION**

**APPENDIX D**  
**REPORT OF BURNS & MCDONNELL CONSULTANTS, INC.**



**APPENDIX E**

**THE NORTH CAROLINA LOCAL GOVERNMENT COMMISSION**

## APPENDIX E

### THE NORTH CAROLINA LOCAL GOVERNMENT COMMISSION

The Local Government Commission (the “Commission”) is composed of nine members: the State Treasurer, the Secretary of State, the State Auditor, the Secretary of Revenue and five others by appointment (three by the Governor, one by the General Assembly upon recommendation of the President Pro Tempore of the Senate and one by the General Assembly upon recommendation of the Speaker of the House of Representatives). The State Treasurer serves as Chairman and selects the Secretary of the Commission, who heads the administrative staff serving the Commission.

A major function of the Commission is the approval, sale and delivery of all North Carolina local government bonds and notes. A second key function is monitoring certain fiscal and accounting standards prescribed for units of local government by The Local Government Budget and Fiscal Control Act. In addition, the Commission furnishes, upon request, on-site assistance to units of local government concerning existing financial and accounting systems as well as aid in establishing new systems. Further, educational programs and materials are provided for local officials concerning finance and cash management.

Before any unit of local government can incur bonded indebtedness, the Commission must approve the proposed bond issue. In determining whether to give such approval the Commission may consider, among other things, the unit’s debt management procedures and policies, its compliance with The Local Government Budget and Fiscal Control Act, and its ability to service the proposed debt. The Commission maintains records for all units of local government of principal and interest payments coming due on bonded indebtedness in the current and future years and monitors the payment by the units of local government of their debt service through a system of monthly reports.

As a part of its role in assisting and monitoring the fiscal programs of units of local government, the Commission attempts to ensure that the units of local government follow generally accepted accounting principles, systems and practices. The Commission’s staff also counsels the units of local government in treasury and cash management, budget preparation and investment policies and procedures. Educational programs, in the form of seminars or classes, are also provided by the Commission in order to accomplish these tasks. The monitoring of the financial systems of units of local government is accomplished through the examination and analysis of the annual audited financial statements and other required reports. The Local Government Budget and Fiscal Control Act requires each unit of local government to have its accounts audited annually by a certified public accountant or by an accountant certified by the Commission as qualified to audit local government accounts. A written contract must be submitted to the Secretary of the Commission for his approval prior to the commencement of the audit.

The Commission has the statutory authority to impound the books and records of any unit of local government and assume full control of all its financial affairs (a) when the unit defaults on any debt service payment or, in the Commission’s opinion, will default on a future debt service payment if the financial policies and practices of the unit are not improved or (b) when the unit persists, after notice and warning from the Commission, in willfully or negligently failing or refusing to comply with the provisions of The Local Government Finance Act. When the Commission takes action under this authority, the Commission is vested with all of the powers of the governing board of the unit of local government as to the levy of taxes, expenditure of money, adoption of budgets and all other financial powers conferred upon the governing board by law.

In addition, if a unit of local government fails to pay any installment of principal or interest on its outstanding debt on or before its due date and remains in default for 90 days, the Commission may take

such action as it deems advisable to investigate the unit's fiscal affairs, consult with its governing board and negotiate with its creditors in order to assist the unit in working out a plan for refinancing, adjusting or compromising such debt. When a plan is developed that the Commission finds to be fair and equitable and reasonably within the ability of the unit of local government to meet, the Commission is authorized to enter an order finding that the plan is fair, equitable and within the ability of the unit to meet and to advise the unit to take the necessary steps to implement such plan. If the governing board of the unit declines or refuses to do so within 90 days after receiving the Commission's advice, the Commission may enter an order directing the unit to implement such plan and may apply for a court order to enforce such order. When a refinancing plan has been put into effect, the Commission has the authority (a) to require any periodic financial reports on the unit's financial affairs that the Secretary deems necessary and (b) to approve or reject the unit's annual budget ordinance. The power and authority granted to the Commission as described in this paragraph will continue with respect to a defaulting unit of local government until the Commission is satisfied that the unit has performed or will perform the duties required of it in the refinancing plan and until agreements made with the unit's creditors have been performed in accordance with such plan.

**APPENDIX F**  
**THE DEPOSITORY TRUST COMPANY**

## APPENDIX F

### THE DEPOSITORY TRUST COMPANY

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the 2022 Bonds. The 2022 Bonds will be delivered as fully-registered bonds registered in the name of Cede & Co., DTC’s partnership nominee, or such other name as may be requested by an authorized representative of DTC. One fully-registered bond for each maturity of the 2022 Bonds will be issued, each in the aggregate principal amount of each such maturity and will be deposited with DTC. SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE 2022 BONDS, REFERENCE HEREIN TO THE REGISTERED OWNERS OR OWNERS OF THE 2022 BONDS SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE 2022 BONDS.

DTC, the world’s largest depository, is a limited purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of the 2022 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the 2022 Bonds on DTC’s records. The ownership interest of each actual purchaser of the 2022 Bonds (“Beneficial Owners”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchases. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participants through which the Beneficial Owners entered into the transaction. Transfers of ownership interests in the 2022 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of the Beneficial Owners. Beneficial Owners will not receive physical certificates representing their ownership interests in the 2022 Bonds, except in the event that use of the book-entry system for the 2022 Bonds is discontinued.

To facilitate subsequent transfers, all 2022 Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the 2022 Bonds with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the 2022 Bonds; DTC’s records reflect only the identity

of the Direct Participants to whose accounts the 2022 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants are responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants and by Direct and Indirect Participants to Beneficial Owners of the 2022 Bonds will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of the 2022 Bonds may wish to take certain steps to augment transmission to them of notices of significant events with respect to the 2022 Bonds, such as redemptions, tenders, defaults and proposed amendments to the security documents.

Redemption notices shall be sent to DTC. If less than all of the 2022 Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such 2022 Bonds to be redeemed.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the 2022 Bonds unless authorized by a Direct Participant in accordance with DTC's procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the 2022 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the 2022 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City or the Bond Registrar on each payable date in accordance with their respective holdings shown on DTC's records. Payments by Direct and Indirect Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Direct and Indirect Participants and not of DTC (nor its nominee), the City, the Trustee or the Bond Registrar, subject to any statutory or regulatory requirements as may be in effect from time to time. Payments of principal and interest to DTC is the responsibility of the City, the Trustee and the Bond Registrar, disbursement of such payments to Direct Participants shall be the responsibility of DTC and disbursements of such payments to the Beneficial Owners shall be the responsibility of the Direct and Indirect Participants.

DTC may discontinue providing its service as securities depository with respect to the 2022 Bonds at any time by giving reasonable notice to the City and the Trustee. Under such circumstances, in the event that a successor depository is not obtained, 2022 Bond certificates will be printed and delivered. The City may decide to discontinue participation in the system of book-entry transfer through DTC (or a successor securities depository). In that event, 2022 Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from DTC, and the City takes no responsibility for the accuracy thereof.

The City, the Trustee and the Bond Registrar cannot and do not give any assurances that DTC, Direct Participants or Indirect Participants will distribute to the Beneficial Owners of the 2022 Bonds (a) payments of principal of, premium, if any, and interest on the 2022 Bonds, (b) confirmations of their ownership interests in the 2022 Bonds or (c) redemption or other notices sent to DTC or Cede & Co., its partnership nominee, as the registered owner of the 2022 Bonds, or that they will do so on a timely basis, or that DTC, Direct Participants or Indirect Participants will serve and act in the manner described in this Official Statement.

NONE OF THE CITY, THE TRUSTEE, OR THE BOND REGISTRAR WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO DTC, THE DIRECT PARTICIPANTS, THE INDIRECT PARTICIPANTS OR THE BENEFICIAL OWNERS WITH RESPECT TO (1) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT; (2) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE 2022 BONDS; (3) THE DELIVERY BY DTC OR ANY DIRECT OR INDIRECT PARTICIPANT OF ANY NOTICE TO ANY BENEFICIAL OWNER THAT IS REQUIRED OR PERMITTED TO BE GIVEN TO OWNERS OF THE 2022 BONDS UNDER THE TERMS OF THE BOND ORDER OR THE SERIES RESOLUTION; AND (4) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC.

BOND PURCHASE AGREEMENT

Among

Local Government Commission,  
City of Greenville, North Carolina,  
Greenville Utilities Commission,

and

J.P. Morgan Securities LLC,  
as Underwriter

Relating to

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City of Greenville, North Carolina  
Greenville Utilities Commission  
Combined Enterprise System Revenue Bonds,  
Series 2022



## TABLE OF CONTENTS

		<u>Page</u>
1.	Purchase and Sale of the Bonds .....	1
2.	Public Offering.....	2
3.	Establishment of Issue Price. ....	3
4.	Representations of the Underwriter .....	5
5.	Representations and Warranties of the LGC .....	5
6.	Representations and Warranties of the City.....	6
7.	Representations and Warranties of the Commission .....	9
8.	Payment and Delivery.....	12
9.	Conditions of Closing .....	12
10.	Payment of Expenses .....	17
11.	Parties in Interest.....	17
12.	Absence of Liability.....	17
13.	Indemnification .....	17
14.	Delivery of Official Statement.....	20
15.	Underwriting Period.....	20
16.	Counterparts .....	20
17.	Notices .....	20
18.	Governing Law .....	21
19.	No Advisory or Fiduciary Role.....	21
20.	E-Verify .....	21
Supplemental Opinion of Bond Counsel .....		Exhibit A
Opinion of City Attorney .....		Exhibit B
Opinion of Commission Attorney .....		Exhibit C
Opinion of Underwriter’s Counsel.....		Exhibit D
Form of Issue Price Certificate .....		Exhibit E

## BOND PURCHASE AGREEMENT

Relating to

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City of Greenville, North Carolina  
Greenville Utilities Commission  
Combined Enterprise System Revenue Bonds, Series 2022

December [\_], 2022

Local Government Commission  
Raleigh, North Carolina

City of Greenville, North Carolina  
Greenville, North Carolina

Greenville Utilities Commission  
Greenville, North Carolina

Ladies and Gentlemen:

J.P. Morgan Securities LLC (the “Underwriter”) hereby offers to enter into this Bond Purchase Agreement (the “Agreement”) with the Local Government Commission, a division of the Department of State Treasurer of the State of North Carolina (the “LGC”), the City of Greenville, North Carolina (the “City”) and the Greenville Utilities Commission (the “Commission”) which, upon acceptance of this offer by the LGC and approval of this offer and of the LGC’s acceptance thereof by the City and the Commission, will be binding upon the LGC, the City, the Commission and the Underwriter. This offer is made subject to acceptance by the LGC and approval by the City and the Commission on or before 5:00 p.m., Raleigh, North Carolina time, on the date hereof and, if not so accepted and approved, will be subject to withdrawal by the Underwriter upon notice delivered to the LGC and the City at any time prior to such acceptance and approval.

1. Purchase and Sale of the Bonds. Upon the terms and conditions hereof and upon the basis of the representations set forth herein, the Underwriter hereby agrees to purchase the \$\_[\_\_\_\_\_] aggregate principal amount of City of Greenville, North Carolina Greenville Utilities Commission Combined Enterprise System Revenue Bonds, Series 2022 (the “Bonds”), and the LGC, the City and the Commission hereby agree to sell to the Underwriter all, but not less than all, of the Bonds at a purchase price equal to \$\_[\_\_\_\_\_] (representing the aggregate principal amount of the Bonds, plus a [net] original issue premium of \$\_[\_\_\_\_\_] and less an underwriter’s discount of \$\_[\_\_\_\_\_]) (such delivery and payment and other actions contemplated hereby to take place at the time thereof being herein sometimes referred to as the “Closing”).

The Bonds are being issued for the purpose of providing funds, together with any other available funds, to (a) finance the construction, acquisition and equipping of electric system substations, transformers and peak shaving generators, lagoon improvements and waste water

treatment plant headworks improvements (the “2022 Additional Improvements”), and (c) pay certain financing costs.

The Bonds are being issued pursuant to The State and Local Government Revenue Bond Act, Article 5, as amended, of Chapter 159 of the General Statutes of North Carolina (the “Act”), a bond order approved and recommended for adoption by the Commission and adopted by the City on August 11, 1994, as amended and restated as of April 13, 2000 (the “Bond Order”), under which The Bank of New York Mellon Trust Company, N.A. is acting as Trustee (the “Trustee”), and a series resolution adopted October 10, 2022 (the “Series Resolution”) (the Bond Order and the Series Resolution being herein collectively referred to as the “Resolutions”). The Bonds shall mature in such years and amounts, shall bear interest from their date at such rates and shall have such other terms as described in the Official Statement.

You shall deliver or cause to be delivered to us prior to your acceptance hereof (a) one copy of the Official Statement, dated the date hereof, substantially in the form of the Preliminary Official Statement, dated November [ ], 2022 (the “Preliminary Official Statement”), relating to the Bonds, with only such changes therein as shall have been approved by us (such Preliminary Official Statement, with such changes, being herein called the “Official Statement,” except that, if the Official Statement has been amended between the date hereof and the Closing Date referred to in Section 7, the term “Official Statement” shall refer to the Official Statement as so amended), signed on behalf of the LGC by its Secretary, on behalf of the City by the City Manager or any other representative of the City authorized by resolution of the City Council of the City and on behalf of the Commission by the General Manager or any other representative of the Commission authorized by resolution of the Commission, and (b) a letter from Burns & McDonnell Consultants, Inc. consenting to the inclusion of its report, and of references to it, in the Preliminary Official Statement and the Official Statement.

Certain capitalized terms used in this Agreement which are not defined herein shall have the meaning given such terms in the Official Statement.

2. **Public Offering.** The Underwriter agrees to make a bona fide public offering of the Bonds at the interest rates and the initial offering prices or yields set forth on the inside cover page of the Official Statement. The Underwriter, however, reserves the right to change such initial offering prices or yields as the Underwriter shall deem necessary in connection with the marketing of the Bonds and to offer and sell the Bonds to certain dealers (including dealers depositing the Bonds into investment trusts) and others at prices lower than the initial offering prices or higher yields than set forth on the inside cover page of the Official Statement. The Underwriter shall inform the LGC, the City and the Commission of any such changes in offering prices or yields and the amount of any such changes. The Underwriter also reserves the right to over-allot or effect transactions that stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market and to discontinue such stabilizing, if commenced, at any time. At Closing, the Underwriter shall deliver to the City a certificate, in a form satisfactory to Womble Bond Dickinson (US) LLP, Raleigh, North Carolina, or another firm nationally recognized on the subject of municipal bonds and the federal income tax treatment of interest thereon, and acceptable to the Underwriter, bond counsel to the City (“Bond Counsel”), executed by an appropriate representative of the Underwriter, stating the initial offering prices paid by the public for the Bonds, excluding underwriters, bond houses, brokers and other intermediaries.

The Underwriter represents and warrants that it will offer the Bonds only pursuant to the Official Statement and only in states where the offer and sale of the Bonds are legal, either as exempt securities, as exempt transactions or as a result of due registration of the Bonds for sale in any such state.

The Underwriter acknowledges that neither the LGC, the City nor the Commission has authorized or consented to:

(a) the sale of Bonds to any purchaser in connection with the initial public offering of the Bonds unless a copy of the Official Statement is delivered to such purchaser not later than the settlement of such transaction;

(b) making any representations or providing any information to prospective purchasers of the Bonds in connection with the public offering and sale of Bonds other than the information set forth in the Preliminary Official Statement, the Official Statement and any amendment thereto approved in writing by the LGC, the City and the Commission; or

(c) any actions in connection with the public offering and sale of the Bonds in violation of applicable requirements of federal and state securities laws and any applicable requirements of the Municipal Securities Rulemaking Board (“MSRB”) and the Financial Industry Regulatory Authority, Inc.

3. Establishment of Issue Price.

(a) The Underwriter agrees to assist the City in establishing the issue price of the Bonds and shall execute and deliver to the City on the Closing Date (as defined in Section 7) an “issue price” or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit E, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter, the City and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Bonds.

(b) [Except as otherwise set forth in Exhibit E attached hereto,] the City will treat the first price at which 10% of each maturity of the Bonds (the “10% test”) is sold to the public as the issue price of that maturity (if different interest rates apply within a maturity, each portion of Bonds with a separate CUSIP number within that maturity will be subject to the 10% test). At or promptly after the execution of this Agreement, the Underwriter shall report to the City the price or prices at which the Underwriter has sold to the public each maturity of the Bonds. If at that time the 10% test has not been satisfied as to any maturity of the Bonds, the Underwriter agrees to promptly report to the City the prices at which Bonds of that maturity have been sold by the Underwriter to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until the 10% test has been satisfied as to the Bonds of that maturity or until all the Bonds of that maturity have been sold to the public.

(c) [The Underwriter confirms that it has offered the Bonds to the public on or before the date of this Agreement at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in Exhibit E attached hereto, except as otherwise set forth therein. Exhibit E also sets forth, as of the date of this Agreement, the maturities, if any, of the

Bonds for which the 10% test has not been satisfied and for which the City and the Underwriter agree that the restrictions set forth in the next sentence shall apply, which will allow the City to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the “hold-the-offering-price rule”). So long as the hold-the-offering-price rule remains applicable to any maturity of the Bonds, the Underwriter will neither offer nor sell unsold Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (1) the close of the fifth (5th) business day after the sale date; or
- (2) the date on which the Underwriter has sold at least 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public.

The Underwriter shall promptly advise the City when it has sold 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.]

(d) The City acknowledges that, in making the representation set forth in this subsection, the Underwriter will rely on (i) in the event a selling group has been created in connection with the initial sale of the Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (ii) in the event that the Underwriter is a party to a retail distribution agreement that was employed in connection with the initial sale of the Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, as set forth in the retail distribution agreement and the related pricing wires. The City further acknowledges that the Underwriter shall be solely liable for its failure to comply with its agreement regarding the hold-the-offering-price rule and that, provided that the requirements set forth in Section 3(e) below have been satisfied, the Underwriter shall not be liable for the failure of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement, to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Bonds.

(e) The Underwriter confirms that:

(1) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the Underwriter is a party) relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating the Underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to (A) report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the Underwriter that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter and as set forth in the related pricing wires, and

(2) any selling group agreement relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating the Underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of the Bonds to the public to require each broker-dealer that is a party to such retail distribution agreement to (A) report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the Underwriter that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter and as set forth in the related pricing wires.

(f) The Underwriter acknowledges that sales of any Bonds to any person that is a related party to the Underwriter shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

(1) “public” means any person other than an underwriter or a related party,

(2) “underwriter” means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the public),

(3) a purchaser of any of the Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(4) “sale date” means the date of execution of this Agreement by all parties.

4. Representations of the Underwriter. The payment for, acceptance of and execution and delivery of any receipt for the Bonds and any other instruments in connection with the Closing shall be valid and sufficient for all purposes and binding upon the Underwriter, provided that any such action by the Underwriter shall not impose any obligation or liability upon it other than as may arise as expressly set forth in this Agreement.

5. Representations and Warranties of the LGC. The LGC makes the following representations and warranties to the Underwriter, all of which shall survive the delivery of the Bonds:

(a) The LGC is duly organized and validly existing as a division of the Department of the State Treasurer of the State of North Carolina, vested with the rights and powers conferred upon it pursuant to Chapter 159 of the General Statutes of North Carolina, as amended.

(b) The LGC has full power and authority to approve the issuance and provide for the sale of the Bonds as provided in this Agreement, and the LGC has taken or will take all action required by the Act or other applicable laws in connection therewith.

(c) The LGC has duly authorized the execution and delivery of this Agreement and has taken or will take all action necessary or appropriate to carry out the sale and delivery of the Bonds to the Underwriter.

(d) The execution and delivery of this Agreement and the performance by the LGC of its obligations hereunder are within the powers of the LGC and will not conflict with or constitute a breach or result in a violation of (i) any federal or North Carolina constitutional or statutory provision, (ii) any agreement or other instrument to which the LGC is a party or by which it is bound, or (iii) any order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the LGC.

(e) The LGC has duly approved and authorized the distribution of the Preliminary Official Statement and the execution, delivery and distribution of the Official Statement in connection with the public offering and sale of the Bonds.

(f) No consent, approval, authorization or order of any governmental or regulatory authority, other than the approvals of the City and the Commission as herein required, is required to be obtained by the LGC as a condition precedent to the issuance or sale of the Bonds or the execution and delivery of the Official Statement or this Agreement or the performance by the LGC of its obligations hereunder; provided, however, that no representation or warranty is expressed as to any action required under federal or North Carolina or other state securities or blue sky laws in connection with the offering or sale of the Bonds by the Underwriter.

(g) There is no litigation or any other proceeding before any court or governmental body or agency pending or, to the knowledge of the LGC, threatened against or involving the LGC to restrain or enjoin the issuance or delivery of the Bonds or the execution or delivery by the LGC of this Agreement and the performance of its obligations hereunder.

6. Representations and Warranties of the City. The City makes the following representations and warranties to the Underwriter, all of which shall survive the delivery of the Bonds:

(a) The City is a municipal corporation duly organized and validly existing under the Constitution and laws of the State of North Carolina and is authorized pursuant to the provisions of the Act to (i) finance the costs of the 2022 Additional Improvements and (ii) pay certain financing costs.

(b) The City (i) has full legal right, power and authority to adopt the Resolutions, to execute and deliver this Agreement, and to issue and deliver the Bonds to the Underwriter as provided herein and to carry out and consummate all the transactions described in the Official

Statement or contemplated by each of the aforesaid documents and (ii) has complied with all provisions of applicable law, including the Act, in all material matters relating to such transactions.

(c) By official action of the City prior to or concurrently with the date hereof, the City has duly adopted the Resolutions and authorized (i) the execution and delivery by the City of this Agreement, (ii) the issuance and delivery of the Bonds, (iii) the distribution of the Preliminary Official Statement and the execution, delivery and distribution of the Official Statement and (iv) the taking of any and all such action as may be required on the part of the City to carry out, give effect to and consummate the transactions contemplated by such documents.

(d) This Agreement and the Resolutions constitute legal, valid and binding obligations of the City enforceable in accordance with their respective terms, except as enforcement of the foregoing may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

(e) When delivered to and paid for by the Underwriter at Closing in accordance with the provisions of this Agreement, the Bonds will have been duly authorized, executed and delivered by the City and will constitute legal, valid and binding special obligations of the City enforceable in conformity with the provisions of the Act and the Constitution and laws of the State of North Carolina, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

(f) The Bonds will be in substantially the form set forth in the Series Resolution.

(g) The execution and delivery of this Agreement, the adoption of the Resolutions and the issuance and delivery of the Bonds and compliance with the provisions of each do not and will not conflict with or constitute on the part of the City a violation of, breach of or default under its charter or any law, indenture, mortgage, deed of trust, note, loan agreement or other agreement or instrument to which the City is a party or by which the City or any of its property is bound, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the City or any of its activities or properties, and such action will not result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or other assets of the City under the terms of any such law, agreement, instrument, order, rule or regulation, except as provided or permitted by the Bonds and the Resolutions.

(h) All consents, approvals, authorizations and orders of any governmental or regulatory authority which are required for the issuance and delivery of the Bonds as contemplated by the Official Statement or this Agreement have been or will be obtained at or prior to Closing.

(i) Subject to the provisions of the Resolutions, the City will apply the proceeds derived from the sale of the Bonds to the purposes specified in the Resolutions.

(j) The City is not in violation or breach of or default under any applicable law or administrative regulation of the State of North Carolina or the United States or any applicable judgment or decree or administrative ruling, or any agreement, resolution, certificate or other instrument to which the City is a party or is otherwise subject, which violation, breach or default would in any way materially adversely affect the transactions contemplated by this Agreement, or



the Resolutions, or the issuance of the Bonds, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a violation, breach or default.

(k) As of the date hereof and as of the date of Closing, the Official Statement does not and will not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the City makes no representation or warranty as to information with respect to the offering of the Bonds set forth on the inside cover page of, in the stabilizing legend in or under the heading “UNDERWRITING” in the Official Statement or in Appendix E to the Official Statement.

(l) Between the date hereof and the date of Closing, the City will not issue any bonds, notes or other obligations for borrowed money which will materially and adversely affect the transactions contemplated by the Official Statement, and subsequent to the respective dates as of which information is given by the Official Statement and up to and including the date of Closing, the City has not incurred and will not incur any material liabilities, direct or contingent, nor will there be any adverse change of a material nature in the financial position, results of operations or condition, financial or otherwise, of the City, except as described in the Official Statement.

(m) The City will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request to qualify the Bonds for offer and sale under the securities laws or regulations of such states and other jurisdictions of the United States as the Underwriter may designate; provided, however, that in no event shall the City be obligated to take any action that would subject it to general service of process in any jurisdiction where it is not now so subject, or qualify it to do business in any such jurisdiction, it being understood that the City is not responsible for compliance with or the consequences of failure to comply with applicable state securities laws and regulations.

(n) No consent, approval, authorization or order of, or filing or registration with, any court or governmental agency or body is required for the issuance, delivery or sale of the Bonds or the consummation of the other transactions contemplated by this Agreement, except as may be required under the blue sky or other securities laws or regulations of any jurisdiction in connection with the offering and sale of the Bonds by the Underwriter, or if any such consent, approval or authorization is required, the City will obtain it prior to the date of Closing and will provide evidence to the Underwriter that the same has been obtained.

(o) Any certificate signed by an authorized officer of the City and delivered to the Underwriter shall be deemed a representation and warranty of the City to the Underwriter as to the statements made therein.

(p) The Preliminary Official Statement is deemed to be a final official statement within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, as amended (“Rule 15c2-12”), except for the omission of certain pricing and other information authorized to be omitted by Rule 15c2-12.

(q) The Official Statement is deemed to be a final official statement within the meaning of Rule 15c2-12.

(r) Except as disclosed in the Official Statement, there is no litigation or any other proceeding before any court or governmental body or agency, pending or, to the knowledge of the City, threatened against or involving the City or any of the members of the City Council of the City in their respective capacities as such (nor, to the knowledge of the City, is there any basis therefor), restraining or enjoining the sale, execution or delivery of the Bonds, or in any way contesting or affecting the validity of the Bonds or any proceedings of the City taken with respect to the sale thereof, or wherein an unfavorable decision, ruling or finding would, in any way, adversely affect (i) the transactions contemplated by this Agreement or the Official Statement, (ii) the organization, existence, or powers of the City or the title to the office of any of the members of said City Council, (iii) the business, properties or assets or the condition, financial or otherwise, of the City, (iv) the validity or enforceability of this Agreement, the Resolutions or the Bonds (or any other agreement or instrument of which the City is a party or used or contemplated for use in the consummation of the transactions contemplated hereby) or (v) the exemption of the interest on the Bonds from taxation as described in the Official Statement.

(s) Pursuant to the Series Resolution, the City will undertake to provide certain annual financial information and operating data related to the City and notice of the occurrence of certain material events as specified in the Series Resolution and the Official Statement (the “Undertaking”).

(t) Except as otherwise disclosed in the Official Statement, during the last five years, the City has not failed to materially comply with any previous undertaking relating to any continuing disclosure undertaking pursuant to Rule 15c2-12.

7. Representations and Warranties of the Commission. The Commission makes the following representations and warranties to the Underwriter, all of which shall survive the delivery of the Bonds:

(a) The Commission has been created in accordance with Chapter 861 of the 1991 Session Laws of North Carolina (the “Charter”) for the proper management of the public utilities of the City and is granted by the Charter the entire supervision and control of the management, operation, maintenance, improvement, and extension of the public utilities of the City.

(b) The Commission (i) has full legal right, power and authority to execute and deliver this Agreement and carry out and consummate all other transactions described in the Official Statement or contemplated by each of the aforesaid documents which are required to be carried out or consummated by the Commission and (ii) has complied with all provisions of applicable law, including the Act and the Charter, in all material matters relating to such transactions.

(c) By official action of the Commission prior to or concurrently with the date hereof, the Commission has duly authorized (i) the execution and delivery by the Commission of this Agreement and the approval of the Resolutions, (ii) the distribution of the Preliminary Official Statement and the execution, delivery and distribution of the Official Statement and (iii) the taking

of any and all such action as may be required on the part of the Commission to carry out, give effect to and consummate the transactions contemplated by such documents.

(d) This Agreement, when duly executed and delivered (and assuming due authorization, execution and delivery thereof by the other parties thereto), will constitute a legal, valid and binding agreement of the Commission enforceable against the Commission in accordance with its respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

(e) The execution and delivery of this Agreement, the approval of the Resolutions and the issuance and delivery of the Bonds and compliance with the provisions of each do not and will not conflict with or constitute on the part of the Commission a violation of, breach of or default under the Charter or any law, indenture, mortgage, deed of trust, note, loan agreement or other agreement or instrument to which the Commission is a party or by which the Commission or any of its property is bound, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Commission or any of its activities or properties, and such action will not result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or other assets of the Commission under the terms of any such law, agreement, instrument, order, rule or regulation, except as provided or permitted by the Bonds and the Resolutions.

(f) Subject to the provisions of the Resolutions, the Commission will apply the proceeds derived from the sale of the Bonds to the purposes specified in the Resolutions.

(g) The Commission is not in violation or breach of or default under any applicable law or administrative regulation of the State of North Carolina or the United States or any applicable judgment or decree or administrative ruling, or any agreement, resolution, certificate or other instrument to which the Commission is a party or is otherwise subject, which violation, breach or default would in any way materially adversely affect the transactions contemplated by this Agreement, or the Resolutions, or the issuance of the Bonds, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a violation, breach or default.

(h) As of the date hereof and as of the date of Closing, the Official Statement does not and will not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the Commission makes no representation or warranty as to information with respect to the offering of the Bonds set forth on the inside cover page of, in the stabilizing legend in or under the heading "UNDERWRITING" in the Official Statement or in Appendix E to the Official Statement.

(i) The audited financial statements of the Commission contained in the Preliminary Official Statement and the Official Statement present fairly the financial position of the Commission as of the dates specified therein, and the results of its operations and changes in its financial position for the periods specified therein, in conformity with generally accepted accounting principles applied on a consistent basis. Subsequent to the respective dates of the most

recent financial statements included in the Preliminary Official Statement and Official Statement, there has been no material adverse change in the financial position or results of operations of the Commission except as set forth or contemplated in the Preliminary Official Statement and the Official Statement.

(j) The Commission will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request to qualify the Bonds for offer and sale under the securities laws or regulations of such states and other jurisdictions of the United States as the Underwriter may designate; provided, however, that in no event shall the Commission be obligated to take any action that would subject it to general service of process in any jurisdiction where it is not now so subject, or qualify it to do business in any such jurisdiction, it being understood that the Commission is not responsible for compliance with or the consequences of failure to comply with applicable state securities laws and regulations.

(k) No consent, approval, authorization or order of, or filing or registration with, any court or governmental agency or body that has not already been obtained is required for the issuance, delivery or sale of the Bonds or the consummation of the other transactions contemplated by this Agreement, except as may be required under the blue sky or other securities laws or regulations of any jurisdiction in connection with the offering and sale of the Bonds by the Underwriter, or if any such consent, approval or authorization is required, the Commission will obtain it prior to the date of Closing and will provide evidence to the Underwriter that the same has been obtained.

(l) Any certificate signed by an authorized officer of the Commission and delivered to the Underwriter shall be deemed a representation and warranty of the Commission to the Underwriter as to the statements made therein.

(m) The Preliminary Official Statement is deemed to be a final official statement within the meaning of Rule 15c2-12, except for the omission of certain pricing and other information authorized to be omitted by Rule 15c2-12.

(n) The Official Statement is deemed to be a final official statement within the meaning of Rule 15c2-12.

(o) Except as disclosed in the Official Statement, there is no litigation or any other proceeding before any court or governmental body or agency, pending or, to the knowledge of the Commission, threatened against or involving the Commission or any of the members of the Commission in their respective capacities as such (nor, to the knowledge of the Commission, is there any basis therefor), restraining or enjoining the sale, execution or delivery of the Bonds, or in any way contesting or affecting the validity of the Bonds or any proceedings of the Commission taken with respect to the sale thereof, or wherein an unfavorable decision, ruling or finding would, in any way, adversely affect (i) the transactions contemplated by this Agreement or the Official Statement, (ii) the organization, existence, or powers of the Commission or the title to the office of any of the members of the Commission, (iii) the business, properties or assets or the condition, financial or otherwise, of the Commission, (iv) the validity or enforceability of this Agreement, the Resolutions or the Bonds (or any other agreement or instrument of which the Commission is a party or used or contemplated for use in the consummation of the transactions contemplated

hereby) or (v) the exemption of the interest on the Bonds from taxation as described in the Official Statement.

(p) Pursuant to the Series Resolution, the Commission will undertake to provide certain annual financial information and operating data related to the Commission and notice of the occurrence of certain material events as specified in the Series Resolution and the Official Statement (the “Undertaking”).

(q) Except as otherwise disclosed in the Official Statement, during the last five years, the Commission has not failed to materially comply with any previous undertaking relating to any continuing disclosure undertaking pursuant to Rule 15c2-12.

8. Payment and Delivery. At 10:00 a.m., Raleigh, North Carolina time, on December [ ], 2022, or at such other time or on such earlier or later date as we mutually agree upon (the “Closing Date”), the LGC and the City shall deliver or cause to be delivered to The Depository Trust Company (“DTC”), or at such other place specified by the Underwriter, the Bonds duly executed and authenticated, and at the offices of Womble Bond Dickinson (US) LLP, the other documents hereinafter mentioned. It is anticipated that CUSIP identification numbers will be placed on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for a failure or refusal by the Underwriter to accept delivery of and payment for the Bonds in accordance with the terms of this Agreement. Upon such delivery of the Bonds, the Underwriter shall pay the full purchase price thereof in immediately available funds payable to the order of the State Treasurer.

