



Agenda

Greenville City Council

May 6, 2024

6:00 PM

City Hall Council Chambers, 200 West 5th Street

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

I. Call Meeting To Order

II. Invocation - Council Member Blackburn

III. Pledge of Allegiance

IV. Roll Call

V. Approval of Agenda

VI. Special Recognitions

1. Greenville Police Officer Jeremiah Lovelace
2. Greenville Fire/Rescue Captain Eric Smith

VII. Public Comment Period

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

VIII. Consent Agenda

3. Approval of Minutes
4. Ordinance Enacting and Adopting Supplement #2024-S16 to the City of Greenville Code of Ordinances
5. Acceptance of Deed to Correct Name of Grantee (Airport Authority) to Comply with Session Law
6. Resolution Accepting Dedication of Rights-of-Way and Easements for Abigail Trails, Phase 2
7. Resolution Authorizing the Police Department to Apply for a Governor's Highway Safety Program Grant for BikeSafe Regional Coordinator
8. Resolution Authorizing the Police Department to Apply for a Governor's Highway Safety Program Grant for Traffic Safety
9. Request by Police Department to Utilize Asset Forfeiture Funds to Purchase Equipment
10. Resolution Authorizing the Acceptance of American Rescue Plan Funds from the North Carolina Department of Environmental Quality and Authorizing Assurances and Acquisitions for the Corey Road Regional Detention and Stream Restoration Project
11. Award of a Design-Build Contract for the Corey Road Regional Detention and Stream Restoration Project and Delegation of Authority to Execute Amendments
12. Award of Construction Contract to Berry Building Group for the Wildwood Park PARTF Improvements Project
13. Various Tax Refunds Greater Than \$100

IX. New Business

14. Ordinance Approving Fiscal Year 2023-24 Capital Reserve Fund Designations, as Included in Budget Ordinance Amendment #10
15. Budget Ordinance Amendment #10 to the 2023-2024 City of Greenville Budget (Ordinance #23-046), the Capital Projects Funds (Ordinance #17-024), Special Revenue Grant Fund (Ordinance #11-003), and the Occupancy Tax Fund (Ordinance #11-003)
16. Presentation of the City of Greenville Fiscal Year 2024-25 Proposed Budget

X. Review of May 9, 2024, City Council Agenda

XI. City Manager's Report

XII. Comments from Mayor and City Council

XIII. Adjournment



City of Greenville,
North Carolina

Meeting Date: 05/06/2024

Title of Item: Approval of Minutes

Explanation: Minutes are attached for review and approval for the following meetings:

- April 8, 2024, Workshop

Fiscal Note: No direct fiscal impact.

Recommendation: Review and approve the minutes from the April 8th workshop.

ATTACHMENTS

[04082024 Workshop.pdf](#)

OFFICIAL MINUTES
CITY COUNCIL WORKSHOP MEETING
CITY OF GREENVILLE, NORTH CAROLINA
APRIL 8, 2024, 4:00 PM



I. Call Meeting To Order

The City Council met for a regularly scheduled workshop on Monday, April 8, 2024, at 4:00 p.m. in Conference Room 337, located inside of City Hall at 200 West Fifth Street. Mayor Connelly called the meeting to order at 4:00 p.m.

II. Roll Call

Present: Mayor P.J. Connelly, Mayor Pro Tem Monica Daniels, Council Member Tonya Foreman, Council Member Marion Blackburn, Council Member Matthew Scully, Council Member Les Robinson, Council Portia Willis

Absent: None

III. Approval of Agenda

Council Member Blackburn made a motion to approve the agenda as presented. Mayor Pro Tem Daniels seconded the motion and it passed unanimously, 5:0.

IV. New Business

1.. Presentation on Sports Complex Feasibility Study

Executive Director of City Projects and Recreation Services Don Octigan and Brian Connelly with Victus Consulting provided the presentation to the City Council. The City of Greenville has expressed interest in the possibility of constructing a sports complex to increase sports tourism and increase recreational offerings within the City. In August of 2023 the City contracted with Victus Advisors to conduct a Sports Complex Feasibility Study. The first two phases of this study were completed and previously presented to the City Council, most recently at its planning session on January 27th.

Based on feedback received, Victus was asked to include an analysis for adding four rectangle fields. Victus presented the overall funding and usage analysis for a baseball/softball complex with the additional four rectangle fields. The presentation included the operating pro forma for the entire complex plus anticipated capital costs.

At the recommendation of Victus, the City Council expressed an consensus to have staff forward move forward with forming a task force to engage with the community and gain feedback.

2.. Discussion of Housing and Community Development Programs

Neighborhood & Business Services Director Tiana Berryman provided the presentation to the City Council. The Neighborhood and Business Services - Community Development Division administers



several federally funded programs intended to create and preserve affordable housing. Services are primarily aimed at benefiting low- and moderate-income citizens up to 80% of area median income (AMI). Occasionally, allowances are made to support households up to 120% AMI in an attempt to encourage mixed-income communities.

Through the Community Development Block Grant (CDBG) and HOME Investment Partnership programs, and other State and local resources, staff administers the following:

- City's owner-occupied rehabilitation and energy-efficiency programs
- Distribution of subrecipient funds to nonprofits
- Development of new construction for rent and ownership
- Down payment assistance
- Other activities as resources and regulations allow

Many of these activities are included in the Consolidated Plan and are reflected in Annual Action Plans.

3.. Presentation of GREAT Transit System Updates

Public Works Director Kevin Mulligan provided presentation to the City Council. Greenville Area Transit (GREAT) of the Public Works Department has been working on several system improvements including:

- Updating passenger information technology
- Extending bus service hours
- Bus stop improvements

Director Mulligan stated that additional transit drivers would have to be hired. Changes will be advertised to the public once it is approved by the City Council.

V. Adjournment

Hearing no further discussion, Mayor Connelly called for a motion to adjourn.

Council Member Scully made a motion to adjourn. Council Member Robinson seconded the motion and it passed unanimously, 6:0. Mayor Connelly adjourned the workshop at 5:49 p.m.





City of Greenville, North Carolina

Meeting Date: 05/06/2024

Title of Item: Ordinance Enacting and Adopting Supplement #2024-S16 to the City of Greenville Code of Ordinances

Explanation: In accordance with a Codification Agreement (Contract No.1757) dated November 14, 2008, between the City of Greenville and the North Carolina League of Municipalities, along with its code contractor, American Legal Publishing Corporation, the Code of Ordinances was fully revised and updated to include all ordinances adopted through October 8, 2009. Subsequent to this initial revision and update, American Legal Publishing Corporation maintains the City Code by producing periodic supplements to the printed version and hosting/updating an online version of the City Code.

Supplement #2024-S16 contains all ordinances of a general and permanent nature enacted on or after January 1, 2023 and on or before December 31, 2023.

Fiscal Note: No direct fiscal impact.

Recommendation: Approve the ordinance enacting and adopting Supplement #2024-S16 to the City of Greenville Code of Ordinances.

ATTACHMENTS

[COG-#1192245-v2-Ordinance_Enacting_and_Adopting_City_Code_Supplement_S16](#)

ORDINANCE NO. _____

AN ORDINANCE ENACTING AND ADOPTING SUPPLEMENT NUMBERS #2023-S16 TO THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed Supplement Number #2023-S16 to the Code of Ordinances of the City of Greenville, North Carolina, which supplement contains all ordinances of a general and permanent nature enacted on or after January 1, 2023, and on or before December 31, 2023; and

WHEREAS, North Carolina General Statute 160A-77 empowers and authorizes the City of Greenville to adopt and issue a code of its ordinances in book form and to adopt supplements.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE:

Section 1. That Supplement Number #2023-S16 to the Code of Ordinances of the City of Greenville, North Carolina, as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council of the City of Greenville, and the City Clerk of the City of Greenville, North Carolina, is hereby authorized and ordered to insert such supplement in the copy of the Code of Ordinances kept on file in the Office of the City Clerk.

Section 3. This ordinance shall become effective upon its adoption.

This the 6th day of May, 2024.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk



City of Greenville, North Carolina

Meeting Date: 05/06/2024

Title of Item: Acceptance of Deed to Correct Name of Grantee (Airport Authority) to Comply with Session Law

Explanation: Over the years, many deeds conveying property to the Pitt County - City of Greenville Airport Authority have inadvertently identified the name of the grantee as "Pitt County - City of Greenville Airport Authority" instead of "Pitt County and City of Greenville as joint tenants for the use of the Pitt County - City of Greenville Airport Authority" as required by the applicable charter section (Session Law) cited below.

Following a request by counsel for Pitt-Greenville Airport Authority, this agenda item seeks to place the correct grantee's name (referenced above) on the applicable deeds and ensure the properties held by the "Pitt-Greenville Airport Authority" are correctly identified as owned by "Pitt County and the City of Greenville for use by the Pitt-Greenville Airport Authority".

This correction of grantee's name is accomplished via a special warranty deed whereby the grantor "Pitt County - City of Greenville Airport Authority" conveys all property held in its name to "Pitt County and City of Greenville as joint tenants for the use of the Pitt County - City of Greenville Airport Authority".

This deed conveys 24 tracts deeded in fee simple (identified by their deed reference and tax parcel number) and 32 tracts for easements granted to the Airport (identified by both their deed reference and tax parcel number) --See Deed attached, Exhibit A properties deeded in fee simple; Exhibit B, easements. Staff recommends that City authorize acceptance of the attached deed. Counsel for the Airport Authority has given the City Attorney's Office a title opinion which provides that there are no liens on the above-referenced tracts.

The N.C. General Assembly in 1967 created the Pitt County - City of Greenville Airport Authority. The Act authorizes the creation of the Pitt County - City of Greenville Airport Authority as an agency or instrumentality of the City and County and gives the agency authority to maintain and operate an airport for Pitt County and City of Greenville. 1967 N.C. Session Law ch. 571.

The applicable session law above, specifically Sec. 12, provides "title to the property acquired by the County and City and designated for the use of the Authority for airport or landing field purposes shall be vested in the governing

bodies of the County and City, as joint tenants."

Fiscal Note: No funding required.

Recommendation: The City Attorney's Office has reviewed the attached deed (special warranty deed) and recommends Council authorize acceptance of the deed as described herein. The City Attorney is authorized to make any corrections and non-substantive or clerical revisions to the deed.

ATTACHMENTS

[PGV.spec warr deed.city county-794584.pdf](#)

NORTH CAROLINA
PITT COUNTY

Drawn by and return to:
Graham, Nuckolls, Conner, PLLC
P.O. Box 7384
Greenville, NC 27835

Excise Tax Due: \$0.00
Primary residence of Grantor: No

After recording mail to:
400 Airport Road
Greenville, NC 27834

THIS SPECIAL WARRANTY DEED, made and entered into this the ___ day of _____, 2024, by and between **PITT COUNTY - CITY OF GREENVILLE AIRPORT AUTHORITY**, hereinafter collectively referred to as GRANTOR and **PITT COUNTY**, a body politic of the State of North Carolina, and the **CITY OF GREENVILLE**, a Municipal Corporation, as joint tenants for the use of the **PITT COUNTY - CITY OF GREENVILLE AIRPORT AUTHORITY**, hereinafter referred to as GRANTEE;

WITNESSETH

WHEREAS, **PITT COUNTY - CITY OF GREENVILLE AIRPORT AUTHORITY** is a body corporate and politic created by the North Carolina General Assembly and by joint resolution of the City of Greenville and Pitt County in Session Law 1967-571, as amended by Session Law 1979-306, for the purpose of administering the activity of operating a municipal airport.

WHEREAS, the Grantor, from time to time, has acquired and held property as PITT COUNTY - CITY OF GREENVILLE AIRPORT AUTHORITY without the explicit authority to do so under Chapter 63 of the North Carolina General Statutes.

WHEREAS, conveyances of real property to Grantor should have been conveyed, titled, and held by PITT COUNTY and CITY OF GREENVILLE, jointly and for the use of the PITT COUNTY - CITY OF GREENVILLE AIRPORT AUTHORITY.

WHEREAS, in order to ensure that all land acquired by or for PITT COUNTY - CITY OF GREENVILLE AIRPORT AUTHORITY is titled in name of PITT COUNTY and CITY OF GREENVILLE, as joint tenants for the use of the PITT COUNTY - CITY OF GREENVILLE AIRPORT AUTHORITY, Grantor desires to convey and transfer any and all interest in real property that has been acquired by or for PITT COUNTY - CITY OF GREENVILLE AIRPORT AUTHORITY to PITT COUNTY and CITY OF GREENVILLE, as joint tenants for the use of the PITT COUNTY - CITY OF GREENVILLE AIRPORT AUTHORITY by means of this QUITCLAIM DEED.

NOW, THEREFORE, GRANTOR, for valuable consideration paid by GRANTEE, the receipt of which is hereby acknowledged, has given, granted, bargained, sold and conveyed, and by these present does give, grant, bargain, sell and convey unto said GRANTEE, their successors and assigns, in fee simple, the following described property, to wit:

- 1. For property held in fee simple, see Exhibit "A" attached hereto and made a part hereof.**
- 2. For Easement interest in real property, see Exhibit "B" attached hereto and made a part hereof.**

TO HAVE AND TO HOLD the above described real property with all the rights, privileges and appurtenances thereunto belonging or in anywise appertaining unto the said Grantee, its heirs and assigns free and discharged from all right, title, claim or interest of the Grantor or anyone claiming by, through or under the Grantor.

GRANTOR covenants with GRANTEE that GRANTOR has done nothing to impair such title as GRANTOR received, and that GRANTOR will warrant and defend the title against the lawful claims of all persons claiming by, under or through GRANTOR, except for the exceptions hereinafter stated. Title to the property hereinabove described is hereby conveyed subject to all valid and subsisting restrictions, reservations, covenants, conditions, rights of ways and easements properly of record, if any, and current year ad valorem taxes.

The designation Grantor and Grantee as used herein shall include said parties, its heirs, successors, and assigns, and shall include singular, plural, masculine, feminine and neuter as required by context.

IN WITNESS WHEREOF, Grantor has executed this document under seal with authority duly given on this the day and year first above written.

GRANTOR: PITT COUNTY - CITY OF GREENVILLE AIRPORT AUTHORITY

_____(SEAL)
Kim W. Hopper, Executive Director,
Pitt County – City of Greenville Airport Authority

_____(SEAL)
John H. Banks, Board Chairman
Pitt County – City of Greenville Airport Authority

_____(SEAL)
Terry A. Monday, Board Vice Chairman,
Pitt County – City of Greenville Airport Authority

_____(SEAL)
Cheryl P. Brown, Board Member
Pitt County – City of Greenville Airport Authority

_____(SEAL)
Dan S. Mayo, Board Member,
Pitt County – City of Greenville Airport Authority

_____(SEAL)
Christopher W. Nunnally, Board Member
Pitt County – City of Greenville Airport Authority

_____(SEAL)
Leslie S. Robinson, Board Member,
Pitt County – City of Greenville Airport Authority

_____(SEAL)
Michael B. Roberson, Board Member
Pitt County – City of Greenville Airport Authority

_____(SEAL)
Mark Porter, Board Member,
Pitt County – City of Greenville Airport Authority

NORTH CAROLINA
COUNTY OF _____

I, the undersigned Notary Public of the aforesaid County and State, do hereby certify that **Kim W. Hopper** personally appeared before me this day and acknowledged that he is Director of Pitt County – City of Greenville Airport Authority and that he, as Director, being authorized to do so, executed the foregoing instrument on behalf of the Airport Authority.

WITNESS my hand and seal, this the _____ day of _____ 2024.

Notary Public

My commission expires: _____

NORTH CAROLINA
COUNTY OF _____

I, the undersigned Notary Public of the aforesaid County and State, do hereby certify that **John H. Banks** personally appeared before me this day and acknowledged that he is the Board Chairman of Pitt County – City of Greenville Airport Authority and that he, as Board Chairman, being authorized to do so, executed the foregoing instrument on behalf of the Airport Authority.

WITNESS my hand and seal, this the _____ day of _____ 2024.