One fully registered bond certificate in the aggregate principal amount of each maturity of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC, and the beneficial interests in the Bonds so registered will be credited to such accounts with DTC as the Underwriter shall designate. The Bonds so registered to and held by DTC or its nominee, and the beneficial interests therein, shall be transferable only in accordance with the book-entry system.

9. Conditions of Closing. The Underwriter has entered into this Agreement in reliance upon the representations and warranties of the LGC, the City and the Commission contained herein and to be contained in the documents and instruments to be delivered at Closing, and upon the performance by the LGC, the City and the Commission of their obligations hereunder, both as of the date hereof and as of the date of Closing. Accordingly, the Underwriter’s obligation under this Agreement to purchase and pay for the Bonds shall be subject to the performance by the LGC, the City and the Commission of their obligations to be performed hereunder at or prior to Closing, and shall also be subject to the following conditions:

(a) At the time of Closing (i) the representations and warranties of the LGC, the City and the Commission contained herein shall be true, complete and correct with the same effect as if made on the date of Closing, (ii) this Agreement and the Resolutions shall be in full force and effect and shall not have been amended, modified or supplemented except as may have been agreed to by the Underwriter, (iii) the City and the Commission shall have entered into the Undertaking as described in the Official Statement and (iv) the LGC, the City and the Commission shall have duly adopted and there shall be in full force and effect such orders or resolutions as in the opinion of Bond Counsel shall be necessary in connection with the transactions contemplated hereby, and

such orders or resolutions shall not have been amended, modified or supplemented and the Official Statement shall not have been amended, modified or supplemented, except as may have been agreed to by the Underwriter.

(b) The Underwriter shall have the right to terminate their obligations under this Agreement to purchase and pay for the Bonds by notifying the LGC, the City and the Commission of their election to do so if, after the execution hereof and on or prior to the date of Closing:

(1) legislation shall have been introduced in or enacted by the Congress of the United States or the North Carolina General Assembly, or legislation pending in the Congress of the United States or the North Carolina General Assembly shall have been amended, or a decision shall have been rendered by a court of the United States or the State of North Carolina, including the Tax Court of the United States, or a ruling shall have been made or a regulation shall have been proposed or made or a press release or other form of notice shall have been issued by the Treasury Department of the United States or the Internal Revenue Service or other federal or North Carolina authority, with respect to interest on obligations of the general character of the Bonds, which may have the purpose or effect, directly or indirectly, of affecting the tax status of the City, its property or income, its securities (including the Bonds) or the interest thereon, or any tax exemption granted or authorized by relevant North Carolina statutes or, in the opinion of the Underwriter, affects materially and adversely the market for the Bonds, or the market price generally of obligations of the general character of the Bonds; or

(2) the United States shall have become engaged in hostilities which have resulted in a declaration of war or a national emergency or other unforeseen national or international calamity shall have occurred or accelerated to such an extent as, in the opinion of the Underwriter, affects materially and adversely the market for the Bonds, or the market price generally of obligations of the general character of the Bonds; or

(3) there shall have occurred and be in force a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by United States, State of North Carolina or New York State authorities; or

(4) there shall have occurred any material adverse change in the affairs of the City or the Commission that, in the reasonable judgment of the Underwriter, materially or adversely affects the market price or marketability of the Bonds or the ability of the Underwriter to enforce contracts for the sale of the Bonds; or

(5) there shall be established any new restrictions on transactions in securities materially affecting the free market for securities (including the imposition of any limitation on interest rates) or the extension of credit by, or the charge to the net capital requirements of underwriters established by the New York Stock Exchange, the Securities and Exchange Commission, any other federal or state agency or the Congress of the United States or by executive order; or

(6) a decision of any federal or state court or a ruling or regulation (final, temporary or proposed) of the Securities and Exchange Commission or other governmental

agency shall have been made or issued that would make the Bonds or any securities of the City or any similar body of the type contemplated herein subject to the registration requirements of the Securities Act of 1933, as amended, or require the qualification of the Resolutions under the Trust Indenture Act of 1939, as amended; or

(7) the withdrawal or downgrading of any underlying rating of the City's outstanding indebtedness by a national rating agency; or

(8) an event occurs which in the opinion of the Underwriter requires the preparation and distribution of a supplement or amendment to the Official Statement.

(c) On or prior to the date of the Closing, the Underwriter shall have received the following documents in form and substance satisfactory to the Underwriter and McGuireWoods LLP, Raleigh, North Carolina, counsel to the Underwriter ("Underwriter's Counsel"):

(1) approving opinion of Bond Counsel, dated as of the date of Closing, relating to the Bonds substantially in the form attached as Appendix C to the Official Statement, together with letter of Bond Counsel, dated as of the date of Closing and addressed to the Underwriter, consenting to the Underwriter's reliance upon such opinion;

(2) supplemental opinion of Bond Counsel, dated as of the date of Closing and addressed to the Underwriter, in substantially the form attached hereto as Exhibit A;

(3) opinion of Emanuel D. McGirt, City Attorney, dated as of the date of Closing and addressed to the City and the Underwriter, in substantially the form attached hereto as Exhibit B;

(4) opinion of Phillip R. Dixon, Commission Attorney, dated as of the date of Closing and addressed to the Commission and the Underwriter, in substantially the form attached hereto as Exhibit C;

(5) opinion of Underwriter's Counsel, dated as of the date of Closing and addressed to the Underwriter, in substantially the form attached hereto as Exhibit D;

(6) a copy of the Official Statement executed on behalf of the LGC, the City and the Commission by duly authorized representatives thereof;

(7) a certificate, dated as of the date of Closing, signed by a City official satisfactory to the Underwriter, to the effect that:

(A) the representations and warranties of the City set forth in this Agreement are true, accurate and complete in all material respects as of the date of Closing and the conditions to be complied with and obligations to be performed by the City hereunder on or prior to the date of Closing have been complied with and performed;

(B) except as may be disclosed in the Official Statement, there is no litigation or any other proceeding before any court or governmental body or agency

pending or, to the best of such official's knowledge, threatened against or affecting the City or any members of the City Council of the City (nor, to the best of such official's knowledge, is there any basis therefor), restraining or enjoining the sale, execution or delivery of the Bonds, or in any way contesting or affecting the validity of the Bonds or any proceedings of the City taken with respect to the sale thereof, or wherein an unfavorable decision, ruling or finding would materially and adversely affect (i) the transactions contemplated by this Agreement or the Official Statement, (ii) the organization, existence or powers of the City or the title to the office of any of the members of the City Council of the City, (iii) the business, properties or assets or the condition, financial or otherwise, of the City, (iv) the validity or enforceability of this Agreement, the Resolutions or the Bonds (or any other agreement or instrument of which the City is a party, used or contemplated for use in the consummation of the transactions contemplated hereby) or (v) the exemption of the interest on the Bonds from taxation as described in the Official Statement; and

(C) the Official Statement did not as of its date and does not as of the date of Closing contain any untrue statement of a material fact or omit to state a material fact required to be stated therein for the purpose for which the Official Statement is to be used or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, provided that no representation or warranty is made with respect to the information set forth on the inside cover page of, in the stabilizing legend in or under the heading "UNDERWRITING" in the Official Statement or in Appendix E to the Official Statement;

(8) a certificate, dated as of the date of Closing, signed by a Commission official satisfactory to the Underwriter, to the effect that:

(A) the representations and warranties of the Commission set forth in this Agreement are true, accurate and complete in all material respects as of the date of Closing and the conditions to be complied with and obligations to be performed by the Commission hereunder on or prior to the date of Closing have been complied with and performed;

(B) except as may be disclosed in the Official Statement, there is no litigation or any other proceeding before any court or governmental body or agency pending or, to the best of such official's knowledge, threatened against or affecting the Commission or any members of the Commission in their respective capacities as such (nor, to the best of such official's knowledge, is there any basis therefor), restraining or enjoining the sale, execution or delivery of the Bonds, or in any way contesting or affecting the validity of the Bonds or any proceedings of the Commission taken with respect to the sale thereof, or wherein an unfavorable decision, ruling or finding would materially and adversely affect (i) the transactions contemplated by this Agreement or the Official Statement, (ii) the organization, existence or powers of the Commission or the title to the office of any of the members of the Commission, (iii) the business, properties or assets or the condition,



financial or otherwise, of the Commission, (iv) the validity or enforceability of this Agreement, the Resolutions or the Bonds (or any other agreement or instrument of which the Commission is a party, used or contemplated for use in the consummation of the transactions contemplated hereby) or (v) the exemption of the interest on the Bonds from taxation as described in the Official Statement; and

(C) the Official Statement did not as of its date and does not as of the date of Closing contain any untrue statement of a material fact or omit to state a material fact required to be stated therein for the purpose for which the Official Statement is to be used or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, provided that no representation or warranty is made with respect to the information set forth on the inside cover page of, in the stabilizing legend in or under the heading “UNDERWRITING” in the Official Statement or in Appendix E to the Official Statement;

(9) a copy of the necessary resolutions of the LGC, certified by the Secretary or Deputy Secretary thereof, authorizing the LGC to sell the Bonds and to execute and deliver this Agreement and the Official Statement;

(10) specimen Bond;

(11) copies, certified by appropriate officials of the City or the Commission, as the case may be, satisfactory to the Underwriter, of all proceedings of the City and the Commission relating to approvals or authorizations for the Bonds, the execution and delivery of this Agreement and the Official Statement and authorizing the use of the Preliminary Official Statement and Official Statement by the Underwriter in connection with the offering of the Bonds, including certified copies of the Resolutions;

(12) evidence, satisfactory in form and substance to the Underwriter, of receipt of an “[ ]” rating assigned to the Bonds by Moody’s Investors Service and an “[ ]” rating assigned to the Bonds by Fitch Ratings;

(13) a tax certificate of the City, signed by an authorized officer of the City and the Commission, satisfactory to the Underwriter;

(14) evidence that all items required to be delivered to the Trustee as a condition precedent to the issuance of the Bonds under the Resolutions have been so delivered;

(15) a certificate, signed by an authorized officer of the City and the Commission, certifying that the LGC fees have been paid prior to Closing;

(16) such additional certificates (including appropriate no-litigation certificates), opinions, proceedings, instruments or other documents as the Underwriter may reasonably request.

All representations, warranties and agreements of the LGC, the City and the Commission set forth in this Agreement shall remain operative and in full force and effect regardless of (a) any

investigation made by or on behalf of the Underwriter or any person controlling the Underwriter and (b) acceptance of and payment for the Bonds by the Underwriter.

10. Payment of Expenses. The City or the Commission shall pay from the proceeds of the Bonds or other available funds all expenses incident to the City's and the Commission's obligations hereunder and in connection with the authorization, execution, delivery and sale of the Bonds to the Underwriter, including, but not limited to, the cost of printing and distributing the Bonds, the Preliminary Official Statement and the Official Statement, rating agency fees, the fees and expenses of Bond Counsel, the fees and expenses of consultants, the LGC, the Trustee and additional miscellaneous fees and costs incurred in connection with and related to the transaction. The City or the Commission will pay any expenses incurred on behalf of the City's or the Commission's members, officers or employees which are incidental to implementing this Agreement, including, without limitation, meals, transportation and lodging of such commissioners, council members, officers and employees (which expenses may be included in the expense component of the underwriter's discount); provided, however, that the City or the Commission will pay from its own funds not constituting proceeds of the Bonds any entertainment expenses incurred on behalf of the City's or the Commission's commissioners, council members, officers or employees.

The Underwriter shall pay its out-of-pocket expenses, the cost of the blue sky survey, the fees and expenses of Underwriter's Counsel, any advertising expenses in connection with a public offering of the Bonds, fees of the CUSIP Service Bureau and any fees of the Municipal Securities Rulemaking Board or the Financial Industry Regulatory Authority, Inc.

11. Parties in Interest. This Agreement is made solely for the benefit of the Underwriter and persons controlling the Underwriter, the LGC, the City and the Commission, and their respective successors and assigns, and no other person, partnership or corporation shall acquire or have any right under or by virtue of this Agreement. The terms "successors" and "assigns" shall not include any purchaser of Bonds from the Underwriter merely because of such purchase.

12. Absence of Liability. No recourse shall be had by the Underwriter for any claims based on this Agreement or otherwise against any member, officer, employee or agent of the LGC, the City or the Commission in his or her individual capacity, all claims, if any, being waived and released by the Underwriter.

13. Indemnification. (a) To the fullest extent permitted by applicable law, the City agrees to indemnify and hold harmless the Underwriter and the LGC against any and all losses, damages, expenses (including reasonable legal and other fees and expenses), liabilities or claims (or actions in respect thereof), to which the Underwriter, the LGC or the other persons described in subsection (b) of this Section may become subject under any federal or state securities laws or other statutory law or at common law or otherwise, caused by or arising out of or based upon any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in the Preliminary Official Statement or the Official Statement or caused by any omission or alleged omission from the Preliminary Official Statement or the Official Statement of any material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, unless such untrue statement or misleading statement, such alleged untrue

statement or alleged misleading statement, or such omission or alleged omission was made in reliance upon and in conformity with information furnished to the City or the Commission by the Underwriter expressly for use in the Official Statement, including any amendment thereto.

(a) The indemnity provided under this Section will extend upon the same terms and conditions to each officer, director, member, employee, agent or attorney of the Underwriter and the LGC, and each person, if any, who controls the Underwriter and the LGC within the meaning of Section 15 of the Securities Act of 1933, as amended, or Section 20 of the Securities Exchange Act of 1934, as amended (“indemnified party”). Such indemnity will also extend, without limitation, to any and all expenses whatsoever reasonably incurred by any indemnified party in connection with investigating, preparing for or defending against, or providing evidence, producing documents or taking any other reasonable action in respect of, any loss, damage, expense, liability or claim referred to in subsection (a) of this Section (or action in respect thereof), whether or not resulting in any liability, and will include the aggregate amount paid in settlement of any litigation, commenced or threatened, or of any claim whatsoever as set forth herein, if such settlement is effected with the written consent of the City. Neither the officers, members, agents nor employees of the LGC shall be personally liable for the performance of any obligation under this Agreement.

(b) Within a reasonable time after an indemnified party under subsections (a) and (b) of this Section will have been served with the summons or other first legal process or has received written notice of the threat of a claim in respect of which an indemnity may be claimed, such indemnified party must, if a claim for indemnity in respect thereof is to be made against the City under this Section, notify the City in writing of the commencement thereof; but the omission to so notify the City will not relieve it from any liability that it may have to any indemnified party other than pursuant to subsections (a) and (b) of this Section. The City will be entitled to participate at its own expense in the defense, and if the City so elects within a reasonable time after receipt of such notice, or if all indemnified parties seeking indemnification in such notice so direct, the City will assume the defense of any suit brought to enforce any such claim, and such defense will be conducted by counsel chosen promptly by the City and reasonably satisfactory to the indemnified party; provided, however, that, if the defendants in any action include an indemnified party and the City, or include more than one indemnified party, and any such indemnified party has been advised by its counsel that there may be legal defenses available to such indemnified party that are different from or additional to those available to the City or another indemnified party, and that in the reasonable opinion of such counsel are sufficient to make it undesirable for the same counsel to represent such indemnified party and the City, or another indemnified party, such indemnified party will have the right to employ separate counsel in such action (and the City will not be entitled to assume the defense thereof on behalf of such indemnified party), and in such event the reasonable fees and expenses of such counsel will be borne by the City. Nothing contained in this subsection (c) will preclude any indemnified party, at its own expense, from retaining additional counsel to represent such party in any action with respect to which indemnity may be sought from the City hereunder. Notwithstanding the foregoing, the LGC shall have the right to employ separate counsel in any such action and participate in the investigation and defense thereof, and the reasonable fees and expenses of such counsel shall be paid by the City.

(c) If the indemnification provided for in subsections (a) and (b) of this Section is unavailable to or insufficient to hold harmless and indemnify any indemnified party in respect of

any losses, damages, expenses, liabilities, or claims (or actions in respect thereof) referred to therein, or if the indemnified party failed to give the notice required under subsection (c) of this Section, then the City, on the one hand, and the indemnified party, on the other hand, will contribute to the amount paid or payable by the indemnified party as a result of such losses, damages, expenses, liabilities or claims (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the City on the one hand and the indemnified party on the other hand from the offering of the Bonds. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then the City on the one hand and the indemnified party on the other hand will contribute to such amount paid or payable by the indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the City on the one hand and the indemnified party on the other in connection with the statements or omissions that resulted in such losses, damages, expenses, liabilities or claims (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the City on the one hand and the indemnified party on the other hand will be deemed to be in such proportion so that the indemnified party is responsible for that portion represented by the percentage that the underwriting discount payable to the Underwriter hereunder (i.e., the excess of the aggregate public offering price for the Bonds as set forth on the inside cover page of the Official Statement over the price to be paid by the Underwriter to the City upon delivery of the Bonds as specified in Section 1) bears to the aggregate public offering price as described above, and the City is responsible for the balance. The relative fault will be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the City on the one hand or the indemnified party on the other hand and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

In the event an indemnified party has knowledge of a claim subject to the contribution provided by this subsection (d), such indemnified party agrees, within a reasonable time of obtaining such knowledge, to convey notice of such claim to the City. It is agreed and understood that if the indemnified party fails, under the circumstances set forth in the preceding sentence, to convey the above-referenced notice to the City, then the City will not be obligated to provide contribution pursuant to this subsection (d).

The City, the LGC and the Underwriter agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by any method of allocation that does not take account of the equitable considerations referred to in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, damages, expenses, liabilities or claims (or actions in respect thereof) referred to in this subsection (d) will be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim.

The indemnity and contribution provided by this Section will be in addition to any other liability that the City may otherwise have hereunder, at common law or otherwise, and is provided solely for the benefit of the indemnified party, and its respective successors, assigns and legal representatives, and no other person will acquire or have any right under or by virtue of such provisions of this Agreement.

14. Delivery of Official Statement. Within seven business days after the execution of this Agreement, the LGC, the City and the Commission shall deliver to the Underwriter copies of the Official Statement (with only such changes therein as shall have been approved by the Underwriter), in such quantities as the Underwriter may reasonably request in order for the Underwriter to comply with the rules of the MSRB and Rule 15c2-12, executed by authorized officers of the LGC, the City and the Commission. The LGC, the City and the Commission shall prepare the Official Statement, including any amendments thereto, in word searchable PDF format as described in MSRB Rule G-32 and shall provide the electronic copy of the word searchable PDF format of the Official Statement to the Underwriter no later than one business day prior to the Closing Date in order to enable the Underwriter to comply with MSRB Rule G-32. Delivery of such copies of the Official Statement shall constitute the LGC's, the City's and the Commission's authorization for the Official Statement, the information contained therein and the documents referred to therein to be used in connection with the public offering of the Bonds by the Underwriter.

15. Underwriting Period. If on or prior to the 25th day following the "end of the underwriting period" (as such expression is used in Rule 15c2-12), an event occurs affecting the LGC, the City or the Commission that materially affects the purpose for which the Official Statement is to be used and is not disclosed in the Official Statement, the LGC, the City and the Commission agree to notify the Underwriter thereof, and if in the opinion of the LGC, the City, the Commission or the Underwriter such event requires a supplement or amendment to the Official Statement, the LGC, the City and the Commission will, at the City's or Commission's expense, supplement or amend the Official Statement in a manner approved by the LGC, the City, the Commission and the Underwriter (such approval not to be unreasonably delayed or withheld) and will thereafter until the end of such stated period provide the Underwriter with copies of the Official Statement, as so supplemented or amended, in sufficient quantities to allow the Underwriter to comply with the requirements referred to in Section 14.

The Underwriter agrees to notify the LGC, the City and the Commission of the end of the underwriting period. In the event the Underwriter fails to notify the LGC, the City and the Commission of the end of the underwriting period, the end of the underwriting period shall be deemed to be the date of Closing.

The Underwriter agrees to cause a copy of the Official Statement to be deposited before the end of the underwriting period with each of the parties required by the applicable rules of the MSRB.

16. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

17. Notices. Any notice or other communication to be given under this Agreement may be given by delivering the same in writing by registered or certified mail to the following addresses:

Local Government Commission  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604  
Attention: Secretary

City of Greenville, North Carolina  
P.O. Box 7207  
Greenville, North Carolina 27835  
Attention: City Manager

Greenville Utilities Commission  
P.O. Box 1847  
Greenville, North Carolina 27835-1847  
Attention: Chief Financial Officer

J.P. Morgan Securities LLC  
200 Regency Parkway, 4<sup>th</sup> Floor  
Cary, North Carolina 27518  
Attention: Managing Director

18. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of North Carolina.

19. No Advisory or Fiduciary Role. The City and the Commission acknowledge and agree that (a) the transactions contemplated by this Agreement are arm's length, commercial transactions among the LGC, the City, the Commission and the Underwriter in which the Underwriter is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the LGC, the City or the Commission; (b) the Underwriter has not assumed any advisory or fiduciary responsibility to the LGC, the City or the Commission with respect to the transactions contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter or its affiliates have provided other services or are currently providing other services to the LGC, the City or the Commission on other matters); (c) the only obligations the Underwriter has to the LGC, the City, or the Commission with respect to the transactions contemplated hereby expressly are set forth in this Agreement; and (d) the LGC, the City and the Commission have consulted their own financial, legal, accounting, tax and other advisors, as applicable, to the extent they have deemed appropriate. The primary role of the Underwriter is to purchase the Bonds from the LGC for resale to investors in an arm's length commercial transaction. The Underwriter has financial and other interests that differ from those of the LGC and the City.

20. E-Verify. The Underwriter hereby represents that it understands that "E-Verify" is a federal 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 Section 64-25(5) of the General Statutes of North Carolina, as amended. The Underwriter uses E-Verify to verify the work authorization of their respective employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. The Underwriter will require that any subcontractor that

it uses in connection with the transactions contemplated by this Agreement certify to such subcontractor's compliance with E-Verify.

[Remainder of Page Intentionally Left Blank]

This Agreement shall become effective upon the execution of the acceptance and approval hereof by duly authorized representatives of the LGC, the City and the Commission and shall be valid and enforceable as of the time of such acceptance and approval.

Very truly yours,

J.P. MORGAN SECURITIES LLC

By: \_\_\_\_\_  
Managing Director

(signatures continued)



Bond Purchase Agreement  
City of Greenville, North Carolina  
Greenville Utilities Commission Combined Enterprise System Revenue Bonds, Series 2022

Accepted:

LOCAL GOVERNMENT COMMISSION

By: \_\_\_\_\_  
Secretary

(signatures continued)

Bond Purchase Agreement  
City of Greenville, North Carolina  
Greenville Utilities Commission Combined Enterprise System Revenue Bonds, Series 2022

Approved:

CITY OF GREENVILLE, NORTH CAROLINA

By: \_\_\_\_\_  
City Manager

GREENVILLE UTILITIES COMMISSION

By: \_\_\_\_\_  
Chief Financial Officer

## SUPPLEMENTAL OPINION OF BOND COUNSEL

December \_\_, 2022

J.P. Morgan Securities LLC  
Cary, North Carolina

Re: City of Greenville, North Carolina Greenville Utilities Commission \$[\_\_\_\_\_] Combined Enterprise System Revenue Bonds, Series 2022

We are bond counsel to the City of Greenville, North Carolina (the “City”) and have served in such capacity in connection with the issuance of the above-referenced bonds (the “Bonds”). The Bonds are being purchased by J.P. Morgan Securities LLC, as the underwriter (the “Underwriter”) on the date hereof pursuant to a Bond Purchase Agreement, dated December \_\_, 2022 (the “Bond Purchase Agreement”), among the Local Government Commission (the “LGC”), the City, the Greenville Utilities Commission (the “Commission”) and the Underwriter. Capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Bond Purchase Agreement.

Based upon such examination as we have deemed necessary for the purpose of expressing the opinions set forth below, we are of the opinion, as of the date hereof and under existing law, that:

1. The LGC is duly organized and validly existing as a division of the Department of the State Treasurer of the State of North Carolina.
2. The LGC has full power and authority to approve the issuance of the Bonds and to sell the same as provided in the Bond Purchase Agreement, and the LGC has taken all action required in connection therewith.
3. The LGC has duly authorized the execution and delivery of the Bond Purchase Agreement and has taken all action necessary or appropriate to carry out the sale and delivery of the Bonds to the Underwriter.
4. The adoption by the LGC of the resolution authorizing the sale and issuance of the Bonds and the execution and delivery of the Bond Purchase Agreement (the “LGC Resolution”), the approval of the sale and issuance of the Bonds and the execution and delivery of the Bond Purchase Agreement and compliance with the provisions thereof, under the circumstances contemplated thereby, do not violate any applicable federal or North Carolina constitutional or statutory provision.
5. No further consent, authorization or order of any governmental or regulatory authority is required to be obtained by the LGC as a condition precedent to the approval of the sale and issuance of the Bonds or the execution and delivery of the Bond Purchase Agreement or the performance by the LGC of its obligations thereunder, except that we express no opinion as to any

action required under federal or state securities or Blue Sky laws in connection with the offering and sale of the Bonds by the Underwriter.

6. The Bond Purchase Agreement has been duly authorized, executed and delivered by the LGC, the City and the Commission and is enforceable against the LGC, the City and the Commission in accordance with its terms, except that the enforceability thereof may be subject to bankruptcy, insolvency, moratorium or other similar laws affecting creditors' rights generally from time to time in effect and by general equitable principles. We note, however, that the covenants of the City in the Bond Purchase Agreement relating to indemnification and contribution are given to the extent permitted by law, and we express no opinion with respect to whether such covenants are permitted by law.

7. The LGC, the City and the Commission have all duly authorized, executed and delivered the Official Statement and have consented to the distribution of the Preliminary Official Statement and the Official Statement in connection with the offering and sale of the Bonds.

8. The information contained under the headings "INTRODUCTION," "THE 2022 BONDS," "SECURITY AND SOURCES OF PAYMENT" and "CONTINUING DISCLOSURE" in, and Appendix B to, the Official Statement, but only insofar as such statements purport to summarize certain provisions of the Bonds, the Bond Order or the Series Resolution, present a fair and accurate summary of such provisions. The information contained under the heading "TAX TREATMENT" in the Official Statement presents fairly and accurately the matters referred to therein.

9. The Bonds conform as to form and tenor with the terms and provisions thereof as described in the Official Statement.

10. All conditions precedent to the delivery of the Bonds contained in the Bond Purchase Agreement, the Bond Order and the Series Resolution have been fulfilled.

11. The Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Bond Order and the Series Resolution are exempt from qualification under the Trust Indenture Act of 1939, as amended.

OPINION OF CITY ATTORNEY

December \_\_, 2022

City Council of the City of Greenville  
Greenville, North Carolina

J.P. Morgan Securities LLC  
Cary, North Carolina

Re: City of Greenville, North Carolina Greenville Utilities Commission \$[\_\_\_\_\_] Combined Enterprise System Revenue Bonds, Series 2022

I am the City Attorney for the City of Greenville, North Carolina (the “City”) and have served in such capacity in connection with the execution and delivery on the date hereof of the above-referenced bonds (the “Bonds”). The Bonds are being issued under and pursuant to the terms of a bond order as approved and recommended for adoption by the Greenville Utilities Commission (the “Commission”) and adopted by the City Council of the City (the “City Council”) on August 11, 1994 as amended and restated as of April 13, 2000 (the “Bond Order”), and a series resolution (the “Series Resolution”), approved and recommended for adoption by the Commission and adopted by the City Council on October 10, 2022. The Bonds are being purchased on the date hereof by J.P. Morgan Securities LLC, as the underwriter (the “Underwriter”) pursuant to the terms of a Bond Purchase Agreement, dated December \_\_, 2022 (the “Bond Purchase Agreement”), among the Local Government Commission (the “LGC”), the City, the Commission and the Underwriter. Capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Bond Purchase Agreement.

Based upon such examination as I have deemed necessary for the purpose of expressing the opinions set forth below, I am of the opinion, as of the date hereof and under existing law, that:

1 The City is a municipal corporation duly organized and validly existing under the constitution and laws of the State of North Carolina, and has full legal right, power and authority to issue the Bonds, to adopt the Bond Order and the Series Resolution, to execute and deliver the Bond Purchase Agreement and to carry out and consummate the transactions contemplated thereby.

2 The City has duly authorized the issuance of the Bonds by proper orders or resolutions of the City, and such orders or resolutions are in full force and effect.

3 The City has duly authorized, executed and delivered the Bond Purchase Agreement, and, assuming due authorization, execution and delivery by the other parties thereto, the Bond Purchase Agreement is a legal, valid and binding obligation of the City enforceable in accordance with its terms, except that the enforceability thereof may be subject to bankruptcy, insolvency, moratorium or other similar laws affecting creditors’ rights generally from time to time in effect and by general equitable principles. I note, however, that the covenants of the City in the Bond Purchase Agreement relating to indemnification and contribution are given to the extent

permitted by law, and I express no opinion with respect to whether such covenants are permitted by law.

4 All authorizations, approvals, consents or orders of any governmental entity or any other person, association or corporation required to date for the valid issuance of the Bonds, the execution or delivery by the City of the Bond Purchase Agreement, the adoption of the Bond Order and the Series Resolution and any other transactions effected or contemplated thereby have been obtained, except that I express no opinion as to any action required under federal or state securities or Blue Sky laws in connection with the offering and sale of the Bonds by the Underwriter. With respect to any authorizations, approvals, consents or orders of any governmental entity or any other person, association or corporation not yet required, it is not anticipated that there will be any difficulty in obtaining the same when required.

5 The City is not in breach of or default under any applicable law or administrative regulation of the State of North Carolina or the United States or any applicable judgment or decree or administrative ruling or any agreement, resolution, certificate or other instrument to which the City is a party or is otherwise subject, which breach or default would in any way materially adversely affect the transactions contemplated by the Bond Purchase Agreement, the Bond Order or the Series Resolution, and no event has occurred and is continuing which with the passage of time or giving of notice, or both, would constitute such a breach of or default thereunder.

6 The issuance of the Bonds, the adoption of the Bond Order and the Series Resolution, the execution and delivery of the Bond Purchase Agreement and compliance with the provisions of each will not conflict with or constitute a violation or breach of or default under the charter of the City or any applicable law, rule or regulation of the United States or of the State of North Carolina or of any department, division, agency or instrumentality thereof, or any applicable order, judgment or decree of any court or other governmental agency or body or any bond, note, loan agreement, resolution, certificate, agreement or other instrument to which the City is a party or by which the City or its property is bound.

7 There is no action, suit, proceeding, inquiry or investigation at law or in equity before any court, public board or body pending against the City, or to the best of my knowledge, threatened against the City, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by the Bond Purchase Agreement or which, in any way, would adversely affect the validity of the Bond Purchase Agreement, the Bond Resolution, the Series Resolution, the Bonds or the exemption of interest on the Bonds from taxation as described in the Official Statement.

8 The City has duly authorized, executed and delivered the Official Statement and has approved the use of the Preliminary Official Statement and the Official Statement in connection with the offering and sale of the Bonds.

9 Based upon information made available to me in the course of my representation of the City, and without having undertaken to determine independently the accuracy or completeness of the statements contained in the Official Statement, nothing has come to my attention that would lead me to believe that the information contained in the Official Statement under the headings “PLAN OF FINANCE,” “THE CITY” and “LITIGATION” (with respect to the City), excluding in all cases financial and statistical data included or mentioned therein, as to which I express no opinion, contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

Respectfully submitted,

## OPINION OF COUNSEL TO THE UTILITIES COMMISSION

December \_\_, 2022

Greenville Utilities Commission  
Greenville, North Carolina

J.P. Morgan Securities LLC  
Cary, North Carolina

Re: City of Greenville, North Carolina Greenville Utilities Commission \$[\_\_\_\_\_] Combined Enterprise System Revenue Bonds, Series 2022

I have acted as counsel to the Greenville Utilities Commission (the “Commission”) in connection with the execution and delivery on the date hereof of the above-referenced bonds (the “Bonds”). The Bonds are being issued under and pursuant to the terms of a bond order as approved and recommended for adoption by the Greenville Utilities Commission (the “Commission”) and adopted by the City Council of the City (the “City Council”) on August 11, 1994, as amended and restated as of April 13, 2000 (the “Bond Order”), and a series resolution (the “Series Resolution”), approved and recommended for adoption by the Commission and adopted by the City Council on October 10, 2022. The Bonds are being purchased on the date hereof by J.P. Morgan Securities LLC, as the underwriter (the “Underwriter”), pursuant to the terms of a Bond Purchase Agreement, dated December \_\_, 2022 (the “Bond Purchase Agreement”), among the Local Government Commission (the “LGC”), the City, the Commission and the Underwriter. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Bond Purchase Agreement.

Based upon such examination as I have deemed necessary for the purposes of expressing the opinions set forth below, I am of the opinion, as of the date hereof and under existing law, that:

1 The Commission is duly organized and validly existing pursuant to Chapter 861 of the 1991 Session Laws of North Carolina (the “Charter”) and has full legal right, power and authority to approve the Bond Order and the Series Resolution and to execute and deliver the Bond Purchase Agreement and to carry out and consummate the transactions contemplated thereby.

2 The Commission has duly approved and recommended for adoption by the City Council of the City the Bond Order and the Series Resolution.

3 The Commission has duly authorized, executed and delivered the Bond Purchase Agreement, and, assuming due authorization, execution and delivery by the other parties thereto, the Bond Purchase Agreement is a legal, valid and binding obligation of the Commission enforceable in accordance with its terms except that the enforceability thereof may be subject to bankruptcy, insolvency, moratorium or other similar laws affecting creditors’ rights generally from time to time in effect and by general equitable principles. I note, however, that the covenants of the Commission in the Bond Purchase Agreement relating to indemnification and contribution are given to the extent permitted by law, and I express no opinion with respect to whether such



covenants are permitted by law.

4 All authorizations, approvals, consents or orders of any governmental entity or any other person, association or corporation required to date for the execution or delivery by the Commission of the Bond Purchase Agreement, the approval of the Bond Order and Series Resolution and any other transactions effected or contemplated thereby have been obtained, except that I express no opinion as to any action required by federal or state securities or Blue Sky laws in connection with the offering and sale of the Bonds by the Underwriter. With respect to any authorizations, approvals, consents or orders of any governmental entity or any other person, association or corporation not yet required, it is not anticipated that there will be any difficulty in obtaining the same when required.

5 The Commission is not in breach of or default under any applicable law or administrative regulation of the State of North Carolina or the United States or any applicable judgment or decree or administrative ruling or any agreement, resolution, certificate or other instrument to which the Commission is a party or is otherwise subject, which breach or default would in any way materially adversely affect the Commission's activities or transactions contemplated by the Bond Purchase Agreement, the Bond Order or the Series Resolution, and no event has occurred and is continuing which with the passage of time or giving of notice, or both, would constitute such a breach of or default thereunder.

6 The approval of the Bond Order and the Series Resolution, the execution and delivery of the Bond Purchase Agreement and compliance with the provisions of each will not conflict with or constitute a breach or violation of or a default under the Charter of the Commission or any applicable law, rule or regulation of the United States or of the State of North Carolina or of any department, division, agency or instrumentality thereof, or any applicable order, judgment or decree of any court or other governmental agency or body or any bond, note, loan agreement, resolution, certificate, agreement or other instrument to which the Commission is a party or by which the Commission or its property is bound.

7 There is no action, suit, proceeding, inquiry or investigation at law or in equity before any court, public board or body pending against the Commission, or to the best of my knowledge, threatened against the Commission, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bond Purchase Agreement or which, in any way, would materially adversely affect the validity of the Bond Purchase Agreement, the Bond Resolution or the Series Resolution.

8 The Commission has duly authorized, executed and delivered the Official Statement and has approved the use of the Preliminary Official Statement and the Official Statement in connection with the offering and sale of the Bonds.

9 Based upon information made available to me in the course of my representation of the Commission, and without having undertaken to determine independently the accuracy or completeness of the statements contained in the Official Statement, nothing has come to my attention that would lead me to believe that the information contained in the Official Statement under the headings “PLAN OF FINANCE” and “THE COMBINED ENTERPRISE SYSTEM” and “LITIGATION” (with respect to the Commission), excluding in all cases financial and statistical data included or mentioned therein, as to which I express no opinion, contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

Respectfully submitted,

## OPINION OF UNDERWRITER'S COUNSEL

J.P. Morgan Securities LLC  
New York, New York

December \_\_, 2022

\$\_[\_\_\_\_\_]  
City of Greenville, North Carolina  
Greenville Utilities Commission  
Combined Enterprise System Revenue Bonds, Series 2022

Ladies and Gentlemen:

This letter is being delivered to you pursuant to the Bond Purchase Agreement dated December \_\_, 2022 (the "Purchase Agreement"), among the Local Government Commission, the City of Greenville, North Carolina (the "City"), the Greenville Utilities Commission (the "Commission"), and J.P. Morgan Securities LLC (the "Underwriter"), relating to the sale of the above-referenced Bonds (the "Bonds"). Capitalized terms not otherwise defined herein shall have the same meanings assigned to them in the Purchase Agreement.

We have acted as counsel to the Underwriter in connection with the issuance, delivery and sale of the Bonds to the Underwriter. In that capacity, we have examined an executed counterpart of the Purchase Agreement, the Resolutions, and a specimen of the Bonds. We have also examined the originals or copies, certified or otherwise identified to our satisfaction, of such other documents, corporate records and other instruments as we have deemed necessary or advisable for purposes of this letter. On the basis of the foregoing, we are of the opinion, as of the date hereof and under existing law, that the Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Resolutions are exempt from qualification as an indenture pursuant to the Trust Indenture Act of 1939, as amended.

As such counsel, we have rendered legal advice and assistance in connection with the preparation of the Official Statement relating to the Bonds. We are not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of any of the statements contained in the Official Statement and make no representation that we have independently verified the accuracy, completeness or fairness of any such statements. However, in our capacity as your counsel we have generally reviewed certain documents and have participated in conferences with representatives of the City and the Commission, representatives of the other parties to the agreements set forth above, your representatives and representatives of Womble Bond Dickinson (US) LLP, Bond Counsel to the City.

Based upon our review and our participation in such discussions, we advise you that, in the course of our representation of you on this matter, nothing has come to our attention which leads

us to believe that the Official Statement (except for information contained therein or omitted therefrom concerning The Depository Trust Company and its book-entry system, any financial or statistical data or information included in or omitted from the Official Statement and any information included in or omitted from the appendices thereto, as to which we express no belief), as of the date thereof and the date hereof, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

Pursuant to the Series Resolution, the City and the Commission have undertaken to provide certain annual financial information and operating data relating to the City and the Commission and notices of the occurrence of certain material events as specified in the Series Resolution and the Official Statement (the “Undertaking”).

On August 20, 2018, the Securities and Exchange Commission (the “SEC”) published amendments to Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as theretofore amended, relating to municipal securities disclosure (the “Amended Rule”). The Amended Rule was accompanied by SEC Release 34-83885 (the “SEC Release”) which provides interpretive guidance regarding the Amended Rule.

Based upon our review of the Undertaking, the Amended Rule and the SEC Release, we are of the opinion that the Undertaking will permit you to comply with clause (b)(5) of the Amended Rule in connection with the primary offering of the Bonds. In rendering the foregoing opinion, we do not express any opinion as to the validity or enforceability of the Undertaking and, with your consent, are assuming such validity and enforceability.

This letter is furnished by us solely for your benefit and may not be relied upon by any other persons. We disclaim any obligation to update this letter to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Very truly yours,

## ISSUE PRICE CERTIFICATE

\$[\_\_\_\_\_]  
 City of Greenville, North Carolina  
 Greenville Utilities Commission  
 Combined Enterprise System Revenue Bonds, Series 2022

The undersigned, on behalf of J.P. Morgan Securities LLC (“*J.P. Morgan*”), hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “*Bonds*”).

1. **[*Sale of the Bonds.*** As of the date of this certificate, for each Maturity of the Bonds, the first price at which at least 10% of such Maturity of the Bonds was sold to the Public is the respective price listed in Schedule.][**[*Sale of the General Rule Maturities.*** As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity of the Bonds was sold to the Public is the respective price listed in Schedule A.]

2. **[*Initial Offering Price of the Hold-the-Offering-Price Maturities.***

(a) J.P. Morgan offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B.

(b) As set forth in the Bond Purchase Agreement, J.P. Morgan has agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, they would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. J.P. Morgan has not offered or sold any Maturity of the Bonds at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.]

3. **[*Defined Terms.***

[(a) *General Rule Maturities* means those Maturities of the Bonds listed in Schedule A hereto as the “General Rule Maturities.”]

[(b) *Hold-the-Offering-Price Maturities* means those Maturities of the Bonds listed in Schedule A hereto as the “Hold-the-Offering-Price Maturities.”]

[(c) *Holding Period* means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day

after the Sale Date (December \_\_, 2022), or (ii) the date on which J.P. Morgan has sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.]

(d) *Issuer* means the City of Greenville, North Carolina.

(e) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(f) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(g) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is December \_\_, 2022.

(h) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents J.P. Morgan’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the [Tax Certificate] and with respect to compliance with the federal income tax rules affecting the Bonds, and by Bond Counsel in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038-G, and other federal income tax advice it may give to the Issuer from time to time relating to the Bonds.

**J.P. MORGAN SECURITIES LLC**

By: \_\_\_\_\_  
Managing Director

Dated: December \_\_, 2022

**Schedule A**

**[Sale Prices of the Bonds][Sale Prices of the General Rule Maturities and Initial Offering Prices of the Hold-the-Offering Price Maturities]**

**[Schedule B  
Pricing Wire or Equivalent Communication]**





## City of Greenville, North Carolina

Meeting Date: 10/10/2022

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**Title of Item:** Resolutions to Approve Subrecipient Agreement with State of North Carolina in connection with Affordable Housing Loan Fund and Authorizing Commitment of CDBG-DR Funds for Arlington Trace Development Project with Amended Loan Documents

**Explanation:** The City's application to the State Department of Public Safety Office of Recovery and Resiliency was approved for funding. This award of \$5,000,000 is through the Affordable Housing Development Fund. The award will provide gap financing and will ensure lower rent rates for low-income citizens.

This is a request to execute a subrecipient agreement with the State and to amend loan documents for an affordable housing developer, Arlington Trace, LLC. The total commitment of \$6,000,000 of both the State of North Carolina's CDBG-DR and the City of Greenville's HOME Investment Partnerships funds will authorize a 20-year term with a 0% interest rate. The borrower is developing a project 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 June 9, 2022, the Greenville City Council approved the commitment 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. On September 9, 2022, Council approved the application to the State from the Affordable Housing Loan Fund for communities impacted by recent hurricanes.

**Fiscal Note:** The City is being awarded \$5,000,000 of CDBG-DR funds from the NC Office of Recovery and Resiliency to support the development of Arlington Trace. This is in addition to the previously approved \$1,000,000 HOME commitment.

The total \$6,000,000 would be repaid to the City at the end of the 20-year affordability period.

**Recommendation:** Approval of the resolutions authorizing the subrecipient agreement with the NC

State Department of Public Safety Office of Recovery and Resiliency for \$5,000,000 and authorizing commitment of CDBG-DR funds for the Arlington Trace Development with amended loan documents.

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ATTACHMENTS

-  [COG-#1171684-v1-RESOLUTION\\_NO\\_2\\_\(002\).docx](#)
-  [COG-#1171670-v1-Arlington\\_Trace\\_Resolution-NCORR.docx](#)

**RESOLUTION NO. 0\_\_-22**  
**RESOLUTION AUTHORIZING EXECUTION OF CONTRACT WITH NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY OFFICE OF RECOVERY AND RESILINENCY CDBG-DR FUNDS TO BE USED FOR MULTIFAMILY RENTAL HOUSING DEVELOPMENT**

**WHEREAS**, the City of Greenville recognizes the importance of affordable housing for low to moderate income families;

**WHEREAS**, It is requested the City enter into a subrecipient agreement with the North Carolina Department of Public Safety Office of Recovery and Resiliency ("NCORR") in the amount of \$5,000,000 to execute the Affordable Housing Development Fund- Round 2 ("CDBG-DR") agreement, with a goal of expanding the supply of decent, safe, affordable housing for those of very low and low income;

**WHEREAS**, the Funds will be in the form of a loan to Arlington Trace (the "Development") which will increase the supply of rental housing units for Low Income households;

**WHEREAS**, the 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 agrees to the terms and conditions of Affordable Housing Development Fund- Round 2 ("CDBG-DR"), subrecipient Agreement.

**NOW THEREFORE BE IT RESOLVED** that the City Council of the City of Greenville does hereby authorize execution of the Affordable Housing Development Fund- Round 2 ("CDBG-DR") subrecipient agreement excepting commitment of Affordable Housing Development Fund- Round 2 ("CDBG-DR"), in the amount of \$5,000,000 for a Multifamily Rental Housing Development Project and authorizes the City Manager to execute required loan documents.

This the 5th day of October, 2022

\_\_\_\_\_  
P. J. Connelly, Mayor

ATTEST: (Seal)

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Valerie Shiuwegar, City Clerk  
# 1165290

**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 US 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 City has entered into an agreement with the North Carolina Department of Public Safety Office of Recovery and Resiliency ("NCORR") to execute and implement the Community Development Block Grant-Disaster Recovery ("CDBG-DR"), with a goal of expanding the supply of decent, safe, affordable housing for those of very low and low income in communities impacted by recent hurricanes;

**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 June 9, 2022, the Greenville City Council approved the loan terms 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**, on October 10, 2022, the Greenville City Council approved the award of CDBG-DR funds in the amount of \$5,000,000.00 for the Development construction hard costs pursuant to the authority of 24 C.F.R Part 9; and

**WHEREAS**, the HOME and AHDF Loans are 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 and CDBG-DR Loans are 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 and CDBG-DR Loans 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 and Community Development Block Grant- Disaster Recovery Funds in the amount of \$5,000,000 for a Multifamily Rental Housing Development Project and authorizes the City Manager to execute required loan documents.

This the 10th day of October, 2022

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P. J. Connelly, Mayor

ATTEST: (Seal)

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Valerie Shiuwegar, City Clerk  
# 1165290



# City of Greenville, North Carolina

Meeting Date: 10/10/2022

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**Title of Item:** Award a Design Contract to HH Architecture for the Improvements to the Dream Park Community Building and Authorize the Demolition of the Training Tower

**Explanation:** The future Dream Park Community Building, previously the West End Fire Station, is located at 1700 Chestnut Street, adjacent to the Dream Park Sprayground. The building, which was constructed in the 1930's, is a single story building that is approximately 5,500 square feet in size. It has not been used by the Fire Department in over 40 years and is in need of a total renovation. The goal of this improvement project will be to convert the building into a useable multi-purpose building with an open floor plan to serve the surrounding community.

A structural assessment was recently completed, and a list of recommended repairs has been made. Estimated costs to complete the structural and stabilization recommendations equate to approximately \$550,000. Additional funds will be used to complete architectural renovations to the facility in order to convert it to a useable community building. The total budget for this project is \$1,000,000.

Staff has solicited Statements of Qualifications from architecture and engineering firms interested in designing the required improvements to the Dream Park Community Building, and an evaluation team has selected HH Architecture to perform this work. The design services fee for the proposed contract is \$174,800.

Lynch Mykins performed a structural condition survey of the training tower. The survey details the deteriorated condition of the exterior, severely corroded steel rails and stairs, multiple areas of loose and protruding bricks. The cost of demolition will be approximately \$35,000.

**Fiscal Note:** The City has allocated funding for the Dream Park Community Building contract from the American Rescue Plan. The proposed contract fee is \$174,800. The Facilities Improvement Plan includes funds for the demolition of the training tower.

**Recommendation:** Award the Design Contract for Improvements to the Dream Park Community Building to HH Architecture in the amount of \$174,800 and authorize the demolition of the training tower.

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ATTACHMENTS

-  [Dream Park Community Building Design Contract.pdf](#)
-  [Old Greenville FS and Fire Tower Structural Report.pdf](#)



**NORTH CAROLINA  
PITT COUNTY**

**CONTRACT FOR DESIGN SERVICES**

This contract is made and entered into as of the \_\_day of \_\_\_\_\_, 20\_\_, by the City of Greenville (“City”) and HH Architecture (“Designer”), a professional corporation organized and existing under the laws of North Carolina:

Section 1: Background and Purpose.

This project consists of the provisions of professional services for all phases of architectural and engineering work related to the Dream Park Community Building. Proposed improvements will be a complete renovation of the interior by demolition of all interior finishes and provide a new interior design to include a large multipurpose space, unisex restrooms, kitchenette, and storage space. The renovation will include bringing all HVAC, electrical, and plumbing up to code as well as ensuring the building is structurally sound and ADA accessible.

Section 2: Services and Scope to be Performed.

The Designer shall provide design services as follows:

- (a) Schematic Phase: Facilitate design meetings with the City to develop design solutions that accommodate desired elements. The Designer shall confirm all existing conditions documentation with the City and prepare design studies including demolition, preliminary plans and site/civil plans. The Designer shall submit schematic plans (30% completion of Construction Documents) for review, comment and approval by the City. A preliminary probable cost statement prepared by an independent estimator shall accompany the schematic drawings to ensure budget control.
- (b) Design Development: The Designer shall provide design Development Documents (65% completion of construction documents), that include demolition plans, floor plans, sections and elevations, and outline specifications. In addition to architectural drawings, the Design Development documents shall include engineering, and other related disciplines required for the successful completion of the work. The final submittal of the Design Development documents shall include a statement of probable cost by an independent estimator to ensure budget control. The Designer shall submit Design Development documents to the City for a review and final approval prior to proceeding with the Construction Documents Phase of the Project.
- (c) Construction Documents: The Designer shall submit construction documents at 95% completion, for final review and comment by the City. The final submittal of bid documents shall be a sealed and signed set of construction documents detailing the work as it relates to materials, workmanship, finishes, and equipment required. The bid documents shall include plans, specifications, and a final statement of probable cost prepared by an independent estimator. The Designer shall also prepare all required permit applications needed prior to construction and obtain all required permits needed prior to construction.

- (d) Provide to the City an electronic copy of the construction documents and an electronic copy of the technical specification in Microsoft Word or PDF format.
- (e) Construction Administration: The Designer shall also provide a minimal level of construction administration and oversight of the project.
- (f) See Attachment A for a full scope to perform the design and construction administration for the City of Greenville Dream Park Community Building Improvements project.
- (g) Construction Budget: The Designer shall provide complete construction documents for the renovations of the Dream Park Community Building that has a maximum price for construction of \$1,000,000.00. The price shall include materials, labor, equipment, permits, and testing and construction inspection/administration.

Section 3: Notice to Proceed and Schedule.

- (a) Notice to Proceed: Upon award of the Contract, the Designer will receive a Notice to Proceed to develop a comprehensive Schedule. After completion and City approval of the Schedule, the Designer will receive a Notice to Proceed via a letter or email to the Designer. No work shall commence without receiving the Notice to Proceed from the City.

All final design documents shall be completed and delivered to the City within nine (9) months from the Contract Date, as specified in Section 2.2.1(c), Contract Deliverables, of the City Request for Qualifications (RFQ) dated and issued May 20, 2022.

- (b) Duration: This Agreement is in effect for a period of twelve (12) months from the date of Notice to Proceed for this agreement.
- (c) Disputed Items: In the event that the Designer's invoices and receipts are submitted in compliance with the requirements of this Agreement, if the City disputes any items in any invoices submitted by the Designer, City shall notify the Designer within sixty (60) days of receipt of any disputed item and request clarification and/or remedial action.

Section 4: Complete Work without Extra Cost.

Except to the extent otherwise specifically stated in this contract, the Designer shall obtain and provide, without additional cost to the City, all labor, materials, equipment, transportation, facilities, services, and licenses necessary to perform the Design Services.

Section 5: Compensation.

The City shall pay the Designer based on the completed services outlined for the following phases:

- Schematic Design
- Design Development
- Final Construction Documents
- Management of Construction Bid Process
- Construction Administration

The Designer shall send invoices to the City on a monthly basis for the amounts to be paid pursuant to this Contract. Each invoice shall document, to the reasonable satisfaction of the City, such information as may be reasonably requested by the City. Within twenty (20) days after the City receives an invoice, the City shall send the Designer a check in payment for all undisputed amounts contained in the invoice.

The City shall not be obligated to pay the Designer any payments, fees, expenses, or compensation other than those authorized by this Section. The total dollar amount to be paid under this contract by the City to the Designer shall not exceed \$174,800.00.

Section 6: Prompt Payment to Subcontractors.

Designer shall promptly pay all Subcontractors upon receipt of payment from the City. The City may, as a condition of final payment, require the Designer to submit an affidavit stating that all Subcontractors, if any, have been paid in full for any work completed for services provided under the subcontract.

Section 7: Insurance.

The Designer agrees to purchase, at its own expense, insurance coverages to satisfy the following minimum requirements as detailed in this Section. A certificate reflecting the following minimum coverages shall accompany this Contract. The Designer shall not commence services under this Contract until the Designer has obtained all insurance required, and such insurance has been approved in writing by the City. Insurance required shall remain in effect through the term of this Contract. Failure to maintain the required insurance coverage shall constitute grounds for Contract termination.

Insurance requirements are as follows:

- (a) Public Liability and Property Damage: The Designer shall take out and maintain, during the life of this Contract, Commercial General Liability Insurance that shall protect from claims for damage for Bodily Injury, Property Damage, Personal Injury, including death which may arise from operations under this contract, whether such operations be by the Designer or by any subcontractor, sub-consultant, or by anyone directly or indirectly employed by any of the above.

The Minimum Limits of Insurance required are:	
Each Occurrence:	\$1,000,000
Personal and Advertising Injury:	\$1,000,000
General Aggregate:	\$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 Risk Manager for the City of Greenville. 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.

The City of Greenville must be added as an Additional Insured to the Commercial General Liability policy.

- (b) Automobile Liability Insurance (If Applicable):

Limit of Insurance: \$1,000,000 combined single limit.

The City of Greenville must be added as an Additional Insured on the Commercial Auto Liability policy.

(c) Workers Compensation Insurance:

Limits of Insurance: 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

No subcontractor may exclude executive officers. Workers Compensation must include all employees.

(d) Cancellation: Each certificate of insurance shall bear the provision that the policy cannot be canceled in less than thirty (30) days after mailing written notice to the assured of such cancellation. The Insurance policies must be endorsed to reflect a thirty (30) day notice of cancellation or material change in coverage be given to the City of Greenville.

(e) Sub-Consultants: If any part of the services to be performed under this Contract is sublet, the sub-Designer shall be required to meet all insurance requirements set forth in this Agreement. The parties stipulate that the Designer will maintain each type of insurance set forth above at a coverage level equal to the amount set forth above for such type of insurance. However, nothing contained herein shall relieve the Designer from meeting all insurance requirements or otherwise being responsible for the sub-consultant.

Section 8: Performance of Work by City.

If the Designer fails to perform the Work in accordance with the schedule referred to in Section 2 above, the City may, in its discretion, in order to bring the project closer to the schedule, 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 the Designer notice of its intention. The Designer 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.

Section 9: Trade Secrets; Confidentiality.

The Request for Qualifications (RFQ) section titled "Trade Secrets and Confidentiality" shall apply to any Trade Secrets disclosed to the City during the process leading to the parties' entering into this Contract (including all of the Designer's responses to the RFQ). This Section (titled "Trade Secrets; Confidentiality") shall remain in force despite termination of this contract, whether by expiration of the term or otherwise, and termination of the services of the Designer under this contract. For purposes of this contract, the word "Proposer" in the RFQ section just cited shall mean the "Designer."

Section 10: Termination for Convenience ("TFC").

(a) Procedure: Without limiting any party's right to terminate for breach, the City may, without cause, and in its discretion, terminate this Contract for convenience by giving the Designer written notice

that refers to this Section. TFC shall be effective at the time indicated in the notice. The City Manager may terminate under this Section without City Council action.

- (b) Obligations: Upon TFC, all obligations that are still executory, on both sides, are discharged except that any right based on prior breach or performance survives, and the indemnification provisions shall remain in force. At the time of TFC, or as soon afterwards as is practical, and upon the City's payment to Designer of monies due, the Designer shall deliver to the City all project documents, including partly completed project documents, provided however that the City assumes all risk for use of the project documents after TFC, and the Designer shall be relieved of any liability whatsoever. In case of TFC, the Designer shall follow the City's instructions as to which Subcontracts to terminate.
- (c) Payment: The City shall pay the Designer an equitable amount for the costs and charges that accrue because of the City's decisions with respect to the Subcontracts, but excluding profit for the Designer. Within twenty (20) days after TFC, the City shall pay the Designer a one hundred dollar (\$100.00) TFC fee and for all services performed except to the extent previously paid for. Services shall be paid for in accordance with the method (unit prices, hourly fees, etc.) to be used for payment had the services been completed except to the extent it would be inequitable to either party, and if services were 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 such services. The Designer shall not be entitled to any payment except as stated in this Section because of TFC, whether on the basis of overhead, profit, damages, other economic loss, or otherwise.

Section 11: Notice.

- (a) Address: All notices and other communications required or permitted by this Contract shall be in writing and shall be given either by personal delivery, fax, or certified United States mail, return receipt requested, addressed as follows:

To the City of Greenville:  
c/o Greenville Recreation and Parks Department  
P.O. Box 7207  
Greenville, NC 27835

To the Designer:  
HH Architecture  
1100 Dresser Court  
Raleigh, NC 27609

- (b) Change of Address & Date Notice Deemed Given: A change of address, fax number, or person to receive notice may be made by either party by notice given to the other party. Any notice or other communication under this Contract shall be deemed given at the time of actual delivery, if it is personally delivered or sent by fax. If the notice or other communication is sent by United States mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the United States Postal Service or upon actual delivery, whichever first occurs.

Section 12: Indemnification.

- (a) Hold Harmless: The Designer shall, to the extent permitted under North Carolina law, indemnify and hold harmless the City and its officers and employees from and against all liabilities, damages, losses and costs that arise in any manner from, in connection with, or out of this Contract as a result of acts or omissions of the Designer or any sub-consultant or other persons employed or utilized by the Designer in the performance of this Contract except when such liabilities, damages, losses,

and costs are proximately caused by or result from the negligence, in whole or in part, of the City or its independent Designers, agents, officers or employees.

- (b) 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 Designer under this contract.
- (c) Compliance with law: It is agreed that this Section shall be applied to the maximum extent allowed by law and limited only as necessary to comply with N.C.G.S. § 22B-1.

Section 13: Ownership of Work Products.

- (a) The Designer hereby assigns to the City, without reservation, all copyrights in all Work-related documents, including sketches, models, photographs, data sets, source code and scripts, and other Work-related expressions created by the Designer. Among those documents are certain “Work Product,” including Work-related deliverables, programs, applications, reports, design drawings, and construction documents. The City’s obligation to pay the Designer is expressly conditioned upon the Designer’s obtaining a valid written comprehensive assignment of copyrights from its subcontractors in terms identical to those that obligate the Designer to the City as expressed in this subsection, which copyrights the Designer, in turn, hereby assigns to the City. The City, in return, hereby grants the Designer and its subcontractors a revocable, nonexclusive license to reproduce the documents for purposes relating directly to the Designer’s performance of its obligations under this Contract for the Designer’s archival records, and for the Designer’s reproduction of drawings and photographs in the Designer’s marketing materials. This nonexclusive license shall terminate automatically upon the occurrence of either a breach of this Contract by the Designer or the accused commission by the Designer of a tort or a crime affecting the City or the Work or upon termination of this Contract. This nonexclusive license is granted to the Designer alone and shall not be assigned by the Designer to any other person or entity, except that the non-exclusive license granted in this Contract to the Designer for purposes of the Designer’s performance hereunder may be sub-licensed to the Designer’s subcontractors (with the same limitations). Subject to the foregoing, this nonexclusive license shall terminate automatically upon a Designer’s assignment of this nonexclusive license to another or its attempt to do so.
- (b) To the extent that liability arises from misuse of the Work Product by the City or another designer, the Designer shall not be responsible for that misuse. If the City uses the Work Products for purposes including additions to and modifications of the Work, and for other projects, the City shall indemnify the Designer for losses, including reasonable attorneys’ fees, suffered by the Designer as a result of the use of the design and these documents for such other purposes. If these documents are used for other purposes, the City shall see that they are modified (i) to indicate that the Designer did not prepare them for such other purposes and is not responsible for their use in connection with such other purposes and (ii) to delete the Designer’s name and seal from the documents (where permitted or required by law).
- (c) Except for the licenses granted in this Section, no other license or right shall be deemed granted or implied under this Contract. No other Work-related data, expression, or documents may be reproduced by the Designer or its subcontractors for any other purposes without the express written permission of the City.
- (d) If the City subsequently reproduces Work-related documents or creates a derivative work based upon Work-related documents created by the Designer, the City shall (where permitted or required by law) remove or completely obliterate the original professional’s seals, logos, and other

indications on the documents of the identity of the Designer and its subcontractors.

Section 14: Standard of Care.

The standard of care for all professional design and related services performed or furnished by Designer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing on similar projects whether such projects can be found locally, regionally or nationally. Subject to the foregoing standard of care, Designer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards. The Designer warrants the accuracy of Designer's representations made to City as to Designer's qualifications and experience during the process in which the City selected the Designer. The Designer represents and warrants that it has the requisite professional licensure and registration required by the State of North Carolina necessary to perform the work.

Section 15: Dispute Resolution.

The City and Designer agree to negotiate each dispute between them in good faith during the thirty (30) days after providing the other party with a notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the City and Designer may agree to mediation. If mediation is used and is unsuccessful, then the parties may exercise their rights at law. If, however, such dispute arises after the City has engaged a general contractor for construction work and during the construction administration phase, if any, the City and Designer may avail themselves of the dispute resolution process adopted by the State Building Commission pursuant to G.S. § 143-135.26(11) and G.S. § 143-128(f1).

Section 16: Miscellaneous.

- (a) Choice of Law and Forum: This Contract shall be deemed made in Pitt County, North Carolina. This Contract shall be governed by and construed in accordance with the law of North Carolina. The exclusive forum and venue for all actions arising out of this Contract shall be the North Carolina General Court of Justice, in Pitt County. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.
- (b) Waiver: No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out of this Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.
- (c) Performance of Government Functions: Nothing contained in this Contract shall be deemed or construed so as to in any way stop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.
- (d) Severability: If any provision of this Contract shall be unenforceable, the remainder of this Contract shall be enforceable to the extent permitted by law.
- (e) Assignment, Successors and Assigns: Without the City's written consent, the Designer shall not assign (which includes to delegate) any of its rights (including the right to payment) or duties that arise out of this Contract. The City Manager may consent to an assignment without action by the City Council. Unless the City otherwise agrees in writing, the Designer and all assignees shall be subject to all of the City's defenses and shall be liable for all of the Designer's duties that arise out of this Contract and all of the City's claims that arise out of this Contract. Without granting the Designer the right to assign, it is agreed that the duties of the Designer that arise out of this Contract

shall be binding upon it and its heirs, personal representatives, successors, and assigns.

- (f) Compliance with Law: Consistent with the Standard of Care set forth in this Contract, in performing all of the services, the Designer shall comply with all applicable law.
- (g) City Policy: THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS DESIGNERS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBDESIGNERS AND VENDORS UNDER CITY CONTRACTS.
- (h) EEO Provisions: During the performance of this Contract, the Designer agrees as follows: (1) The Designer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Designer shall take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Designer shall post in conspicuous places, available to employees and applicants for employment, notices setting forth these EEO provisions. (2) The Designer shall in all solicitations or advertisement for employees placed by or on behalf of the Designer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. (3) The Designer shall send a copy of the EEO provisions to each labor union or representative of workers with which it has a collective bargaining agreement or other Contract or understanding. (4) In the event of the Designer's noncompliance with these EEO provisions, the City may cancel, terminate, or suspend this Contract, in whole or in part, and the City may declare the Designer ineligible for further City Contracts. (5) Unless exempted by the City Council of the City of Greenville, the Designer shall include these EEO provisions in every purchase order for goods to be used in performing this Contract and in every Subcontract related to this Contract so that these EEO provisions will be binding upon such sub-Designer and vendors.
- (i) No Third Party Rights Created: This Contract is intended for the benefit of the City and the Designer and not any other person.
- (j) Principles of Interpretation and Definitions: In this Contract, unless the context requires otherwise: (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) Titles of sections, paragraphs, and articles are for convenience only, and shall not be construed to affect the meaning of this Contract. (5) "Duties" includes obligations. (6) The word "person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (7) The word "shall" is mandatory. (8) The word "day" means calendar day.
- (k) Modifications of Entire Agreement: A modification of this Contract is not valid unless signed by both parties and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless the City Manager or a Deputy or Assistant City Manager signs it for the City. This Contract contains the entire agreement between the parties pertaining to the



subject matter of this Contract. With respect to that subject matter, there are 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.

- (l) Hazardous Materials: Designer shall have no responsibility or liability for the discovery, presence, identification, evaluation, handling, removal or disposal of or exposure of persons to hazardous (or allegedly hazardous) materials in any form at the project, including but not limited to asbestos, mold, mildew, PCB or other toxic substances.
- (m) E-verify Compliance: The Designer shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Designer utilizes a Subcontractor, the Designer shall require the Subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. By submitting a proposal, the Proposer represents that their firm and its Subcontractors are in compliance with the requirements of Article 2 Chapter 64 of the North Carolina General Statutes.
- (n) Iran Divestment Act: Vendor certifies that (i) it is not identified on the Final Divestment List or any other list of prohibited investments created by the NC State Treasurer pursuant to N.C.G.S. 143-6A-4; (ii) it will not take any actions causing it to appear on any such list during the terms of this contract, and (iii) it will not utilize any subcontractor to provide goods and services hereunder that is identified on any list.

Section 17: Attachments.

The following Attachments shall be a part of this contract:

- (a) Designer Scope of Work & Fee
- (b) RFQ
- (c) Coronavirus State & Local Fiscal Recovery Funds Addendum (ARPA)
- (d) MWBE Forms

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

CITY OF GREENVILLE:

HH ARCHITECTURE:

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: Ann E. Wall, City Manager

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

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

Account: \_\_\_\_\_



1100 DRESSER COURT RALEIGH, NC 27609  
 919 828-2301 TEL 919 828-2303 FAX HH-ARCH.COM

~~August 24, 2022; August 31, 2022;~~ Revised September 13, 2022

Ross Peterson  
 Parks Facilities Manager City  
 of Greenville  
 Greenville Recreation and Parks Department Parks  
 Division  
 101 Hooker Road  
 Greenville, NC 27834  
 (252) 329-4554

Sent via email to: rpeterson@greenvillenc.gov

RE: Dream Park Community Building Improvements HH  
 Project number: 22-073

Dear Mr. Peterson,

HH Architecture is pleased to present this proposal for the improvements to the Dream Park Community Building located at 1700 Chestnut St., Greenville, NC. It is our understanding that the City of Greenville would like to secure design services to design, engineer, and permit improvements to the existing building and site.

#### 1) Basic Scope

The building is approximately 5,500 sqft in size and was originally constructed in the 1930's. Expected scope demolition of interior finishes and non-code-compliant features, and the complete renovation of the entire building. It is anticipated that some exterior site work will be needed to ensure the building is ADA accessible. The interior design goals are to include a large open space, a few unisex bathrooms, storage space, and a kitchenette. Currently, the existing building is a single-story building with exterior wood framed walls with brick veneer supporting clear span heavy timber trusses spaced 14 feet on-center with 2x8 rafters spaced 24 inches on-center and a wood decking roof system.