Notary Public

My commission expires: _____

NORTH CAROLINA
COUNTY OF _____

I, the undersigned Notary Public of the aforesaid County and State, do hereby certify that **Terry A. Monday** personally appeared before me this day and acknowledged that he is Board Vice Chairman of Pitt County – City of Greenville Airport Authority and that he, as the Board Vice Chairman, being authorized to do so, executed the foregoing instrument on behalf of the Airport Authority.

WITNESS my hand and seal, this the _____ day of _____ 2024.

Notary Public

My commission expires: _____

NORTH CAROLINA
COUNTY OF _____

I, the undersigned Notary Public of the aforesaid County and State, do hereby certify that **Cheryl P. Brown** personally appeared before me this day and acknowledged that she is Board Member of Pitt County – City of Greenville Airport Authority and that she, as a Board Member, being authorized to do so, executed the foregoing instrument on behalf of the Airport Authority.

WITNESS my hand and seal, this the _____ day of _____ 2024.

Notary Public

My commission expires: _____

NORTH CAROLINA
COUNTY OF _____

I, the undersigned Notary Public of the aforesaid County and State, do hereby certify that **Dan S. Mayo** personally appeared before me this day and acknowledged that he is Board Member of Pitt County – City of Greenville Airport Authority and that he, as a Board Member, being authorized to do so, executed the foregoing instrument on behalf of the Airport Authority.

WITNESS my hand and seal, this the _____ day of _____ 2024.

Notary Public

My commission expires: _____

NORTH CAROLINA
COUNTY OF _____

I, the undersigned Notary Public of the aforesaid County and State, do hereby certify that **Christopher W. Nunnally** personally appeared before me this day and acknowledged that he is Board Member of Pitt County – City of Greenville Airport Authority and that he, as a Board Member, being authorized to do so, executed the foregoing instrument on behalf of the Airport Authority.

WITNESS my hand and seal, this the _____ day of _____ 2024.

Notary Public

My commission expires: _____

NORTH CAROLINA
COUNTY OF _____

I, the undersigned Notary Public of the aforesaid County and State, do hereby certify that **Leslie S. Robinson** personally appeared before me this day and acknowledged that he is Board Member of Pitt County – City of Greenville Airport Authority and that he, as a Board Member, being authorized to do so, executed the foregoing instrument on behalf of the Airport Authority.

WITNESS my hand and seal, this the _____ day of _____ 2024.

Notary Public

My commission expires: _____

NORTH CAROLINA
COUNTY OF _____

I, the undersigned Notary Public of the aforesaid County and State, do hereby certify that **Michael B. Roberson** personally appeared before me this day and acknowledged that he is Board Member of Pitt County – City of Greenville Airport Authority and that he, as a Board Member, being authorized to do so, executed the foregoing instrument on behalf of the Airport Authority.

WITNESS my hand and seal, this the _____ day of _____ 2024.

Notary Public

My commission expires: _____

NORTH CAROLINA
COUNTY OF _____

I, the undersigned Notary Public of the aforesaid County and State, do hereby certify that **Mark Porter** personally appeared before me this day and acknowledged that he is Board Member of Pitt County – City of Greenville Airport Authority and that he, as a Board Member, being authorized to do so, executed the foregoing instrument on behalf of the Airport Authority.

WITNESS my hand and seal, this the _____ day of _____ 2024.

Notary Public

My commission expires: _____

Exhibit "A"

Tract One: All of that certain property identified as Pitt County Tax parcel 29143 and described in that document recorded in the Pitt County Register of Deeds in Book A-51, Page 774.

Tract Two: All of that certain property identified as Pitt County Tax parcel 50458 and described in that document recorded in the Pitt County Register of Deeds in Book 329, Page 62.

Tract Three: All of that certain property identified as Pitt County Tax parcel 47891 and described in that document recorded in the Pitt County Register of Deeds in Book 542, Page 456.

Tract Four: All of that certain property identified as Pitt County Tax parcel 33059 and described in that document recorded in the Pitt County Register of Deeds in Book 3115, Page 809.

Tract Five: All of that certain property identified as Pitt County Tax parcel 33060 and described in that document recorded in the Pitt County Register of Deeds in Book 3150, Page 85.

Tract Six: All of that certain property identified as Pitt County Tax parcel 2634 and described in that document recorded in the Pitt County Register of Deeds in Book 3181, Page 828.

Tract Seven: All of that certain property identified as Pitt County Tax parcel 19106 and described in that document recorded in the Pitt County Register of Deeds in Book 3185, Page 39.

Tract Eight: All of that certain property identified as Pitt County Tax parcel 33026 and described in that document recorded in the Pitt County Register of Deeds in Book 3109, Page 100 and Book 3194, Page 782.

Tract Nine: All of that certain property identified as Pitt County Tax parcel 33027 and described in that document recorded in the Pitt County Register of Deeds in Book 3109, Page 100 and Book 3194, Page 782.

Tract Ten: All of that certain property identified as Pitt County Tax parcel 13782 and described in that document recorded in the Pitt County Register of Deeds in Book 3195, Page 618.

Tract Eleven: All of that certain property identified as Pitt County Tax parcel 15950 and described in that document recorded in the Pitt County Register of Deeds in Book 3197, Page 49.

Tract Twelve: All of that certain property identified as Pitt County Tax parcel 23161 and described in that document recorded in the Pitt County Register of Deeds in Book 3213, Page 333.

Tract Thirteen: All of that certain property identified as Pitt County Tax parcel 997 and described in that document recorded in the Pitt County Register of Deeds in Book 3218, Page 72.

Tract Fourteen: All of that certain property identified as Pitt County Tax parcel 33057 and described in that document recorded in the Pitt County Register of Deeds in Book 3219, Page 132.

Tract Fifteen: All of that certain property identified as Pitt County Tax parcel 23800 and described in that document recorded in the Pitt County Register of Deeds in Book 3252, Page 266.

Tract Sixteen: All of that certain property identified as Pitt County Tax parcel 52337 and described in that document recorded in the Pitt County Register of Deeds in Book 3335, Page 513.

Tract Seventeen: All of that certain property identified as Pitt County Tax parcel 79160 and described in that document recorded in the Pitt County Register of Deeds in Book 3335, Page 517.

Tract Eighteen: All of that certain property identified as Pitt County Tax parcel 38559 and described in that document recorded in the Pitt County Register of Deeds in Book 3335, Page 517.

Tract Nineteen: All of that certain property identified as Pitt County Tax parcel 16645 and described in that document recorded in the Pitt County Register of Deeds in Book 3335, Page 523.

Tract Twenty: All of that certain property identified as Pitt County Tax parcel 31532 and described in that document recorded in the Pitt County Register of Deeds in Book 3351, Page 365.

Tract Twenty-One: All of that certain property identified as Pitt County Tax parcel 47890 and described in that document recorded in the Pitt County Register of Deeds in Book 3351, Page 370.

Tract Twenty- Two: All of that certain property identified as Pitt County Tax parcel 22604 and described in that document recorded in the Pitt County Register of Deeds in Book 3517, Page 504.

Tract Twenty- Three: All of that certain property identified as Pitt County Tax parcel 15954 and described in that document recorded in the Pitt County Register of Deeds in Book 3604, Page 208.

Tract Twenty-Four: All of that certain property identified as Pitt County Tax parcel 22315 and described in that document recorded in the Pitt County Register of Deeds in Book 3604, Page 211.

Exhibit "B"

Tract One: A Drainage Easement within that certain property identified as Pitt County Tax parcel 29143 and described in that document recorded in the Pitt County Register of Deeds in Book F-42, Page 679.

Tract Two: An Aviation Easement over that certain property identified as Pitt County Tax parcel 29307 and described in that document recorded in the Pitt County Register of Deeds in Book A-51, Page 805.

Tract Three: An Aviation Easement over that certain property identified as Pitt County Tax parcel 29307 and described in that document recorded in the Pitt County Register of Deeds in Book A-51, Page 810.

Tract Four: An Aviation Easement over that certain property identified as Pitt County Tax parcel 24115 and described in that document recorded in the Pitt County Register of Deeds in Book 3184, Page 785.

Tract Five: An Aviation Easement over that certain property identified as Pitt County Tax parcel 26207 and described in that document recorded in the Pitt County Register of Deeds in Book 3190, Page 702.

Tract Six: An Aviation Easement over that certain property identified as Pitt County Tax parcel 4482 and described in that document recorded in the Pitt County Register of Deeds in Book 3191, Page 409.

Tract Seven: An Aviation Easement over that certain property identified as Pitt County Tax parcel 28258 and described in that document recorded in the Pitt County Register of Deeds in Book 3193, Page 621.

Tract Eight: An Aviation Easement over that certain property identified as Pitt County Tax parcel 28162 and described in that document recorded in the Pitt County Register of Deeds in Book 3194, Page 340.

Tract Nine: An Aviation Easement over that certain property identified as Pitt County Tax parcel 28017 and described in that document recorded in the Pitt County Register of Deeds in Book 3199, Page 30.

Tract Ten: An Aviation Easement over that certain property identified as Pitt County Tax parcel 29775 and described in that document recorded in the Pitt County Register of Deeds in Book 3203, Page 138.

Tract Eleven: An Aviation Easement over that certain property identified as Pitt County Tax parcel 59 and described in that document recorded in the Pitt County Register of Deeds in Book 3212, Page 138.

Tract Twelve: An Aviation Easement over that certain property identified as Pitt County Tax parcel 29796 and described in that document recorded in the Pitt County Register of Deeds in Book 3254, Page 791.

Tract Thirteen: An Aviation Easement over that certain property identified as Pitt County Tax parcel 27492 and described in that document recorded in the Pitt County Register of Deeds in Book 3264, Page 78.

Tract Fourteen: An Aviation Easement over that certain property identified as Pitt County Tax parcel 28161 and described in that document recorded in the Pitt County Register of Deeds in Book 3264, Page 627.

Tract Fifteen: An Aviation Easement over that certain property identified as Pitt County Tax parcel 29776 and described in that document recorded in the Pitt County Register of Deeds in Book 3264, Page 675.

Tract Sixteen: An Aviation Easement over that certain property identified as Pitt County Tax parcel 28002 and described in that document recorded in the Pitt County Register of Deeds in Book 3294, Page 828.

Tract Seventeen: An Aviation Easement over that certain property identified as Pitt County Tax parcel 29774 and described in that document recorded in the Pitt County Register of Deeds in Book 3315, Page 247.

Tract Eighteen: An Aviation Easement over that certain property identified as Pitt County Tax parcel 29773 and described in that document recorded in the Pitt County Register of Deeds in Book 3337, Page 477.

Tract Nineteen: An Aviation Easement over that certain property identified as Pitt County Tax parcel 19171 and described in that document recorded in the Pitt County Register of Deeds in Book 3351, Page 369.

Tract Twenty: An Aviation Easement over that certain property identified as Pitt County Tax parcel 39440 and described in that document recorded in the Pitt County Register of Deeds in Book 3351, Page 376.

Tract Twenty-One: An Aviation Easement over that certain property identified as Pitt County Tax parcel 19213 and described in that document recorded in the Pitt County Register of Deeds in Book 3351, Page 381.

Tract Twenty-Two: An Aviation Easement over that certain property identified as Pitt County Tax parcel 39440 and described in that document recorded in the Pitt County Register of Deeds in Book 3351, Page 376.

Tract Twenty-Three: An Aviation Easement over that certain property identified as Pitt County Tax parcel 19213 and described in that document recorded in the Pitt County Register of Deeds in Book 3351, Page 381.

Tract Twenty-Four: An Aviation Easement over that certain property identified as Pitt County Tax parcel 14073 and described in that document recorded in the Pitt County Register of Deeds in Book 3530, Page 498.

Tract Twenty-Five: An Aviation Easement over that certain property identified as Pitt County Tax parcel 11305 and described in that document recorded in the Pitt County Register of Deeds in Book 3532, Page 796.

Tract Twenty-Six: An Aviation Easement over that certain property identified as Pitt County Tax parcel 7285 and described in that document recorded in the Pitt County Register of Deeds in Book 3582, Page 689.

Tract Twenty-Seven: An Aviation Easement over that certain property identified as Pitt County Tax parcel 8030 and described in that document recorded in the Pitt County Register of Deeds in Book 3612, Page 419.

Tract Twenty-Eight: An Aviation Easement over that certain property identified as Pitt County Tax parcel 21260 and described in that document recorded in the Pitt County Register of Deeds in Book 3630, Page 289.

Tract Twenty-Nine: An Aviation Easement over that certain property identified as Pitt County Tax parcel 22731 and described in that document recorded in the Pitt County Register of Deeds in Book 3702, Page 338.

Tract Thirty: An Aviation Easement over that certain property identified as Pitt County Tax parcel 33857 and described in that document recorded in the Pitt County Register of Deeds in Book 3702, Page 357.

Tract Thirty-One: An Aviation Easement over that certain property identified as Pitt County Tax parcel 10917 and described in that document recorded in the Pitt County Register of Deeds in Book 3705, Page 491.

Tract Thirty-Two: An Aviation Easement over that certain property identified as Pitt County Tax parcel 34030 and described in that document recorded in the Pitt County Register of Deeds in Book 3718, Page 797.



City of Greenville, North Carolina

Meeting Date: 05/06/2024

Title of Item: Resolution Accepting Dedication of Rights-of-Way and Easements for Abigail Trails, Phase 2

Explanation: In accordance with the City's Subdivision regulations, rights-of-way and easements have been dedicated for Abigail Trails, Phase 2 (Map Book 91 at Page 150). A resolution accepting the dedication of the aforementioned rights-of-way and easements is attached for City Council consideration. The final plat showing the rights-of-way and easements is also attached.

Fiscal Note: Funds for the maintenance of these rights-of-way and easements are included within the fiscal year 2024-2025 budget.

Recommendation: City Council adopt the attached resolution accepting dedication of rights-of-way and easements for Abigail Trails, Phase 2.

ATTACHMENTS

- [Abigail Trails Ph 2 Resolution.pdf](#)
- [Abigail Trails Ph 2 Map](#)

RESOLUTION NO. 007-25
A RESOLUTION ACCEPTING DEDICATION TO THE PUBLIC OF
RIGHTS-OF-WAY AND EASEMENTS ON SUBDIVISION PLATS

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

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

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

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

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

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

Abigail Trails, Phase 2

Map Book 91 at Page 150

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

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

Adopted the 6th day of May, 2024.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

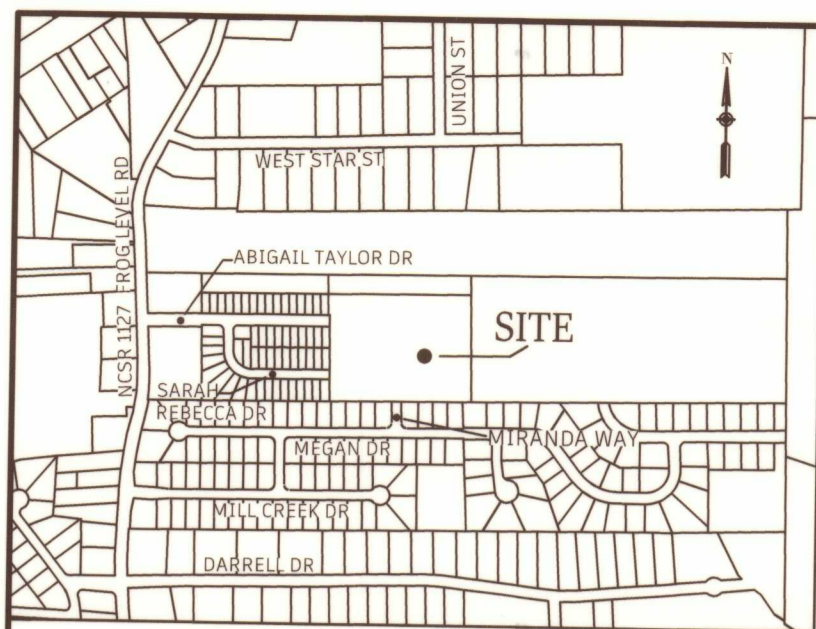
NORTH CAROLINA
PITT COUNTY

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

WITNESS my hand and official seal this the 6th day of May, 2024.