It is understood that the budget of this project is \$1,000,000 including hard and soft costs. Architectural scope

includes the following:

- Overall leader of the project
- Confirm programmatic requirements
- Conduct meetings with Owner during the design phases
- Design of renovation and new construction as described above
- Provide code summary and compliance design
- Coordinate all disciplines of design
- Assist with questions

- Assist with bidding
- Oversee construction

Civil scope includes the following:

- Site design related to exterior improvements necessary to make the building ADA accessible
- Associated utility service improvements to compliment interior building renovation
- Work with City Staff during Site Plan review process (board level submittals excluded)

Structural scope includes the following:

- Review of existing structural conditions to confirm the feasibility of removing interior walls (to create more open floor plan).
- Adding hold down anchors at the truss to wall bearing conditions
- Adding wood blocking at all exterior walls with direct fastening of the roof diaphragm (turning walls into shear walls)
- Adding foundation hold-down anchors at the corners of the building at shear walls
- Adding anchors along the length of all exterior walls for adequate shear resistance
- Adding plywood roof sheathing on the interior of existing walls to increase lateral shear resistance
- Design of new lintels as needed at new openings in exterior walls, potentially new lintels above original fire station overhead doors
- Repair / replacement of deteriorated wood posts and beams at porches and roof overhangs on each end of the building
- New concrete ramps on grade for ADA accessibility
- Construction Observation services
  - Includes Shop Drawing, Submittal, and RFI review
  - Two site visits during CA are included
  - Pre-Bid and Pre-Construction site visits are not included

MEP scope includes the following:

- Plumbing, HVAC, electrical, and fire alarm design related to the building renovations
- Raceway and other supporting infrastructure design
- Construction Observation services
  - Includes Shop Drawing, Submittal, and RFI review
  - Two site visits during CA are included
  - Pre-Bid and Pre-Construction site visits are not included

Cost Estimate scope includes the following:

- (1) Cost estimate, review, and revisions with modest allowance for alternates pricing for the following phases:
  - Combined Schematic Design / Design Development
  - Construction Documents

## 2) Additional Services

Boundary and Topographic Survey Allowance (Required Service):

- Gary S. Miller and Associates, PA (sub-consultant of the Civil Engineer) will perform a boundary and topographic survey of the area determined by the Civil Engineer to include the following:
  - Perform Perimeter Boundary Survey and Partial Topographic Survey of the project area as deemed appropriate by the civil engineer
  - Establish site horizontal and vertical control based on NAD '83 & NAVD '88 datums respectively
  - Location of existing utilities in the project area based upon above ground evidence, record drawing information obtained from utility owners, and marked locations revealed by calling in a utility locate ticket to the NC One Call Center
  -

3) Phases:

Combined Schematic Design / Design Development: HH will perform preliminary code analysis. Provide written project narrative, life safety plans, floor plans, building / wall sections, elevations, roof plan, reflected ceiling plan, room finish schedules, and cost estimate. Provide engineering drawings as required. Submit to Owner and coordinate for approval.

Construction Documents: Respond to all DD comments. Provide full working drawings and specifications. Submit to Owner and coordinate for approval.

Bidding: Lead and administer the Bidding and Negotiation process.

Construction Administration: Basic fee includes construction administration for an estimated duration of 9 months (39 weeks). Perform architectural coordination, submittal review, and related Construction Administration. Lead the pre-construction meeting. Provide bi-monthly jobsite visits (anticipated 5 visits) and lead monthly construction meetings. Includes (2) site visits from consultants during construction, to be scheduled as needed.

3) Fee

For the scope detailed above, we propose the following lump sum fees:

Basic Fee	
Combined SD/DD	\$44,100
Construction Documents	\$72,900
Bidding	\$9,900
Construction Administration	<u>\$40,400</u>
Subtotal Basic Fee	\$167,300
Additional Fees	
Boundary + Topographic Survey	<u>\$7,500</u>
Subtotal Additional Fees	\$7,500
Total Fee - Basic + Additional	\$174,800

4) Consultants:

For Civil Engineering, we propose: Ark Consulting Group, PLLC Contact: Bryan Fagundus, PE 2755 Charles Blvd. Suite B Greenville, NC 27858 Phone: (919) 469-3340

For Structural Engineering, we propose: Lynch Mykins Structural Engineers Contact: Jeff Morrison, PE 301 N. West Street, Suite 105 Raleigh, NC 27603 Phone: (919) 782-1833

For Mechanical, Electrical, and Plumbing (MEP) Engineering, we propose: Sigma Engineered Solutions Contact: Reggie Adams, PE 5909 Falls of Neuse Rd. Suite 101 Raleigh, NC 27609 Phone: (919) 840-9300

For Cost Estimating, we propose: Palacio Collaborative Contact: Michael Palacio 400 Galleria Parkway SE, Suite 1500 Atlanta, GA 30339 Phone: (404) 609-9006

5) Schedule:

The City of Greenville hopes to have all design and permitting completed within a 6-month time period. We anticipate the schedule for this project to be as follows:

Combined Schematic Design / Design Development	10 weeks
Owner Review + Comment*	1 week
Construction Documents	12 weeks
Owner Review + Comment*	1 week
Final Bid / Permit Set	2 weeks
Bidding	4 weeks
Contracts	4 weeks
Construction**	39 weeks

6) Assumptions

Our fees and scope of services described above are based on the following specific assumptions:

- It is assumed that the existing utilities on the property are adequate and this project will not require new utility main extensions or offsite improvements to provide domestic water and sanitary sewer, irrigation water, fire protection water, natural gas, electric utilities, or communication utilities.
- It is assumed that the site limits approximately follow the extent of the parking areas. Existing sidewalks, parking, and adjacent park features will be minimally affected, if at all.

- Owner to provide topographical parcel survey, geotechnical report, and any other available documentation related to the project.
- Owner will provide access to the site, if needed.
- All MEP related design services end 5' -0" from the building, from that point the utilities are under civil engineer's scope.
- Depending on final use and occupancy, lateral load resisting system upgrades may be needed to meet Code requirements for a Risk Category III building
- All drawing submission to Owner and AHJ are assumed to be digital. Any physical copies needing to be printed will be billed to the Owner.

## 7) Exclusions

Excluded Services, to be billed as Additional Services only if required:

- Construction budget is increased, or schedule is extended
- Any work not specifically included above or significant scope changes beyond what is stated in this proposal.
- Exhibit Design
- Design paperwork/compliance with a 3rd party rating system, such as LEED, Green Globes, Well Building, etc.
- Value Engineering design after the completion of the DD phase
- Energy Modeling efforts or Life Cycle Cost Analysis.
- Entitlement services.
- Variance and Quasi-Judicial processes.
- Traffic Impact Analysis.
- Hydrant flow determination and hydraulic analyses.
- Geotechnical Services.
- Permitting fees.
- Punchlist and final inspection excluded from Construction Administration
- Project will disturb less than 0.5 acres for purposes of commercial development, therefore preparation of a Stormwater Management Plan and design of a Stormwater Control Measure is excluded from scope
- Project will disturb less than 1 acre and therefore the preparation of a Soil Erosion & Sedimentation Control Plan is excluded from scope
- Design of off-site utility, roadway and/or storm drainage improvements
- Board level submittals for Site Plan review
- Parking Improvements design
- Environmental services, including wetland or stream delineation, soil investigations, seasonal high-water table determinations, no-rise certifications, and underground tank removal
- Rezoning and special use permitting
- Flood study evaluations
- Site electrical design (including lighting)
- Structural engineering of retaining wall design, if needed
- Site/landscape specific color renderings or animations
- Representation for court appearances for litigation, or preparation for the same
- Certifications and as-built/record drawings
- Services related to fire protection (sprinklers)
- Services related to security, telecom, and AV design
- Hazardous materials survey and abatement design (to be provided by Owner)

Please let me know if you need additional information. We are excited to begin this project!

Sincerely,

A handwritten signature in black ink that reads "Kristen M. Hess" followed by a horizontal flourish and a period.

Kristen M. Hess, AIA, LEED AP  
Principal





## Recreation and Parks Department

2000 Cedar Lane  
Greenville, NC 27858

## Request for Qualifications (RFQ)

Date of Issue: *June 24, 2022*



### **Dream Park Community Building Improvements**

Through this RFQ, the City of Greenville is soliciting Statements of Qualifications from architecture and engineering firms for the provision of design and construction bid documents associated with the City's federal ARPA grant related to various proposed improvements at the former West End Fire Station, now known as the Dream Park Community Building.

Project Manager Contact Information:  
Ross Peterson, Parks Facilities Manager  
City of Greenville  
Greenville Recreation and Parks Department  
Parks Division  
(252) 329-4554  
[rpeterson@greenvillenc.gov](mailto:rpeterson@greenvillenc.gov)

## 1. DEFINITIONS IN THIS RFQ

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“**City**” means the City of Greenville.

“**Statement of Qualifications**” or “**SOQ**” is the response of a person, firm, or corporation proposing to provide the services sought by this RFQ.

“**Proposer**” is the person, firm, or corporation that submits an SOQ.

“**Designer**” is the Proposer with which the City enters into a contract to provide the services stipulated in this RFQ.

## 2. PURPOSE OF RFQ & SCOPE OF SERVICES

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The purpose of this RFQ is to secure design services to design, engineer, and permit, improvements to the Dream Park Community Building. The Dream Park Community Building is approximately 5,500 sqft in size and was built in the 1930’s. Proposed improvements will include the removal of any hazardous building materials, demolition of existing interior finishes, and completely renovating the entire building. The design and permitting phase should be completed in 6 months.

The Dream Park Community Building is located at 1700 Chestnut St, Greenville, NC.

### 2.1. SCOPE OF SERVICES

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The City of Greenville seeks a qualified firm to develop contract documents that includes site plan, facility design, construction documents, project manual, technical specifications, permitting documents and applications, and a statement of probable construction cost. The Designer shall prepare construction documents for the Dream Park Community Building Improvements with the following building program elements:

**2.1.1. CONTRACT DELIVERABLES** – The Designer shall provide the following deliverables:

- a. **Schematic Phase**: Facilitate design meetings with the City to develop design solutions that accommodate desired elements. The Designer shall confirm all existing conditions documentation with the city, and prepare design studies including demolition, preliminary plans and site/civil plans. The Designer shall submit schematic plans (30% completion of Construction Documents) for review, comment and approval by the City. A preliminary probable cost statement prepared by an independent estimator shall accompany the schematic drawings to ensure budget control.
- b. **Design Development**: The Designer shall provide design Development Documents (65% completion of construction documents), that include demolition plans, floor plans, sections and elevations, and outline specifications. In addition to architectural drawings, the Design Development documents shall include engineering, and other related disciplines required for the successful completion of the work. The final

submittal of the Design Development documents shall include a statement of probable cost by an independent estimator to ensure budget control. The Designer shall submit Design Development documents to the City for a review and final approval prior to proceeding with the Construction Documents Phase of the Project.

- c. Construction Documents: The Designer shall submit construction documents at 95% completion, for final review and comment by the City. The final submittal of bid documents shall be a sealed and signed set of construction documents detailing the work as it relates to materials, workmanship, finishes, and equipment required. The bid documents shall include plans, specifications, and a final statement of probable cost prepared by an independent estimator. The Designer shall also prepare all required permit applications needed prior to construction and obtain all required permits needed prior to construction.

In addition, the Designer shall provide the City with an electronic copy of the final construction documents and an electronic copy of the technical specification in Microsoft Word or PDF format.

Construction Administration: The Designer shall also provide a minimal level of construction administration and oversight of the project.

This scope provides a best representation of the work to be completed; however, the City reserves the right to make reasonable changes in scope that do not significantly augment the overall outcome of the project.

## **2.2. CITY RESPONSIBILITIES**

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The City of Greenville shall be responsible for:

- a. Providing the Designer with copies of relevant materials that can assist the consultant in his/her design. Note that the City can only provide materials that are currently in existence, and is not responsible for information that is incorrect, incomplete, or out of date.
- b. Providing the Designer with copies of relevant City of Greenville plans, studies, master plans, ordinances, design guidelines and special plans of the project area.
- c. Providing the Designer with a summary of the findings from any previous related Public Input Sessions, if they exist.
- d. Providing access to the proposed construction site during normal business hours of operation.

The City of Greenville shall work closely with the Designer to answer questions, make decisions, provide guidance and assist with coordination where needed. The City's responsibilities do not include conducting research and design tasks for the consultant.

### 2.3. CONTRACT

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It is the City's intention to use a contract provided by the chosen design firm, either EJC or AIA is acceptable. The City may include additional contract provisions, some of which are found in Appendix C.

## 3. SUBMITTAL REQUIREMENTS

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Firms that are interested in providing the required services to the Greenville Recreation and Parks Department (GRPD) are invited to submit a Statement of Qualifications (SOQ), in electronic format along with four paper hard copies, to Ross Peterson at 101 Hooker Rd Greenville, NC 27834, and [rpeterson@greenvillenc.gov](mailto:rpeterson@greenvillenc.gov). Each firm is solely responsible for the timely delivery of its SOQ. All SOQs must be received **by 2:00 pm local time on Tuesday, July 19, 2022. No Qualification Packages will be accepted after this deadline.** Firms accept all risks of late delivery regardless of fault.

### 3.1. SUBMITTAL TIMELINE

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The following is the likely schedule and timing leading up to a contract signing. The City may change this schedule as appropriate

Advertisement .....	June 24, 2022
Last Day to Submit Questions .....	July 6, 2022
Questions Answered by.....	July 8, 2022
SOQs Submitted.....	July 19, 2022
Short Listed Consultant Interviews (if needed) .....	July 25-27, 2022
City Council Designer Approval.....	August 15, 2022

### 3.2. FORMAT

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The SOQ should be divided into the individual sections listed below. Proposers are urged to include only information that is relevant to this specific project so as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of the RFQ and emphasize the Proposer's demonstrated capability to provide services of this type.

All requirements and questions should be addressed and all requested data should be supplied. The City reserves the right to request additional information which, in its opinion, is necessary to ensure that the Proposer's competence, number of qualified employees, business organization and financial resources are adequate to perform according to contract.

#### 3.2.1. COVER LETTER

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The SOQ should contain a cover letter, signed by a principal in the firm, indicating his or her title that he or she has authority to submit the proposal on behalf of the firm, including the cover letter, and which should contain the following statement:

"The undersigned has the authority to submit this SOQ on behalf of the legal name of company in response to the City of Greenville RFQ for the Dream Park Community Building Improvements"

The cover letter should contain one of the following two paragraphs:

“With respect to all trade secrets that the Proposer may submit to the City in connection with this SOQ or the Contract, if the Contract is awarded to the Proposer, the Proposer shall comply with the section of the RFQ titled “Trade Secrets and Confidentiality,” (see Appendix A) including but not limited to all of its subsections, such as the subsection titled “Defense of City.” The Proposer acknowledges that the City will rely on the preceding sentence.”

-or-

“The Proposer is not submitting and shall not submit any trade secrets to the City in connection with this SOQ or the Contract, if the Contract is awarded to the Proposer.” The Proposer acknowledges that the City will rely on the preceding sentence.

### **3.2.2. NON-COLLUSION**

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This RFQ constitutes an invitation to bid or propose. Firms and their staff are prohibited from communicating with elected City officials and City employees regarding the RFQ or submittals from the time the RFQ has been released until all respondents have been notified and the selection results have been publicly announced. These restrictions extend to “thank you” letters, phone calls, and emails and any contact that results in the direct or indirect discussion of the RFQ and/or the Qualification Package submitted by the firm/team. Violation of this provision by the firm/team and/or its agents may lead to the disqualification of the firm’s /team’s submittal from consideration. Exceptions to the restrictions on communications with City employees are detailed in **Section 3.5 of the RFQ**. Acknowledge that you have read this section by including the following signed Non-Collusion affidavit with your response:

*The City of Greenville prohibits collusion, which is defined as a secret agreement for a deceitful or fraudulent purpose.*

*I, \_\_\_\_\_ affirm that I have not engaged in collusion with any City employee(s), other person, corporations or firms relating to this bid, SOQs or quotations. I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.*

*Signature: \_\_\_\_\_*

### **3.2.3. PROJECT TEAM (TAB 1)**

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Behind “Tab1” respond to the following requirements in the same sequence as listed:

- a). Identify the legal entity that would enter into the contract with the City and include location of company headquarters, local office location, type of business (sole proprietorship, partnership, or corporations), state of incorporation or organization, and the name and title of the person authorized to enter into an agreement.
- b). Identify the primary contact professional who would be assigned responsibility for this project and note their experience with projects of a similar scope. Also identify other assigned personnel, their qualifications and their location.

- c). For proposed sub-consultants, provide the name of each firm, the office location, contact name and telephone number, and the service to be provided.
- d). Provide an organizational chart, identifying all key members of the team including sub-consultants who would be assigned to this project. **Specifically identify individuals who will serve as project managers.**
- e). Provide a description of the professional and technical experience, background, qualifications and professional licensing / certification of the firm. The Proposer should show that their firm possesses demonstrated experience in all areas of the project scope of services.
- f). Include detailed resumes of all team members assigned to this project including sub-consultants.
- g). Illustrate the project availability of proposed project team members by indicating the percentage of their time to be devoted to the project.

#### **3.2.4. RELEVANT EXPERIENCE (TAB 2)**

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Provide a summary of Proposer's experience with projects of similar scope.

Behind "Tab 2", to be attached to the SOQ, include detailed information for a maximum of ten previously completed projects by the firm or its sub-consultants that are similar in nature to this specific project, including, but not limited to, contracts with the City, currently in progress or having been performed in the past five (5) years comparable to this project as follows:

- List only projects **involving current staff** comprising your proposed team;
- List projects in **date order** with newest project listed first; and
- List projects in **North Carolina** first, followed by projects located in other states.

Information should include a description of the project, scope of work, location of project and total project cost; client name and telephone number; and dates of project work. As part of the selection process the City may contact the Proposer's references.

#### **3.2.5. METHODS AND PROCEDURES (TAB 3)**

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The Proposal should provide a detailed methodology for accomplishing the entire project scope. This project approach shall include additional suggestions that are not specifically requested in this RFQ, but are considered necessary to ensure the highest degree of safety, constructability, value and operation. The respondent shall also provide an estimated amount of time needed to complete this scope of work. There is a not to exceed timeframe of 10 months for the design phase of work to be completed, after contract is fully executed.

If your SOQ assumes that the City will take certain actions or provide certain facilities, data or information, state these assumptions explicitly.

#### **3.2.6. EQUAL BUSINESS OPPORTUNITY PROGRAM (TAB 4)**

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It is the policy of the City of Greenville to provide minorities and women 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 an adopted a Minority and Women Business Enterprise (M/WBE) Plan and subsequent program, outlining verifiable goals.

**The City has established a 4% Minority Business Enterprise (MBE) and 4% Women Business Enterprise (WBE) goal** for the participation of M/WBE firms in supplying goods and services for the completion of this project. All firms submitting qualifications and/or proposals agree to employ “good faith efforts” towards achieving these goals and supply other information as requested in the “M/WBE Professional and Personal Services Forms” included in **Appendix B. Failure to complete the M/WBE forms shall be cause to deem the submittal nonresponsive.**

Questions regarding the City’s M/WBE Program should be directed to the M/WBE Office at (252) 329-4462.

### **Equal Employment Opportunity Clause**

The City has adopted an Equal Employment Opportunity Clause, which is incorporated into all specifications, purchase orders, and contracts, whereby a vendor agrees not to discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin or ancestry. By submitting qualifications and/or proposals, the firm is attesting that they are an Equal Opportunity Employer.

Include the completed forms behind “Tab 4” to be attached to the SOQ.

### **3.3. LIMIT ON CLAIMS**

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No Proposer will have any claims or rights against the City for participating in the SOQ process, including without limitation submitting an SOQ. The only rights and claims any Proposer will have against the City arising out of participating in the SOQ process will be in the Contract with the selected Proposer.

### **3.4. COMMUNICATION GUIDELINES AND QUESTIONS**

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Firms may submit written questions concerning this RFQ to the Project Manager for receipt no later than **5 pm local time on Tuesday, July 6, 2022**. Any questions about the RFQ should be submitted, in writing via email to:

Ross Peterson, Parks Facilities Manager  
City of Greenville  
Recreation and Parks Department

via Email: [rpeterson@greenvillenc.gov](mailto:rpeterson@greenvillenc.gov)

Questions received after the stated deadline will not be answered. Answers to submitted questions will be published. No oral statement of any person shall modify or otherwise change or affect the terms, conditions, or specifications stated in the RFQ, and changes to the RFQ, if any, shall be made in writing only and issued in the form of an Addendum to the RFQ.

### 3.5. COMPENSATION

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Compensation will be negotiated with the successful Proposer.

### 3.6. EVALUATION CRITERIA

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It is the policy of the City that the selection of firms to provide professional services shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. GRPD shall conduct a fair and impartial evaluation of all submittals that are received in accordance with the provisions of this RFQ. GRPD will appoint a selection committee to perform the evaluations, and shall put each SOQ submitted through a process of evaluation to determine responsiveness to all administrative and technical requirements of the RFQ.

The evaluation criteria are intended to be used to make a recommendation to the entity or person who will award the contract, but who is not bound to use these criteria or to award to a firm on the basis of the recommendation. Further, the City reserves the right to vary from this procedure as it determines to be in the City's interest. For example, the City may request clarification of any point in a firm's/team's Qualification Package or obtain additional information. Final approval of any selected firm/team is subject to the action of City Council.

#### 3.6.1. EVALUATION METHOD

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Compliance Check: All SOQs will be reviewed to verify that minimum requirements have been met. SOQs that have not followed the requirements in this RFQ or do not meet minimum content and quality standards may be eliminated from further consideration.

Analysis: Members of an evaluation team assigned by the Project Manager will independently analyze each SOQ. The evaluation team will analyze how the Proposers' qualifications, experience, professional content, and proposed methodology meet the City's needs. Points will be assigned by each committee member using the point-scoring schedule below as a guideline.

At the discretion of the City, the evaluation team may decide to conduct interviews of a short list of Proposers.

#### 3.6.2. POINT-SCORING SCHEDULE

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Qualifications will be evaluated using the minimum following criteria (Total possible points = 100):

**1). Proposer's Qualifications and Experience: 30 Points**

Verifiable technical capacity, experience on similar projects and an outstanding record of successfully completed projects. Past performance on City projects may be considered.

**2). Personnel Qualifications and Experience: 20 Points**

Proposer's principal(s), years of experience and number of years with the firm/company. Proposer's location and experience of personnel assigned to the project, their projected educational background, certification and licensing that are deemed to meet the project requirements.



**3). Project Approach: 25 Points**

Proposer’s familiarity with, and understanding of the project and their ability to innovate upon and complete the work.

**4). Workload / Ability to meet Schedule: 20 points**

Proposer’s current workload, number of active projects, and availability to work on this project.

**5). Proposer’s Accessibility: 5 points**

Proposer’s geographic location and methods of accessibility through technology

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**4. ADDITIONAL PROVISIONS OF THIS RFQ**

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A response to this RFQ should not be construed as a contract, nor indicate a commitment of any kind. The RFQ does not commit the City to pay for costs incurred in the submission of a response to this RFQ or for any cost incurred prior to the execution of a final contract. No recommendations or conclusions from this RFQ process concerning any firm shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law or statutory law of North Carolina. No binding contract, obligation to negotiate, or any other obligation shall be created on the part of the City unless the City and a firm jointly execute a contract.

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**4.1 SPECIAL PROVISIONS FEDERAL CLAUSES FOR SERVICES**

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**This Contract will be funded in whole or in part with federal funding. As such, federal laws, regulations, policies and related administrative practices apply to this Contract. The most recent of such federal requirements, including any amendments made after the execution of this Contract shall govern the Contract, unless the federal government determines otherwise. This section identifies the federal requirements that may be applicable to this contract. The Vendor is responsible for complying with all applicable provisions, updates or modifications that occur in the future relating to these clauses.**

**The federal requirements contained in the most recent version of the Uniform Administrative Requirements for federal awards (Uniform Rules) codified at 2.C.F.R., Part 200, including any certifications and contractual provisions required by any federal statutes or regulation referenced therein to be included in this contract are deemed incorporated into this contract by reference and shall be incorporated into any sub-agreement or subcontract executed by the Vendor pursuant to its obligations under this Contract. The Vendor and its sub-contractors, if any, hereby represent and covenant that they are have complied and shall comply in the future with the applicable provisions of the original contract then in effect and with all applicable federal, state, and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to Work to be performed under this contract.**

No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Program Fraud and False or Fraudulent Statements or Related Acts

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.

### Access to Records

The following access to records requirements apply to this contract:

- (1) The contractor agrees to provide the City of Greenville, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The contractor agrees to provide City access to construction or other work sites pertaining to the work being completed under the contract.

### Changes

Any change in the contract cost, modification, change order, or constructive change must be allowable, allocable, within the scope of its funding, grant or cooperative agreement, and reasonable for the completion of project scope. All changes and/or amendments to the contract will be outlined in detail, formalized in writing, and signed by the authorized representative of each party. A Contractor's failure to do so shall constitute a material breach of the contract.

### Termination for Convenience (General Provision)

The City may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City to be paid the Contractor. If the Contractor has any property in its possession belonging to the City, the Contractor will account for the same, and dispose of it in the manner the City directs.

### Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the City may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the City that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the City, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

### Opportunity to Cure (General Provision)

The City in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to the City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) calendar after receipt by Contractor of written notice from the City setting forth the nature of said breach or default, the City shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the City from also pursuing all available remedies against Contractor and its sureties for said breach or default.

### Waiver of Remedies for any Breach

In the event that the City elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by the City shall not limit the City's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

### Equal Opportunity

"During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, 3 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States."

### Energy Conservation

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state conservation plan issued in compliance with the Energy Policy and Conservation Act.

### Suspension and Debarment

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

### Suspension and Debarment Certification

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the City. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any Contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

## **4.2. FINANCIAL CONDITION OF THE FIRM**

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The City may request that the Proposer provide an annual operating statement, completed income tax form, or other reasonably comprehensive evidence of financial condition. Financial data provided in response to this RFQ will be held confidential if marked "confidential".

The Proposer must be willing and able to provide insurance coverage, bonding and forms required by the City. The insurance required for professional services can be found in **Appendix C**.

## **4.3. DISCRETION OF THE CITY**

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The City of Greenville reserves the right to reject any or all SOQs. NOTWITHSTANDING anything to the contrary in this document or in any addendums to this document, unless the provision refers specifically to this provision, the City reserves the right (i) to negotiate reasonable changes of any nature with any firm proposing to do the work with respect to any term, condition, or provision in this document and/or in any SOQ.

#### **4.4. E-VERIFY COMPLIANCE**

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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. By submitting a proposal, The Proposer represents that their firm and its Subcontractors are in compliance with the requirements of Article 2 Chapter 64 of the North Carolina General Statutes.

#### **4.5. IRAN DIVESTMENT ACT**

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Vendor certifies that: (i) it is not on the Iran Final Divestment List created by the NC State treasurer pursuant to N.C.G.S. 147-86.58; (ii) it will not take any actions causing it to appear on said list during the term of any contract with the City, and (iii) it will not utilize any subcontractor to provide goods and services hereunder that is identified on said list.

## Appendix A: Trade Secrets and Confidentiality

As a general rule, all submissions to the City are available to any member of the public. However, if materials qualify as provided in this section, the City will take reasonable steps to keep Trade Secrets confidential.

**(a) Designation of Confidential Records.** The terms “Trade Secrets” and “record” are defined in (a)(1) (Definitions). To the extent that the Proposer wishes to maintain the confidentiality of Trade Secrets contained in materials provided to the City that will or may become a record, the Proposer shall prominently designate the material as “Trade Secrets” at the time of its initial disclosure to the City. The Proposer shall not designate any material provided to the City as Trade Secrets unless the Proposer has a reasonable and good-faith belief that it contains a Trade Secret. When requested by the City, the Proposer shall promptly disclose to the City the Proposer’s reasoning for designating individual materials as Trade Secrets. In providing materials to the City, the Proposer shall make reasonable efforts to separate those designated as Trade Secrets from those not so designated, both to facilitate the City’s use of records and to minimize the opportunity for accidental disclosure. For instance, if only a sentence or paragraph on a page is a Trade Secret, the page must be marked clearly to communicate that distinction. To avoid mistake or confusion, it is generally best to have only Trade Secret information on a page and nothing else on that page. To the extent authorized by applicable state and federal law, the City shall maintain the confidentiality of records designated “Trade Secrets” in accordance with this section. Whenever the Proposer ceases to have a good-faith belief that a particular record contains a Trade Secret, it shall promptly notify the City.

(1) Definitions.

“Trade secret” means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:

- a. Derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The existence of a trade secret shall not be negated merely because the information comprising the trade secret has also been developed, used, or owned independently by more than one person, or licensed to other persons.

“Record” means all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, received by the City of Greenville in connection with the Proposer’s SOQ.

**(b) Request by Public for Access to Record.** When any person requests the City to provide access to a record designated as Trade Secrets in accordance with subsection (a), the City may

- (1) decline the request for access,
- (2) notify the Proposer of the request and that the City intends to provide the person access to the record because applicable law requires that the access be granted, or
- (3) notify the Proposer of the request and that the City intends to decline the request.

Before declining the request, the City may require the Proposer to give further assurances so that the City can be certain that the Proposer will comply with subsection (c) (Defense of City).

**(c) Defense of City.** If the City declines the request for access to a record designated as Trade Secrets in accordance with subsection (a), the Proposer shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of the City's non-disclosure of the records. In providing that defense, the Proposer shall at its sole expense defend Indemnitees with legal counsel. The legal counsel shall be limited to attorneys reasonably acceptable to the City Attorney. Definitions. As used in this subsection (c), "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, fines, penalties, settlements, expenses, attorneys' fees, and interest. Indemnitees" means the City, and officers, officials, independent contractors, agents, and employees, of the City. "Indemnitees" does not include the Proposer. The City may require the Proposer to provide proof of the Proposer's ability to pay the amounts that may reasonably be expected to become monetary obligations of the Proposer pursuant to this section. If the Proposer fails to provide that proof in a timely manner, the City shall not be required to keep confidential the records whose non-disclosure gives rise to the potential monetary obligation. Nothing in this agreement shall require the City to require any natural person to be imprisoned or placed in substantial risk of imprisonment as a result of alleged nondisclosure of records or for alleged noncompliance with a court order respecting disclosure of records. This subsection (c) is separate from and is to be construed separately from any other indemnification and warranty provisions in the contract between the City and the Propose

**APPENDIX B**

**City of Greenville/Greenville Utilities  
Commission Minority and Women Business  
Enterprise Program**

**City of Greenville  
MWBE Guidelines for Professional Service  
Contracts  
\$50,000 and above**

These instructions shall be included with each bid solicitation.



# City of Greenville/Greenville Utilities Commission Minority and Women Business Enterprise Program

## MWBE Guidelines for Professional Service Contracts \$50,000 and above

**Policy Statement**

It is the policy of the City of Greenville and Greenville Utilities Commission to provide minorities and women equal opportunity for participating in all aspects of the City's and Utilities' contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchases, and professional and personal service contracts.

**Goals and Good Faith Efforts**

Service providers responding to this solicitation shall comply with the MWBE program by making Good Faith Efforts to achieve the following aspirational goals for participation.

	CITY	
	MBE	WBE
<b>Professional Services</b>	4%	4%

Submitters shall submit MWBE information with their submissions on the forms provided. This information will be subject to verification by the City prior to contract award. **As of July 1, 2009, contractors, subcontractors, suppliers, service providers, or MWBE members of joint ventures intended to satisfy City MWBE goals shall be certified by the NC Office of Historically Underutilized Businesses (NC HUB) only.** Firms qualifying as "WBE" for the City's goals must be designated as a "women-owned business" by the HUB Office. Firms qualifying as "MBE" for the City's goals must be certified in one of the other categories (i.e.: Black, Hispanic, Asian American, American Indian, Disabled, or Socially and Economically Disadvantaged). According to new Statewide Uniform Certification (SWUC) Guidelines, ethnicity supersedes gender; therefore, firms who are certified as both a "WBE" and "MBE" will satisfy the "MBE" category only. **Each goal must be met separately. Exceeding one goal does not satisfy requirements for the other.**

The City shall accept NCDOT certified firms on federally funded projects only.

Please note: A service provider may utilize any firm desired. However, for participation purposes, all MWBE firms who wish to do business as a *minority* must be certified by NC HUB. A complete database of NC HUB certified firms may be found at <http://www.doa.nc.gov/hub/>

## Instructions

The submitter shall provide the following forms:

### D FORM 1-Sub-Service Provider Utilization Plan

This form provides the amount of sub-contracted work proposed on the project for MWBE. This proposed participation is based on the current scope of work. Submitter must turn in this form with submission. If the submitter does not customarily subcontract elements of this type of project, do not complete this form. Instead complete FORM 2.

### D FORM 2--Statement of Intent to Perform work without Sub-Service Providers

This form provides that the submitter does not customarily subcontract work on this type of project.

### D Sub-Service Provider Utilization Commitment

Submitted by the selected service provider after negotiation of the contract and prior to Award, this form lists the MWBE firms committed to participate on the project. This commitment will reflect any changes in the Plan due to adjustments in project scope.

NOTE: A firm is expected to maintain the level of participation proposed in FORM 1- Sub-Service Provider Utilization Plan - unless there is a negotiated change in the service required by the City. A firm is also encouraged to increase MWBE participation in the Utilization Commitment as a result of ongoing Good Faith Efforts.

### D Proof of Payment Certification

Submitted by the selected service provider with each payment application, listing payments made to sub consultants. This form is not provided with the submission.