Notary Public

My Commission Expires:



VICINITY MAP
SCALE: 1"=1000'

NOTES:

- THE DESIGNATION NOTED OVER WATER, SANITARY SEWER, GAS OR ELECTRIC LINES IS FOR THE PURPOSE OF ESTABLISHING THE WIDTH OF SAID EASEMENT. THE EASEMENTS SHOWN ARE NOT EXCLUSIVE AND WILL PERMIT THE FUTURE INSTALLATION OF WATER, SANITARY SEWER, GAS AND ELECTRIC LINES WITHIN THOSE DESIGNATED WIDTHS.
- ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
- THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM. REFERENCE: FIRM NUMBER 3720466600J, EFFECTIVE DATE 07/07/2014
- IRON STAKES SET AT LOT CORNERS UNLESS OTHERWISE NOTED.
- NO PERMANENT STRUCTURE(S), INCLUDING BUT NOT LIMITED TO SUBDIVISION SIGNAGE, FENCES OR STORAGE BUILDINGS, SHALL BE CONSTRUCTED OR LOCATED IN ANY PUBLIC DRAINAGE EASEMENT SHOWN ON THIS PLAT WITHOUT PRIOR APPROVAL FROM THE CITY OF GREENVILLE PUBLIC WORKS DEPARTMENT.
- NO BUILDINGS, STRUCTURES, OR OTHER IMPROVEMENTS, MATERIALS AND SURFACES, INCLUDING BUT NOT LIMITED TO PRINCIPAL AND ACCESSORY STRUCTURES AND ADDITIONS OR APPURTENANCES THERETO, SIGNAGE, FENCES, WALLS, MECHANICAL EQUIPMENT, CANOPIES, ANTENNAS, MASTS, AERIALS, MONUMENTS, LANDSCAPE PLANTINGS, FILL MATERIALS, DEBRIS, SOLID WASTE COLLECTION CONTAINERS, MAIL RECEPTACLES AND IMPERVIOUS SURFACES, SHALL ENCRUCH WITHIN ANY DEDICATED EASEMENT WITHOUT PRIOR WRITTEN APPROVAL OF THE CITY OF GREENVILLE.
- TEMPORARY TURN-AROUND EASEMENT PENDING DEDICATION OF FUTURE PUBLIC STREET RIGHT OF WAY.
- COMMON AREA/OPEN SPACE/PRIVATE DRAINAGE EASEMENTS TO BE MAINTAINED BY HOMEOWNERS ASSOCIATION. DOCUMENTS RECORDED IN DEED BOOK _____ PAGE _____
- ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES. VIRTUAL REFERENCE SYSTEM (VRS) NETWORK (2011) USED FOR GPS TIES TO NCGS MONUMENTS AND TO SOUTHWEST PROPERTY CORNER OF LOT 63A, ABIGAIL TRAILS, PHASE 1 RECORDED IN MAP BOOK 90, PAGES 81-82.

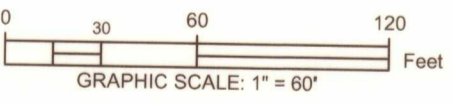
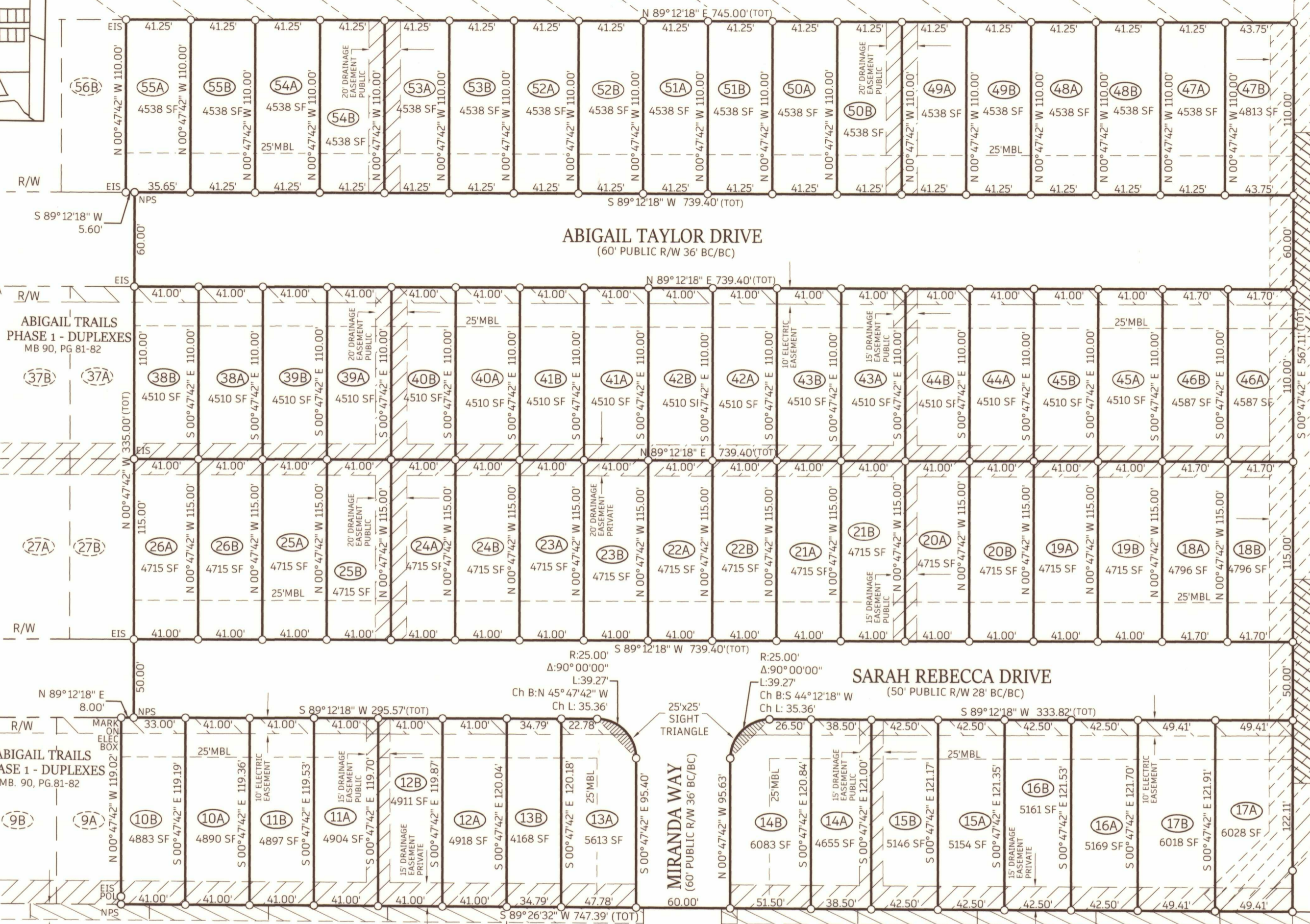
SITE DATA

NUMBER OF LOT CREATED.....	70
TOTAL AREA IN TRACT.....	9.6362 AC
AREA IN COMMON AREA.....	0
AREA IN PARKS, RECREATION AREAS AND THE LIKE.....	0



LEGEND

R/W	= RIGHT-OF-WAY
BC	= BACK OF CURB
MBL	= MINIMUM BUILDING LINE
SF	= SQUARE FEET
PT	= POINT OF CURVATURE
PC	= POINT OF TANGENCY
R	= RADIUS
L	= LENGTH
CH	= CHORD
POL	= POINT ON LINE
NPS	= NO POINT SET
	= NOT TO SCALE
EIR	= EXISTING IRON ROD
EIS	= EXISTING IRON STAKE



SHEET 1 OF 1

PN 88125

MAP FOR RECORD
ABIGAIL TRAILS, PHASE 2 - DUPLEXES

REFERENCE: BEING THE PROPERTY RECORDED IN DEED BOOK 4269, PAGE 361 OF THE PITT COUNTY REGISTRY

GREENVILLE ARTHUR TOWNSHIP PITT COUNTY NORTH CAROLINA

OWNER: ABIGAIL TRAILS, LLC
ADDRESS: C/O GINA P. GLICK, 1003 RED BANKS RD, GREENVILLE, NC 27858
PHONE: (804) 556-1952

STROUD ENGINEERING, P.A.
107-B COMMERCE STREET, GREENVILLE, NC 27858
(252) 756-9352 LICENSE NO. C-0647

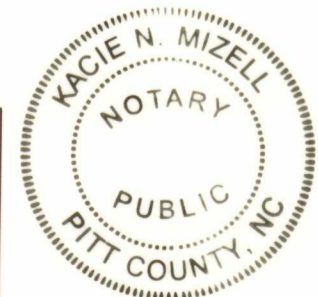
SURVEYED: DE/JE	APPROVED: DTB
DRAWN: DM/MLB	DATE: 2/12/2024
CHECKED: DTB	SCALE: 1" = 60'



OWNER STATEMENT

THIS IS EVIDENCE THAT THIS SUBDIVISION IS MADE AT THE REQUEST OF:

OWNER: *Gina Glick*
OWNER: _____
OWNER: _____
SWORN AND SUBSCRIBED TO BEFORE ME THIS 21 DAY OF February, 2024
Kacie N. Mizell
NOTARY PUBLIC, MY COMMISSION EXPIRES ON _____



APPROVAL

THIS FINAL PLAT 24-5 WAS APPROVED BY THE SUBDIVISION REVIEW BOARD IN ACCORDANCE WITH TITLE 9, CHAPTER 5 OF THE GREENVILLE CITY CODE THE 24 DAY OF February, 2024
SIGNED: *Melody Johnson*
CITY PLANNER

DEDICATION

THE UNDERSIGNED HEREBY ACKNOWLEDGE(S) THIS PLAT AND ALLOTMENT TO BE THEIR FREE ACT AND DEED, AND HEREBY DEDICATES TO PUBLIC USE AS STREETS, PARKS, PLAY-GROUNDS, OPEN SPACES AND EASEMENTS FOREVER. ALL AREAS AS SHOWN OR AS INDICATED ON SAID PLAT.

OWNER: *Gina Glick*
OWNER: _____
OWNER: _____
OWNER: _____
ATTEST: *Kacie N. Mizell*

SURVEYOR'S CERTIFICATE

I, DEBORAH T. BOYETTE, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK SEE _____ PAGE PLAT _____, OR FROM BOOKS REFERENCED HEREON); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK SEE _____ PAGE PLAT _____, OR AS REFERENCED HEREON; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1:33,296, THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

I FURTHER CERTIFY PURSUANT TO G.S. 47-30 (f)(1)(a), THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 29TH DAY OF FEBRUARY, 2024.
SIGNED: *Deborah T. Boyette*
PROFESSIONAL LAND SURVEYOR L-4146

REVIEW OFFICER'S CERTIFICATE
I, *Malcolm Johnson*, REVIEW OFFICER OF PITT COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
Melody Johnson
REVIEW OFFICER
DATE: 2/29/2024



City of Greenville, North Carolina

Meeting Date: 05/06/2024

Title of Item: Resolution Authorizing the Police Department to Apply for a Governor's Highway Safety Program Grant for BikeSafe Regional Coordinator

Explanation: The Governor's Highway Safety Program awards agencies grant funds for various needs. The Greenville Police Department received notification that it is eligible to receive funds from the Governor's Highway Safety Program BikeSafe in the amount of \$5,000.

If approved, the Greenville Police Department will allocate funds for the Traffic Safety Sergeant and BikeSafe Regional Coordinator to oversee and coordinate the planning, implementation, and reporting of BikeSafe events and activities. As the Regional Coordinator, the Traffic Safety Sergeant will also be tasked with promoting the program to law enforcement agencies and encouraging their participation in this life-saving initiative.

Funds will be used to support travel to and from BikeSafe events, conferences and meetings both in-state and out of state. The Greenville Police Department will hold BikeSafe instruction courses for local motorcycle riders. Funds will be used for supplies for those courses.

Fiscal Note: The Police Department has the potential to receive grant funding in the amount of \$5,000 with no City match required.

Recommendation: Staff recommends that City Council approve the resolution and authorize the Police Department to submit a Governor's Highway Safety Program Grant application.

ATTACHMENTS

- [Resolution.pdf](#)
- [GHSP BikeSafe Application 2024.pdf](#)
- [Agreement of Conditions.pdf](#)

North Carolina Governor's Highway Safety Program LOCAL GOVERNMENTAL RESOLUTION

WHEREAS, the _____ (herein called the "Agency")

(The Applicant Agency)

has completed an application contract for traffic safety funding; and that _____ (The Governing Body of the Agency)

_____ (herein called the "Governing Body") has thoroughly considered the problem identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED BY THE _____ IN OPEN MEETING ASSEMBLED IN THE CITY OF _____, NORTH CAROLINA,

(Governing Body)

THIS ____ DAY OF _____, 20 ____, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That _____ is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$ _____ to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
(Name and Title of Representative)
(Federal Dollar Request)
3. That the Governing Body has formally appropriated the cash contribution of \$ _____ as required by the project contract; and
(Local Cash Appropriation)
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by _____ (Chairperson/Mayor)

ATTESTED BY _____ (Clerk)

SEAL

DATE _____

North Carolina Governor's Highway Safety Program

SECTION A – GENERAL INFORMATION

1. Project Title: * BikeSafe Regional Coordinator	Fiscal Year: 2025
2. Agency: 1000000391 - CITY OF GREENVILLE	3. Contact Person for Agency: RHONDA CONNER
4. Agency Address: GREENVILLE POLICE 500 S GREENE ST GREENVILLE, NC 27834	5. Telephone Number: * (252) 329-4340
	6. Cell Phone:
7. Physical Location of Agency * CITY OF GREENVILLE	8. Email of Contact Person * rconner@greenvillenc.gov
9. Federal Tax ID Number / Type of Agency Federal Tax ID Number: * 56-6000229 Unique Entity Identifier: G2MRNA8RBK52 County: * PITT Type of Agency <input type="radio"/> State <input type="radio"/> Non-Profit <input type="radio"/> County <input type="radio"/> Higher Education <input checked="" type="radio"/> Municipality <input type="radio"/> Hospital	10. Project Year * <input checked="" type="radio"/> New <input type="radio"/> Continuation Year: <input checked="" type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input type="radio"/> 4+ Application Number: 1000021002
	11. Allocation of Funding * Federal % 100.00 Local % 0.00

Source of Funds			
12. Budget	Total Project Amount	Federal Amount	State/Local Amount
Personnel Costs			
Contractual Services			
Other Direct Costs	\$5,000.00	\$5,000.00	
Indirect Costs			
Total Project Costs	\$5,000.00	\$5,000.00	

13. Specify How Non-Federal Share Will Be Provided: *
N/A

Project Number:	CFDA#: 20.
	Work Type:

SECTION B – DESCRIPTION OF PROJECT

Statement of Problem (Provide detailed information of the highway safety problems in your area to be addressed through this project. Include countywide crash data for the last three years and any other relevant information to validate the statements. For more detailed information see "How to write an effective traffic safety project" located at:

<https://connect.ncdot.gov/municipalities/Law-Enforcement/Pages/Law-Enforcement-Reporting.aspx>)

In 2022, 239 motorcyclists were killed in crashes in North Carolina. This was a decrease of six fatalities in comparison to 2021. Motorcyclists accounted for over 13% of all traffic fatalities in 2022. Based on the 5-year moving average, motorcyclist fatalities have changed little in north carolina over the past ten years. in comparison with passenger vehicle crashes, motorcycle crashes disproportionately occur on rural roads, are single vehicle crashes, and involve alcohol. Four counties in North Carolina- Cumberland, Guilford, Mecklenburg and Wake- account for more than 20 percent of the state's motorcyclist fatalities. However, many of the Counties with the highest fatality rates per registered motorcycle are in the less populated, mountainous part of the state.