*In addition to the forms provided above, each service provider must provide a discussion of its diverse business policies and procedures to include the good faith efforts it employed to utilize minority and women-owned firms on this project. This discussion must include:*

- 1. Outreach efforts that were employed by the firm to maximize the utilization of MWBE's.*
- 2. A history of MWBE firms used on similar projects; and*
- 3. The percentage participation of MWBE firms on these projects.*

*NOTE: Those service providers submitting FORM 2 should discuss and provide documentation to justify 100% performance without the use of subconsultants (both majority and minority) per the statements of the form.*

Minimum Compliance Requirements: All written statements, signed forms, or intentions made by the Submitter shall become a part of the agreement between the Submitter and the City for performance of contracts. Failure to comply with any of these statements, signed forms, or intentions or with the minority business guidelines shall constitute a breach of the contract. A finding by the City that any information submitted (either prior to award of the contract or during the performance of the contract) is inaccurate, false, or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City whether to terminate the contract for breach or not. In determining whether a Submitter has made Good Faith Efforts, the City will evaluate all efforts made by the Submitter and will determine compliance in regard to quantity, intensity, and results of these efforts.

# Sub-Service Provider Utilization Plan FORM 1

(Must be included with submission if subcontracting any portion of work)

We \_\_\_\_\_, do certify that on the  
(Company Name)

\_\_\_\_\_ we propose to expend a minimum of \_\_\_\_\_%  
(Project Name)

of the total dollar amount of the contract with certified **MBE** firms and a minimum of \_\_\_\_\_% of the total dollar amount with **WBE** firms.

Name, Address, & Phone Number of Sub-Service Provider	*MWBE Category	Work description	% of Work

\*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (I), Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

The undersigned intends to enter into a formal agreement with MWBE firms for work listed in this schedule conditional upon execution of a contract with the current scope proposed by the Owner.

The undersigned hereby certifies that he/she has read the terms of this agreement and is authorized to bind the submitter to the agreement herein set forth.

Date: \_\_\_\_\_

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_

# Statement of Intent to Perform work without Sub-Service Providers

## FORM2

(Must be included with submission if not subcontracting any portion of work)

We, \_\_\_\_\_, hereby certify that it is our intent to perform **100% of the work required** for the \_\_\_\_\_ contract.  
(Project Name)

In making this certification, the Proposer states the following:

i It is a normal and customary practice of the Proposer to perform all elements of this type of contract with its own workforce and without the use of sub consultants. *The Proposer has substantiated this by providing documentation of at least three (3) other projects within the last five {5} years on which they have done so.*

**Check box to indicate documentation is attached.**

ii The Proposer has a valid business reason for self-performing all work on the Contract as opposed to subcontracting with a MWBE. The Proposal must describe the valid business reason for self-performing, and the Proposer must submit with its Bid or Proposal documentation sufficient to demonstrate to the Authority reasonable satisfaction the validity of such assertions.

**Check box to indicate documentation is attached.**

m If it should become necessary to subcontract some portion of the work at a later date, the Proposer will notify the City and institute good faith efforts to comply with all requirements of the MWBE program in providing equal opportunities to MWBEs to subcontract the work. **The firm will also submit a Request to Change MWBE Participation Form (even if the final sub consultant is not MWBE).**

The undersigned hereby certifies that he or she has read the terms of this certification and is authorized to bind the Proposer in accordance herewith.

Date: \_\_\_\_\_

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_

# Sub-Service Provider Utilization Commitment

(Must be submitted after contract negotiation and prior to Award)

We \_\_\_\_\_, do certify that on the  
 \_\_\_\_\_  
 (Company Name)

\_\_\_\_\_ we will expend a minimum of \_\_\_\_\_%  
 \_\_\_\_\_  
 (Project Name)

of the total dollar amount of the contract with certified **MBE** firms and a minimum of \_\_\_\_\_% of the total dollar amount of the work with **WBE**.

Name, Address, & Phone Number of Sub-Service Provider	*MWBE Category	Work description	¾ofWork

\*Minority categories: Black, African American **(B)**, Hispanic or Latino **(L)**, Asian American **(A)** American Indian **(I)**, Female **(F)** Socially and Economically Disadvantaged **(S)** Disabled **(D)**

The undersigned will enter into a formal agreement with MWBE firms for work listed in this schedule. Failure to **fulfill** this commitment may constitute a breach of contract.

The undersigned hereby certifies that he/she has read the terms of this commitment and is authorized to bind the submitter to the commitment herein set forth.

Date: \_\_\_\_\_

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_

# REQUEST TO CHANGE MWBE PARTICIPATION

(Submit changes only if recipient of intent to award letter, continuing through project completion.)

Project: \_\_\_\_\_

Bidder or Prime Consultant: \_\_\_\_\_

Name & Title of Authorized Representative: \_\_\_\_\_

Address: \_\_\_\_\_ Phone#: \_\_\_\_\_

\_\_\_\_\_ Email Address: \_\_\_\_\_

Original Total Contract Amount: \$ \_\_\_\_\_

Total Contract Amount (including approved change orders or amendments): \$ \_\_\_\_\_

Will this request change the dollar amount of the contract?     Yes     No

If yes, give the total contract amount including change orders and proposed change: \$ \_\_\_\_\_

The proposed request will do the following to overall MWBE participation (please check one):

Increase     Decrease     No Change

Name of sub consultant: \_\_\_\_\_

Service provided: \_\_\_\_\_

## Proposed Action:

Replace sub consultant

Perform work in-house

For the above actions, you must provide one of the following reasons (Please check applicable reason):

The listed MBE/WBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract.

The listed MBE/WBE is bankrupt or insolvent.

The listed MBE/WBE fails or refuses to perform his/her subcontract or furnish the listed materials.

The work performed by the listed subconsultant is unsatisfactory according to industry standards and is not in accordance with the plans and specifications; or the subconsultant is substantially delaying or disrupting the progress of the work.

*If replacing sub consultant:*

Name of replacement sub consultant: \_\_\_\_\_

Is the subconsultant a certified MWBE? \_\_\_ Yes \_\_\_ No

*If no, please attach documentation of outreach efforts employed by the firm to utilize an MWBE.*

Dollar amount of original consultant contract \$ \_\_\_\_\_

Dollar amount of amended consultant contract \$ \_\_\_\_\_

**Other Proposed Action:**

Increase total dollar amount of work

Add as an additional sub

Decrease total dollar amount of work

consultant\*

Please describe reason for requested action: \_\_\_\_\_

\_\_\_\_\_

*\*If adding additional sub consultant:*

Is the sub consultant a certified MWBE? \_\_\_ Yes \_\_\_ No

*If no, please attach documentation of outreach efforts employed by the firm to utilize an MWBE.*

Dollar amount of original consultant contract \$ \_\_\_\_\_

Dollar amount of amended consultant contract \$ \_\_\_\_\_

**Interoffice Use Only:**

Approval   Y     N  

Date \_\_\_\_\_

Signature \_\_\_\_\_

Pay Application No. \_\_\_\_\_

Purchase Order No. \_\_\_\_\_

## Proof of Payment Certification MWBE Contractors, Suppliers, Service Providers

Project Name: \_\_\_\_\_

Prime Service Provider: \_\_\_\_\_

Current Contract Amount (including change orders):\$ \_\_\_\_\_

Requested Payment Amount for this Period: \$ \_\_\_\_\_

Is this the final payment? \_\_\_ Yes \_\_\_ No

<b>Firm Name</b>	<b>MWBE Category*</b>	<b>Total Amount Paid from this Pay Request</b>	<b>Total Contract Amount</b>	<b>Total Amount Remaining</b>

\*Minority categories: Black, African American **(B)**, Hispanic or Latino **(L)**, Asian American **(A)** American Indian **(I)**, Female **(F)** Socially and Economically Disadvantaged **(S)** Disabled **(D)**Date: \_\_\_\_\_

Date: \_\_\_\_\_

Certified By: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature



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## Appendix C: Sample Contract Additions

### Insurance.

The Designer agrees to purchase, at its own expense, insurance coverages to satisfy the following minimum requirements as detailed in this Section. A certificate reflecting the following minimum coverages shall accompany this Contract. The Designer shall not commence services under this Contract until the Designer has obtained all insurance required, and such insurance has been approved in writing by the City. Insurance required shall remain in effect through the term of this Contract. Failure to maintain the required insurance coverage shall constitute grounds for Contract termination.

Insurance requirements are as follows:

- (a) Public Liability and Property Damage: The Designer shall take out and maintain, during the life of this Contract, Commercial General Liability Insurance that shall protect from claims for damage for Bodily Injury, Property Damage, Personal Injury, including death which may arise from operations under this contract, whether such operations be by the Designer or by any sub-contractor, sub-consultant, or by anyone directly or indirectly employed by any of the above.

The Minimum Limits of Insurance required are:

Each Occurrence:	\$1,000,000
Personal and Advertising Injury:	\$1,000,000
General Aggregate:	\$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 Risk Manager for the City of Greenville. 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. The City of Greenville must be added as an Additional Insured to the Commercial General Liability policy.

- (b) Automobile Liability Insurance (If Applicable):

Limit of Insurance: \$1,000,000 combined single limit.  
The City of Greenville must be added as an Additional Insured on the Commercial Auto Liability policy.

- (c) Workers Compensation Insurance:

Limits of Insurance: 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.

No sub-contractor may exclude executive officers. Workers Compensation must include all employees.

- (d) Cancellation: Each certificate of insurance shall bear the provision that the policy cannot be canceled in less than 30 days after mailing written notice to the assured of such cancellation. The Insurance policies must be endorsed to reflect a 30 day notice of cancellation or material change in coverage be given to the City of Greenville.
- (e) Sub-Consultants: If any part of the services to be performed under this Contract is sublet, the sub-Designer shall be required to meet all insurance requirements set forth in this Agreement. The parties stipulate that the Designer will maintain each type of insurance set forth above at a coverage level equal to the amount set forth above for such type of insurance. However, nothing contained herein shall relieve the Designer from meeting all insurance requirements or otherwise being responsible for the sub-consultant.

Indemnification.

- (a) Hold Harmless: The Designer shall, to the extent permitted under North Carolina law, indemnify and hold harmless the City and its officers and employees from and against all liabilities, damages, losses and costs that arise in any manner from, in connection with, or out of this Contract as a result of acts or omissions of the Designer or any sub-consultant or other persons employed or utilized by the Designer in the performance of this Contract except when such liabilities, damages, losses, and costs are proximately caused by or result from the negligence, in whole or in part, of the City or its independent Designers, agents, officers or employees.
- (b) 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 Designer under this contract.
- (c) Compliance with law: It is agreed that this Section shall be applied to the maximum extent allowed by law and limited only as necessary to comply with N.C.G.S. § 22B-1.
  - (a) E-verify Compliance: The Designer shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Designer utilizes a Subcontractor, the Designer shall require the Subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. By submitting a proposal, the Proposer represents that their firm and its Subcontractors are in compliance with the requirements of Article 2 Chapter 64 of the North Carolina General Statutes.
  - (b) Iran Divestment Act: Vendor certifies that; (i) it is not identified on the Final Divestment List or any other list of prohibited investments created by the NC State Treasurer pursuant to N.C.G.S. 143-6A-4; (ii) it will not take any actions causing it to appear on any such list during the terms of this contract, and (iii) it will not utilize any subcontractor to provide goods and services hereunder that is identified on any list.

Attachments.

The following Attachments shall be a part of this contract:

- (a) MWBE forms
- (b) RFQ
- (c) RFQ Addenda
- (d) Scope of Work

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

CITY OF GREENVILLE:

Chosen Design Firm:

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: P.J. Connelly, Mayor

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

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

Account:

**CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS ADDENDUM**

This **CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS ADDENDUM** (this “Addendum”) is entered into by and between HH Architecture (“Designer”), and The City of Greenville (“City”), and forms an integral part of the Contract (as defined in Section I hereof).

**RECITALS**

**WHEREAS**, Unit has received, either as a Recipient or Subrecipient (as each such term is defined in Section I hereof) a payment from the Coronavirus State Fiscal Recovery Fund (“State Fiscal Recovery Fund”) or Coronavirus Local Fiscal Recovery Fund (“Local Fiscal Recovery Fund” and, together with the State Fiscal Recovery Fund, the “Fiscal Recovery Funds”) established pursuant to Sections 602 and 603, respectively, of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (“ARPA”); and

**WHEREAS**, Unit intends to pay, in part or in whole, for the cost of the Contract (as defined in Section I hereof) using monies received from the Fiscal Recovery Funds; and

**WHEREAS**, in using such funds, Unit must comply with the terms of ARPA, regulations issued by the U.S. Department of the Treasury (“Treasury”) governing the expenditure of monies distributed from the Fiscal Recovery Funds (including, without limitation, the Interim Final Rule (86 Fed. Reg. 26,786 (May 17, 2021) and Final Rule (87 Fed. Reg. 4,338 (Jan. 27, 2022))), the Award Terms and Conditions applicable to the Fiscal Recovery Funds, and such other guidance as Treasury has issued or may issue governing the expenditure of monies distributed from the Fiscal Recovery Funds (collectively, the “Regulatory Requirements”); and

**WHEREAS**, pursuant to the Regulatory Requirements, Unit must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury has determined or may determine are inapplicable to the Fiscal Recovery Funds; and

**WHEREAS**, pursuant to 2 C.F.R. § 200.327, Unit must include within the Contract applicable provisions described in Appendix II to 2 C.F.R. Part 200, each of which is contained in this Addendum; and

**WHEREAS**, Unit shall not enter into the Contract or make any distributions of funds to Contractor using monies from the Fiscal Recovery Funds absent Contractor’s agreement and adherence to each term and condition contained herein.

**NOW THEREFORE**, Contractor and Unit do mutually agree as follows:

**AGREEMENTS**

**Definitions**

- A. Unless otherwise defined in this Addendum, capitalized terms used in this Addendum shall have the meanings ascribed thereto in this Section I.
  - 1. “ARPA” shall mean the American Rescue Plan Act of 2021, Pub. L. No. 117-2, as amended.

2. “Administering Agency” shall have the meaning specified in 41 C.F.R. § 60-1.3.
3. “Applicant” shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: (“An applicant for Federal assistance involving a construction contract, or other participant in a program involving a construction contract as determined by regulation of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.”).
4. “Construction Work” shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: (“[T]he construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.”).
5. “Contract” shall mean the legal instrument by which Unit, as a Recipient or Subrecipient, shall purchase from Contractor property or services needed to carry out a project or program under a federal award, and of which this Addendum shall constitute an integral part.
6. “Contractor” shall mean the entity named as “Contractor” in this Addendum that has received a Contract from Unit.
7. “Federally Assisted Construction Contract” shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: (“[A]ny agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the government of the United States of America for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.”).
8. “Government” shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: (“[T]he government of the United States of America.”).
9. “Laborer” or “Mechanic” shall have the meaning specified in 29 C.F.R. § 5.2(m), which is provided here for ease of reference: (“The term *laborer* or *mechanic* includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term *laborer* or *mechanic* includes apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards. The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual. Persons employed in a bona fide executive, administrative, or professional capacity as defined in part 541 of [Title 40 of the United States Code] are not deemed to be laborers or mechanics. Working foremen who devote more than 20 percent of their time during a workweek to mechanic or laborer duties, and who do not meet the criteria of [Title 40 of the United States Code], are laborers and mechanics for the time so spent.”).

10. "Recipient" shall mean an entity that receives a federal award directly from a federal awarding agency. The term does not include subrecipients or individuals that are beneficiaries of an award.
11. "Subcontract" shall mean any agreement entered into by a Subcontractor to furnish supplies or services for the performance of this Contract or a Subcontract. It includes, but is not limited to, purchase orders and changes and modifications to purchase orders.
12. "Subcontractor" shall mean an entity that receives a Subcontract.
13. "Subrecipient" shall mean an entity that receives a subaward from a pass-through entity to carry out part of a federal award; but it does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.
14. "Tier" shall have the meaning indicated in 2 C.F.R. Part 180 and illustrated in 2 C.F.R. Part 180, Appendix II.
15. "Unit" shall have the meaning indicated in the preamble to this Addendum.

### **Equal Employment Opportunity**

- A. If this contract is a Federally Assisted Construction Contract exceeding \$10,000, during the performance of this Contract, Contractor agrees as follows:
  1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
  2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
  3. Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in

response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.

4. Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. Contractor will furnish to the Administering Agency and the Secretary of Labor all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Administering Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended, in whole or in part, and Contractor may be declared ineligible for further Government contracts or Federally Assisted Construction Contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965. Such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. Contractor will include the portion of the sentence immediately preceding paragraph A.1. of this Section II and the provisions of paragraphs A.1. through A.7. in every Subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. Contractor will take such action with respect to any Subcontract or purchase order as the Administering Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Administering Agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Unit further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. Provided, that if Unit so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the Contract.

9. Unit agrees that it will assist and cooperate actively with the Administering Agency and the Secretary of Labor in obtaining the compliance of Contractor and any Subcontractors with the



equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the Administering Agency and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the Administering Agency in the discharge of the agency's primary responsibility for securing compliance.

10. Unit further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally Assisted Construction Contracts pursuant to the Executive Order and that it will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractor and any Subcontractors by the Administering Agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Unit agrees that if it fails or refuses to comply with these undertakings, the Administering Agency may take any or all of the following actions: Cancel, terminate, or suspend, in whole or in part, this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

B. If this Contract is not a Federally Assisted Construction Contract exceeding \$10,000, the provisions of Section I.A. of this Addendum shall not apply.

#### **Copeland "Anti-Kickback" Act**

A. Contractor and any Subcontractors performing work under the Contract shall comply with 18 U.S.C. § 874. Unit shall report all suspected or reported violations to Treasury.

#### **Contract Work Hours and Safety Standards Act**

A. *Overtime Requirements.* No Contractor or Subcontractor contracting for any part of the Contract work which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

B. *Violation; Liability for Unpaid Wages; Liquidated Damages.* In the event of any violation of the clause set forth in Section IV.A. (*Overtime Requirements*), above, Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual Laborer or Mechanic, including watchmen and guards, employed in violation of the clause set forth in Section IV.A. (*Overtime Requirements*), above, in the sum of \$27 for each calendar day on which such individual

was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in Section IV.A. (*Overtime Requirements*), above.

- C. *Withholding for Unpaid Wages and Liquidated Damages.* Unit shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold, or cause to be withheld, from any moneys payable on account of work performed by Contractor or Subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of Contractor or Subcontractor for unpaid wages and liquidated damages as provided in Section IV.B. (*Violation; Liability for Unpaid Wages; Liquidated Damages*) of this section.
- D. *Subcontracts.* Contractor or Subcontractor shall insert in any Subcontract the clauses set forth in Sections IV.A. through IV.D. and also a clause requiring Subcontractors to include these clauses in any lower-Tier Subcontracts. Contractor shall be responsible for compliance by any first-Tier Subcontractor or lower-Tier Subcontractor with the clauses set forth in Sections IV.A. through IV.D.
- E. *Payroll and Records.* Contractor or Subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all Laborers and Mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, Social Security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Records to be maintained under this provision shall be made available by Contractor or Subcontractor for inspection, copying, or transcription by authorized representatives of the Department of the Treasury and the Department of Labor, and Contractor or Subcontractor will permit such representatives to interview employees during working hours on the job.
- F. *Exceptions.* None of the requirements of Section IV of this Addendum shall apply if this Contract is a Contract (1) for transportation by land, air, or water; (2) for the transmission of intelligence; (3) for the purchase of supplies, materials, or articles ordinarily available in the open market; or (4) in an amount that is equal to or less than \$100,000.

### **Rights to Inventions Made Under a Contract or Agreement**

- A. The Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Government purposes,” any subject data or copyright described below.<sup>1</sup> “Government purposes” means use only for the direct purposes

of the Government. Without the copyright owner's consent, the Government may not extend its federal license to any other party.

1. Any subject data developed under the Contract, whether or not a copyright has been obtained, and
  2. Any rights of copyright purchased by Contractor using federal assistance funded in whole or in part by the Department of the Treasury.
- B. Unless Treasury determines otherwise, a Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit Treasury to make available to the public either (1) Treasury's license in the copyright to any subject data developed in the course of the Contract or (2) a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work which is the subject of this Contract is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Government may direct.
- C. Unless prohibited by North Carolina law, upon request by the Government, Contractor agrees to indemnify, save, and hold harmless the Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Contract. Contractor shall be required to indemnify the Government for any such liability arising out of the wrongful act of any employee, official, or agent of the Contractor.
- D. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.
- E. Data developed by Contractor and financed entirely without using federal assistance provided by the Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work. Contractor agrees to include these requirements in each Subcontract for experimental, developmental, or research work financed in whole or in part with federal assistance.
- F. For the purposes of this Section V, "subject data" means "recorded information, whether or not copyrighted, that is delivered or specified to be delivered as required by the Contract." Examples of "subject data" include, but are not limited to, "computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses or other similar information used for performance or administration of the Contract."

## Clean Air Act and Federal Water Pollution Control Act

- A. *Clean Air Act.* Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* Contractor agrees to report each violation to Unit and understands and agrees that Unit will, in turn, report each violation as required to Treasury and the appropriate Environmental Protection Agency Regional Office. Contractor agrees to include these requirements in each Subcontract exceeding \$150,000 financed, in whole or in part, with federal assistance provided by Treasury.
- B. *Federal Water Pollution Control Act.* Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.* Contractor agrees to report each violation to Unit and understands and agrees that Unit will, in turn, report each violation as required to assure notification to Treasury and the appropriate Environmental Protection Agency Regional Office. Contractor agrees to include these requirements in each Subcontract exceeding \$150,000 financed, in whole or in part, with federal assistance provided by Treasury.

## Debarment and Suspension

- A. Due to its receipt of Fiscal Recovery Funds, Unit is a participant in a nonprocurement transaction (defined at 2 C.F.R. § 180.970) that is a covered transaction pursuant to 2 C.F.R. § 180.210 and 31 C.F.R. § 19.210. Therefore, this Contract is a lower-Tier covered transaction for purposes of 2 C.F.R. Part 180 and 31 C.F.R. Part 19 if (1) the amount of this Contract is greater than or equal to \$25,000 (2 C.F.R. § 180.220(b)(1); 31 C.F.R. § 19.220(b)(1)); (2) the Contract requires the consent of an official of the Department of the Treasury (2 C.F.R. § 180.220(b)(2); 31 C.F.R. § 19.220(b)(2)); or (3) this Contract is for federally required audit services (2 C.F.R. § 180.220(b)(3); 31 C.F.R. § 19.220(b)(3)).
- B. If this Contract is a covered transaction as set forth in Section VII.A., above, Contractor hereby certifies as of the date hereof that Contractor, Contractor's principals (defined at 2 C.F.R. § 180.995), and the affiliates (defined at 2 C.F.R. § 180.905) of both Contractor and Contractor's principals are not excluded (defined at 2 C.F.R. § 180.935) and are not disqualified (defined at 2 C.F.R. § 180.935). If any of the foregoing persons are excluded or disqualified and the Secretary of the Treasury has not granted an exception pursuant to 31 C.F.R. § 19.120(a), (1) this Contract shall be void, (2) Unit shall not make any payments of federal financial assistance to Contractor, and (3) Unit shall have no obligations to Contractor under this Contract.
- C. Contractor must comply with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19 and must include a requirement to comply with these regulations in any lower-Tier covered transaction into which it

enters.<sup>2</sup> This certification is a material representation of fact relied upon by Unit, and all liability arising from an erroneous representation shall be borne solely by Contractor.

- D. If it is later determined that Contractor did not comply with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19, in addition to remedies available to Unit, the Government may pursue available remedies, including but not limited to suspension and/or debarment.

### **Byrd Anti-Lobbying Amendment**

- A. Contractor certifies to Unit, and Contractor shall cause each Tier below it to certify to the Tier directly above such Tier, that it has not used and will not use federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Contractor shall, and shall cause each Tier below it, to disclose any lobbying with non-federally appropriated funds that takes place in connection with obtaining any federal award. Such disclosures (to be set forth on Standard Form-LLL, contained in 31 C.F.R. Part 21, Appendix B) shall be forwarded from Tier to Tier up to the Unit, which will, in turn, forward the certification(s) to Treasury. Contractor shall cause the language of this Section VIII.A. to be included in all Subcontracts. This certification is a material representation of fact upon which Unit has relied when entering into this Contract, and all liability arising from an erroneous representation shall be borne solely by Contractor.
- B. Contractors that bid or apply for a contract exceeding \$100,000 (including this Contract, if applicable) also must file with Unit the certification in Attachment 1 to this Addendum, which is attached hereto and incorporated herein.
- C. Contractor also shall cause any Subcontractor with a Subcontract (at any Tier) exceeding \$100,000 to file with the Tier above it the certification in Attachment 1 to this Addendum, which is attached hereto and incorporated herein.

### **Procurement of Recovered Materials**

- A. Section IX.B. shall apply if (1) this Contract involves the purchase of an item designated by the Environmental Protection Agency (“EPA”) in 40 C.F.R. Part 247 that exceeds \$10,000 or (2) the total value of such designated items acquired during Unit’s preceding fiscal year exceeded \$10,000.
- B. In the performance of the Contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items, unless the product cannot (1) be acquired competitively within a timeframe providing for compliance with the Contract performance schedule, (2) meet Contract performance requirements, or (3) be acquired at a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available on

EPA's website.<sup>3</sup> Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

### **Prohibition on Contracting for Covered Telecommunications Equipment or Services**

- A. *Definitions.* Unless otherwise defined in this Contract, capitalized terms used in this Section X shall have the meanings ascribed thereto in this Section X.A.
1. "Backhaul" means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).
  2. "Covered Foreign Country" means the People's Republic of China.
  3. "Covered Telecommunications Equipment or Services" means (a) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (b) for the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (c) telecommunications or video surveillance services provided by such entities or using such equipment; or (d) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a Covered Foreign Country.
  4. "Critical Technology"<sup>4</sup> means (1) defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations; (2) items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations and controlled (a) pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology, or (b) for reasons relating to regional stability or surreptitious listening; (3) specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities); (4) nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material); (5) select agents and toxins covered by part 331 of title 7, Code of Federal Regulations; part 121 of title 9 of such Code; or part 73 of title 42 of such

Code; or (6) emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. § 4817).

5. “Interconnection Arrangements” means arrangements governing the physical connection of two or more networks to allow the use of another’s network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.
6. “Roaming” means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.
7. “Substantial or Essential Component” means any component necessary for the proper function or performance of a piece of equipment, system, or service.
8. “Telecommunications Equipment or Services” means telecommunications or video surveillance equipment or services, such as, but not limited to, mobile phones, land lines, internet, video surveillance, and cloud services.

B. Prohibitions.

1. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after August 13, 2020, from obtaining or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
2. Unless an exception in Section X.C. applies, Contractor and any Subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds (including, without limitation, Fiscal Recovery Funds) received from a federal government to:
  - a. Procure or obtain any equipment, system, or service that uses Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system or as Critical Technology of any system;
  - b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system or as Critical Technology of any system;
  - c. Enter into, extend, or renew contracts with entities that use Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system or as Critical Technology as part of any system; or
  - d. Provide, as part of its performance of this Contract, any Subcontract; any other contractual instrument; or any equipment, system, or service that uses Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system or as Critical Technology as part of any system.

C. Exceptions.

1. This clause does not prohibit Contractor or Subcontractors from providing:
  - a. A service that connects to the facilities of a third party, such as Backhaul, Roaming, or Interconnection Agreements, or
  - b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
2. By necessary implication and regulation, the prohibitions also do not apply to:
  - a. Covered telecommunications equipment that:
    - i. Is not used as a Substantial or Essential Component of any system and
    - ii. Is not used as Critical Technology of any system.
  - b. Other telecommunications equipment or services that are not considered Covered Telecommunications Equipment or Services.

D. Reporting Requirement

1. In the event Contractor identifies, during contract performance, covered Telecommunications Equipment or Services used as a Substantial or Essential Component of any system or as Critical Technology as part of any system, or if Contractor is notified of such by a Subcontractor at any Tier or by any other source, Contractor shall report the information in paragraph D.2 (d)(2) of this Section X to Unit, unless procedures for reporting the information are established elsewhere in this Contract.
2. Contractor shall report the following information to Unit pursuant to paragraph D.1 of this Section X:
  - a. Within one business day from the date of such identification or notification: contract number; order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
  - b. Within ten business days of submitting the information in paragraph D.2.a. of this Section: any further available information about mitigation actions undertaken or recommended. In addition, Contractor shall describe (i) the efforts it undertook to prevent use or submission of Covered Telecommunications Equipment or Services and (ii) any additional efforts that will be incorporated to prevent future use or submission of Covered Telecommunications Equipment or Services.



- E. *Subcontractor*. Contractor shall cause to be inserted into all Subcontracts and other contractual instruments relating to the performance of this Contract the substance of this Section X, including this paragraph E.

### **Domestic Preferences for Procurements**

- A. For purposes of this Section XI, the terms below are defined as follows:
  - 1. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coating, occurred in the United States.
  - 2. “Manufactured Products” means items and construction materials composed, in whole or in part, of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
- B. As applicable, and to the extent consistent with law, Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products or materials Produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other Manufactured Products. Contractor shall cause any Subcontractors to include the requirements of this Section XI in any Subcontracts.

### **Solicitation of Minority and Women-Owned Business Enterprises**

- A. If Contractor intends to let any Subcontracts, Contractor shall (1) place qualified small and minority businesses and women’s business enterprises on its solicitation lists; (2) assure that small and minority businesses and women’s business enterprises are solicited whenever they are potential sources; (3) divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women’s business enterprises; (4) establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women’s business enterprises; (5) use the services and assistance, as appropriate, of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the North Carolina Office for Historically Underutilized Businesses.
- B. For the purposes of Section XII.A., an entity shall qualify (1) as a “minority business” or “women’s business enterprise” if it is currently certified as a North Carolina “historically underutilized business” under Chapter 143, Section 128.4(a) of the N.C. General Statutes (hereinafter G.S.), and (2) as a “small business” if it is independently owned and operated and is qualified under the Small Business Administration criteria and size standards at 13 C.F.R. Part 21.

### **Access to Records**

- A. Contractor agrees to provide Unit, the Department of the Treasury, the Treasury Office of Inspector General, the Government Accountability Office, and the Comptroller General of the United States,

or any authorized representatives of these entities, access to any records (electronic and otherwise) of Contractor which are directly pertinent to this Contract to conduct audits or any other investigations. Contractor agrees to permit any of the foregoing parties to reproduce such records by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

- B. Contractor agrees to retain all records covered by this Section XIII through December 31, 2031, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit, or other inquiry involving the Contract.

### **Conflicts of Interest; Gifts and Favors**

- A. Contractor understands that (1) Unit will use Fiscal Recovery Funds to pay for the cost of this Contract and (2) the expenditure of Fiscal Recovery Funds is governed by the [*Conflict of Interest Policy*] of the Unit, the Regulatory Requirements (including, without limitation, 2 C.F.R. § 200.318(c) (1)), and North Carolina law (including, without limitation, G.S. 14-234(a)(1) and - 234.3(a)).
- B. Contractor certifies to Unit that as of the date hereof, to the best of its knowledge after reasonable inquiry, no employee, officer, or agent of Unit involved in the selection, award, or administration of this Contract (each a “Covered Individual”); no member of a Covered Individual’s immediate family; no partner of a Covered Individual; and no organization (including Contractor) which employs or is about to employ a Covered Individual has a financial or other interest in, or has received a tangible personal benefit from, Contractor. Should Contractor obtain knowledge of any such interest or any tangible personal benefit described in the preceding sentence after the date hereof, Contractor shall promptly disclose the same to Unit in writing.
- C. Contractor certifies to Unit that it has not provided, nor offered to provide, any gratuities, favors, or anything of value to an officer, employee, or agent of Unit. Should Contractor obtain knowledge of the provision, or offer of any provision, of any gratuity, favor, or anything of value to an officer, employee, or agent described in the preceding sentence after the date hereof, Contractor shall promptly disclose the same to Unit in writing.

### **Assurances of Compliance with Title VI of the Civil Rights Act of 1964**

- A. Contractor and any Subcontractor, or the successor, transferee, or assignee of Contractor or any Subcontractor, shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. §§ 2000d *et seq.*), as implemented by the Department of the Treasury’s Title VI regulations, 31 C.F.R. Part 22, which are herein incorporated by reference and made a part of this Contract. Title VI also provides protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. §§ 2000d *et seq.*, as

implemented by Treasury's Title VI regulations, 31 C.F.R. Part 22, and herein incorporated by reference and made a part of this Contract.<sup>5</sup>

### **Other Non-Discrimination Statutes**

- A. Contractor acknowledges that Unit is bound by and agrees, to the extent applicable to Contractor, to abide by the provisions contained in the federal statutes enumerated below and any other federal statutes and regulations that may be applicable to the expenditure of Fiscal Recovery Funds:
  - 1. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 *et seq.*), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
  - 2. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
  - 3. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 *et seq.*), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
  - 4. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 *et seq.*), which prohibits discrimination on the basis of disability in programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

### **Miscellaneous**

- A. *Increasing Seat Belt Use in the United States.* Pursuant to Executive Order 13043, 62 Fed. Reg. 19,216 (Apr. 18, 1997), Unit encourages Contractor to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.
- B. *Reducing Text Messaging While Driving.* Pursuant to Executive Order 13513, 74 Fed. Reg. 51,225 (Oct. 6, 2009), Unit encourages Contractor to adopt and enforce policies that ban text messaging while driving.

### **Conflicts and Interpretation**

- A. To the extent that any portion of this Addendum conflicts with any term or condition of this Contract expressed outside of this Addendum, the terms of this Addendum shall govern.

**CONTRACTOR:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**UNIT:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[Signature Page to Coronavirus State and Local Fiscal Recovery Funds Addendum]*

**ATTACHMENT 1**  
**TO**  
**CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS ADDENDUM**  
**APPENDIX A, 31 C.F.R. PART 21 – CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of the undersigned’s 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, or 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 subrecipients shall certify and disclose accordingly.
  
4. 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 of the 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.