Proposed Solution (Begin with a one-sentence summary of your project. Then describe in detail how your proposed project will address the problem identified in the "Statement of Problem" section):

The BikeSafe Regional Coordinator serves as the coordinator and organizer for BikeSafe NC activities in their respective region. The Governor's Highway Safety Program supports the statewide Bikesafe NC Program, including six Regional Coordinators. The Regional Coordinators guide and coordinate the planning, implementation and reporting of BikeSafe events and activities. Regional Coordinators are also responsible for promoting the program to law enforcement agencies and getting more agencies involved in this life saving program. To accomplish this, Regional Coordinators are required to host events, conduct and attend meetings, assist other BikeSafe agencies with organizing events, respond to public inquiries associated with their region and report all efforts and activities back to the BikeSafe NC Statewide Coordinator. In-State travel will facilitate outreach to area coordinators and agencies, as well as attendance at relevant trainings and conferences. Out-of-State travel will support annual training symposium attendance by the BikeSafe NC Regional Coordinator.

Budget Justification (Provide a detailed explanation of the costs associated with proposed project):

Funds will be used to support travel to and from BikeSafe events, conferences and meetings both in-state and out of state. The Greenville PD will hold free BikeSafe Instruction courses for local motorcycle riders. Funds will be used for supplies for those courses. The Greenville PD Public Information Officer will assist in providing motorcycle safety outreach through media or printed materials. Funds will also be used to help with coordinating regional meetings with Site Coordinators to include travel, food, venue and educational materials.

Travel Justification (Provide justification for all travel expenses):

In-state and out-of-state travel funds will be used for necessary travel to perform the functions and responsibilities of the Regional Coordinator. Funds will be used to attend traffic safety conferences and trainings such as the BikeSafe NC Annual Conference, NCGHSP's Traffic Safety Conference, Lifesaver's Conference, Governor's Highway Safety Association Conference, and trainings related to motorcycle safety, instructor skills and education.

To be completed by law enforcement agencies seeking first year grant:

Provide the agency's number of sworn officers	200
Does the agency currently have a dedicated traffic or DWI unit?	Yes <input checked="" type="radio"/> No <input type="radio"/>
If a dedicated traffic or DWI unit exists, how many officers are assigned to the unit?	3

For applicants requesting enforcement grants, please provide the following county fatality rankings:
Information can be located at:

<https://connect.ncdot.gov/municipalities/Law-Enforcement/Pages/Law-Enforcement-Reporting.aspx>

Overall Fatality Ranking:	12
Alcohol Fatality Ranking:	16
Unrestrained Fatality Ranking:	15
Speed Related Fatalities:	10
Other Applicable Rankings: (Specify)	Motorcycle Fatalities 18

As part of this project all law enforcement agencies must enter traffic enforcement citations data of their agency for the past three years.

Year 2021	Occupant Protection Citations	81	DWI Citations	52	Speed Citations	2,262
Year 2022	Occupant Protection Citations	73	DWI Citations	38	Speed Citations	1,501
Year 2023	Occupant Protection Citations	113	DWI Citations	19	Speed Citations	1,703

Goals and Objectives (Provide at least one SMART (Specific, Measurable, Attainable, Realistic and Timely) goals and objectives. For more detailed information see "How to write an effective traffic safety project" located at:

<https://connect.ncdot.gov/municipalities/Law-Enforcement/Pages/Law-Enforcement-Reporting.aspx>)

Goal #1: TO PROMOTE AND COORDINATE THE BIKESAFE NC PROGRAM WITHIN BIKESAFE REGION EASTERN NC TO INCREASE SAFETY EFFORTS AND THEREBY DECREASE STATEWIDE MOTORCYCLE FATALITIES BY FIVE PERCENT FROM THE 2018-2022 FIVE YEAR AVERAGE OF 221.8 TO 210 BETWEEN OCTOBER 1, 2024 AND SEPTEMBER 30, 2025.

Objectives: 1) HOST ANNUAL "KICK OFF" EVENT MEETINGS TO PLAN QUARTERLY MEETINGS AND PROVIDE INFORMATION REGARDING GHSP CAMPAIGNS;
2) HOST A MINIMUM OF FOUR BIKESAFE NC SITE COORDINATOR MEETINGS TO DISCUSS CURRENT

HIGHWAY SAFETY ACTIVITIES, BIKESAFE NC AND GHSP UPDATES, TRAINING OPPORTUNITIES, LEGAL UPDATES AND CONCERNS;
 3) PROMOTE THE BIKESAFE NC PROGRAM BY CONTACTING ALL MOTORCYCLE DEALERS, MOTORCYCLE CLUBS, AND ASSOCIATIONS WITHIN THE REGION AT LEAST ONE TIME BY SEPTEMBER 30, 2025;
 4) CONTACT LOCAL MEDIA OUTLETS WITH INFORMATION ABOUT BIKESAFE NC INITIATIVES AND CLASSES, EDUCATIONAL EVENTS, OR OTHER TRAFFIC SAFETY TOPICS AT LEAST THREE TIMES PER QUARTER;
 5) COMPILE AND SUBMIT QUARTERLY REGIONAL REPORTS THAT INCLUDE A SUMMARY OF THE SITE COORDINATOR MEETINGS AND THE BIKESAFE REGIONAL COORDINATOR'S ACTIVITIES.

Goal #2:

Objectives:

Goal #3:

Objectives:

Below are the 5-year goals of the NC Governor's Highway Safety Program (GHSP). To be eligible for funding, your traffic safety project should match one or more of the GHSP goals. Check all that apply.

- Reduce NC's traffic-related fatalities by 4% from the 2022 total of 1,784 to 1,712 by December 31, 2025.
- Reduce NC's alcohol-related fatalities by 4% from the 2022 total of 448 to 430 by December 31, 2025.
- Reduce NC's unrestrained fatalities by 4% from the 2022 total of 562 to 539 by December 31, 2025.
- Reduce NC's speed-related fatalities by 4% from the 2022 total of 426 to 408 by December 31, 2025.
- Reduce NC's young driver-related fatalities by 4% from the 2022 total of 198 to 190 by December 31, 2025.
- Reduce NC's motorcycle fatalities by 4% from the 2022 total of 237 to 227 by December 31, 2025.
- Increase NC's seat belt usage rate from the 2022 usage rate of 90.8% to 91.46% by December 31, 2025.

SECTION C – BUDGET DETAIL

Other Direct Costs

#	Equipment	Quantity	Cap Amount	Cost
Total Equipment Cost				

Other Equipment Details :

#	Other Items and Equipment Direct Cost:	Cost
1	Site Coordinator Meetings	\$2,000.00
Total Other Items and Equipment Direct Cost:		\$2,000.00

#	Travel	Cost
1	In-State Travel	\$1,000.00
2	Out-of-State Travel	\$2,000.00
Total Travel Cost:		\$3,000.00
Total Other Direct Costs:		\$5,000.00

SECTION D – SCHEDULE OF TASKS BY QUARTERS

List the schedule of tasks by quarters, referring specifically to the objectives in Section B. Tasks should be a bulleted list of activities to be performed in each quarter.

Conditions for Enforcement Projects Only

By checking this box, the above agency agrees to the terms below as additional activities to be performed as part of this project.



- A minimum of one (1) nighttime and one (1) daytime seat belt initiative per month;
- A minimum of one (1) impaired driving checkpoint per month;
- A minimum of 50% of seat belt initiatives must be conducted at night between the hours of 7:00 p.m. and 7:00 a.m.;
- Participation in all "Click It or Ticket" and "Booze It & Lose It" campaigns;
- Participation in any event or campaign as required by the GHSP;
- Attempt to utilize one of the Forensic Tests for Alcohol Branch's Mobile Breath Alcohol Testing (BATMobiles) units during at least one of the impaired driving checkpoints.

First Quarter (October, November, December)

- 1) ATTEND ALL GHSP MEETINGS AND EVENTS AS REQUESTED OR INVITED (SUCH AS CAMPAIGN KICKOFFS, NC TRAFFIC SAFETY CONFERENCE, TRAININGS LIKE THE CANNABIS SUMMIT) AS WELL AS ANY PLANNED TRAINING OPPORTUNITIES (SUCH AS THE ANNUAL BIKESAFE CONFERENCE OR SMSA NATIONAL CONFERENCE)
- 2) HOST A KICK-OFF MEETING FOR SITE COORDINATORS TO PLAN FOR THE YEAR AND DISCUSS BIKESAFE NC AND GHSP UPDATES (IN-PERSON MEETINGS ARE PREFERRED BUT VIRTUAL WILL BE ACCEPTABLE)
- 3) CONDUCT OUTREACH WITH AT LEAST THREE MOTORCYCLE DEALERS OR MOTORCYCLE CLUBS IN THE REGION TO PROMOTE BIKESAFE NC INITIATIVES AND SAFETY EDUCATION
- 4) CONTACT AT LEAST ONE LOCAL MEDIA OUTLET TO PROMOTE BIKESAFE NC INITIATIVES AND SAFETY EDUCATION
- 5) COMPILE THE QUARTERLY REGIONAL REPORT AND SUBMIT IT TO THE ASSIGNED GHSP BIKESAFE NC GRANTS MANAGER WITHIN 15 DAYS OF THE END OF THE QUARTER.

Second Quarter (January, February, March)

- 1) ATTEND ALL GHSP MEETINGS AND EVENTS AS REQUESTED OR INVITED (SUCH AS CAMPAIGN KICKOFFS, NC TRAFFIC SAFETY CONFERENCE, TRAININGS LIKE THE CANNABIS SUMMIT) AS WELL AS ANY PLANNED TRAINING OPPORTUNITIES (SUCH AS THE ANNUAL BIKESAFE CONFERENCE OR SMSA NATIONAL CONFERENCE)
- 2) HOST A SITE COORDINATORS MEETING TO DISCUSS BIKESAFE NC AND GHSP UPDATES (IN-PERSON MEETINGS ARE PREFERRED, BUT VIRTUAL IS ACCEPTABLE)
- 3) CONDUCT OUTREACH WITH AT LEAST THREE MOTORCYCLE DEALERS OR MOTORCYCLE CLUBS IN THE REGION TO PROMOTE BIKESAFE NC INITIATIVES AND SAFETY EDUCATION
- 4) CONTACT AT LEAST ONE LOCAL MEDIA OUTLET TO PROMOTE BIKESAFE NC INITIATIVES AND SAFETY EDUCATION
- 5) COMPILE THE QUARTERLY REGIONAL REPORT AND SUBMIT IT TO THE ASSIGNED GHSP BIKESAFE NC GRANTS MANAGER WITHIN 15 DAYS OF THE END OF THE QUARTER.

Third Quarter (April, May, June)

- 1) ATTEND ALL GHSP MEETINGS AND EVENTS AS REQUESTED OR INVITED (SUCH AS CAMPAIGN KICKOFFS, NC TRAFFIC SAFETY CONFERENCE, TRAININGS LIKE THE CANNABIS SUMMIT) AS WELL AS ANY PLANNED TRAINING OPPORTUNITIES (SUCH AS THE ANNUAL BIKESAFE CONFERENCE OR SMSA NATIONAL CONFERENCE)
- 2) HOST A SITE COORDINATORS MEETING TO DISCUSS BIKESAFE NC AND GHSP UPDATES (IN-PERSON MEETINGS ARE PREFERRED, BUT VIRTUAL IS ACCEPTABLE)
- 3) CONDUCT OUTREACH WITH AT LEAST THREE MOTORCYCLE DEALERS OR MOTORCYCLE CLUBS IN THE REGION TO PROMOTE BIKESAFE NC INITIATIVES AND SAFETY EDUCATION
- 4) CONTACT AT LEAST ONE LOCAL MEDIA OUTLET TO PROMOTE BIKESAFE NC INITIATIVES AND SAFETY EDUCATION
- 5) COMPILE THE QUARTERLY REGIONAL REPORT AND SUBMIT IT TO THE ASSIGNED GHSP BIKESAFE NC GRANTS MANAGER WITHIN 15 DAYS OF THE END OF THE QUARTER.

Fourth Quarter (July, August, September)

- 1) ATTEND ALL GHSP MEETINGS AND EVENTS AS REQUESTED OR INVITED (SUCH AS CAMPAIGN KICKOFFS, NC TRAFFIC SAFETY CONFERENCE, TRAININGS LIKE THE CANNABIS SUMMIT) AS WELL AS ANY PLANNED TRAINING OPPORTUNITIES (SUCH AS THE ANNUAL BIKESAFE CONFERENCE OR SMSA NATIONAL CONFERENCE)
- 2) HOST A SITE COORDINATORS MEETING TO DISCUSS BIKESAFE NC AND GHSP UPDATES (IN-PERSON MEETINGS ARE PREFERRED, BUT VIRTUAL IS ACCEPTABLE)
- 3) CONDUCT OUTREACH WITH AT LEAST THREE MOTORCYCLE DEALERS OR MOTORCYCLE CLUBS IN THE REGION TO PROMOTE BIKESAFE NC INITIATIVES AND SAFETY EDUCATION
- 4) CONTACT AT LEAST ONE LOCAL MEDIA OUTLET TO PROMOTE BIKESAFE NC INITIATIVES AND SAFETY EDUCATION
- 5) COMPILE THE QUARTERLY REGIONAL REPORT AND SUBMIT IT TO THE ASSIGNED GHSP BIKESAFE NC GRANTS MANAGER WITHIN 15 DAYS OF THE END OF THE QUARTER.

AGENCY AUTHORIZING SIGNATURE

I have read and accept terms and conditions of the grant funding and attached the Grant Agreement. The information supplied in this application is true to the best of my knowledge

Name: PIN: Date:

Note:

- 1. Submitting grant application is not a guarantee of grant being approved.
- 2. Once form has been submitted, it cannot be changed unless it has a status of "Return".

FOR GHSP USE ONLY:

Recommendation:

Date:

**North Carolina Governor's Highway Safety Program
Agreement of Conditions**

This Agreement is made by and between the North Carolina Department of Transportation, hereinafter referred to as the "Department", to include the Governor's Highway Safety Program, hereinafter referred to as "GHSP"; and the applicant agency, for itself, its assignees and successors in interest, hereinafter referred to as the "Agency". During the performance of this contract, and by signing this contract, the Agency agrees as follows:

A. Federal Provisions

1. **Equal Opportunity/Nondiscrimination.** The Agency will agree to comply with all Federal statutes and implementing regulations relating to nondiscrimination concerning race, color, sex, religion, national origin, handicaps, and age. These include but are not limited to:
 - (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252);
 - (b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601)
 - (c) Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686);
 - (d) Non-Discrimination in Federally-assisted programs of the United States Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (49 CFR Part 21), hereinafter referred to as "USDOT", as amended;
 - (e) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, and 49 CFR Part 27; and
 - (f) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.);
 - (g) The Civil Rights Restoration Act of 1987, (Pub. L. 100-209);
 - (h) Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) and 49 CFR parts 37 and 38;
 - (i) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;
 - (j) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency
2. **Drug Free Workplace.** The Agency agrees to comply with the provisions cited in the Drug-Free Workplace Act of 1988 (41 U.S.C. 8103).
3. **Federal Grant Requirements and Contracts.** The Agency shall comply with the following statutes and implementing regulations as applicable:
 - (a) Highway Safety Act of 1966 (23 U.S.C. Chapter 4 -), as amended;
 - (b) Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94;
 - (c) Uniform Procedures for State Highway Safety Grant Programs (23 CFR part 1300);
 - (d) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 1201);
 - (e) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and all other relevant Federal regulations covering the Highway Safety Program;
 - (f) NHTSA Highway Safety Grant Funding Guidance, as revised, July 2015 (www.nhtsa.gov) and additions or amendments thereto.
4. **Political Activity (Hatch Act)** The Agency will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
5. **Lobbying.**
 - (a) **Certification Regarding Federal Lobbying.** The undersigned certifies, to the best of his or her knowledge and belief, that:
 - (i) 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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- (ii) 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.
- (iii) The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

- (b) **Restriction on State Lobbying.** None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

6. Audits.

- (a) **Audit Required.** Non-Federal entities that expend \$750,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR, Subpart F, §200.500. Guidance on determining Federal awards expended is provided in 2 CFR, Subpart F, §200.502.
- (b) **Single Audit.** Non-Federal entities that expend \$750,000 or more in a year in Federal awards shall have a single audit conducted in accordance with 2 CFR, Subpart F, §200.501, except when they elect to have a program-specific audit conducted in accordance with 2 CFR, Subpart F, §200.501, paragraph (c).
- (c) **Non-Governmental Entities.** Non-governmental entities (not-for-profit and for-profit entities) must adhere to North Carolina General Statute 143C-6.22 and 09 NCAC Subchapter 03M.