The Contractor, \_\_\_\_\_, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor’s Authorized Official

\_\_\_\_\_  
Name and Title of Contractor’s Authorized Official

\_\_\_\_\_  
Date

**ATTACHMENT D**

City of Greenville/Greenville Utilities  
Commission Minority and Women Business Enterprise  
Program

**City of Greenville  
MWBE Guidelines for Professional Service  
Contracts  
\$50,000 and above**

These instructions shall be included with each bid solicitation.

City of Greenville/Greenville Utilities Commission  
Minority and Women Business Enterprise Program

**MWBE Guidelines for Professional Service Contracts  
\$50,000 and above**

**Policy Statement**

It is the policy of the City of Greenville and Greenville Utilities Commission to provide minorities and women equal opportunity for participating in all aspects of the City’s and Utilities’ contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchases, and professional and personal service contracts.

**Goals and Good Faith Efforts**

Service providers responding to this solicitation shall comply with the MWBE program by making Good Faith Efforts to achieve the following aspirational goals for participation.

	CITY	
	MBE	WBE
<b>Professional Services</b>	4%	4%

Submitters shall submit MWBE information with their submissions on the forms provided. This information will be subject to verification by the City prior to contract award. **As of July 1, 2009, contractors, subcontractors, suppliers, service providers, or MWBE members of joint ventures intended to satisfy City MWBE goals shall be certified by the NC Office of Historically Underutilized Businesses (NC HUB) only.** Firms qualifying as “WBE” for the City’s goals must be designated as a “women-owned business” by the HUB Office. Firms qualifying as “MBE” for the City’s goals must be certified in one of the other categories (i.e.: Black, Hispanic, Asian American, American Indian, Disabled, or Socially and Economically Disadvantaged). According to new Statewide Uniform Certification (SWUC) Guidelines, ethnicity supersedes gender; therefore, firms who are certified as both a “WBE” and “MBE” will satisfy the “MBE” category only. **Each goal must be met separately. Exceeding one goal does not satisfy requirements for the other.**

The City shall accept NCDOT certified firms on federally funded projects only.

Please note: A service provider may utilize any firm desired. However, for participation purposes, all MWBE firms who wish to do business *as a minority* must be certified by NC HUB. A complete database of NC HUB certified firms may be found at <http://www.doa.nc.gov/hub/>

## Instructions

The submitter shall provide the following forms:

FORM 1—Sub-Service Provider Utilization Plan

This form provides the amount of sub-contracted work proposed on the project for MWBE. This proposed participation is based on the current scope of work. Submitter must turn in this form with submission. If the submitter does not customarily subcontract elements of this type of project, do not complete this form. Instead complete FORM 2.

FORM 2--Statement of Intent to Perform work without Sub-Service Providers

This form provides that the submitter does not customarily subcontract work on this type of project.

Sub-Service Provider Utilization Commitment

Submitted by the selected service provider after negotiation of the contract and prior to Award, this form lists the MWBE firms committed to participate on the project. This commitment will reflect any changes in the Plan due to adjustments in project scope.

NOTE: A firm is expected to maintain the level of participation proposed in FORM 1 – Sub-Service Provider Utilization Plan – unless there is a negotiated change in the service required by the City. A firm is also encouraged to increase MWBE participation in the Utilization Commitment as a result of ongoing Good Faith Efforts.

Proof of Payment Certification

Submitted by the selected service provider with each payment application, listing payments made to sub consultants. This form is not provided with the submission.

*In addition to the forms provided above, each service provider must provide a discussion of its diverse business policies and procedures to include the good faith efforts it employed to utilize minority and women-owned firms on this project. This discussion must include:*

- 1. Outreach efforts that were employed by the firm to maximize the utilization of MWBE's.*
- 2. A history of MWBE firms used on similar projects; and*
- 3. The percentage participation of MWBE firms on these projects.*

*NOTE: Those service providers submitting FORM 2 should discuss and provide documentation to justify 100% performance without the use of subconsultants (both majority and minority) per the statements of the form.*

Minimum Compliance Requirements: All written statements, signed forms, or intentions made by the Submitter shall become a part of the agreement between the Submitter and the City for performance of contracts. Failure to comply with any of these statements, signed forms, or intentions or with the minority business guidelines shall constitute a breach of the contract. A finding by the City that any information submitted (either prior to award of the contract or during the performance of the contract) is inaccurate, false, or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City whether to terminate the contract for breach or not. In determining whether a Submitter has made Good Faith Efforts, the City will evaluate all efforts made by the Submitter and will determine compliance in regard to quantity, intensity, and results of these efforts.



## Sub-Service Provider Utilization Plan

### FORM 1

(Must be included with submission if subcontracting any portion of work)

We \_\_\_\_\_, do certify that on the  
 \_\_\_\_\_ we propose to expend a minimum of \_\_\_\_\_%  
 \_\_\_\_\_  
 \_\_\_\_\_

of the total dollar amount of the contract with certified **MBE** firms and a minimum of \_\_\_\_\_% of the total dollar amount with **WBE** firms.

Name, Address, & Phone Number of Sub-Service Provider	*MWBE Category	Work description	% of Work

\*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

The undersigned intends to enter into a formal agreement with MWBE firms for work listed in this schedule conditional upon execution of a contract with the current scope proposed by the Owner.

The undersigned hereby certifies that he/she has read the terms of this agreement and is authorized to bind the submitter to the agreement herein set forth.

Date: \_\_\_\_\_

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_

## Statement of Intent to Perform work without

### Sub-Service Providers

# FORM 2

(Must be included with submission if not subcontracting any portion of work)

We, \_\_\_\_\_, hereby certify that it is our  
intent to perform **100% of the work required** for the \_\_\_\_\_ contract.  
(Project Name)

In making this certification, the Proposer states the following:

- i It is a normal and customary practice of the Proposer to perform all elements of this type of contract with its own workforce and without the use of sub consultants. *The Proposer has substantiated this by providing documentation of at least three (3) other projects within the last five (5) years on which they have done so.*  
 **Check box to indicate documentation is attached.**
- ii The Proposer has a valid business reason for self-performing all work on the Contract as opposed to subcontracting with a MWBE. The Proposal must describe the valid business reason for self-performing, and the Proposer must submit with its Bid or Proposal documentation sufficient to demonstrate to the Authority reasonable satisfaction the validity of such assertions.  
 **Check box to indicate documentation is attached.**
- iii If it should become necessary to subcontract some portion of the work at a later date, the Proposer will notify the City and institute good faith efforts to comply with all requirements of the MWBE program in providing equal opportunities to MWBEs to subcontract the work. **The firm will also submit a Request to Change MWBE Participation Form (even if the final sub consultant is not MWBE).**

The undersigned hereby certifies that he or she has read the terms of this certification and is authorized to bind the Proposer in accordance herewith.

Date: \_\_\_\_\_

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_

## Sub-Service Provider Utilization Commitment

(Must be submitted after contract negotiation and prior to Award)

We \_\_\_\_\_, do certify that on the  
 (Company Name)

\_\_\_\_\_ we will expend a minimum of \_\_\_\_\_ %  
 (Project Name)

of the total dollar amount of the contract with certified **MBE** firms and a minimum of \_\_\_\_\_ % of the total dollar amount of the work with **WBE**.

Name, Address, & Phone Number of Sub-Service Provider	*MWBE Category	Work description	% of Work

\*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

The undersigned will enter into a formal agreement with MWBE firms for work listed in this schedule. Failure to fulfill this commitment may constitute a breach of contract.

The undersigned hereby certifies that he/she has read the terms of this commitment and is authorized to bind the submitter to the commitment herein set forth.

Date: \_\_\_\_\_

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_

## REQUEST TO CHANGE MWBE PARTICIPATION

(Submit changes only if recipient of intent to award letter, continuing through project completion.)

Project: \_\_\_\_\_

Bidder or Prime Consultant: \_\_\_\_\_

Name & Title of Authorized Representative: \_\_\_\_\_

Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

\_\_\_\_\_ Email Address: \_\_\_\_\_

Original Total Contract Amount: \$ \_\_\_\_\_

Total Contract Amount (including approved change orders or amendments): \$ \_\_\_\_\_

Will this request change the dollar amount of the contract?  Yes  No

If yes, give the total contract amount including change orders and proposed change: \$ \_\_\_\_\_

The proposed request will do the following to overall MWBE participation (please check one):

Increase  Decrease  No Change

Name of sub consultant: \_\_\_\_\_

Service provided: \_\_\_\_\_

### **Proposed Action:**

\_\_\_ Replace sub consultant

\_\_\_ Perform work in-house

For the above actions, you must provide one of the following reasons (Please check applicable reason):

\_\_\_ The listed MBE/WBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract.

\_\_\_ The listed MBE/WBE is bankrupt or insolvent.

\_\_\_ The listed MBE/WBE fails or refuses to perform his/her subcontract or furnish the listed materials.

\_\_\_ The work performed by the listed subconsultant is unsatisfactory according to industry standards and is not in accordance with the plans and specifications; or the subconsultant is substantially delaying or disrupting the progress of the work.

*If replacing sub consultant:*

Name of replacement sub consultant: \_\_\_\_\_

Is the subconsultant a certified MWBE ?  Yes  No

***If no, please attach documentation of outreach efforts employed by the firm to utilize an MWBE.***

Dollar amount of original consultant contract \$ \_\_\_\_\_

Dollar amount of amended consultant contract \$ \_\_\_\_\_

Increase total dollar amount of work

Add as an additional sub

Decrease total dollar amount of work

consultant\*

Please describe reason for requested action: \_\_\_\_\_

\_\_\_\_\_

*\*If adding additional sub consultant:*

Is the sub consultant a certified MWBE?  Yes  No

***If no, please attach documentation of outreach efforts employed by the firm to utilize an MWBE.***

Dollar amount of original consultant contract \$ \_\_\_\_\_

Dollar amount of amended consultant contract \$ \_\_\_\_\_

**Interoffice Use Only:**

**Approval\_Y\_N**

**Date** \_\_\_\_\_

**Signature** \_\_\_\_\_

**Pay Application No. \_\_\_\_\_**  
**Purchase Order No. \_\_\_\_\_**

**Proof of Payment Certification**  
**MWBE Contractors, Suppliers, Service Providers**

Project Name: \_\_\_\_\_

Prime Service Provider: \_\_\_\_\_

Current Contract Amount (including change orders): \$ \_\_\_\_\_

Requested Payment Amount for this Period: \$ \_\_\_\_\_

Is this the final payment? \_\_\_\_ Yes \_\_\_\_ No

Firm Name	MWBE Category*	Total Amount Paid from this Pay Request	Total Contract Amount	Total Amount Remaining

\*Minority categories: Black, African American (B), Hispanic or Latino (L), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (S) Disabled (D) Date: \_\_\_\_\_

Date: \_\_\_\_\_

Certified By: \_\_\_\_\_

Name

Title

Signature

Dream Park Community Buildings Improvements

## Old Fire Tower and Fire Station #2 Limited Structural Condition Survey Report

### BACKGROUND:

On December 7, 2021, Jeff Morrison, P.E. of Lynch Mykins (LM) visited the site of the old fire station #2 and fire training tower located at 1700 Chestnut Street in Greenville, North Carolina. The purpose of this site visit was to visually observe and generally assess the structural condition to determine the feasibility of either stabilizing or renovating the existing structures.

### GENERAL DESCRIPTION:

The fire training tower is a 5-story structure consisting of exterior multi-wythe brick masonry walls with an interior cast-in-place concrete stair and landing structure with metal railings on the interior. There appears to be a single round steel fire pole in the middle of the building. On one elevation there is an exterior metal fire escape type stair with ladder extending up onto the roof.

The old fire station building is a single story, approximately 5500 SF building consisting of wood stud exterior bearing walls with brick veneer supporting a clear spanning heavy wood timber trusses spaced at 14 feet on-center supporting 2x8 rafters spaced at 24 inches on-center. The wood ceiling joists are suspended from the trusses with steel rod hangers. The roof is a simple sloped roof with hipped ends with the roof extending at each end of the building to create a covered porch which is framed with wood posts and beams. The building has two masonry chimneys and two skylights that have been filled in. The roof is a metal roof which is in relatively poor condition.

Existing drawings were not available for either structure. We understand the structures were constructed in the 1930's and have not been in use by the fire department for approximately 40 years. The building is currently leased by the American Legion for occasional use.

### OBSERVATIONS:

Below is a list of specific issues observed by LM during the visual observation of the structures. We observed the exterior of the fire training tower from the ground walking around the building and up close by using a bucket lift truck at two of the exterior elevations. The interior of the tower was not accessed. The old fire station building was observed from the bucket lift truck to allow for closer observation of the roof and was observed from the interior with two openings made through the ceiling to observe the roof framing from the underside in the attic space.

### Fire Training Tower

- The existing exterior multi-wythe brick masonry walls are in overall very poor condition, brick and mortar are deteriorated throughout the exterior.
- The steel angle lintels at the window openings are significantly corroded which has caused damage to the brick masonry at the bearings, the angles are in need of replacement.
- The brick masonry has shifted and cracked at the corners of the tower.
- The brick masonry is in worse condition at the upper parts of the tower, with both missing and loose brick at the parapet walls, this creates a hazard of falling brick.
- The condition of the interior concrete stairs and landings could not be closely observed, however it is assumed that they would need some level of concrete repairs in order to make them safe and limit further damage and deterioration due to corrosion and moisture infiltration.
- The existing railings could not be closely observed but damage was observed through the windows, note the railings are minimal and do not meet current Code requirements for spacings, heights, etc. if the building were to have a public use.
- The exterior metal fire escape stair and ladder is in very poor condition and is a safety risk if people were to use it, it is not adequately anchored to the walls and is moderately to severely corroded. It is assumed that this can be removed and does not need to be replaced with a new similar exterior stair and ladder.
- The tower does not meet current Code requirements for wind or seismic loads.

### Old Fire Station Building

- This building is in moderate to poor condition, but generally appears to be structurally stable.
- A structural modeling and analysis of the existing roof framing and wall framing was beyond the scope of this condition assessment.
- Significant wood damage or deterioration was not observed at the accessible areas of the roof framing. The trusses appeared relatively robust. The 2x8 roof rafters are marginally adequate, based on preliminary calculations, however the older grade of wood is much denser and stronger than today's lumber.
- If the ceilings are removed, this would remove some suspended dead load from the roof structure and expose the aesthetically pleasing timber trusses.
- The brick masonry on the exterior of the building appeared to be in relatively good condition.
- The wood beams and posts at the porches at each end were in relatively poor condition with moisture deterioration near the bases and some posts appear to having been replaced.



- The existing metal roof is in poor condition and is in need of replacement. The skylights should be completely removed and properly filled in as part of a new roofing project. The chimneys could also be removed.

### REPAIR RECOMMENDATIONS:

#### Fire Training Tower

- Nearly all of the exterior brick masonry is in need of repairs consisting of removal of damaged and deteriorated mortar, repointing of mortar joints, replacing damaged or fallen bricks and reconstructing shifted areas of brick masonry.
- It is assumed that at many locations, these same repairs are also needed on the interior wythe of brick masonry.
- It is assumed that some repairs are needed to the interior concrete stairs and landings.
- It is assumed that the windows would need to be secured with security grating if the tower were to be renovated to prevent unauthorized access within the tower.

#### Old Fire Station Building

- We recommend replacing all of the wood posts and wood beams at the ends of the building.
- The building is in need of a new roof system to replace the existing metal roof. It is assumed that it would be desirable to remove the suspended ceiling framing and then install insulation on top of the existing roof along with the new roof system. The existing trusses likely do not have adequate hold down connections, adding adequate hold downs at the trusses is recommended.
- Wood blocking should be added at all exterior walls to provide a better load path for lateral loads from the roof diaphragm into the top of the exterior stud walls, as these stud walls must provide lateral load resistance.
- Hold down anchors shall be added at the corners of the building to the foundation to provide for lateral shear wall uplift resistance. In addition, anchors likely would need to be added along the length of all exterior walls for a positive load path for in-plane and out-of-plane lateral loads. These repairs would require removing the interior wall sheathing but the exterior wall sheathing could remain.
- Depending on the existing exterior sheathing, plywood sheathing could be added on the interior of all exterior walls to provide additional lateral load resistance. This could then be covered with gypsum wall board.
- New overhead coiling doors, potentially with glass, can be installed in the original fire station bay doors. The lintels at these openings may need to be repaired or replaced.
- Please be aware that additional repairs will likely be identified during a renovation design project.

### **COST ESTIMATES:**

#### Fire Training Tower

It is apparent that the cost to stabilize the tower, even without consideration of the unknown scope, would exceed the cost to demolish the structure. It should be noted that if the tower structure were to be stabilized by repairing all of the damaged brick masonry, the building still would not meet current Code requirements.

The tower would not be able to be used for occupancy without bringing it up to meet Current Code requirements. The issue is you are increasing the Risk Hazard of the structure changing it from a training tower to an occupied building. Hence, increasing the Code requirements for structural loading, particularly the requirements related to wind and seismic design. As such, the Code requires you to upgrade the structure to the current Code requirements for a new structure for that given Building Use/Occupancy. The existing multi-wythe brick walls would be the main structural issue as they would need to be braced with a supplemental external or internal structure, this additional framing would be in addition to the costs listed below to simply repair the damaged and deteriorated brick walls. This cost would likely be at least twice the cost to reinforce/brace the structure in such a manner compared to the masonry repair costs. Also, please keep in mind that this cost is just the structural cost, not including architectural, mechanical, electrical, plumbing or other needed modifications that would be required for occupancy of the tower.

It is estimated that the cost of demolition of the tower would be approximately \$75,000 and the cost of structural repairs would be approximately \$300,000. This is based on a budget cost of \$75/SF of exterior wall face area (estimated at 3000 SF) for masonry repairs on both the interior and exterior faces of the entire tower plus an allowance of \$75,000 for other miscellaneous repairs (interior concrete stairs and landings, railings, fire pole, lintel replacement, security grating at windows, removal of existing fire escape stairs/ladder).

#### Old Fire Station Building

Structurally, the recommended repairs for this building mainly consist of the miscellaneous recommendations listed above that do not bring the building up to current Code but would be considered voluntary improvements that increase the structural capacity of the existing building. Note that all of these assume that there is not a change of use or occupancy of the building. We recommend a budget of \$100/SF for the described primary structural repairs and stabilization which would equate to \$550,000. Note this does not include costs associated with any architectural renovations. Since the existing trusses clear span, all interior walls could be removed to provide an open, flexible floor area for future uses of the building.

### LIMITATIONS OF REPORT:

The professional services for this limited structural condition survey and report have been performed, the findings obtained, and the conclusions drawn in accordance with generally accepted engineering principles and practices. The scope of this limited condition survey and report is limited to the structural issues previously identified above. This evaluation is not intended to be a complete and comprehensive analysis of the structure nor is it intended to represent a complete inspection to determine building code non-compliances nor the presence of hazardous materials. Lynch Mykins is not responsible for the conclusions, opinions, or recommendations made by others, based on the data presented in this report. The conclusions contained herein are based solely on the information obtained during the performance of this limited visual inspection and represent only a professional opinion based on this information and experience with similar conditions.

### PHOTOGRAPHS:

#### Fire Training Tower



PHOTOGRAPH NO. 1: OVERALL SIDE VIEW



PHOTOGRAPH NO. 2: OVERALL REAR VIEW



PHOTOGRAPH NO. 3: OVERALL SIDE VIEW



PHOTOGRAPH NO. 4: FRONT VIEW 5<sup>TH</sup> FLOOR



PHOTOGRAPH NO. 5: FRONT VIEW 4<sup>TH</sup> FLOOR





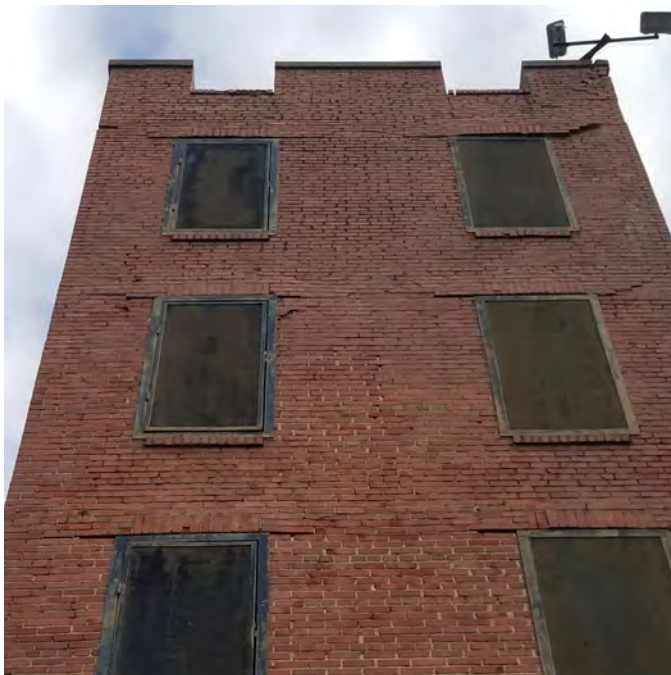
PHOTOGRAPH NO. 6: FRONT VIEW 3<sup>RD</sup> FLOOR



PHOTOGRAPH NO. 7: FRONT VIEW 2<sup>ND</sup> FLOOR



PHOTOGRAPH NO. 8: FRONT VIEW 1<sup>ST</sup> FLOOR



PHOTOGRAPH NO. 9: SIDE VIEW 5<sup>TH</sup> & 4<sup>TH</sup> FLOOR





PHOTOGRAPH NO. 10: SIDE VIEW 3<sup>RD</sup> FLOOR



PHOTOGRAPH NO. 11: SIDE VIEW 2<sup>ND</sup> FLOOR





PHOTOGRAPH NO. 12: SIDE VIEW 1<sup>ST</sup> FLOOR



PHOTOGRAPH NO. 13: EXTERIOR STAIR



PHOTOGRAPH NO. 14: LINTEL CORROSION



PHOTOGRAPH NO. 15: MORTAR DETERIORATION





PHOTOGRAPH NO. 16: BRICK SHIFTED/UNSTABLE



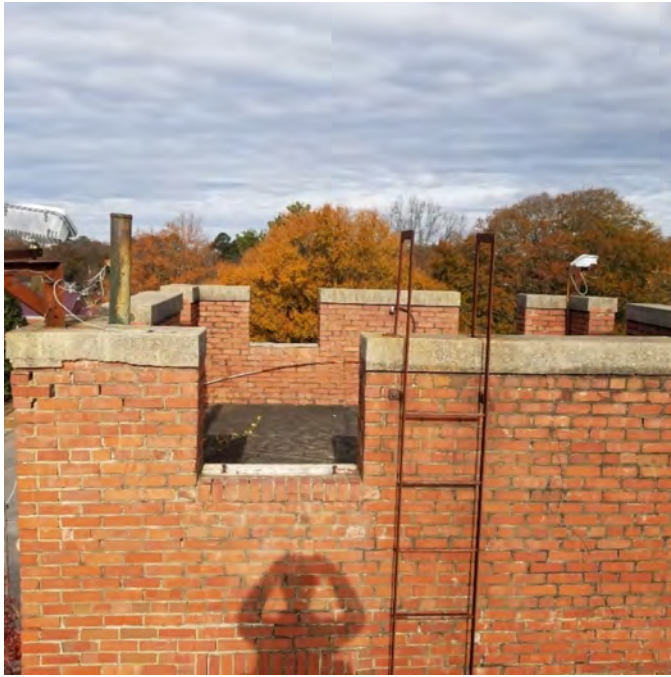
PHOTOGRAPH NO. 17: BROICK SHIFTED/UNSTABLE



PHOTOGRAPH NO. 18: DAMAGED PARAPET BRICK



PHOTOGRAPH NO. 19: LOOSE BRICK AT PARAPET



PHOTOGRAPH NO. 20: VIEW OF ROOF



PHOTOGRAPH NO. 21: INTERIOR VIEW SHOWING DAMAGED BRICK





PHOTOGRAPH NO. 22: INTERIOR VIEW OF STAIRS/LANDING



PHOTOGRAPH NO. 23: INTERIOR FIRE POLE

Old Fire Station Building



PHOTOGRAPH NO. 24: EXTERIOR FRONT VIEW



PHOTOGRAPH NO. 25: EXTERIOR REAR VIEW



PHOTOGRAPH NO. 26: EXTERIOR SIDE VIEW





PHOTOGRAPH NO. 27: OVERALL VIEW OF ROOF



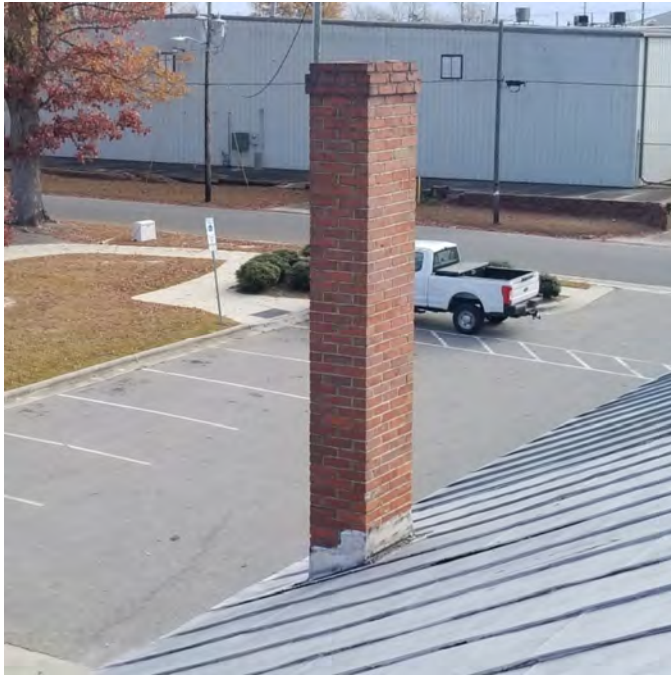
PHOTOGRAPH NO. 28: ROOF RIDGE AND GABLE END



PHOTOGRAPH NO. 29: COVERED SKYLIGHT



PHOTOGRAPH NO. 30: ROOF FLASHING AT COVERED SKYLIGHT



PHOTOGRAPH NO. 31: CHIMNEY

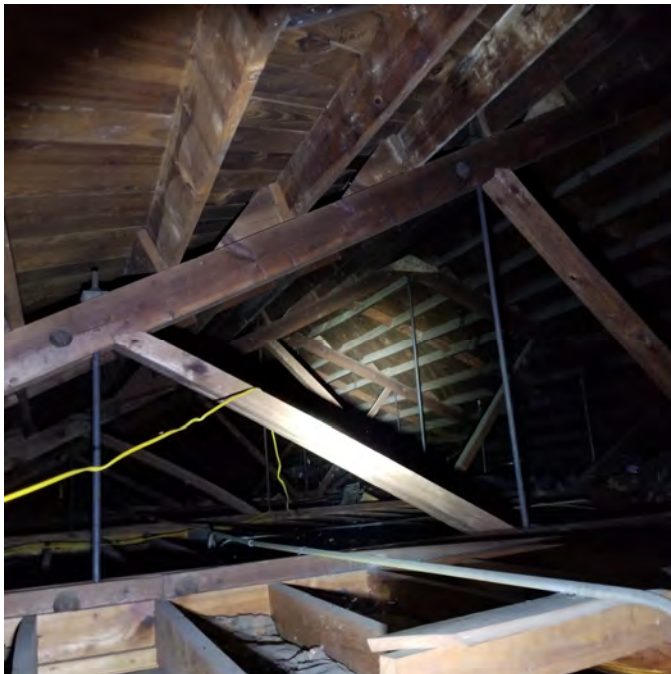


PHOTOGRAPH NO. 32: FLASHING AT CHIMNEY





PHOTOGRAPH NO. 33: WALL FRAMING AT ROOF GABLE END



PHOTOGRAPH NO. 34: TRUSS AND ROOF FRAMING



PHOTOGRAPH NO. 35: REPLACED ENTRY COLUMN



PHOTOGRAPH NO. 36: DETERIORATED ENTRY COLUMN AT BASE



PHOTOGRAPH NO. 37: DETERIORATED ENTRY COLUMN AT TOP

# Limited Structural Condition Survey

for

City of Greenville, NC  
Old Fire Tower and Fire Station #2  
1700 Chestnut Street  
Greenville, NC 27834

LM Job No. R21.344

May 2, 2022

Prepared for:

HH Architecture  
1100 Dresser Court  
Raleigh, NC 27609  
Attn: Elizabeth Caliendo, AIA

Prepared by:



5/2/2022



Lynch Mykins Structural Engineers, PC  
301 N. West Street  
Suite 105  
Raleigh, North Carolina 27603



# City of Greenville, North Carolina

Meeting Date: 10/10/2022

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**Title of Item:**

Contract award for professional services for Construction Administration/Observation and Materials Testing on the BUILD Grant and resolution requesting concurrence in award from the Federal Highway Administration

**Explanation:**

In November 2019, the City of Greenville was awarded a federal BUILD Grant by the USDOT. This grant was awarded to provide funding for seven project components that will connect residents, employees, students, and visitors to West Greenville, the Medical District, East Carolina University, and the burgeoning downtown. Staff has worked diligently with USDOT to draft and finalize the grant agreement, and secured the final, executed agreement from USDOT on September 13, 2022.

The City advertised for professional services for design, ROW, Construction Engineering and Inspection (CEI), and Grant Reporting on the BUILD Grant on April 21, 2020. This solicitation included services for federally-funded capital improvement projects associated with the BUILD Grant. The design contract for BUILD has three phases, or task orders, as follows: Design, Right-of-Way and Final Design Services, and Construction Administration/Observation and Materials Testing.

The scope of professional services for all BUILD projects includes, but is not limited to, planning, environmental assessments, permitting, public involvement, surveying, traffic analysis, development of construction documents, right-of-way and easement valuation and acquisition, construction administration and observation, materials testing, and grant administration. These services are being provided in three phases (or task orders):

- Task Order #1 – Design
- Task Order #2 – ROW Services and Final Design
- Task Order #3 – Construction Administration/Observation and Materials Testing

Each task order has been negotiated at appropriate times during the life of the projects as design progressed, allowing scopes and fees of these task orders to be developed based upon more detailed information.

Council approved Task Order #1 for design and grant administration services on June 11, 2020, and approved Task Order #2 for ROW Services and Final Design on January 11, 2021. Design work conducted under Task Orders #1 and #2 is



complete, and ROW Services under Task Order #2 are progressing well. It is now appropriate to proceed with Task Order #3 in preparation for advertisement of the BUILD construction contracts. Services provided under this task order include, but are not limited to, regular coordination with, and administrative oversight of, the selected contractors, review and approval of shop drawings, daily inspections/reporting of the contractors' work, testing of construction materials to ensure compliance with plans and specifications, tracking pay quantities, dispute resolution, and utility coordination. Services will be provided over an approximately four year timeframe.

The recommended scope of services for base fee and additional services is attached. The work of this task order will begin immediately upon execution of the contract. Additional services under this task order may only be utilized upon written approval by the City.

**Fiscal Note:**



The fee for Task Order #3 is \$4,052,527.64, and is funded through the grant agreement with USDOT. The following table shows a breakdown of the fee by task.

Task	Fee
1) Project Administration	\$322,830.00
2) Meetings and Coordination	\$151,199.00
3) Construction Administration	\$1,399,811.00
4) Resident Construction Observation	\$1,748,955.44
5) Materials Sampling and Testing	\$250,572.20
6) Expenses	\$29,160.00
7) Unspecified Services	\$150,000.00
TOTAL	\$4,052,527.64

**Recommendation:**

City Council award a professional services contract for Task Order #3 for construction administration/observation and materials testing services to Kimley-Horn and Associates in the amount of \$4,052,527.64 and approve the attached resolution requesting concurrence in award from FHWA.

ATTACHMENTS

-  [COG-#1171068-v2-BUILD\\_Resolution\\_for\\_Concurrence\\_in\\_Award\\_for\\_TO\\_#3.pdf](#)
-  [BUILD\\_TO3\\_Exhibit A\\_Attachment 1\\_Scope.pdf](#)

RESOLUTION NO. \_\_\_\_\_-22

RESOLUTION REQUESTING A CONCURRENCE IN AWARD  
FROM THE FEDERAL HIGHWAY ADMINISTRATION  
FOR CONSTRUCTION ADMINISTRATION/OBSERVATION AND MATERIALS TESTING  
SERVICES ON THE BUILD 19 TASC PROJECT

WHEREAS, the US Department of Transportation, through the Federal Highway Administration, and the City of Greenville have entered into a grant agreement to construct the BUILD 19 TASC Project; and,

WHEREAS, the City completed a Request for Qualifications process and selected Kimley-Horn and Associates as the most qualified firm; and,

WHEREAS, the City has negotiated a contract for professional services for construction administration/observation and materials testing services, hereinafter identified as Task Order #3;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenville that the contract for the Task Order #3 is hereby awarded to Kimley-Horn and Associates, and that the Mayor of the City of Greenville is hereby authorized to execute the agreement with Kimley-Horn and Associates for the professional services identified in Task Order #3 in the amount of \$4,052,527.64, provided that a Concurrence in Award for Task Order #3 is received from the Federal Highway Administration.

ADOPTED this 10<sup>th</sup> day of October, 2022.

\_\_\_\_\_  
P. J. Connelly, Mayor

ATTEST:

\_\_\_\_\_  
Valerie Shiuwegar, City Clerk

#1080568

# Exhibit A, Attachment 1

## SCOPE OF SERVICES CITY OF GREENVILLE TASC BUILD GRANT PROJECTS- TASK ORDER #3 September 19th, 2022

Kimley-Horn and Associates, Inc. (“Kimley-Horn” or “Engineer”) is pleased to submit this scope of services for engineering services for the TASC BUILD Grant Project – Task Order 3. Our project understanding, scope of services, schedule, and fee are below.