7. Instructions for Lower Tier Certification.

- (a) By signing and submitting this proposal, the prospective lower tier participant (the Agency) is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1200.
- (b) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- (c) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (d) The terms covered transaction, civil judgement, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR Part 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- (e) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred,

suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- (f) The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1200.
 - (g) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
 - (h) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - (i) Except for transactions authorized under paragraph 7(e) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies including suspension or debarment.
 - (j) **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions.**
 - (i) The prospective lower tier participant (the Agency) certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any Federal department or agency.
 - (ii) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this contract proposal.
- 8. Buy America Act.** The Agency and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.
- 9. Prohibition On Using Grant Funds To Check For Helmet Usage.** The Agency and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.
- 10. Conditions for State, Local and Indian Tribal Governments.** State, local and Indian tribal government Agencies shall adhere to the standards established by 2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments and additions or amendments thereto, for principles for determining costs applicable to grants and contracts with state, local and Indian tribal governments.
- 11. Conditions for Institutions of Higher Education.** If the Agency is an institution of higher education, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and 2 CFR 220 Cost Principles for Educational Institutions for determining costs applicable to grants and contracts with educational institutions.

- 12. Conditions for Non-Profit Organizations.** If the Agency is a non-profit organization, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and 2 CFR Part 230 Cost Principles for Non-Profit Organizations for determining costs applicable to grants and contracts with non-profit organizations.
- 13. Conditions for Hospitals.** If the Agency is a hospital, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

B. General Provisions

- 1. Contract Changes.** This document contains the entire agreement of the parties. No other contract, either oral or implied, shall supercede this Agreement. Any proposed changes in this contract that would result in any change in the nature, scope, character, or amount of funding provided for in this contract, shall require a written addendum to this contract on a form provided by the Department.
- 2. Subcontracts Under This Contract.** The Agency shall not assign any portion of the work to be performed under this contract, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this contract without the prior written concurrence of the Department. Any subcontract under this contract must include all required and applicable clauses and provisions of this contract. Subcontracting does not relieve the Agency of any of the duties and responsibilities of this agreement. The subcontractor must comply with standards contained in this agreement and provide information that is needed by the Agency to comply with these standards. The Agency must submit any proposed contracts for subcontracted services to the Governor's Highway Safety Program for final approval no less than 30 days prior to acceptance.
- 3. Solicitation for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the Agency for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Agency of the Agency's obligations under this contract. Additionally, Agencies making purchases or entering into contracts as provided for by this contract must adhere to the policies and procedures of 2 CFR Part 200 and North Carolina General Statute 143-128.4. Historically underutilized business defined; statewide uniform certification as it pertains to Historically Underutilized Businesses.
- 4. Incorporation of Provisions in Subcontracts.** The Agency shall include the provisions of section A-1 through A-13 of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the regulations, or directives issued pursuant thereto. The Agency shall take such action with respect to any subcontract or procurement as the Department, the State of North Carolina, hereinafter referred to as the "State", the National Highway Traffic Safety Administration, hereinafter referred to as "NHTSA", or the Federal Highway Administration, hereinafter referred to as "FHWA", may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Agency becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Agency may request the Department or the State to enter into such litigation to protect the interests of the Department or the State. In addition, the Agency may request the NHTSA or FHWA to enter into such litigation to protect the interests of the United States.
- 5. Outsourcing.** All work shall be performed in the United States of America. No work will be allowed to be outsourced outside the United States of America.
- 6. Property and Equipment.**
 - (a) Maintenance and Inventory.** The Agency shall maintain and inventory all property and equipment purchased under this contract.
 - (b) Utilization.** The property and equipment purchased under this contract must be utilized by the Agency for the sole purpose of furthering the traffic safety efforts of the Agency for the entire useful life of the property or equipment.
 - (c) Title Interest.** The Department and NHTSA retain title interest in all property and equipment purchased under this contract. In the event that the Agency fails or refuses to comply with the provisions of this Agreement or terminates this contract, the Department, at its discretion, may take either of the following actions:
 - (i)** Require the Agency to purchase the property or equipment at fair market value or other mutually agreed to amount; or

- (ii) Require the Agency to transfer the property or equipment and title of said property or equipment, if any, to the Department or to another Agency, as directed by the Department.
- (d) **Non-expendable Property.** Non-expendable property is defined as property or equipment having a value of \$5000 or more with a life expectancy of more than one year. Non-expendable property purchased under this contract cannot be sold, traded, or disposed of in any manner without the expressed written permission of the Department.
7. **Educational or Other Materials.** If allowed, any educational or other materials developed using funds from this contract must be reviewed and approved by the GHSP prior to their production or purchase. The cost of these materials is generally limited to a maximum of \$5.00 per item. The purchase of promotional items and memorabilia are not an allowable cost.
8. **Review of Reports and Publications.** Any reports, papers, publications, or other items developed using funds from this contract must be reviewed and approved by the GHSP prior to their release.
9. **Reimbursement.**
- (a) **General.** Payments are made on a reimbursement basis. There is no schedule of advance payments. Only actual allowable costs are eligible for reimbursement. Claims for reimbursement must be made a minimum of quarterly and no more than once a month via the Grants Management System. Claims for reimbursement not made within the three month threshold are subject to denial. The itemized invoice shall be supported by documentation of costs as prescribed by the Department. Reimbursements will not be processed if other required reports are incomplete or have not been submitted. Failure to submit complete reports by the required deadline may result in denial of reimbursement.
- (b) **Approval.** The Governor's Highway Safety Program and the Department's Fiscal Section shall approve the itemized invoice prior to payment.
- (c) **Unapproved Costs.** Any rejected or unaccepted costs shall be borne by the Agency. The Agency agrees that in the event the Department determines that, due to Federal or State regulations that grant funds must be refunded, the Agency will reimburse the Department a sum of money equal to the amount of Federal and State participation in the rejected costs.
- (d) **Final Claims for Reimbursement.** Final claims for reimbursement must be received by the GHSP within 30 days following the close of the approved contract period. Project funds not claimed by this date are subject to reversion.
- (e) **Expending Funds Under This Contract.** Under no circumstances will reimbursement be made for costs incurred prior to the contract effective date or after the contract ending date.
10. **Project Costs.** It is understood and agreed that the work conducted pursuant to this contract shall be done on an actual cost basis by the Agency. The amount of reimbursement from the Department shall not exceed the estimated funds budgeted in the approved contract. The Agency shall initiate and prosecute to completion all actions necessary to enable the Agency to provide its share of the project costs at or prior to the conclusion of the project.
11. **Program Income.** The Agency shall account for program income related to projects financed in whole or in part with federal funds in accordance with 2 CFR 200.307. Program income earned during the contract period shall be retained by the Agency and deducted from the federal funds committed to the project by the GHSP unless approved in advance by the Federal awarding agency as an addition to the project. Program income must be accounted for separately and the records made available for audit purposes.
12. **Project Directors.** The Project Director, as specified on the signature page of this Agreement, must be an employee of the Agency or the Agency's governing body. Any exception to this provision must have the expressed written approval of GHSP.
13. **Reports Required.**
- (a) **Quarterly Progress Reports.** Unless otherwise directed, the Agency must submit Quarterly Progress Reports to the GHSP, on forms provided by the Department, which reflect the status of project implementation and attainment of stated goals. Each progress report shall describe the project status by quarter and shall be submitted to GHSP no later than fifteen (15) days after the end of each quarter. If the Agency fails to submit a Quarterly Progress Report or submits an incomplete Quarterly Progress Report, the Agency will be subject to having claims for reimbursement withheld. Once a Quarterly Progress Report that substantiates adequate progress is received, cost reimbursement requests may be processed or denied at the discretion of GHSP.
- (b) **Final Accomplishments Report.** A Final Accomplishments Report must be submitted to the GHSP within fifteen (15) days of completion of the project, on forms provided by the Department, unless otherwise directed. If the Agency fails to submit a Final Accomplishments Report or submits an

incomplete Final Accomplishments Report, the Agency will be subject to having claims for reimbursement withheld. Once a Final Accomplishments Report that substantiates adequate progress is received, claims for reimbursement may be processed or denied at the discretion of GHSP.

- (c) **Audit Reports.** Audit reports required in Section A-6 above shall be provided to the Department within thirty (30) days of completion of the audit.

14. Out-of-State Travel.

- (a) **General.** All out-of-state travel funded under this contract must have prior written approval by the Governor's Highway Safety Program.
- (b) **Requests.** Requests for approval must be submitted to the GHSP, on forms provided by the Department, no less than thirty (30) days prior to the intended departure date of travel.
- (c) **Agency Travel Policy Required.** For Agencies other than state agencies, out-of-state travel requests must include a copy of the Agency's travel policy, to include allowances for lodging, meals, and other travel-related expenses. For state agencies, maximum allowable subsistence is limited to the prevailing per diem rates as established by the North Carolina General Assembly.
- (d) **Agenda Required.** Out-of-state travel requests must include a copy of the agenda for the travel requested.

15. Conditions for Law Enforcement. In addition to the other conditions provided for in this Agreement, grants to law enforcement agencies are subject to the following:

(a) **Certifications Required.**

- (i) **In-car Camera or Video System.** For any in-car camera or video system purchased under this contract, it is required that the operator of that equipment has successfully completed Standardized Field Sobriety Testing training (SFST). A copy of this certificate must be filed with GHSP prior to reimbursement of in-car camera or video systems.
- (ii) **Radar.** For any radar equipment purchased under this contract, it is required that the operator of that equipment has successfully completed Radar Certification Training. A copy of this certificate must be filed with GHSP prior to reimbursement of radar equipment.
- (iii) **Alcohol Screening Devices.** For any preliminary alcohol screening devices purchased under this contract, it is required that the operator of that equipment has successfully completed the Alcohol Screening Test Device training offered by the Forensic Test for Alcohol Branch.

- (b) **Report Required - Monthly Enforcement Data Report.** In addition to the reports mentioned above, law enforcement agencies engaging in enforcement activities must submit a Monthly Enforcement Data Report on the form provided by the Department no later than fifteen (15) days after the end of each month. If the Agency fails to submit a Monthly Enforcement Data Report or submits an incomplete Monthly Enforcement Data Report, the Agency will be subject to having cost reimbursement requests withheld. Once a Monthly Enforcement Data Report that substantiates adequate progress is received, cost reimbursement requests will be processed. The agency head must sign the form. However, the agency head may assign a designee to sign the form by providing written signature authority to the GHSP.

16. Conditions for Local Governmental Agencies.

- (a) **Resolution Required.** If the Agency is a local governmental entity, a resolution from the governing body of the Agency is required on a form provided by the Department.
- (b) **Resolution Content.** The resolution must contain a commitment from the governing body to provide the local funds as indicated in this contract. Additionally, the resolution is required even if the funding is one hundred percent from federal sources, as it serves as recognition by the governing body of federal funding for purposes of Section A-6 above.

17. Seat Belt Policy and Use. Agency must adopt and enforce a seat belt use policy required for all seating positions unless exempted by state law.

18. Text Messaging Policy. Agency must adopt and enforce a policy banning text messaging while driving unless exempted by state law.

19. Prohibited Interests. No member, officer, or employee of the Agency during his or her tenure, and for at least one (1) year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof or therefrom.

20. Continued Federal and State Funding.

- (a) **Federal Funding.** The Agency agrees and understands that continuation of this project with Federal funds is contingent upon Federal funds being appropriated by the United States Congress specifically for that purpose. The Agency further agrees and understands that in the event funds originally

appropriated by Congress for these grants are subsequently reduced by further acts of Congress, funding to the Agency may be proportionately reduced.

- (b) State Funding.** The Agency agrees and understands that continuation of this project with funds from the State of North Carolina is contingent upon State funds being appropriated by the General Assembly specifically for that purpose. The Agency also agrees that any state funds received under this contract are subject to the same terms and conditions stated in this Agreement.
- 21. Performance.** All grants provided by the Governor's Highway Safety Program are performance-based and, as such, require that continual progress be made toward the reduction of the number and severity of traffic crashes. Any agency, whose performance is deemed unsatisfactory by the GHSP, shall be subject to the sanctions as provided for in this contract. Additionally, unsatisfactory performance shall be cause for the Department to reduce or deny future funding.
- 22. Resolution of Disputes.** Any dispute concerning a question of fact in connection with the work not disposed of by contract by and between the Agency and the Department, or otherwise arising between the parties to this contract, shall be referred to the Secretary of the North Carolina Department of Transportation and the authorized official of the Agency for a negotiated settlement. In any dispute concerning a question of fact in connection with the project where such negotiated settlement cannot be resolved in a timely fashion, the final decision regarding such dispute shall be made by the Secretary of the North Carolina Department of Transportation, with the concurrence of the Federal funding agency, and shall be final and conclusive for all parties.
- 23. Department Held Harmless.**
- (a) For State Agencies.** Subject to the limitations of the North Carolina Tort Claims Act, the Agency shall be responsible for its own negligence and holds harmless the Department, its officers, employees, or agents, from all claims and liability due to its negligent acts, or the negligent acts of its subcontractors, agents, or employees in connection with their services under this contract.
- (b) For Agencies Other Than State Agencies.** The Agency shall be responsible for its own negligence and holds harmless the Department, its officers, employees, or agents, from all claims and liability due to its negligent acts, or the negligent acts of its subcontractors, agents, or employees in connection with their services under this contract.
- 24. Records Access and Retention.** The Agency shall provide all information and reports required by the regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department, the State, NHTSA, or FHWA, as appropriate, to be pertinent to ascertain compliance with such regulations, orders and instructions. Furthermore, the Agency shall maintain such materials during the contract period, and for five (5) years from the date of final payment from the Department or until all audit exceptions have been resolved, for such inspection and audit. Where any information required of the Agency is in the exclusive possession of another who fails or refuses to furnish this information, the Agency shall so certify to the Department, State, NHTSA, or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information. Pursuant to N.C.G.S. §147-64.7, the Department, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Agency insofar as they relate to transactions with any department, board, officer, commission, institution, or other agency of the State of North Carolina pursuant to the performance of this Agreement or to costs charged to this Agreement.
- 25. Sanctions for Non-Compliance.** The applicant Agency agrees that if it fails or refuses to comply with any provisions and assurances in this contract, the Department may take any or all of the following actions:
- (a)** Cancel, terminate, or suspend this contract in whole or in part;
- (b)** Withhold reimbursement to the Agency until satisfactory compliance has been attained by the Agency;
- (c)** Refrain from extending any further funding to the Agency under this contract with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency;
- (d)** Refer the case to the United States Department of Justice for appropriate legal proceedings.
- 26. Cancellation, Termination, or Suspension of Contract.**
- (a) By the Department.** For noncompliance with any of the said rules, regulations, orders or conditions, due to management deficiencies or criminal activity this contract may be immediately canceled, terminated, or suspended in whole or in part by the Department. For noncompliance not indicative of management deficiencies or criminal activity the Department shall give sixty (60) days written notice

to take corrective action. If the Agency has not taken the appropriate corrective action after sixty (60) days the Department may cancel, terminate, or suspend this contract in whole or in part.

- (b) **By mutual consent.** The Agency or the Department may terminate this contract by providing sixty (60) days advanced written notice to the other party.
- (c) **Unexpended funds.** Any unexpended funds remaining after cancelation or termination will revert to the Department.

27. Completion Date. Unless otherwise authorized in writing by the Department, the Agency shall commence, carry on, and complete the project as described in the approved Highway Safety Project Contract by September 30 of the Federal fiscal year for which it was approved.

28. E-Verify requirements. If this contract is subject to NCGS 143-133.3, the contractor and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NC General Statutes.

29. Certification of Eligibility Under the Iran Divestment Act. Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-55 et seq. requires that each Agency, prior to contracting with the State certify, and the undersigned Agency Authorizing Official on behalf of the Agency does hereby certify, to the following:

- (a) that the Agency is not now and was not at the time of the execution of the Contract dated below identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
- (b) that the Agency shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
- (c) that the undersigned Agency Authorizing Official is authorized by the Agency to make this Certification.

30. Agency Fiscal Year. The end date for the Agency’s fiscal year is _____.

31. Signature. By signing below, the Agency agrees to adhere to the terms and conditions of this Agreement.

AGENCY PROJECT DIRECTOR		
NAME	TITLE	ADDRESS
SIGNATURE	DATE	TELEPHONE NUMBER
AGENCY AUTHORIZING OFFICIAL		
NAME	TITLE	ADDRESS
SIGNATURE	DATE	TELEPHONE NUMBER
AGENCY OFFICIAL AUTHORIZED TO RECEIVE FUNDS		
NAME	TITLE	ADDRESS
SIGNATURE	DATE	TELEPHONE NUMBER



City of Greenville, North Carolina

Meeting Date: 05/06/2024

Title of Item: Resolution Authorizing the Police Department to Apply for a Governor's Highway Safety Program Grant for Traffic Safety

Explanation: The Governor's Highway Safety Program awards agencies grant money for various needs. The Greenville Police Department received notification that it is eligible to receive funds from the Governor's Highway Safety Program for traffic safety in the amount of \$26,000.

If approved, the Greenville Police Department will utilize funds for officers to conduct saturation or directed patrols for high-visibility traffic enforcement efforts emphasizing speed-related violations as well as seat belt and child restraint violations. The Greenville Police Department will schedule a minimum of forty (40) hours of overtime each month throughout the grant period with officers working 4 to 6 hour shifts.

To be reimbursed for funds spent on overtime pay, the Police Department will submit both a monthly traffic enforcement overtime schedule as well as the regular monthly work schedule for personnel assigned to overtime traffic enforcement activities.

Fiscal Note: The Police Department has the potential to receive grant funding in the amount of \$26,000 with no City match required.

Recommendation: Staff recommends that City Council approve the resolution and authorize the Police Department to submit a Governor's Highway Safety Program Grant application.

ATTACHMENTS

- [Resolution.pdf](#)
- [GHSP Traffic Safety Overtime Project.pdf](#)
- [Agreement of Conditions.pdf](#)

North Carolina Governor's Highway Safety Program LOCAL GOVERNMENTAL RESOLUTION

WHEREAS, the _____ (herein called the "Agency")

(The Applicant Agency)

has completed an application contract for traffic safety funding; and that _____ (The Governing Body of the Agency)

_____ (herein called the "Governing Body") has thoroughly considered the problem identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED BY THE _____ IN OPEN MEETING ASSEMBLED IN THE CITY OF _____, NORTH CAROLINA,

(Governing Body)

THIS ____ DAY OF _____, 20 ____, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That _____ is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$ _____ to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
(Name and Title of Representative)
(Federal Dollar Request)
3. That the Governing Body has formally appropriated the cash contribution of \$ _____ as required by the project contract; and
(Local Cash Appropriation)
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by _____ (Chairperson/Mayor)

ATTESTED BY _____ (Clerk)

SEAL

DATE _____

North Carolina Governor's Highway Safety Program

SECTION A – GENERAL INFORMATION

1. Project Title: * Traffic Safety Overtime Project	Fiscal Year: 2025
2. Agency: 1000000391 - CITY OF GREENVILLE	3. Contact Person for Agency: RHONDA CONNER
4. Agency Address: GREENVILLE POLICE 500 S GREENE ST GREENVILLE, NC 27834	5. Telephone Number: * (252) 329-4340
	6. Cell Phone:
7. Physical Location of Agency * CITY OF GREENVILLE	8. Email of Contact Person * rconner@greenvillenc.gov
9. Federal Tax ID Number / Type of Agency Federal Tax ID Number: * 56-6000229 Unique Entity Identifier: G2MRNA8RBK52 County: * PITT Type of Agency <input type="radio"/> State <input type="radio"/> Non-Profit <input type="radio"/> County <input type="radio"/> Higher Education <input checked="" type="radio"/> Municipality <input type="radio"/> Hospital	10. Project Year * <input checked="" type="radio"/> New <input type="radio"/> Continuation Year: <input checked="" type="radio"/> 1 <input type="radio"/> 2 <input type="radio"/> 3 <input type="radio"/> 4+ Application Number: 1000020638
	11. Allocation of Funding * Federal % 100.00 Local % 0.00

12. Budget	Total Project Amount	Source of Funds	
		Federal Amount	State/Local Amount
Personnel Costs	\$25,000.00	\$25,000.00	
Contractual Services			
Other Direct Costs			
Indirect Costs	\$1,000.00	\$1,000.00	
Total Project Costs	\$26,000.00	\$26,000.00	

13. Specify How Non-Federal Share Will Be Provided: *
N/A

Project Number:	CFDA#: 20.
	Work Type: _____

SECTION B – DESCRIPTION OF PROJECT

Statement of Problem (Provide detailed information of the highway safety problems in your area to be addressed through this project. Include countywide crash data for the last three years and any other relevant information to validate the statements. For more detailed information see "How to write an effective traffic safety project" located at:

<https://connect.ncdot.gov/municipalities/Law-Enforcement/Pages/Law-Enforcement-Reporting.aspx>)

Pitt County has a large and unacceptable number of traffic crash fatalities and speed related fatalities as compared to other North Carolina counties. During the five- year period of 2018-2022, Pitt County had a total of 138 traffic fatalities. (44) of those were speed-related, averaging 27.6 overall fatalities and 8.8 speed-related fatalities per year. Compared to all North Carolina counties, Pitt County ranked 12th in the number of overall fatalities and 10th in the number of speed- related fatalities. In that same time period, 43 of those traffic fatalities, or 31% occurred in the City of Greenville. The population of Greenville is around 90,000; however, there is a large daily influx of drivers traveling to and from the ECU Health Medical Center, East Carolina University, and Pitt Community College, especially during the academic year. Pitt County is ranked 12th in the state for young driver fatal crashes, 9th for all young driver crashes in the state, and 12th for older driver fatal crashes. Inside the city limits of Greenville, the largest city in Pitt County, there is an average of 4,202 traffic crashes per year.

Proposed Solution (Begin with a one-sentence summary of your project. Then describe in detail how your proposed project will address the problem identified in the "Statement of Problem" section):

The Greenville Police Department will utilize funds for officers to conduct saturation or directed patrols for high-visibility traffic enforcement efforts emphasizing speed-related violations as well as seat belt and child restraint violations. The Greenville Police Department further acknowledges that funds WILL NOT be used to conduct checkpoints. The Greenville Police Department will schedule a minimum of forty (40) hours of overtime throughout the month with officers working 4 to 6-hour shifts.

To be reimbursed for funds spent on overtime salary, The Greenville Police Department will submit both a monthly traffic enforcement overtime schedule as well as the regular monthly work schedule for personnel assigned to overtime traffic enforcement activities. In addition, The Greenville Police Department agrees to submit copies of payroll reports and/or pay memos demonstrating that personnel were compensated at a rate of one and a half times (1.5x) their normal rate of pay regardless of whether an officer uses leave during any given pay period.

Similarly, The Greenville Police Department agrees to provide CAD/Activity Reports and copies of all North Carolina Uniform Citations and written warnings issued during scheduled overtime as supporting documentation for each assigned employee and shift. At the end of each month, The Greenville Police Department agrees to submit a Monthly Enforcement Data (MED) report outlining the agency's efforts as a whole.

Budget Justification (Provide a detailed explanation of the costs associated with proposed project):

The Greenville Police Department will utilize these funds to pay off-duty law enforcement officers to conduct high-visibility saturation or directed patrols for the purpose of enforcing speed, seat belt, and child restraint violations. Compensation to assigned employees will be provided at a rate of one and a half times (1.5x) the normal rate of pay and reimbursements WILL NOT be claimed at any other pay rate. No fringe benefits will be claimed.

Travel Justification (Provide justification for all travel expenses):

The Greenville Police Department will utilize these funds to cover the costs of in-state travel associated with the suggested, recommended or required attendance of agency staff at GHSP sponsored events and trainings.

To be completed by law enforcement agencies seeking first year grant:

Provide the agency's number of sworn officers	200
Does the agency currently have a dedicated traffic or DWI unit?	Yes <input checked="" type="radio"/> No <input type="radio"/>
If a dedicated traffic or DWI unit exists, how many officers are assigned to the unit?	3

For applicants requesting enforcement grants, please provide the following county fatality rankings:

Information can be located at:

<https://connect.ncdot.gov/municipalities/Law-Enforcement/Pages/Law-Enforcement-Reporting.aspx>

Overall Fatality Ranking:	12
Alcohol Fatality Ranking:	16
Unrestrained Fatality Ranking:	15
Speed Related Fatalities:	10
Other Applicable Rankings: (Specify)	Young Driver Crashes - 9 ; Bicycle Serious Injury 2

As part of this project all law enforcement agencies must enter traffic enforcement citations data of their agency for the past three years.

Year 2021	Occupant Protection Citations	81	DWI Citations	52	Speed Citations	2,262
Year 2022	Occupant Protection Citations	73	DWI Citations	38	Speed Citations	1,501
Year 2023	Occupant Protection Citations	113	DWI Citations	19	Speed Citations	1,703

Goals and Objectives (Provide at least one SMART (Specific, Measurable, Attainable, Realistic and Timely) goals and objectives. For more detailed information see "How to write an effective traffic safety project" located at:

<https://connect.ncdot.gov/municipalities/Law-Enforcement/Pages/Law-Enforcement-Reporting.aspx>)

Goal #1: To reduce the number of speed-related fatal crashes in Pitt County by 25% from the 2018-2022 calendar year average of 8.8 fatal crashes to 6 fatal crashes during the fiscal year October 1, 2024 to September 30, 2025.

Objectives:	To increase the number of speeding contacts by 50 percent from the 2023 calendar year of 1,693 TO 2,539 during the fiscal year October 1, 2024, to September 30, 2025.
Goal #2:	To reduce the number of unrestrained fatalities by 20 percent from the 2018-2022 calendar year average of 504.8 fatalities to 353 fatalities during the fiscal year October 1, 2024 to September 30, 2025.
Objectives:	To increase the number of occupant restraint contacts by 150 percent from 80 in 2023 to 200 during the fiscal year October 1, 2024, to September 30, 2025.
Goal #3:	To reduce traffic-related fatalities by ten percent from the 2018-2022 calendar year average of 27.6 fatalities to 24 fatalities during the fiscal year October 1, 2024 TO September 30, 2025.
Objectives:	To identify the top five crash locations and conduct targeted enforcement campaigns a minimum of three times per month.

Below are the 5-year goals of the NC Governor's Highway Safety Program (GHSP). To be eligible for funding, your traffic safety project should match one or more of the GHSP goals. Check all that apply.

- Reduce NC's traffic-related fatalities by 4% from the 2022 total of 1,784 to 1,712 by December 31, 2025.
- Reduce NC's alcohol-related fatalities by 4% from the 2022 total of 448 to 430 by December 31, 2025.
- Reduce NC's unrestrained fatalities by 4% from the 2022 total of 562 to 539 by December 31, 2025.
- Reduce NC's speed-related fatalities by 4% from the 2022 total of 426 to 408 by December 31, 2025.
- Reduce NC's young driver-related fatalities by 4% from the 2022 total of 198 to 190 by December 31, 2025.
- Reduce NC's motorcycle fatalities by 4% from the 2022 total of 237 to 227 by December 31, 2025.
- Increase NC's seat belt usage rate from the 2022 usage rate of 90.8% to 91.46% by December 31, 2025.

SECTION C – BUDGET DETAIL

Personnel Costs

#	Personnel Position	Salary
1	Traffic Enforcement Activity Hours- Overtime	\$25,000.00
Total Salaries Cost:		\$25,000.00
#	Personnel Fringe Benefits	Cost
Total Fringe Benefits Cost:		
Total Personnel Costs:		\$25,000.00

Indirect Costs

#	Indirect Costs	Cost
1	In-State Travel	\$1,000.00
Total Indirect Costs		\$1,000.00

SECTION D – SCHEDULE OF TASKS BY QUARTERS

List the schedule of tasks by quarters, referring specifically to the objectives in Section B. Tasks should be a bulleted list of activities to be performed in each quarter.

Conditions for Enforcement Projects Only

By checking this box, the above agency agrees to the terms below as additional activities to be performed as part of this project.

- A minimum of one (1) nighttime and one (1) daytime seat belt initiative per month;
 - A minimum of one (1) impaired driving checkpoint per month;
 - A minimum of 50% of seat belt initiatives must be conducted at night between the hours of 7:00 p.m. and 7:00 a.m.;
 - Participation in all "Click It or Ticket" and "Booze It & Lose It" campaigns;
 - Participation in any event or campaign as required by the GHSP;
 - Attempt to utilize one of the Forensic Tests for Alcohol Branch's Mobile Breath Alcohol Testing (BATMobiles) units during at least one of the impaired driving checkpoints.

First Quarter (October, November, December)

- 1) Conduct safety-focused enforcement initiatives scheduled for the quarter, with a focus on occupant protection and speeding.
- 2) Participate in GHSP-sponsored events/campaigns as required or invited, including all “Click It or Ticket” and “Booze It & Lose It” campaigns.
- 3) Submit Monthly Enforcement Data (MED) reports.
- 4) Submit monthly claims.
- 5) Submit quarterly reports.

Second Quarter (January, February, March)

- 1) Conduct safety-focused enforcement initiatives scheduled for the quarter, with a focus on occupant protection and speeding.
- 2) Participate in GHSP-sponsored events/campaigns as required or invited, including all “Click It or Ticket” and “Booze It & Lose It” campaigns.
- 3) Submit Monthly Enforcement Data (MED) reports.
- 4) Submit monthly claims.
- 5) Submit quarterly reports.

Third Quarter (April, May, June)

- 1) Conduct safety-focused enforcement initiatives scheduled for the quarter, with a focus on occupant protection and speeding.
- 2) Participate in GHSP-sponsored events/campaigns as required or invited, including all “Click It or Ticket” and “Booze It & Lose It” campaigns.
- 3) Submit Monthly Enforcement Data (MED) reports.
- 4) Submit monthly claims.
- 5) Submit quarterly reports.

Fourth Quarter (July, August, September)

- 1) Conduct safety-focused enforcement initiatives scheduled for the quarter, with a focus on occupant protection and speeding.
- 2) Participate in GHSP-sponsored events/campaigns as required or invited, including all “Click It or Ticket” and “Booze It & Lose It” campaigns.
- 3) Submit Monthly Enforcement Data (MED) reports.
- 4) Submit monthly claims.
- 5) Submit quarterly reports.
- 6) Submit Final Accomplishments Report (fourth quarter only)

AGENCY AUTHORIZING SIGNATURE

I have read and accept terms and conditions of the grant funding and attached the Grant Agreement. The information supplied in this application is true to the best of my knowledge

Name: PIN: Date:

Note:

- 1. Submitting grant application is not a guarantee of grant being approved.
- 2. Once form has been submitted, it cannot be changed unless it has a status of "Return".