## Project Understanding

KHA understands that the City of Greenville (“City”) would like to secure professional services for the TASC BUILD Grant Project. This Project will be performed in three phases: Design, ROW Mapping / Acquisition and Bid Phase Services, and Construction Phase Services. *This scope is specifically for professional services related to Task Order 3 – Construction Phase Services.* The BUILD Grant Project consists of seven (7) individual projects that are packaged into two Bid Packages (Roadway and Greenway). The projects are shown in the overview map above and are defined as follows:

- **Greenway Bid Package**
  - **Project A - South Tar River Greenway Phase 3B**
    - Finalize design of EB-5539 along river to VA Health Care Center
    - ~1000-LF of a Multi-use path, (VA Health Care Center to West 5th Street)
  - **Project B - Moye Boulevard Sidewalk Expansion**
    - ~1200-LF of new multi-use path, (Farm Drive intersection with Venture Tower Drive, north on Venture Tower Drive for 2 blocks, east on Sennie Drive for one block, north on Stantonsburg Road for one block ending at the Memorial drive intersection)
  - **Project F - Millennial Connector**
    - ~1500-LF of new greenway (Dickinson Ave & Ficklen St to ECU Millennial Campus South of W 10<sup>th</sup> Street)
  - **Project G - Town Common Connector**
    - ~2000-LF of new greenway, (E 1st Street to E 5th Street)
- **Roadway Bid Package**
  - **Project C - West 5th Street Streetscape, Phase II**
    - ~975-LF of roadway and streetscape improvements including a roundabout, (Cadillac St to just west of Shepard St)
  - **Project D - West 5th Street Streetscape, Phases III**
    - ~3050-LF of roadway and streetscape improvements including a roundabout, (Just west of Shepard St to S Pitt St)
  - **Project E – West 5th Street Streetscape Phase IV**
    - ~1600-LF of roadway and streetscape improvements, (S Pitt St to Reade St)

The Engineer will perform all services in accordance with the latest editions of the:

- City of Greenville Manual of Standard Designs and Details
- NCDOT Standard Specifications for Roads and Structures
- GUC Water and Wastewater Design Manual
- NCDEQ Erosion and Sediment Control Planning and Design Manual
- MUTCD (Manual on Uniform Traffic Control Devices)
- Uniform Relocation Assistance and Real Property Acquisition Act, 49 CFR Part 24 as amended

- And any other applicable standards

## TASK ORDER 3 – Construction Phase Services

### TASK 1 – Project Administration

Kimley-Horn Team (Engineer) has developed Plans, Specification, Estimates and Schedules for each Bid Package which will serve as the framework for Task Order 3 that includes the essential elements needed to deliver the Build Grant project as set forth in paragraph A1.03.B in the EJCDC Contract. Portions of the tasks set forth in Task Order 3 will occur during the contract time for Task Order 1 (Design Phase) and Task Order 2 (ROW Mapping / Acquisition and Bid Phase Services).

The Engineer understands the following are the anticipated construction schedules:

- Roadway Bid Package Schedule
  - Utility Phase Part 1 (Cadillac to Davis): 242 calendar days (8 months: November 2022 – June 2023)
  - Utility Phase Part 2 (Davis to Pitt): 241 calendar days (8 months: July 2023 – February 2024)
  - Construction Phase: 960 calendar days (32 months: April 2023 – November 2025)
- Greenway Bid Package Schedule
  - Construction Phase: 730 calendar days (24 months: May 2023 – May 2025)

The duration for Task Order 3 is anticipated to be 47 months (August 2022 – June 2026), which includes startup and project closeout.

The Engineer will administer the project in a manner so as to be responsive to the needs of the City and assure the quality of the product. The following project administration efforts will include the following items:

- Oversee the project team relative to adherence to budget, schedule, and conformance to the project scope on a day-to-day basis.
- Provide a minimum of two project contacts for the City so that at any time someone familiar with the project can be available to the City if questions, comments, concerns, or other project needs arise.
- Maintain the quality control program throughout the life of the project.
- Update the existing construction schedule as dates change. Contractor will be responsible for developing his own schedule.
- Meet with the City's Project Team as appropriate based on scope via conference call or be available to answer project related questions on a regular basis via phone calls and email.
- Prepare and submit via email a monthly progress report for each bid package to update the project schedule, list milestones achieved, provide current status of each major task, support and document schedule changes, update product costs

and justify any proposed changes to the schedule or budgets. Monthly progress reports are due at the end of each month and will coincide with monthly project invoicing.

- Utilize City's OpCenter project management software to actively manage Grant projects. OpCenter will host project data and allow the City to view updates and submittals throughout project development and construction.
- Maintain a project cost accounting system throughout the life of the project and prepare monthly project invoice.
- Prepare and submit Quarterly Reports to FHWA through the Recovery Act Database System (RADS). The Engineer will need to request access to RADS via the User Profile and Access Control System (UPACS). Once the Engineer has access, this effort will include updating the project status, schedule, and budget every quarter for each bid package until the project is closed. The project status responses will need to provide enough detail in the online forms to justify the whether the project is on schedule and within budget or explain why deviations have occurred and how the project will get back on track. The Engineer will coordinate with the City to complete the SF-425 For which includes information on financial receipts and expenditures from the City. The Engineer assumes up to twenty-six (26) quarterly reports (15 for the Roadway Bid Package and 11 for the Greenway Bid Package) will be needed as a part of this scope.

All project final deliverables will be certified (signed, sealed and dated) by a professional engineer and/or surveyor registered in the state of North Carolina.

Project Administration is anticipated to occur on an ongoing basis throughout the *Construction Phase Services phase* (Task Order 3) as set forth in paragraph A1.03.B in the EJCDC Contract. If this time period changes, then a supplemental will be required.

## TASK 2 – Meetings and Coordination

### Task 2.01 Monthly Progress Meetings

The Build Grant projects will require special meetings to coordinate progress and keep the projects on schedule prior to construction starting. The Engineer will attend the below meetings:

- Seven (7) virtual Monthly Progress Meetings with the City's Project Team
  - Task Order 1 Reallocation 3 included Monthly Status Meetings through July 2022. Task Order 3 will cover Monthly Status Meetings from August 2022 thru February 2023, when the Greenway Bid Package Construction will begin.
- Seven (7) virtual Internal Progress meetings
- Additional meetings with other parties are described in the below Tasks



## Task 2.02 Utility Coordination & Utility Pre-Construction Meeting

GUC and other utility companies are scheduled to relocate their facilities in advance of selecting a Contractor as described in the Roadway Bid Package Schedule. Engineer will coordinate with these utility companies, review all utility plans, and assist the City's staff as needed to validate and document (if necessary) any claims made by utilities for reimbursement from the City.

Engineer will coordinate the resolution of utility conflicts with the respective owners and will inform the City's staff of all correspondence regarding same. The design and adjustment of privately owned utilities will be the responsibility of the respective owners, with coordination provided by Engineer. Existing and proposed private utility locations have been shown on UBO plans. Engineer will review utility relocations to make sure they do not conflict with roadway design or each other. The City's staff will be informed of and/or invited to all coordination meetings.

The Engineer will conduct a Utility Pre-Construction Meeting for the Roadway Bid Package with the utility company's representatives, GUC staff, the City's staff, and the Engineer's sub-consultants as necessary. The Engineer will have up to three staff members in attendance for this meeting. The Engineer will provide assistance to the City as needed during this meeting in interpreting the plans and specifications, answering the utility company's representatives' questions, and attending a site walk with these representatives. The Engineer will update the Utility by Others plans based on the feedback received during the Utility Pre-Construction meeting. The Engineer will provide Meeting documentation for project records.

Following the completion of the Pre-Construction meeting, Engineer will perform Utility Relocation Coordination Services to ensure that these private utility designs are implemented in the field in a timely manner and that the Roadway Bid Package Schedule is followed as much as possible. This includes the following items:

- Schedule monthly utility meetings with the utility companies while utilities are actively being relocated. Prior to the Roadway Contractor starting construction, these will be standalone meetings (up to 6 meetings) with up to two staff members attending. Once Roadway Construction begins, these meetings will be incorporated in the monthly Roadway Construction Progress Meetings.
- Observe and document the utility work performed by the utility company or the utility company's contractor at the monthly utility meetings to determine the progress of the work, identify discrepancies, report significant discrepancies to the City, and coordinate with the utility company's contractor to correct such observed discrepancies.
- Coordinate with the utility company and/or the utility company's contractor to determine when utility relocations will occur.
- Provide updated Roadway Bid Package Schedule to the City monthly which will include start and completion dates of the utility work and percent complete.

## Task 2.03 Utility Pre-Construction Meeting and Staking (Rivers)

### Utility Pre-Construction Meeting

Rivers will have up to two staff members attend the Utility Pre-Construction Meeting. Rivers will assist with meeting documentation for project records.

Rivers shall attend the Utility Pre-Construction with the Engineer's representatives, utility company's representatives, GUC staff and the City's staff. Rivers shall provide assistance to the Engineer as needed during these meetings in interpreting the plans and specifications and answering the Engineer's questions. Attendance of a site walk with the Engineer or others is not currently budgeted. Rivers will provide handwritten Meeting documentation for project records.

### Utility Staking

Utility Staking shall apply to light poles, right-of-way and easements located within Project Area C and a portion of Area D (Cadillac Street to Davis Street) as depicted on construction plan sheets E-3, E-4, UO-2, EL-3, and EL-4. Rivers shall provide construction staking services as follows:

- Coordination/Correspondence / file setup in support of requested staking for GUC
- Point stakeout calculations for placement of approximately 340 points for GUC's use.
- Recover or re-establish horizontal and vertical control in support of field staking
- Field stake approximately 232 permanent easement and right of way points (GUC requested staking approximately every 50 feet +/-)
- Field stake 54 light poles with one offset stake; to include a cut or fill to finished grade of ground surface if needed. (108 points total)
- Field Stake one (1) GUC Primary Switch Gear (Sheet UO-2)

### Staking Stipulations.

- CAD files of the above plan sheets and the recorded Easement Acquisition Plat(s) prepared by CH Engineering and any revisions are to be provided to Rivers.
- All proposed finished grade ground elevations at the light poles and easements/right of way points are to be provided to Rivers. If there is no difference between the proposed finished grade and existing natural ground, then written confirmation of such shall be provided to Rivers.

These services will be provided at a lump sum cost. An hourly cost-plus re-staking allowance has been added to the fee. Re-staking will only be billed if required, and any requests will only be performed with written authorization. The re-staking allowance is only limited to three (3) return trips.



The following services are not included in this scope:

- Any staking not listed above
- Re-staking in excess of \$1,500.00 (three (3) trips)
- Finished ground grade calculations

## TASK 3 – Construction Administration

### Task 3.01 Pre-Construction Meetings

The Engineer will conduct the Pre-Construction Meeting with the Contractor's representatives, utility company's representatives, GUC staff, the City's staff, and the Engineer's sub-consultants as necessary, for each Bid Package (2 total meetings). The Engineer will have up to three staff members in attendance for each of these meetings. The Engineer will provide assistance to the City as needed during these meetings in interpreting the plans and specifications, answering the Contractor's questions, and attending a site walk with the Contractor. The Engineer will provide Meeting documentation for project records.

### Task 3.02 Pre-Construction Meetings (Rivers)

Rivers shall attend the Project Pre-Construction Meeting with the Engineer's representatives, Contractor's representatives, utility company's representatives, GUC staff and the City's staff. Rivers shall provide assistance to the Engineer as needed during these meetings in interpreting the plans and specifications and answering the Engineer's questions. Attendance at a site walk with the Engineer, Contractor or others is not currently budgeted. Rivers will provide handwritten Meeting documentation for project records.

### Task 3.03 Monthly Construction Progress Meetings

The Engineer will conduct monthly construction progress meetings with the Contractor's representatives, the City's staff, and the Engineer's sub-consultants as necessary, for each Bid Package. Such meetings will be maintained throughout the entire construction period and will be for the primary purpose of assessing the progress of the work. The Engineer will have up to two staff members in attendance for each of these meetings. The Engineer will provide meeting documentation for project records.

The Engineer will conduct up to twenty-four (24) monthly construction progress meetings for the Greenway Bid Package and up to thirty-two (32) monthly construction progress meetings for the Roadway Bid Package for a total of up to fifty-six (56) meetings.

### Task 3.04 Monthly Construction Progress Meetings (Rivers)

Rivers shall attend monthly scheduled construction progress meetings with the Engineer's representatives, Contractor's representatives and the City's staff, as necessary. Such meetings shall be maintained throughout the entire construction period and shall be for the primary purpose of assessing the progress of the work. The

SUBCONSULTANT will provide Meeting documentation for project records. It is assumed that there will be no more than fifty-six (56) monthly construction progress meetings.

### Task 3.05 Construction Observation Visits

The Engineer will conduct periodic construction site visits to observe the progress of the work. Observations will not be exhaustive or extend to every aspect of Contractor's work but will be limited to spot checking and similar methods of general observation. Based on information obtained during the site visits, Engineer will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Engineer will keep Client informed of the general progress of the work. The Engineer will make up to twenty (20) site visits and site visits will incorporate both bid packages, when possible. The Engineer will have up to two staff members in attendance for these site visits.

Engineer will not supervise, direct, or control Contractor's work, and will not have authority to stop the Work or responsibility for the means, methods, techniques, equipment choice and usage, schedules, or procedures of construction selected by Contractor, for safety programs incident to Contractor's work, or for failure of Contractor to comply with laws. Engineer does not guarantee Contractor's performance and has no responsibility for Contractor's failure to perform in accordance with the Contract Documents. Engineer is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement.

Engineer will recommend to Client that Contractor's work be disapproved and rejected while it is in progress if Engineer believes that such work will not produce a completed Project that generally conforms to the Contract Documents.

### Task 3.06 Contractor Pay Application Review and Approval

Based on its observations, review of applications for payment and supporting documentation, Engineer will recommend amounts that Contractor be paid. Recommendations will be based on Engineer's knowledge, information, and belief, and will state whether in Engineer's opinion Contractor's work has progressed to the point indicated, subject to any qualifications stated in the recommendation. For unit price work, Engineer's recommendations of payment will include determinations of quantities and classifications of Contractor's work, based on observations and measurements of quantities provided with pay requests. Engineer's recommendations will not be a representation that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work, or involved detailed inspections.

Engineer will review, approve, and make recommendation for payment to Client. The submitted pay application will be reviewed with the project inspectors, and cross checked with submitted field reports. Engineer will also review to determine if all information that is required for FHWA funded projects is included, such as material tickets, supplier list, W-9 forms, DBE-IS for subcontractors, subcontractor approval forms, sales tax, certified payroll, and an updated schedule.

The Engineer will review up to twenty-four (24) payment applications for the Greenway Bid Package and up to thirty-two (32) payment applications for the Roadway Bid Package (56 total).

If a dispute arises between the Client and the Contractor, the Engineer will, if requested by Client, render written decision on all claims of Client and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents. In rendering decisions, Engineer shall be fair and not show partiality to Client or Contractor and shall not be liable in connection with any decision.

### **Task 3.07 Contractor Pay Application Review and Approval (Rivers)**

The Contractor's monthly proposed quantities of work completed for payment and for materials stored shall be checked/confirmed by Rivers' Resident Construction Observers (RCOs) as part of Task 4.01. Rivers' Resident Construction Observation Manager (RCOM) shall provide oversight, handling, and coordination of the Contractor's pay request between the RCO and the Engineer each month. Final approval and distribution of pay requests shall be provided by the Engineer.

### **Task 3.08 Shop Drawing Reviews**

The Engineer will promptly review and approve or take other appropriate action upon the Contractor's submittals such as shop drawings, product data and samples for the purpose of conformance with the information given in the Contract Documents. The Engineer's action will be taken with such reasonable promptness as to cause no delay in the work or in the Project schedule. Such review and any action taken in response will not extend to means, methods, techniques, equipment choice and usage, schedules, or procedures of construction or to related safety programs. Any action in response to a shop drawing will not constitute a change in the Contract Documents, which can be changed only through the Change Orders. The Engineer will receive Contractor submittals for compliance with Contract Documents, review them, and properly distribute to Contractor and City. The Engineer will review up to twenty-five (25) Contractor submittals for the Greenway Bid Package and up to fifty-five (55) Contractor submittals for the Roadway Bid Package (80 total).

### **Task 3.09 Shop Drawing Reviews (Rivers)**

Rivers' RCOM shall provide brief review of approved shop drawings as required for familiarization to facilitate communication and coordination with the Contractor, RCO and CONSULTANT. RCOM shall maintain submitted shop drawings and provide necessary hard copies to the RCO.

### **Task 3.10 Respond to Contractor's Requests for Information**

The Engineer will promptly review and respond to the Contractor's Requests for Information (RFI) with such reasonable promptness as to cause no delay in the work or in the Project schedule. The Engineer will respond to up to twenty-five (25) RFIs for the

Greenway Bid Package and up to fifty-five (55) RFIs for the Roadway Bid Package (80 total).

### **Task 3.11 Respond to Contractor's Requests for Information (Rivers)**

Rivers shall coordinate with the CONSULTANT and provide a written response to Requests for Information (RFIs) dealing with portions of the project designed by Rivers. It is assumed that there will be no more than twenty (20) RFIs.

### **Task 3.12 Respond to Contractor's Requests for Information (Davenport)**

Davenport will promptly review and respond to the Contractor's Requests for Information (RFI) with such reasonable promptness as to cause no delay in the work or in the Project schedule. Davenport will respond to up to ten (10) RFIs for the Greenway Bid Package.

### **Task 3.13 Negotiate, Review and Prepare Change Orders**

The Engineer will promptly review and respond to the Contractor's Requests for Change Orders with such reasonable promptness as to cause no delay in the work or in the Project schedule. Engineer will recommend Change Orders to the Client and will review and make recommendations within conformance to the Contract Documents related to Change Orders submitted or proposed by the Contractor. The Engineer will issue up to five (5) change orders for the Greenway Bid Package and up to fifteen (15) change orders for the Roadway Bid Package (20 total).

### **Task 3.14 Issue Bulletin Drawings**

The Engineer will, as needed, promptly create and issue any Bulletin Construction Drawings with such reasonable promptness as to cause no delay in the work or in the Project schedule. Bulletin Construction Drawings will be issued to address any field changes or design clarifications that might arise during construction. The Engineer will issue up to ten (10) bulletin drawings for the Greenway Bid Package and up to twenty (20) Bulletin Drawings for the Roadway Bid Package (30 total).

### **Task 3.15 Issue Bulletin Drawings (Rivers)**

Rivers shall coordinate with the Engineer and provide supplemental Bulletin Drawings as required to provide modification or clarification to the construction plan sheets. The Bulletin drawings provided by Rivers are associated with the portions of the project designed by Rivers. It is assumed that there will be no more than ten (10) Bulletin Drawings produced.

### **Task 3.16 Issue Bulletin Drawings (Davenport)**

Davenport will, as needed, promptly create and issue any Bulletin Construction Drawings with such reasonable promptness as to cause no delay in the work or in the Project schedule. Bulletin Construction Drawings will be issued to address any field

changes or design clarifications that might arise during construction. Davenport will issue up to four (4) bulletin drawings for the Greenway Bid Package.

### Task 3.17 Value Engineering Meetings

The Engineer will attend up to two (2) value engineering meetings for the Greenway Bid Package and three (3) value engineering meetings for the Roadway Package at the request of the City (5 total meetings). The Engineer will have up to two staff members in attendance for each of these meetings. The Engineer will develop preliminary exhibits to aid in the meeting discussion and will only be for use by the Contractor to provide a cost savings to the City prior to moving ahead. If the cost savings are worth it to change the design plans, the Issue Bulletin Drawings Tasks will be utilized to complete the plan changes for construction.

### Task 3.18 Materials Sampling and Testing Coordination

The Engineer will oversee the Materials Sampling and Testing process in accordance with the Contract Documents. Terracon will perform the sampling and testing services as defined in this other parts of this Task Order and provide the results to Rivers.

When requested by Rivers and Terracon, Engineer will review inspection results. Engineer's review of certificates of inspection will be solely to determine that the results indicate compliance with the Contract Documents and will not be an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the Contract Documents. Engineer is entitled to rely on the results of such tests. Engineer will review up to thirty (30) tests for the Greenway Bid Package and up to seventy (70) tests for the Roadway Bid Package (100 total).

### Task 3.19 Conduct Substantial Completion Inspection & Final Acceptance Inspection

Contractor is responsible for scheduling and conducting a Substantial Completion Inspection with the Engineer, utility company's representatives, GUC staff, the City's staff, and the Engineer's sub-consultants as necessary for each Project (7 total inspections) to determine if the work is substantially complete. Rivers will provide the initial punch list generated from field observations and Kimley-Horn will complete and distribute the punch list following the Inspection. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on the punch list. The Engineer will have up to five staff members in attendance for each of these meetings. The Engineer will provide meeting documentation for project records.

Contractor is responsible for scheduling and conducting a Final Acceptance Inspection with the Engineer, utility company's representatives, GUC staff, the City's staff, and the Engineer's sub-consultants as necessary for each Project (7 total inspections) to evaluate whether the completed Work of Contractor is generally in conformance with the Contract Documents and the punch list so that the Engineer may recommend final

payment to the Contractor. The Engineer will have up to five staff members in attendance for each of these meetings. The Engineer will provide meeting documentation for project records. The Engineer will provide meeting documentation for project records. The City will issue the formal letter of acceptance and set the date for the beginning of the warranty phase for each Project.

### Task 3.20 Conduct Substantial Completion Inspection & Final Acceptance Inspection (Rivers)

Rivers is responsible for attending a Substantial Completion Inspection and Final Inspection visit to establish initial and final punch list items (two (2) inspections for each of seven (7) projects). Rivers shall participate in the final review with the Engineer and appropriate Project Stakeholders to check conformance of the Work with the requirements of the Construction Contract Documents. Punch lists will be generated and provided to the Engineer as required.

### Task 3.21 Record Drawings

The Contractor will finalize the As-Built Drawings for each Project in each Bid Package (7 total) in accordance with the Contract Documents and submit the As-Built Drawings to the Engineer for review.

The Engineer of Record will review the As-Built Drawings to determine if there were obvious errors or changes to the intent of the design and for the purposes of creating Record Drawings for the Project. The Engineer of Record is the engineer who sealed the Final Plan Set, approving them for construction. The Engineer will use the As-Built Drawings to develop a set of Record Drawings for each Project in each Bid Package. The Record Drawings may be developed with hand markups instead of editing the original CADD design files.

If the Engineer did not personally observe or verify the changes, the Engineer will indicate the source of the information for the changes and provide language disclaiming any personal field verification.

The Engineer will comply with the requirements in the “Certifying Record Drawings” article promulgated by the North Carolina Board of Examiners for Engineers and Surveyors (NCBELS). These requirements specify how to produce, collect, and maintain records regarding infrastructure improvement designs and changes made to such designs during the construction process.

The Engineer will sign and seal the Record Drawings in accordance with NCBELS rules to ensure that the information is ready for release and has been reviewed by a professional engineer. The Engineer will submit the following for each Project in each Bid Package to the City Engineering Division:

- One (1) signed and sealed copy of Record Drawings.
- An electronic copy of the drawing in PDF format with the following certification:



"I, \_\_\_\_\_, as a duly registered Professional Engineer in the State of North Carolina, hereby certify that construction of the street(s) and storm drainage infrastructure as presented on these Record Drawings has been completed in substantial accordance with the approved plans and specifications and that the information pertaining to said infrastructure provided by \_\_\_\_\_ and prepared under the supervision of \_\_\_\_\_ is correct to the best of my knowledge and belief."

- The Engineer's & City's Certification Completion forms (Std. details No. C31.01 & C31.02, respectively).

### Task 3.22 Record Drawings (Rivers)

Rivers shall comply with the requirements in the "Issuance of Record Drawings" promulgated by the North Carolina Board of Examiners for Engineers and Surveyors. These requirements specify how to produce, collect, and maintain records regarding infrastructure improvement designs and changes made to such designs during the construction process.

#### **Completion of Construction – All 7 Projects**

Rivers' RCO shall review the Contractor furnished As-Built drawings to confirm that annotations describing field changes have been added and that the additions are complete and clear. The annotations should include any sketches, narratives, dimensions or other information that may be helpful in describing the changes.

#### **Compilation and Certification – Projects C, D, and E**

It is assumed there will be no need for as-builts for Project B. Rivers will review the annotated plan sets for Projects C, D, and E to determine if there were obvious errors or omissions such that the designer of record can create final Record Drawings for the Project. The designer of record is the Rivers engineer who sealed the final design drawings, approving them for construction. Rivers shall review and annotate Contractor's As-Built information such that a set of Record Drawings can be produced generally within four (4) calendar weeks. It is assumed nineteen (10) total sheets of record drawings will be generated.

If Rivers did not personally observe or verify the changes, Rivers shall indicate the source of the information for the changes and provide language disclaiming any personal field verification.

### Task 3.23 Record Drawings (Davenport)

Davenport will review the applicable As-Built Drawings and create Record Drawings in accordance with the process described in the Record Drawings Task.

### Task 3.24 One Year Warranty Inspection and Issue Warranty List

The Engineer will schedule and conduct a Warranty Inspection with appropriate City officials and Contractors' representatives for each Project in each Bid Package at eleven

(11) months after the beginning of the guarantee period. Rivers will provide the warranty lists for these inspections. The Engineer will have up to four staff members in attendance for each of these meetings. Following the Inspection, the Engineer will provide a list of items for each Project to the City's Project Manager that are observed to be out of conformance with the Contract Documents.

### Task 3.25 One Year Warranty Inspection and Issue Warranty List (Rivers)

Rivers shall conduct with appropriate City officials and Engineer's representatives, one (1) Warranty-phase inspection for each of the seven (7) projects, at eleven (11) months after the beginning of the guarantee period. Warranty lists will be generated and provided to the Engineer as required.

### Task 3.26 Construction NEPA Review, Environmental Services, and Stakeholder Meetings

#### **Construction NEPA Review**

The Engineer will review the project commitments in the previously signed and sealed Environmental Documents for all seven projects and verify they still apply and have been incorporated in the plans and bid documents as necessary. The Engineer will also review the federally protected species list to ensure no species updates are needed for the Environmental Documents.

#### **Bald Eagle Surveys**

The bald eagle is protected under the Bald and Golden Eagle Protection Act (BGPA). The Engineer will review North Carolina Natural Heritage Program data inventorying known occurrences of bald eagle in and within 1.0-mile of the project study area. The Engineer will conduct pedestrian surveys for bald eagle within the project study area and the area within 660 feet of the project study area in accordance with the NCDOT bald eagle survey protocols based on the National Bald Eagle Management Guidelines. The Engineer will render an updated biological conclusion for bald eagle.

#### **Stakeholder Meetings**

The City will provide a list of pertinent stakeholders along the project corridor to the Engineer. The Engineer will attend and facilitate the following stakeholder meetings:

- Roadway Projects (8 total)
  - Two stakeholder meetings per year
- Greenway Projects (3 total)
  - One stakeholder meeting for Projects A & B
  - One stakeholder meeting for Project F
  - One stakeholder meeting for Project G



The Engineer will have up to two staff members attend and facilitate the stakeholder meetings. The Engineer will prepare and provide the City with an electronic copy of a draft agenda and meeting materials prior to the stakeholder meetings. The Engineer will conduct one round of revisions and distribute to all of the stakeholders. The Engineer will prepare a summary of the stakeholder meetings and provide a draft of the summary electronically to the City for review.

## TASK 4 – Resident Construction Observation

### Task 4.01 Resident Construction Observation (Rivers)

Rivers to provide full-time construction observation of the entire project to check conformance with plans and specifications. This will include two (2) full-time on-site Resident Construction Observers (RCOs) who will represent Rivers and the Engineer. One (1) RCO will be assigned to the four (4) Greenway projects, and one (1) RCO will be assigned to the three (3) Roadway projects.

As part of the Project site visits, Rivers shall become familiar in detail with the progress and quality of the work completed and determine in detail if the work is being performed in a manner indicating that the work, when completed, will be in accordance with the Construction Contract Documents. Rivers shall exercise the utmost care and diligence in discovering and promptly reporting to the Engineer any defects or deficiencies in the work of the Contractor or any Subcontractors, or their respective agents or employees, or any other person performing any of the work in the construction of the Projects. Rivers will document all construction activities and photograph critical portions of the project. Rivers, or his representative, will collect all material quantity tickets and determine quantities of materials installed.

Rivers shall have the responsibility and authority to reject work that does not conform to the Construction Contract Documents. Whenever Rivers considers it necessary or advisable for the implementation of the intent of the Construction Contract Documents, Rivers shall have the responsibility to require additional inspection or testing of the work in accordance with the provisions of the Construction Contract Documents, whether or not such work is fabricated, installed or completed. However, Rivers shall obtain the Engineer's prior written consent of any such additional inspection or testing. At no times shall Rivers, or his representative, supervise or direct the Contractor in performance of Contractor's work.

The estimated fee is based on full-time construction observation services at 40-hours per week for each RCO throughout the expected duration of the construction contract period. Should overtime work be required, RCO services will be provided at a rate that is equivalent to 1.5 times the regular hourly rate.

### Task 4.02 Resident Construction Observation Management (Rivers)

Rivers will provide a resident construction observation manager (RCOM) to provide management of the RCO, and to serve as a liaison between the RCO and the Engineer. Rivers' Project Manager shall provide oversight, management and assistance to the RCO as required.

In general, Contractor's questions, concerns, or matters of interpretation shall be first addressed by the RCO, followed by the RCOM, and then if necessary by the Engineer.

The duties of the RCOM shall include:

- address field questions of the Contractor and RCO,
- provide site visits when required to address questions of the Contractor, City, RCO and/or Engineer,
- assist RCO in review of progress schedules, shop drawing schedules and schedule of values,
- review RCO field reports,
- assist RCO with interpretation of plans and specifications,
- assist RCO with interpretation of shop drawings,
- review Engineer's response to RFI's prior to issuance,
- review Engineer's field orders, work change directives, or change orders prior to issuance,
- assist RCO with compilation and maintenance of material quantities included in monthly pay requests,
- assist Engineer in determining need to issue Bulletin Drawings,
- assist Engineer in review of Bulletin Drawings for adequacy prior to issuance,
- assist RCO in review and annotation of Record Drawings.

Rivers' Project Administrator will provide word processing assistance to transcribe the RCOs' handwritten field inspection reports for review by the RCOM and submittal via OpCenter.

### Task 4.03 Resident Construction Observation Coordination

The Engineer will coordinate with the Rivers' Resident Construction Observation team as requested by the subconsultant during the life of the project. The effort is assumed to be weekly coordination calls and email communication.

## TASK 5 – Materials Sampling and Testing

### Task 5.01 Materials Sampling and Testing

Terracon will provide the following services:

#### **Project Description**

Item	Description
<b>Proposed Construction</b>	<ul style="list-style-type: none"> <li>• West 5th Street, extending from Cadillac Street to Reade Circle                             <ul style="list-style-type: none"> <li>· Project C; Cadillac Street to Sheppard Street</li> <li>· Project D; Sheppard Street to Pitt Street</li> <li>· Project E; Pitt Street to Reade Circle</li> </ul> </li> <li>• Tar River Greenway                             <ul style="list-style-type: none"> <li>· Project A; Moye Blvd to Nash Street</li> </ul> </li> <li>• Moye Blvd Sidewalk Expansion                             <ul style="list-style-type: none"> <li>· Project B; W 5th Street to S Memorial Drive</li> </ul> </li> <li>• Arts District Trail                             <ul style="list-style-type: none"> <li>· Project F; W 10th Street to Dickinson Ave to Ficklen Street</li> </ul> </li> <li>• Town Common Connector                             <ul style="list-style-type: none"> <li>· Project G1; 150 linear feet south of E 4th Street</li> <li>· Project G2; E 4th Street to E 3rd Street</li> <li>· Project G3; E 3rd Street to E 1st Street</li> </ul> </li> </ul>
<b>Proposed Construction</b>	<p>Projects C, D &amp; E include modifications to West 5th Street including the construction of round-a-bouts, milling and paving, sidewalks and bike lanes.</p> <p>Projects A, B, F &amp; G include asphalt and concrete paths, sidewalks, and elevated walkways to be supported by timber pile</p>
<b>Pavements</b>	Pavement sections vary throughout the projects
<b>Grading</b>	Minor grade changes are proposed at pavement sections. Projects A and G3 include portions of boardwalk and a prefabricated pedestrian bridge.

Should any of the above information or assumptions be inconsistent with the planned construction, Terracon will need to make modifications to this scope of services.

In preparation for this proposal, the following documents were reviewed:

- BUILD Grant Greenway Projects, 100% plans, dated 05-24-2022
- BUILD Grant Greenway Schedule
- BUILD Grant Roadway Projects, 100% plans, dated 05-24-2022
- BUILD Grant Roadway Schedule

**Construction Materials Testing and Special Inspection Scope of Services**

The required inspection and testing services required for this project will be conducted by Terracon in accordance with the recommendations and requirements offered by the project contract documents, the project geotechnical report, the International Building Code, the applicable ASTM testing and material standards, and NCDOT geotechnical testing standards, as well as other applicable referenced standards.