FOR GHSP USE ONLY:

Recommendation:

Date:

North Carolina Governor's Highway Safety Program
Agreement of Conditions

This Agreement is made by and between the North Carolina Department of Transportation, hereinafter referred to as the "Department", to include the Governor's Highway Safety Program, hereinafter referred to as "GHSP"; and the applicant agency, for itself, its assignees and successors in interest, hereinafter referred to as the "Agency". During the performance of this contract, and by signing this contract, the Agency agrees as follows:

A. Federal Provisions

- 1. Equal Opportunity/Nondiscrimination.** The Agency will agree to comply with all Federal statutes and implementing regulations relating to nondiscrimination concerning race, color, sex, religion, national origin, handicaps, and age. These include but are not limited to:
 - (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252);
 - (b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601)
 - (c) Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686);
 - (d) Non-Discrimination in Federally-assisted programs of the United States Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (49 CFR Part 21), hereinafter referred to as "USDOT", as amended;
 - (e) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, and 49 CFR Part 27; and
 - (f) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.);
 - (g) The Civil Rights Restoration Act of 1987, (Pub. L. 100-209);
 - (h) Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) and 49 CFR parts 37 and 38;
 - (i) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;
 - (j) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency
- 2. Drug Free Workplace.** The Agency agrees to comply with the provisions cited in the Drug-Free Workplace Act of 1988 (41 U.S.C. 8103).
- 3. Federal Grant Requirements and Contracts.** The Agency shall comply with the following statutes and implementing regulations as applicable:
 - (a) Highway Safety Act of 1966 (23 U.S.C. Chapter 4 -), as amended;
 - (b) Sec. 1906, Pub. L.109-59, as amended by Sec. 4011, Pub. L. 114-94;
 - (c) Uniform Procedures for State Highway Safety Grant Programs (23 CFR part 1300);
 - (d) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 1201);
 - (e) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and all other relevant Federal regulations covering the Highway Safety Program;
 - (f) NHTSA Highway Safety Grant Funding Guidance, as revised, July 2015 (www.nhtsa.gov) and additions or amendments thereto.
- 4. Political Activity (Hatch Act)** The Agency will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- 5. Lobbying.**
 - (a) **Certification Regarding Federal Lobbying.** The undersigned certifies, to the best of his or her knowledge and belief, that:
 - (i) 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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- (ii) 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.
- (iii) The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

- (b) **Restriction on State Lobbying.** None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

6. Audits.

- (a) **Audit Required.** Non-Federal entities that expend \$750,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR, Subpart F, §200.500. Guidance on determining Federal awards expended is provided in 2 CFR, Subpart F, §200.502.
- (b) **Single Audit.** Non-Federal entities that expend \$750,000 or more in a year in Federal awards shall have a single audit conducted in accordance with 2 CFR, Subpart F, §200.501, except when they elect to have a program-specific audit conducted in accordance with 2 CFR, Subpart F, §200.501, paragraph (c).
- (c) **Non-Governmental Entities.** Non-governmental entities (not-for-profit and for-profit entities) must adhere to North Carolina General Statute 143C-6.22 and 09 NCAC Subchapter 03M.

7. Instructions for Lower Tier Certification.

- (a) By signing and submitting this proposal, the prospective lower tier participant (the Agency) is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1200.
- (b) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- (c) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (d) The terms covered transaction, civil judgement, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR Part 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- (e) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred,

suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- (f) The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1200.
 - (g) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
 - (h) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - (i) Except for transactions authorized under paragraph 7(e) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies including suspension or debarment.
 - (j) **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions.**
 - (i) The prospective lower tier participant (the Agency) certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any Federal department or agency.
 - (ii) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this contract proposal.
8. **Buy America Act.** The Agency and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.
9. **Prohibition On Using Grant Funds To Check For Helmet Usage.** The Agency and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.
10. **Conditions for State, Local and Indian Tribal Governments.** State, local and Indian tribal government Agencies shall adhere to the standards established by 2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments and additions or amendments thereto, for principles for determining costs applicable to grants and contracts with state, local and Indian tribal governments.
11. **Conditions for Institutions of Higher Education.** If the Agency is an institution of higher education, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and 2 CFR 220 Cost Principles for Educational Institutions for determining costs applicable to grants and contracts with educational institutions.

- 12. Conditions for Non-Profit Organizations.** If the Agency is a non-profit organization, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and 2 CFR Part 230 Cost Principles for Non-Profit Organizations for determining costs applicable to grants and contracts with non-profit organizations.
- 13. Conditions for Hospitals.** If the Agency is a hospital, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

B. General Provisions

- 1. Contract Changes.** This document contains the entire agreement of the parties. No other contract, either oral or implied, shall supercede this Agreement. Any proposed changes in this contract that would result in any change in the nature, scope, character, or amount of funding provided for in this contract, shall require a written addendum to this contract on a form provided by the Department.
- 2. Subcontracts Under This Contract.** The Agency shall not assign any portion of the work to be performed under this contract, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this contract without the prior written concurrence of the Department. Any subcontract under this contract must include all required and applicable clauses and provisions of this contract. Subcontracting does not relieve the Agency of any of the duties and responsibilities of this agreement. The subcontractor must comply with standards contained in this agreement and provide information that is needed by the Agency to comply with these standards. The Agency must submit any proposed contracts for subcontracted services to the Governor's Highway Safety Program for final approval no less than 30 days prior to acceptance.
- 3. Solicitation for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the Agency for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Agency of the Agency's obligations under this contract. Additionally, Agencies making purchases or entering into contracts as provided for by this contract must adhere to the policies and procedures of 2 CFR Part 200 and North Carolina General Statute 143-128.4. Historically underutilized business defined; statewide uniform certification as it pertains to Historically Underutilized Businesses.
- 4. Incorporation of Provisions in Subcontracts.** The Agency shall include the provisions of section A-1 through A-13 of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the regulations, or directives issued pursuant thereto. The Agency shall take such action with respect to any subcontract or procurement as the Department, the State of North Carolina, hereinafter referred to as the "State", the National Highway Traffic Safety Administration, hereinafter referred to as "NHTSA", or the Federal Highway Administration, hereinafter referred to as "FHWA", may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Agency becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Agency may request the Department or the State to enter into such litigation to protect the interests of the Department or the State. In addition, the Agency may request the NHTSA or FHWA to enter into such litigation to protect the interests of the United States.
- 5. Outsourcing.** All work shall be performed in the United States of America. No work will be allowed to be outsourced outside the United States of America.
- 6. Property and Equipment.**
 - (a) Maintenance and Inventory.** The Agency shall maintain and inventory all property and equipment purchased under this contract.
 - (b) Utilization.** The property and equipment purchased under this contract must be utilized by the Agency for the sole purpose of furthering the traffic safety efforts of the Agency for the entire useful life of the property or equipment.
 - (c) Title Interest.** The Department and NHTSA retain title interest in all property and equipment purchased under this contract. In the event that the Agency fails or refuses to comply with the provisions of this Agreement or terminates this contract, the Department, at its discretion, may take either of the following actions:
 - (i)** Require the Agency to purchase the property or equipment at fair market value or other mutually agreed to amount; or

- (ii) Require the Agency to transfer the property or equipment and title of said property or equipment, if any, to the Department or to another Agency, as directed by the Department.
- (d) **Non-expendable Property.** Non-expendable property is defined as property or equipment having a value of \$5000 or more with a life expectancy of more than one year. Non-expendable property purchased under this contract cannot be sold, traded, or disposed of in any manner without the expressed written permission of the Department.
7. **Educational or Other Materials.** If allowed, any educational or other materials developed using funds from this contract must be reviewed and approved by the GHSP prior to their production or purchase. The cost of these materials is generally limited to a maximum of \$5.00 per item. The purchase of promotional items and memorabilia are not an allowable cost.
8. **Review of Reports and Publications.** Any reports, papers, publications, or other items developed using funds from this contract must be reviewed and approved by the GHSP prior to their release.
9. **Reimbursement.**
- (a) **General.** Payments are made on a reimbursement basis. There is no schedule of advance payments. Only actual allowable costs are eligible for reimbursement. Claims for reimbursement must be made a minimum of quarterly and no more than once a month via the Grants Management System. Claims for reimbursement not made within the three month threshold are subject to denial. The itemized invoice shall be supported by documentation of costs as prescribed by the Department. Reimbursements will not be processed if other required reports are incomplete or have not been submitted. Failure to submit complete reports by the required deadline may result in denial of reimbursement.
- (b) **Approval.** The Governor's Highway Safety Program and the Department's Fiscal Section shall approve the itemized invoice prior to payment.
- (c) **Unapproved Costs.** Any rejected or unaccepted costs shall be borne by the Agency. The Agency agrees that in the event the Department determines that, due to Federal or State regulations that grant funds must be refunded, the Agency will reimburse the Department a sum of money equal to the amount of Federal and State participation in the rejected costs.
- (d) **Final Claims for Reimbursement.** Final claims for reimbursement must be received by the GHSP within 30 days following the close of the approved contract period. Project funds not claimed by this date are subject to reversion.
- (e) **Expending Funds Under This Contract.** Under no circumstances will reimbursement be made for costs incurred prior to the contract effective date or after the contract ending date.
10. **Project Costs.** It is understood and agreed that the work conducted pursuant to this contract shall be done on an actual cost basis by the Agency. The amount of reimbursement from the Department shall not exceed the estimated funds budgeted in the approved contract. The Agency shall initiate and prosecute to completion all actions necessary to enable the Agency to provide its share of the project costs at or prior to the conclusion of the project.
11. **Program Income.** The Agency shall account for program income related to projects financed in whole or in part with federal funds in accordance with 2 CFR 200.307. Program income earned during the contract period shall be retained by the Agency and deducted from the federal funds committed to the project by the GHSP unless approved in advance by the Federal awarding agency as an addition to the project. Program income must be accounted for separately and the records made available for audit purposes.
12. **Project Directors.** The Project Director, as specified on the signature page of this Agreement, must be an employee of the Agency or the Agency's governing body. Any exception to this provision must have the expressed written approval of GHSP.
13. **Reports Required.**
- (a) **Quarterly Progress Reports.** Unless otherwise directed, the Agency must submit Quarterly Progress Reports to the GHSP, on forms provided by the Department, which reflect the status of project implementation and attainment of stated goals. Each progress report shall describe the project status by quarter and shall be submitted to GHSP no later than fifteen (15) days after the end of each quarter. If the Agency fails to submit a Quarterly Progress Report or submits an incomplete Quarterly Progress Report, the Agency will be subject to having claims for reimbursement withheld. Once a Quarterly Progress Report that substantiates adequate progress is received, cost reimbursement requests may be processed or denied at the discretion of GHSP.
- (b) **Final Accomplishments Report.** A Final Accomplishments Report must be submitted to the GHSP within fifteen (15) days of completion of the project, on forms provided by the Department, unless otherwise directed. If the Agency fails to submit a Final Accomplishments Report or submits an

incomplete Final Accomplishments Report, the Agency will be subject to having claims for reimbursement withheld. Once a Final Accomplishments Report that substantiates adequate progress is received, claims for reimbursement may be processed or denied at the discretion of GHSP.

- (c) **Audit Reports.** Audit reports required in Section A-6 above shall be provided to the Department within thirty (30) days of completion of the audit.

14. Out-of-State Travel.

- (a) **General.** All out-of-state travel funded under this contract must have prior written approval by the Governor's Highway Safety Program.
- (b) **Requests.** Requests for approval must be submitted to the GHSP, on forms provided by the Department, no less than thirty (30) days prior to the intended departure date of travel.
- (c) **Agency Travel Policy Required.** For Agencies other than state agencies, out-of-state travel requests must include a copy of the Agency's travel policy, to include allowances for lodging, meals, and other travel-related expenses. For state agencies, maximum allowable subsistence is limited to the prevailing per diem rates as established by the North Carolina General Assembly.
- (d) **Agenda Required.** Out-of-state travel requests must include a copy of the agenda for the travel requested.

15. Conditions for Law Enforcement. In addition to the other conditions provided for in this Agreement, grants to law enforcement agencies are subject to the following:

(a) **Certifications Required.**

- (i) **In-car Camera or Video System.** For any in-car camera or video system purchased under this contract, it is required that the operator of that equipment has successfully completed Standardized Field Sobriety Testing training (SFST). A copy of this certificate must be filed with GHSP prior to reimbursement of in-car camera or video systems.
- (ii) **Radar.** For any radar equipment purchased under this contract, it is required that the operator of that equipment has successfully completed Radar Certification Training. A copy of this certificate must be filed with GHSP prior to reimbursement of radar equipment.
- (iii) **Alcohol Screening Devices.** For any preliminary alcohol screening devices purchased under this contract, it is required that the operator of that equipment has successfully completed the Alcohol Screening Test Device training offered by the Forensic Test for Alcohol Branch.

- (b) **Report Required - Monthly Enforcement Data Report.** In addition to the reports mentioned above, law enforcement agencies engaging in enforcement activities must submit a Monthly Enforcement Data Report on the form provided by the Department no later than fifteen (15) days after the end of each month. If the Agency fails to submit a Monthly Enforcement Data Report or submits an incomplete Monthly Enforcement Data Report, the Agency will be subject to having cost reimbursement requests withheld. Once a Monthly Enforcement Data Report that substantiates adequate progress is received, cost reimbursement requests will be processed. The agency head must sign the form. However, the agency head may assign a designee to sign the form by providing written signature authority to the GHSP.

16. Conditions for Local Governmental Agencies.

- (a) **Resolution Required.** If the Agency is a local governmental entity, a resolution from the governing body of the Agency is required on a form provided by the Department.
- (b) **Resolution Content.** The resolution must contain a commitment from the governing body to provide the local funds as indicated in this contract. Additionally, the resolution is required even if the funding is one hundred percent from federal sources, as it serves as recognition by the governing body of federal funding for purposes of Section A-6 above.

17. Seat Belt Policy and Use. Agency must adopt and enforce a seat belt use policy required for all seating positions unless exempted by state law.

18. Text Messaging Policy. Agency must adopt and enforce a policy banning text messaging while driving unless exempted by state law.

19. Prohibited Interests. No member, officer, or employee of the Agency during his or her tenure, and for at least one (1) year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof or therefrom.

20. Continued Federal and State Funding.

- (a) **Federal Funding.** The Agency agrees and understands that continuation of this project with Federal funds is contingent upon Federal funds being appropriated by the United States Congress specifically for that purpose. The Agency further agrees and understands that in the event funds originally

appropriated by Congress for these grants are subsequently reduced by further acts of Congress, funding to the Agency may be proportionately reduced.

- (b) State Funding.** The Agency agrees and understands that continuation of this project with funds from the State of North Carolina is contingent upon State funds being appropriated by the General Assembly specifically for that purpose. The Agency also agrees that any state funds received under this contract are subject to the same terms and conditions stated in this Agreement.
- 21. Performance.** All grants provided by the Governor's Highway Safety Program are performance-based and, as such, require that continual progress be made toward the reduction of the number and severity of traffic crashes. Any agency, whose performance is deemed unsatisfactory by the GHSP, shall be subject to the sanctions as provided for in this contract. Additionally, unsatisfactory performance shall be cause for the Department to reduce or deny future funding.
- 22. Resolution of Disputes.** Any dispute concerning a question of fact in connection with the work not disposed of by contract by and between the Agency and the Department, or otherwise arising between the parties to this contract, shall be referred to the Secretary of the North Carolina Department of Transportation and the authorized official of the Agency for a negotiated settlement. In any dispute concerning a question of fact in connection with the project where such negotiated settlement cannot be resolved in a timely fashion, the final decision regarding such dispute shall be made by the Secretary of the North Carolina Department of Transportation, with the concurrence of the Federal funding agency, and shall be final and conclusive for all parties.
- 23. Department Held Harmless.**
- (a) For State Agencies.** Subject to the limitations of the North Carolina Tort Claims Act, the Agency shall be responsible for its own negligence and holds harmless the Department, its officers, employees, or agents, from all claims and liability due to its negligent acts, or the negligent acts of its subcontractors, agents, or employees in connection with their services under this contract.
- (b) For Agencies Other Than State Agencies.** The Agency shall be responsible for its own negligence and holds harmless the Department, its officers, employees, or agents, from all claims and liability due to its negligent acts, or the negligent acts of its subcontractors, agents, or employees in connection with their services under this contract.
- 24. Records Access and Retention.** The Agency shall provide all information and reports required by the regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department, the State, NHTSA, or FHWA, as appropriate, to be pertinent to ascertain compliance with such regulations, orders and instructions. Furthermore, the Agency shall maintain such materials during the contract period, and for five (5) years from the date of final payment from the Department or until all audit exceptions have been resolved, for such inspection and audit. Where any information required of the Agency is in the exclusive possession of another who fails or refuses to furnish this information, the Agency shall so certify to the Department, State, NHTSA, or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information. Pursuant to N.C.G.S. §147-64.7, the Department, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Agency insofar as they relate to transactions with any department, board, officer, commission, institution, or other agency of the State of North Carolina pursuant to the performance of this Agreement or to costs charged to this Agreement.
- 25. Sanctions for Non-Compliance.** The applicant Agency agrees that if it fails or refuses to comply with any provisions and assurances in this contract, the Department may take any or all of the following actions:
- (a)** Cancel, terminate, or suspend this contract in whole or in part;
- (b)** Withhold reimbursement to the Agency until satisfactory compliance has been attained by the Agency;
- (c)** Refrain from extending any further funding to the Agency under this contract with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency;
- (d)** Refer the case to the United States Department of Justice for appropriate legal proceedings.
- 26. Cancellation, Termination, or Suspension of Contract.**
- (a) By the Department.** For noncompliance with any of the said rules, regulations, orders or conditions, due to management deficiencies or criminal activity this contract may be immediately canceled, terminated, or suspended in whole or in part by the Department. For noncompliance not indicative of management deficiencies or criminal activity the Department shall give sixty (60) days written notice

to take corrective action. If the Agency has not taken the appropriate corrective action after sixty (60) days the Department may cancel, terminate, or suspend this contract in whole or in part.