Terracon understands the scope of services for this project will include observations and/or testing of the following areas of construction:

- Soils

- Continuous observations to observe proofrolling of prepared subgrade and provide direction for removal and replacement of unsuitable soil
- Periodic observations of classification and testing of compacted fill materials, if applicable
- Continuous observations to verify use of proper materials, densities and lift thicknesses during placement and compaction of compacted fill
- Periodic observations of subgrade to verify it has been prepared properly prior to placement of compacted fill
- Observe stability and perform density tests on graded aggregate base course
- Observe construction of MSE retaining walls
- Perform compaction testing of retaining wall backfill
- Perform periodic testing by Dynamic Cone Penetrometer of soils at foundation bearing elevation to verify that the soils are satisfactory for the design bearing capacity
- Timber Pile Installation Observations
  - Continuous observations of timber pile installation
  - Provide pile driving criteria, including minimum pile embedment depth, based on an approved pile driving criteria
  - Confirm timber pile grade and size prior to installation
  - Observe pile alignment, plumbness and condition during pile driving
  - Monitor blow counts and compare to established pile driving criteria
- Cast-in-Place Concrete
  - Periodic observations of reinforcing steel, welded wire fabric
  - Continuous observations of cast-in-place concrete placement
  - Continuous verification of correct mix design used during placement
  - Continuous monitoring of sampling of fresh concrete, slump test, air content test, temperature of concrete and creation of strength test specimens
  - Continuous observations of bolts to be installed in concrete prior to and during placement.
  - Periodic observations of curing techniques
  - Periodic observations of formwork for shape, location, and dimensions of concrete members being formed
  - Periodic observations of post-installed and adhesive concrete anchors
- Asphalt Pavements
  - Observe proofrolling of soil and stone subgrades at rough and fine grading
  - Measure stone base thickness and density
  - Observe asphalt placement and rolling techniques
  - Perform field density tests on constructed pavement
  - Obtain core samples for thickness measurement

If the City would like Terracon to perform any additional work, Terracon can issue a short Supplement to Agreement form or Supplement Proposal that outlines the additional work to be performed and associated fees.

### **Assumptions and Exclusions**

The following assumptions were made when creating a cost estimate for the above referenced scope of services:

- Staff time, laboratory testing and extra trips required for re-testing and re-inspections will be denoted on the monthly invoices as such and be considered out-of-scope or additional items not included in the above estimated budget.
- Terracon has assumed when feasible, multiple tasks will be occurring concurrently, and the inspectors/technicians will provide multiple services in a single visit (such as soils and concrete in the same visit or reinforcing steel and concrete).
- From Terracon's experience with this type of building construction, Terracon anticipates that the slab-on-grade concrete pour will begin in the early morning hours, overtime rates will apply to services performed before 6:00 AM or after 6:00PM.
- On-site exterior concrete testing for curb/gutter and sidewalks will not be required.
- Construction sequencing follows the drawing sequences. This could change many aspects of estimation.

Terracon requests to be notified should any of these assumptions be incorrect or if additional testing is needed so that a revised scope of services and cost estimate may be submitted. Without attempting to provide a complete list of all services or potential services that will be excluded from this proposal and performed by Terracon, the following services are specifically excluded from this proposal. These services can be performed by Terracon if desired; however, a separate or revised proposal for these services would be required.

- Concrete Plant Inspections
- Steel Shop Inspections
- Waterproofing Evaluations

### **Limitations**

Terracon will use persons experienced in the various phases of the construction testing. Terracon will provide the Contractor with daily inspection reports and, if appropriate, make recommendations for correcting substandard test results. Terracon will not direct the Contractor or his subcontractors in performance of their work and does not have the authority to authorize changes in their contracts. Most construction testing is a random sampling of the work product. It is not intended to be a guarantee of the overall work.

The Contractor is responsible for performing the work in accordance with the contract documents. In addition, the Contractor and his subcontractors are solely responsible for safety on the job site. Terracon accepts no responsibility for site safety.

### **Scheduling Guidelines**

Terracon's services will be provided on an "as requested" basis when scheduled by the Contractor or Project Inspector. Terracon recommends that the Contractor or Project Inspector utilize the "Dispatch/Scheduling Phone Number" between the hours of 8:00 am and 5:00 pm. During scheduling the following information should be provided to the dispatcher:

- Project name and location
- Date and time of the requested service(s)
- Services required (please do not assume that technicians carry all equipment)
- Onsite location(s) of the requested service(s)
- Anticipated quantities of materials (i.e., cubic yards of concrete)
- Onsite contact information (name and phone number, if possible)

Please note that Terracon would prefer the Contractor or Project Inspector schedule Terracon's services in a timely manner and need to cancel them than to not call at all or call late. Terracon requires a minimum 24-hour notice to schedule personnel for services to avoid delays to construction activity. If Terracon's services are not scheduled according to this time frame, Terracon will make every reasonable effort to accommodate the Contractor's needs but may be unable to provide service. Terracon will only provide testing when contacted by the City's designated representative and will not be responsible for required testing if Terracon is not scheduled.

### **Data Management and Reporting**

To enhance the service Terracon provides to the City, Terracon uses a proprietary project management and data management software program known as CMELMS (Construction Materials Engineering Laboratory Management System). CMELMS is a program developed by Terracon specifically tailored for Construction Quality Control and Quality Assurance consulting and testing projects. CMELMS allows Terracon to electronically track all client service requests, daily field reports, laboratory test results, concrete history and performance, invoicing, project budgets, and project report and invoice distribution. The software creates a database for each project that allows Terracon to provide timely and constant communication to clients and instantaneous retrieval of field and laboratory reports and test results and budget information. This proves to be invaluable to Terracon's project managers and clients when discussing specific project details and data. Furthermore, Terracon can also provide distribution of reports and invoicing to clients via electronic methods. This includes email distribution or setting up project specific "Client Document Website" where Terracon's clients and other

approved Project Team members can go to via the Internet and retrieve critical project information.

Through the CMELMS program, Terracon has the capability to efficiently track and develop a listing of Terracon's tests and observations that are not in compliance with the approved plans and specifications for the project. This deviation log is maintained throughout the project and serves as one point of reference that can be viewed by the project team members to see which items are still unresolved. Maintenance and distribution of a deviation log serves to help address and correct deviations throughout the project.

Each of Terracon's technicians is provided a field laptop and smartphone. With these devices, the technicians can connect to the internet, complete their report in the field electronically and submit it directly to the project manager in the office through CMELMS. Once the report is submitted, it is instantly uploaded to the project manager's dashboard for review. If a deviation is noted within the report, an email notification is automatically sent to the project manager informing him or her of the non-conforming items and that action may be required. Terracon has a company-wide standard utilizing the following reporting goals:

- Formal reports containing deviations or non-conforming items will be submitted within 24 hours of the site visit.
- Formal reports without deviations or non-conforming items will be submitted within 5 business days of the site visit.
- Formal laboratory testing reports will be submitted within 2 business days of the completion of the testing.

#### Tracking of Non-Conformances for Special Inspection Services

For Special Inspection Services, non-conformance items not resolved by the end of the day will be recorded as being in non-compliance. They will be logged and tracked until cleared. All pertinent parties will be informed of non-compliance at the time it is discovered, and weekly updates will be given until all non-conformance items are cleared.

#### Reporting

Results of field tests will be submitted verbally to available personnel at the site. Final written summaries of field tests and observations are usually submitted at intervals of approximately twice per week and will include results of laboratory tests.

#### **Safety**

Terracon has a personal and uncompromising commitment to everyone going home safely each and every day. Incident and Injury-Free (IIF) is about care and concern for people. It is Terracon's commitment at all levels of the company where safety is held as

a core value and an operational priority. Working safely is an inseparable part of working correctly, and just as important as other operational priorities, including quality, profitability and schedule. IIF is Terracon's commitment to people, valued by Terracon for who they are and what they do. IIF is not just something Terracon does; it's in everything Terracon does.

As part of being truly IIF, Terracon will prepare a "Pre-Task Plan" for this project where Terracon will identify the potential site safety and job hazards associated with the site. Terracon's Pre-Task Plan will identify and prepare Terracon's personnel to handle conditions such as traffic control, environmental contamination, site access issues, overhead and underground utilities, adverse weather conditions, and personal protection equipment.

#### Working Seamlessly During COVID-19

The current COVID-19 pandemic has created the need for a different type of PPE for Terracon's employees and additional issues to be aware of while working. Terracon has an internal COVID-19 task force which focuses daily on ensuring Terracon is aware of current government requirements and Terracon's teams are working safely under these new guidelines. Terracon's employees have the masks and cleaning supplies needed to work safely on the site. Terracon also has implemented a questionnaire and temperature monitoring program to screen for possible signs of COVID-19.

#### **Compensation**

Based on the scope of services outlined above and discussed, Terracon recommends the following budget allowance for the services outlined above. The budget allowance is based on Terracon's estimated durations as presented on the attached Budget Estimates.

Should additional services or site visits be required that are outside the scope of work and estimated site visits outlined above, they will be performed at the unit rates shown on the Fee Schedule.

The above cost will not be exceeded without prior written approval from the City. If services are requested beyond the above scope of services or if additional site visits are necessary to complete special inspection services, they will be invoiced in accordance with the attached unit rate fee schedule.

For services outside of Terracon's scope and beyond the project duration, overtime is defined as all hours more than eight hours per day, Monday through Friday, hours worked before and after 6:00 am and 6:00 pm and all hours worked on weekends and holidays. Overtime rates will be billed at 1.5 times the hourly rate quoted. The City will be invoiced monthly for services actually performed. Services that are outside the proposed scope of services will be billed at the attached unit rates upon the City's



request. An itemized invoice for Teracon's services provided will be sent monthly unless directed otherwise.

## TASK 6A – Expenses

### Task 6A.01 Expenses

The Engineer will be reimbursed for mileage and meals related to travel between the office and various job sites as described in this scope of work.

## TASK 6B – Expenses (Subconsultants)

### Task 6B.01 Expenses (Rivers)

Rivers shall be reimbursed for the RCOs' mileage for travel between the office and various job sites at the IRS approved standard mileage rate current at the time of service.

## TASK 7 – Unspecified Additional Services

Engineering services described in this Scope do not include certain categories of work, which are usually referred to as "Unspecified Additional Services." The Engineer will provide Unspecified Additional Services only upon receipt of written authorization from the City. To the extent possible, the Engineer will notify the City in advance if the need for Unspecified Additional Services is anticipated.

Unspecified Additional Services could include:

- Additional Hourly Services not listed above under "Scope of Services."
- Other professional services related to the Project, but not specifically described in this Scope of Services, which are identified and authorized in writing by the City.



# City of Greenville, North Carolina

Meeting Date: 10/10/2022

**Title of Item:** Report on Bids and Contracts Awarded

**Explanation:** The Director of Financial Services reports that the following bids and or contracts over a certain dollar threshold were awarded by the Financial Services Manager and City Manager during the months of July and August.

Date Awarded	Description	Vendor/PO #	Amount	MWBE Vendor?	Does LPP Apply?
7/13/22	(155) Glock 17 MOS Gen Deputy Weapon (Pistol)  <b>Note:</b> Cooperative Contract NY#PC68729SB	AMCHAR Wholesale, Inc.  PO#23000034	\$66,495.00	N	N
7/14/22	Red Multi Reticle System Red Dot Light System  <b>Note:</b> State Contract#7SG91	Holosun Technologies, Inc.  PO#23000044	\$52,587.60	N	N
7/19/22	Voice Maintenance Renewal on Telephony Systems  <b>Note:</b> State Contract #204X- No bid done.	Meridian IT Inc.  PO#23000063	\$67,623.25	N	N

7/28/22	Core Switches EOL Chassis Replacement  <b>Note:</b> State Contract #204X- No bid done.	Step CG, LLC  PO#23000095	\$87,208.95	N	N
8/24/22	Network upgrade of  EOL switches  <b>Note:</b> State Contract #204X- No bid done.	Step CG, LLC  PO#23000159	\$86,236.66	N	N
8/25/22	eDocs DM Standard Name User Client Maintenance Renewal <b>Note:</b> Sole Source	Open Text Corporation  (Sole Source)  PO#23000170	\$66,242.08	N	N

**Fiscal Note:** Funding for the bids and/or contracts awarded is included in the City of Greenville 2022-2023 budget ordinance

**Recommendation:** Reflect the award information in the City Council minutes.

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# City of Greenville, North Carolina

**Meeting Date: 10/10/2022**

**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:

Refund Payee	Adjustment Refunds	Amount
Bunch, Earl Wayne	Registered Motor Vehicle	107.15
Jones, Thierry Michel	Registered Motor Vehicle	107.82
Dison, Leaky Lamur, Jr	Registered Motor Vehicle	108.18
Gooding, Margie Jones	Registered Motor Vehicle	114.22
Carraway, Gail Eason	Registered Motor Vehicle	115.38
Shaw, Jeremy Adam	Registered Motor Vehicle	117.41
Kelly, Everett Kaumualii, Jr	Registered Motor Vehicle	121.79
Cherry, Mary Lou Buntin	Registered Motor Vehicle	138.12
Kainth, Kuldip	Registered Motor Vehicle	138.22
Little, Gilbert	Registered Motor Vehicle	141.31
Aranyos, Judit	Registered Motor Vehicle	141.36
Sauls, Fred Theodore	Registered Motor Vehicle	141.79
Steinbauer, Mary Allen	Registered Motor Vehicle	145.50
Rosenberger, Holly Elizabeth	Registered Motor Vehicle	147.01
Artis, Titania Fiona	Registered Motor Vehicle	152.83
Wilkerson, Barbara Robinson	Registered Motor Vehicle	154.90
White, Bruce Ray	Registered Motor Vehicle	158.47
Allen, Kyle Gregory	Registered Motor Vehicle	165.43
White, Bruce Ray	Registered Motor Vehicle	167.51
Swanger, Dale William	Registered Motor Vehicle	180.25

KCS Floorplan LLC	Registered Motor Vehicle	182.67
Hooks, Karrie Hager	Registered Motor Vehicle	183.58
Pitt, Bernice Locke	Registered Motor Vehicle	189.84
Keen, Susan Kelly	Registered Motor Vehicle	200.10
Rex Smith Farms Inc	Registered Motor Vehicle	200.84
Environment 1 Inc	Registered Motor Vehicle	201.25
Hicks, Renee	Registered Motor Vehicle	203.33
Deathriage, Samuel Harley	Registered Motor Vehicle	203.84
Rogers, Julie Grabel	Registered Motor Vehicle	244.62
Dail, Kristopher Thomas	Registered Motor Vehicle	249.40
Willingham, Shannon Leigh	Registered Motor Vehicle	278.50
Woodard, Charles Patrick	Registered Motor Vehicle	284.60
Davis, Lakesha Marie	Registered Motor Vehicle	325.01
Monge Sanchez, Silvia	Registered Motor Vehicle	331.97
Turner, Tiffany Joyner	Registered Motor Vehicle	348.51
Uy, Mary Ursula Perales	Registered Motor Vehicle	367.79
Head, John Thomas	Registered Motor Vehicle	413.65
Staten, Ian Williamson	Registered Motor Vehicle	457.97
Harrell, Kathryn East	Registered Motor Vehicle	477.97
Figtree, James Richardson	Real Estate Taxes	107.69
Pitt County-City of Greenville Airport Authority	Real Estate Taxes	960.00
SAMT LLC	Real Estate Taxes	241.81
Moore & Keel Rental	Real Estate Taxes	4,391.40

**Fiscal Note:** The total refunded is \$13,810.99

**Recommendation:** Approval of taxes refunded by City Council



# City of Greenville, North Carolina

**Meeting Date: 10/10/2022**

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**Title of Item:** Annual Board & Commission Presentations - Planning & Zoning Commission

**Explanation:** Boards and commissions are annually scheduled to make brief presentations to the City Council. The Planning & Zoning Commission is scheduled for October 2022.

**Fiscal Note:** No direct fiscal impact.

**Recommendation:** Hear the presentation from the Planning & Zoning Commission.

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# City of Greenville, North Carolina

Meeting Date: 10/10/2022

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**Title of Item:** Ordinance Approving Fiscal Year 2022-23 Capital Reserve Fund Designations

**Explanation:** An ordinance approving the Fiscal Year 2022-23 Capital Reserve Fund Designations, as included in Budget Ordinance Amendment #3, is presented for City Council consideration.

Budget Ordinance Amendment #3 includes a transfer from the Capital Reserve Fund to the Engineering Capital Projects Fund for the Dickinson Avenue Improvements Project.

Included are the following documents as attached:

Capital Reserve Fund - Detail of Designations: This report shows the Capital Reserve Fund Balance that was approved by City Council on December 10, 2020, changes to those designations, and the proposed designations as of the October 10, 2022 City Council meeting.

Ordinance Amending the Fund: This document reflects the proposed projects that are included in the Capital Reserve Fund. The Local Budget and Fiscal Control Act requires that a transfer to the Capital Reserve Fund state (i) the approximate periods of time during which the monies are to be accumulated for each purpose, (ii) the approximate amounts to be accumulated for each purpose, and (iii) the sources from which monies for each purpose will be derived.

**Fiscal Note:** The Capital Reserve Fund Balance stands at approximately \$3,236,729 and reflects the capital project priorities of the City Council as included in Budget Ordinance #3.

**Recommendation:** Approve Fiscal Year 2022-23 Capital Reserve Fund Designations and adopt the Capital Reserve Fund Ordinance.

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## ATTACHMENTS

- [Capital\\_Reserve\\_Designations 1121187.XLS](#)
- [Capital\\_Reserve\\_Ordinance COG-#1123148-v5-.docx](#)

City of Greenville  
Capital Reserve Fund - Detail of Designations - October, 2022

Purpose	Approved Designations December 10, 2020	Inc/(Dec)	Proposed Designations October 10, 2022
Dickinson Avenue Streetscape	\$ 1,792,860	A \$ (1,250,000)	\$ 542,860
Transportation			
DOT Road Construction projects	1,693,869	-	1,693,869
Subtotal Transportation	1,693,869	-	1,693,869
Industrial Site	1,000,000	-	1,000,000
<b>Total</b>	<u>\$ 4,486,729</u>	<u>\$ (1,250,000)</u>	<u>\$ 3,236,729</u>

**A** To transfer Dickinson Avenue Improvements capital reserve funding from the Capital Reserve Fund to the Dickinson Avenue Improvements project within the Engineering Capital Projects Fund



ORDINANCE NO. 22-  
AN ORDINANCE AMENDING THE CAPITAL RESERVE FUND  
FOR THE CITY OF GREENVILLE

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

Section I. The Capital Reserve Fund is amended as follows:

<u>Amount</u>	<u>Sources of Monies</u>	<u>Purpose</u>	<u>Accumulation Period</u>
542,860	General Fund	Dickinson Avenue Streetscape	5 years
1,693,869	General Fund	NCDOT Projects	5 years
<u>1,000,000</u>	General Fund	Industrial Site	5 years
<u>\$ 3,236,729</u>			

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

Section III. This ordinance will become effective upon its adoption.

Adopted this 10th day of October, 2022.

\_\_\_\_\_  
P. J. Connelly, Mayor

ATTEST:

\_\_\_\_\_  
Valerie Shiuwegar, City Clerk



# City of Greenville, North Carolina

**Meeting Date: 10/10/2022**

**Title of Item:** Budget Ordinance Amendment #3 to the 2022-2023 City of Greenville Budget (Ordinance #22-045), the Capital Projects Funds (Ordinance #17-024), and Engineering Capital Projects Fund (Ordinance #20-019).

**Explanation:** Attached for consideration at the October 10, 2022 City Council meeting is an ordinance amending the 2022-2023 City of Greenville Budget (Ordinance #22-045), the Capital Projects Funds (Ordinance #17-024), and Engineering Capital Projects Fund (Ordinance #20-019).

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 close the Greenville Aquatics & Fitness Center (GAFC) bathroom renovation project in the Recreation & Parks Capital Projects Fund.	Rec & Parks Cap Proj	-
B	To appropriate funds from the Capital Reserve Fund designated for Dickinson Avenue Improvements.	Engineering Cap Proj Cap Reserve	\$1,250,000
C	To appropriate Stormwater Utility funds for stormwater eligible expenses in the 10th Street Connector project.	Stormwater Utl PW Cap Proj	\$996,100
D	To recognize funding received from CARES Grant within the Transit fund.	Transit	\$578,852
E	To recognize funding received from NC Tri-Party Grant for NCHFA for a construction training program.	Housing	\$70,000
F	To appropriate funding from the sale of property to fund streetscape improvements at Ficklen Street.	Eng Cap Proj	\$1,240,000

**Fiscal Note:** The Budget Ordinance Amendment affects the following funds:

<u>Fund</u>	<u>2022-23 Revised Budget</u>	<u>Amendment #3</u>	<u>2022-23 Budget per Amendment #3</u>
General	\$97,969,948	\$-	\$97,969,948
Debt Service	6,322,622	-	6,322,622
Public Transportation (Transit)	3,574,787	578,852	4,153,639
Capital Reserve	-	1,250,000	1,250,000
Fleet Maintenance	5,415,142	-	5,415,142
Sanitation	8,513,983	-	8,513,983
Stormwater	9,779,170	996,100	10,775,270
Housing	1,911,972	70,000	1,981,972
Health Insurance	14,258,648	-	14,258,648
Vehicle Replacement	10,645,862	-	10,645,862
Facilities Improvement	2,391,874	-	2,391,874
Special Revenue Grants	13,609,014	-	13,609,014
Public Works Capital Projects	57,997,391	996,100	58,993,491
Recreation & Parks Capital Projects	14,840,556	<125,000>	14,715,556
Community Development Capital Projects	19,404,227	-	19,404,227
Red Light Camera Program	1,800,000	-	1,800,000
Engineering Capital Projects	28,163,753	2,490,000	30,653,753
Occupancy Tax	4,096,128	-	4,096,128

**Recommendation:** Approve Budget Ordinance Amendment #3 to the 2022-2023 City of Greenville Budget (Ordinance #22-045), the Capital Projects Funds (Ordinance #17-024), and Engineering Capital Projects Fund (Ordinance #20-019).

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ATTACHMENTS

 [BA\\_\\_3 \(1\).xlsx](#)

ORDINANCE NO. 22-  
CITY OF GREENVILLE, NORTH CAROLINA  
Ordinance (#3) Amending the 2022-23 Budget (Ordinance #22-045),  
the Capital Projects Funds (Ordinance #17-024), and Engineering Capital Projects Fund (Ordinance #20-019)

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

Section I: Estimated Revenues and Appropriations. Recreation & Parks Capital Project Fund, of Ordinance #17-024 hereby amended by increasing estimated revenues and appropriations in the amount indicated:

Budget Amendment #3				
	2022-23 Revised Budget	A.	Total Amend #3	2022-23 Budget per Amend #3
<b>ESTIMATED REVENUES</b>				
Restricted Intergovernmental	\$ 760,857	\$ -	\$ -	\$ 760,857
Transfer from General Fund	1,848,484	(125,000)	(125,000)	1,723,484
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	639,500	-	-	639,500
Miscellaneous Revenue	567,148	-	-	567,148
Appropriated Fund Balance	572,874	-	-	572,874
Long Term Financing	10,047,748	-	-	10,047,748
<b>Total Revenues</b>	<b>\$ 14,840,556</b>	<b>\$ (125,000)</b>	<b>\$ (125,000)</b>	<b>\$ 14,715,556</b>
<b>APPROPRIATIONS</b>				
Water Sports Facility Project	\$ 794,675	\$ -	\$ -	\$ 794,675
Wildwood Park	7,869,519	-	-	7,869,519
Transfer to General Fund	9,000	-	-	9,000
Eppes Remodel	1,359,151	-	-	1,359,151
Parks Improvements	45,000	-	-	45,000
Pool Replacement	4,291,828	-	-	4,291,828
GAFC Bathrooms	125,000	(125,000)	(125,000)	-
Off-Leash Dog Park	175,000	-	-	175,000
Parks Comprehensive Master Plan	147,000	-	-	147,000
Transfer to Other Fund	24,383	-	-	24,383
<b>Total Appropriations</b>	<b>\$ 14,840,556</b>	<b>\$ (125,000)</b>	<b>\$ (125,000)</b>	<b>\$ 14,715,556</b>

Section II: Estimated Revenues and Appropriations. Capital Reserve Fund, of Ordinance #22-045 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2022-23 Revised Budget	B.	Total Amend #3	2022-23 Budget per Amend #3
<b>ESTIMATED REVENUES</b>				
Appropriated Fund Balance	\$ -	\$ 1,250,000	\$ 1,250,000	\$ 1,250,000
<b>Total Revenues</b>	<b>\$ -</b>	<b>\$ 1,250,000</b>	<b>\$ 1,250,000</b>	<b>\$ 1,250,000</b>
<b>APPROPRIATIONS</b>				
Transfer to Engineering Capital Projects	\$ -	\$ 1,250,000	\$ 1,250,000	\$ 1,250,000
<b>Total Appropriations</b>	<b>\$ -</b>	<b>\$ 1,250,000</b>	<b>\$ 1,250,000</b>	<b>\$ 1,250,000</b>

Section III: 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:

	2022-23 Revised Budget	B.	F.	Total Amend #3	2022-23 Budget per Amend #3
<b>ESTIMATED REVENUES</b>					
Special Fed/State/Loc Grant	\$ 15,000,000	\$ -	\$ -	\$ -	\$ 15,000,000
Transfer from Capital Reserve	2,016,882	1,250,000	-	1,250,000	3,266,882
Transfer from Street Improvement Bond Fund	2,555,921	-	-	-	2,555,921
Transfer from Other Funds	861,753	-	-	-	861,753
Other In-kind Contributions	1,170,000	-	-	-	1,170,000
Transfer from General Fund	6,366,157	-	-	-	6,366,157
Sale of Property	193,040	-	1,240,000	1,240,000	1,433,040
<b>Total Revenues</b>	<b>\$ 28,163,753</b>	<b>\$ 1,250,000</b>	<b>\$ 1,240,000</b>	<b>\$ 2,490,000</b>	<b>\$ 30,653,753</b>
<b>APPROPRIATIONS</b>					
<b>BUILD</b>	\$ 24,000,000	\$ -	\$ -	\$ -	\$ 24,000,000
Pavement Management Program	2,800,000	-	-	-	2,800,000
Employee Parking Lot	1,363,753	-	-	-	1,363,753
Ficklen Street Project	-	-	1,240,000	1,240,000	1,240,000
Dickinson Avenue Improvements	-	1,250,000	-	1,250,000	1,250,000
<b>Total Appropriations</b>	<b>\$ 28,163,753</b>	<b>\$ 1,250,000</b>	<b>\$ 1,240,000</b>	<b>\$ 2,490,000</b>	<b>\$ 30,653,753</b>

Section IV: Estimated Revenues and Appropriations. Transit Fund, of Ordinance #22-045 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2022-23 Revised Budget	D.	Total Amend #3	2022-23 Budget per Amend #3
<b>ESTIMATED REVENUES</b>				
Grant Income	\$ 2,391,820	\$ 578,852	\$ 578,852	\$ 578,852
Bus Fare Ticket Sales	272,000	-	-	-
Other Revenues	50,000	-	-	-
Transfer from General Fund	771,894	-	-	-
Appropriated Fund Balance	89,073	-	-	-
<b>Total Revenues</b>	<b>\$ 3,574,787</b>	<b>\$ 578,852</b>	<b>\$ 578,852</b>	<b>\$ 578,852</b>
<b>APPROPRIATIONS</b>				
Public Transportation	\$ 3,574,787	\$ 578,852	\$ 578,852	\$ 578,852
<b>Total Appropriations</b>	<b>\$ 3,574,787</b>	<b>\$ 578,852</b>	<b>\$ 578,852</b>	<b>\$ 578,852</b>

Section V: Estimated Revenues and Appropriations. Housing Fund, of Ordinance #22-045 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2022-23 Revised Budget	E.	Total Amend #3	2022-23 Budget per Amend #3
<b>ESTIMATED REVENUES</b>				
CDBG Grant Income	\$ 975,355	\$ -	\$ -	\$ 975,355
HOME Grant Income	607,922	-	-	607,922
Transfer from General Fund	328,695	-	-	328,695
NC Tri-Party Grant	-	70,000	70,000	70,000
Total Revenues	<u>\$ 1,911,972</u>	<u>\$ 70,000</u>	<u>\$ 70,000</u>	<u>\$ 1,981,972</u>
<b>APPROPRIATIONS</b>				
Personnel	\$ 552,128	\$ -	\$ -	\$ 552,128
Operating	1,359,844	70,000	70,000	1,429,844
Total Appropriations	<u>\$ 1,911,972</u>	<u>\$ 70,000</u>	<u>\$ 70,000</u>	<u>\$ 1,981,972</u>

Section VI: Estimated Revenues and Appropriations. Stormwater Management Utility Fund, of Ordinance #22-045 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2022-23 Revised Budget	C.	Total Amend #3	2022-23 Budget per Amend #3
<b>ESTIMATED REVENUES</b>				
Grant Income	\$ 8,535,490	\$ -	\$ -	\$ 8,535,490
Appropriated Fund Balance	1,243,680	996,100	996,100	2,239,780
Total Revenues	<u>\$ 9,779,170</u>	<u>\$ 996,100</u>	<u>\$ 996,100</u>	<u>\$ 10,775,270</u>
<b>APPROPRIATIONS</b>				
Stormwater Management	\$ 9,779,170	\$ -	\$ -	\$ 9,779,170
Transfer to Public Works Capital Projects	-	996,100	996,100	996,100
Total Appropriations	<u>\$ 9,779,170</u>	<u>\$ 996,100</u>	<u>\$ 996,100</u>	<u>\$ 10,775,270</u>

Section VII: 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:

	2022-23 Revised Budget	C.	Total Amend #2	2022-23 Budget per Amend #2
<b>ESTIMATED REVENUES</b>				
Occupancy Tax	\$ 422,610	\$ -	\$ -	\$ 422,610
Transfers from Other Funds	21,802,736	996,100	996,100	22,798,836
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
<b>Total Revenues</b>	<b>\$ 57,997,391</b>	<b>\$ 996,100</b>	<b>\$ 996,100</b>	<b>\$ 58,993,491</b>
<b>APPROPRIATIONS</b>				
Stantonsburg Rd./10th St Con Project	\$ 6,194,950	\$ 996,100	\$ 996,100	\$ 7,191,050
Computerized Traffic Signal System	8,883,151	-	-	8,883,151
Sidewalk Development Project	791,287	-	-	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	2,001,225	-	-	2,001,225
F/R Station 3 Parking Lot	139,551	-	-	139,551
F/R Station 2 Bay Expansion	244,655	-	-	244,655
Parking Lot Enhancements	4,866	-	-	4,866
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	180,000	-	-	180,000
Salt/Sand Storage Facility	185,000	-	-	185,000
Emerald Loop Lighting Upgrades	200,000	-	-	200,000
CVA - Pedestrian Mall Renovation	40,000	-	-	40,000
Transfer to Other Funds	2,006,866	-	-	2,006,866
Transfer to General Fund	636,801	-	-	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
<b>Total Appropriations</b>	<b>\$ 57,997,391</b>	<b>\$ 996,100</b>	<b>\$ 996,100</b>	<b>\$ 58,993,491</b>

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

Adopted this 10th day of October, 2022

\_\_\_\_\_  
P. J. Connelly, Mayor

ATTEST:

\_\_\_\_\_  
Valerie P. Shiuwegar, City Clerk



City of Greenville,  
North Carolina

Meeting Date: 10/10/2022

**Title of Item:** Budget Ordinance Amendment to the ARPA Fund (Ordinance #21-053)

**Explanation:** Attached for consideration at the October 10, 2022 City Council meeting is an ordinance amending the ARPA Fund (Ordinance #21-053).

For ease of reference, a breakdown of the projects identified in the ordinance is as follows:

<u>Justification</u>	<u>Original Budget</u>	<u>Adjustment</u>	<u>Revised Budget</u>
CLSRF Project	\$24,384,311	<\$24,384,311>	\$ -
Premium Pay for Employees	305,000	-	305,000
BUILD Grant City Match	-	3,600,000	3,600,000
East 4th St. Reconstruction	-	5,238,850	5,238,850
Small Business/Non-Profit Assistance	-	500,000	500,000
Greenfield Terrace Improvements	-	1,000,000	1,000,000
Dream Park Community Recreation Center	-	1,000,000	1,000,000
Public Works Drainage Pipe Replacement	-	3,375,000	3,375,000
Town Common Bulkhead	-	9,670,461	9,670,461
<b>Total Estimated Project Costs</b>	<b>\$24,289,311</b>	<b>-</b>	<b>-\$24,689,311</b>

**Fiscal Note:** Total ARPA Project Ordinance remains \$24,689,311.

**Recommendation:** Approve Budget Ordinance Amendment for the ARPA Fund (Ordinance #21-053).

ATTACHMENTS

 [BA\\_ARPA\\_Final.xlsx](#)



ORDINANCE NO. 22-  
CITY OF GREENVILLE, NORTH CAROLINA  
Ordinance Amending the ARPA Fund (Ordinance #21-053)

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

Section I: Estimated Revenues and Appropriations. ARPA Fund, of Ordinance #21-053 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2022-23 Revised Budget	A.	Total Amendment	2022-23 Budget per Amendment
<b>ESTIMATED REVENUES</b>				
Restricted Intergovernmental	\$ 24,689,311	\$ -	\$ -	\$ 24,689,311
<b>Total Revenues</b>	<b><u>\$ 24,689,311</u></b>	<b><u>\$ -</u></b>	<b><u>\$ -</u></b>	<b><u>\$ 24,689,311</u></b>
<b>APPROPRIATIONS</b>				
CSLRF Project	\$ 24,384,311	\$ (24,384,311)	\$ (24,384,311)	\$ -
Premium Pay for Employees	305,000	-	-	305,000
BUILD Grant City Match	-	3,600,000	3,600,000	3,600,000
E. 4th St. Reconstruction	-	5,238,850	5,238,850	5,238,850
Small Business/Non-Profit Assistance	-	500,000	500,000	500,000
Greenfield Terrace Improvements	-	1,000,000	1,000,000	1,000,000
Dream Park Community Rec Center	-	1,000,000	1,000,000	1,000,000
PW Drainage Pipe Replacement	-	3,375,000	3,375,000	3,375,000
Town Common Bulkhead	-	9,670,461	9,670,461	9,670,461
<b>Total Appropriations</b>	<b><u>\$ 24,689,311</u></b>	<b><u>\$ -</u></b>	<b><u>\$ -</u></b>	<b><u>\$ 24,689,311</u></b>

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

Adopted this 10th day of October, 2022

\_\_\_\_\_  
P. J. Connelly, Mayor

ATTEST:

\_\_\_\_\_  
Valerie P. Shiuwegar, City Clerk