- (b) **By mutual consent.** The Agency or the Department may terminate this contract by providing sixty (60) days advanced written notice to the other party.
- (c) **Unexpended funds.** Any unexpended funds remaining after cancelation or termination will revert to the Department.

27. Completion Date. Unless otherwise authorized in writing by the Department, the Agency shall commence, carry on, and complete the project as described in the approved Highway Safety Project Contract by September 30 of the Federal fiscal year for which it was approved.

28. E-Verify requirements. If this contract is subject to NCGS 143-133.3, the contractor and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NC General Statutes.

29. Certification of Eligibility Under the Iran Divestment Act. Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-55 et seq. requires that each Agency, prior to contracting with the State certify, and the undersigned Agency Authorizing Official on behalf of the Agency does hereby certify, to the following:

- (a) that the Agency is not now and was not at the time of the execution of the Contract dated below identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
- (b) that the Agency shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
- (c) that the undersigned Agency Authorizing Official is authorized by the Agency to make this Certification.

30. Agency Fiscal Year. The end date for the Agency's fiscal year is _____.

31. Signature. By signing below, the Agency agrees to adhere to the terms and conditions of this Agreement.

AGENCY PROJECT DIRECTOR		
NAME	TITLE	ADDRESS
SIGNATURE	DATE	TELEPHONE NUMBER
AGENCY AUTHORIZING OFFICIAL		
NAME	TITLE	ADDRESS
SIGNATURE	DATE	TELEPHONE NUMBER
AGENCY OFFICIAL AUTHORIZED TO RECEIVE FUNDS		
NAME	TITLE	ADDRESS
SIGNATURE	DATE	TELEPHONE NUMBER



City of Greenville, North Carolina

Meeting Date: 05/06/2024

Title of Item: Request by Police Department to Utilize Asset Forfeiture Funds to Purchase Equipment

Explanation: The Greenville Police Department (GPD) is seeking approval to use Asset Forfeiture Funds to purchase equipment for the department. The following is a description of proposed expenditures requested from the Forfeiture accounts.

Back-up Communications Center:

- Currently the EOC on 10th Street is utilized as GPD's back-up communication center. The current space will not accommodate the number of work stations required to serve as a full back-up center in the event it is needed.
- In order to achieve continuity of operations, a suitable location has been identified at the Police/Fire Public Safety Annex (PSA).
- An existing room within the PSA would house the equipment and the work stations, inclusive of consoles, chairs, and furniture.
- Anticipated Forfeiture Expense: \$245,000

Fiscal Note: The total anticipated expenditure from the Asset Forfeiture account is \$245,000.

Recommendation: Staff recommends approval to use Asset Forfeiture funds to purchase the requested equipment.



City of Greenville, North Carolina

Meeting Date: 05/06/2024

Title of Item: Resolution Authorizing the Acceptance of American Rescue Plan Funds from the North Carolina Department of Environmental Quality and Authorizing Assurances and Acquisitions for the Corey Road Regional Detention and Stream Restoration Project

Explanation: The North Carolina Department of Environmental Quality will award approximately \$82 million in American Rescue Plan Act funding for stormwater projects through its competitive funding process from the newly-created Local Assistance for Stormwater Infrastructure Investments (LASII) program. Funds are available for cities, counties, regional councils of government and nonprofit partners for construction and planning projects that will improve or create infrastructure for controlling stormwater quantity and quality.

The City of Greenville was selected to receive \$5,000,000 in funding from the program for the Corey Road Regional Detention and Stream Restoration Project (Attachment A). This project is identified in the Fork Swamp Watershed Master Plan and is intended to provide both water quality improvements as well as flood reduction for the infrastructure upstream in the Trafalgar neighborhood. This resolution (Attachment B) is for acceptance of the funds and to delegate authorization to the City Manager to file all assurances and execute Offers to Purchase for necessary land acquisitions, rights-of-way, and easements for the project up to a total of \$500,000.

Fiscal Note: No local match is required for this funding; however, the total project is expected to cost approximately \$9,000,000. The additional \$4,000,000 above the grant funds is expected to come from the City Stormwater Utility Fund.

Recommendation: Adopt the attached resolution accepting the funds from the North Carolina Department of Environmental Quality and delegating authorization of the filing/execution of assurances and necessary property acquisitions for the Corey Road Regional Detention and Stream Restoration project to the City Manager.

ATTACHMENTS

- [Attachment A-Offer Letter.pdf](#)
- [Attachment B-Resolution LASII Corey Rd Regional Detention.pdf](#)

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
SHADI ESRAF
Director



Received
MAR - 4 2024
City Manager's Office

February 20, 2024

Ann Wall, City Manager
City of Greenville
200 W 5th St.
Greenville, North Carolina 27834

SUBJECT: ARPA Funding Offer
Project No. SRP-SW-ARP-0020
Corey Road Regional Detention and Stream
Restoration

Dear Ms. Wall:

The City of Greenville has been approved for funding assistance according to the subject funding offer. This offer is made subject to the Assurances and Conditions attached to this document.

To ensure the American Rescue Plan Act (ARPA) funds are expended before the federal deadline of December 2026, the Division is requiring execution and return of the enclosed Offer and Acceptance for ARPA Funding agreement **no later than October 31, 2024**. All project documents including this Offer and Acceptance are to be submitted via Laserfiche at the following link: <https://edocs.deq.nc.gov/Forms/DW-Document-Upload-Form>.

Upon your acceptance, please also submit the following items to the Division, via email at DEQ.DWI.FundingOffer@deq.nc.gov:

1. One (1) copy of the original Offer and Acceptance Document executed by the Authorized Representative for the project, along with the Conditions and Assurances. **Retain the other copy for your files.**
2. A resolution adopted by the governing body accepting the funding offer and making the applicable Conditions and Assurances contained therein. (Sample copy attached)
3. Federal Identification Number and Unique Entity ID Number of the Recipient (UEID required for federally funded projects)
4. Sales-Tax Certification (attached)



North Carolina Department of Environmental Quality | Division of Water Infrastructure
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633
919.707.9160

5. Professional Engineering Services Procurement Form

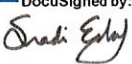
The Site Certification, a Capital Project Ordinance (or budget ordinance covering the project), and the Professional Engineering Services Procurement Form (not applicable for DWSRF projects) are due before disbursements begin.

Disbursement requests and other project documents are to be submitted via the Laserfiche link provided above. A reference copy of the Disbursement Request Form (also found on the DWI website) has been enclosed for your convenience. All ARPA funding disbursements must be processed **prior to December 31, 2026**.

Attached is the “Water Infrastructure Grants Legal Requirements Quick Reference Guide” which further explains the ARPA funding agreement requirements.

On behalf of the Department of Environmental Quality, I am pleased to make this funding offer. Should you have any questions concerning this offer of funding, or any of the stipulations outlined in this offer package, please contact Allen Baker at allen.baker@deq.nc.gov or 910-796-7399.

Sincerely,

DocuSigned by:

6300A872077B4C5...

Shadi Eskaf, Director
Division of Water Infrastructure, NCDEQ

Enclosures: Offer and Acceptance Document (two copies)
Assurances & Conditions
Water Infrastructure Grants Legal Requirements Quick Reference Guide
Federal ID and UEID Number Request Memo
Resolution to Accept Funding Offer (suggested format)
Sales-Tax Certification Form
Disbursement Request Form
Professional Engineering Services Procurement Form
Site Certification
Capital Project Ordinance (Sample)

cc: Ann Wall, (awall@greenvillenc.gov)
Daryl Norris, PE, City of Greenville, (dnorris@greenvillenc.gov)
Mark Hubbard (Via DocuSign)
Allen Baker (Via DocuSign)
DWI Administrative Unit (Via DocuSign)
Carrie Short (Via DocuSign)
Jennifer House (Via DocuSign)
Pam Whitley (Via Email)
FILE: ARP Project File (COM_LOX)
Agreement ID#: 2000067293



ATTACHMENT B

RESOLUTION NO. 24-_____

RESOLUTION AUTHORIZING THE ACCEPTANCE OF AMERICAN RESCUE PLAN FUNDS FROM THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY AND AUTHORIZING ASSURANCES AND ACQUISITIONS FOR THE COREY ROAD REGIONAL DETENTION AND STREAM RESTORATION PROJECT

WHEREAS, the City of Greenville has received funding from the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2021-180/2022-74 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$5,000,000.00 to perform work detailed in the submitted application, and

WHEREAS, the City of Greenville intends to perform said project in accordance with the agreed scope of work,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA:

1. That the City of Greenville does hereby accept the American Rescue Plan Grant offer of \$5,000,000.
2. That the City of Greenville does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.
3. That the City Manager, Michael Cowin, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.
4. That the City Manager is hereby authorized to execute Offer to Purchase agreements for property acquisition, rights-of-way, and easements not to exceed a total of \$500,000.

ADOPTED this the 6th day of May, 2024.

P.J. Connelly, Mayor

CERTIFICATION

The undersigned duly qualified City Clerk, acting on behalf of the City of Greenville, certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Greenville City Council on the 6th day of May, 2024.

Valerie Shiuwegar, City Clerk

Date

SEAL



City of Greenville, North Carolina

Meeting Date: 05/06/2024

Title of Item: Award of a Design-Build Contract for the Corey Road Regional Detention and Stream Restoration Project and Delegation of Authority to Execute Amendments

Explanation: The Corey Road Detention and Stream Restoration Project is a stormwater project from the Greens Mill Run Watershed Master Plan. The project is located on Corey Road near the intersection with Trafalgar Drive, and will create a new, nature-based stormwater control measure in the form of a wet-detention pond with floating wetland islands as well as culvert improvements under Corey Road.

This project was selected to receive funding from the NC Department of Environmental Quality (NCDEQ) through the Local Assistance for Stormwater Infrastructure Investments Program (LASII), which includes federal funds from the American Rescue Plan Act. Meeting the strict timelines associated with these funds requires consideration of an alternate project delivery method. In 2013, and in accordance with NC General Statute, City Council approved criteria for use of the Design-Build delivery method. Upon review of this criteria as it applies to the Corey Road project, staff determined the Design-Build method to be the best approach to deliver the project given the grant funding constraints. These criteria, and how this project meets them, are included as Attachment 1.

The City advertised a Request for Qualifications (RFQ) for design, engineering, and general contracting services for the Corey Road Regional Detention and Stream Restoration Project on December 21, 2023. On January 4, 2024, staff received two (2) proposals in response to the RFQ. In accordance with NC General Statute, staff re-advertised the RFQ due to receiving less than three (3) proposals with the first advertisement. Staff received two (2) proposals in response to the re-advertisement, after which NC General Statute allows staff to proceed regardless of the number of proposals received. A selection committee consisting of six (6) Engineering Department staff reviewed and rated each proposal independently according to the criteria included in the RFQ. After independent review of the proposals and interviews, the committee met together to discuss ratings and unanimously selected the team led by T. A. Loving Company of Goldsboro, NC.

The scope of services for the project includes, but is not limited to, planning, environmental assessments, permitting, public involvement, surveying, cost estimating, development of construction documents, maintaining compliance with all LASII Grant requirements, easement valuation and acquisition, and

general contracting services. These services will be provided in two stages:

- Preliminary Stage (60% plans)
- Completion Stage (Final Design and Construction)

The base contract will include Preliminary Stage services and an Owner's Completion Contingency to fund the Completion Stage services based on the project budget advertised in the RFQ. An amendment for the Completion Stage will be negotiated at the end of the Preliminary Stage, thus allowing scope and fee of the Completion Stage to be developed based upon more detailed information. A copy of the proposed contract is included as Attachment 2.

Fiscal Note:

The design-build contract will be completed in 2 stages:

1. Preliminary Stage Fee of \$998,194
2. Completion Stage Fee (Owner's Completion Contingency) up to \$6,687,775

The total contract amount equals up to \$7,685,969. This project is funded by the LASII Grant and the Stormwater Utility Fund.

Recommendation:

City Council award a Design-Build contract for the Preliminary Stage Fee of \$998,194 and delegate authority to the City Manager to execute an amendment for the Completion Stage Fee (Owner's Completion Contingency) up to \$6,687,775 to T. A. Loving Company of Goldsboro, NC, for the Corey Road Regional Detention and Stream Restoration Project.

ATTACHMENTS

- [Attachment 1-Design-Build Criteria.pdf](#)
- [Attachment 2 - Corey Road Regional Detention Full Contract.pdf](#)

ATTACHMENT A

DESIGN-BUILD DELIVERY METHOD CRITERIA AND APPLICATION TO THE COREY ROAD REGIONAL
DETENTION AND STREAM RESTORATION PROJECT

1. Criteria 1: The extent to which the City can adequately and thoroughly define the project requirements prior to issuance of the request for qualifications (RFQ) for a design-builder. Through the Engineering Department, the City has professional personnel that are both qualified and experienced to thoroughly define project requirements prior to issuance of an RFQ. Additionally, professional personnel were available in the areas of finance and legal to assist in development of the RFQ.
2. Criteria 2: The time constraints for delivery of the project. The Corey Road Project was selected to receive funding from the NC Department of Environmental Quality through the Local Assistance for Stormwater Infrastructure Investment Program (LASII), which includes federal funds from the American Rescue Plan Act (ARPA). Per federal law, ARPA funds must be encumbered for construction no later than December 31, 2024. The typical procedure of procuring a design consultant, completing design, acquiring easements, then undertaking construction (design-bid-build) would take approximately 18 months. The design-build process allows the City to encumber all funds necessary to design, acquire easements, and construct the project in one contract meeting all timelines.
3. Criteria 3: The ability to ensure that a quality project can be delivered. Within the Engineering Department, the City has professional and experienced personnel to ensure that the design-build firm will provide a quality project within the budget constraints established by Council.
4. Criteria 4: The capability of the City to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of delivery. Within the Engineering Department, the City has professional and experienced personnel familiar with the design-build process. The City will also be engaging a separate firm for Construction, Engineering and Inspection (CEI) as is typical for projects of this magnitude.
5. Criteria 5: A good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities. The City complies with G.S. 143-128.2, G.S. 143-128.4. The City has an established and successful M/WBE program which requires contractors to comply with the M/WBE goals set by Council.
6. Criteria 6: The criteria utilized by the City, including a comparison of the costs and benefits of using the design-build delivery method for a given project in lieu of the other delivery methods identified. The design-build process has a direct benefit to the project budget of \$8 million. By utilizing the design-build process, which engages both the contractor and engineering firm on a collaborative team, the City can mitigate the risk of construction price escalation inherent in the typical process noted in (2) above. Additionally, the scope of design efforts would be reduced as the contractor and engineer collaborate to develop a more cost effective, constructable project.

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

**AGREEMENT
BETWEEN OWNER AND DESIGN-BUILDER FOR
PROGRESSIVE DESIGN-BUILD**

Prepared by



Issued and Published Jointly by



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**AGREEMENT
BETWEEN OWNER AND DESIGN-BUILDER
FOR PROGRESSIVE DESIGN-BUILD**

THIS AGREEMENT is by and between The City of Greenville (“Owner”) and
T. A. Loving Company (“Design-Builder”).

PROJECT INFORMATION

Project: [Corey Road Regional Detention and Stream Restoration Project, ENG-2024-003]

Design-Build Contract: [Corey Road RD&SRP, ENG-2024-003] (“Contract”)

Owner’s Consultant: [N/A]

Engineer: Design-Builder has retained [W.K. Dickson & Co. Inc.] (“Engineer”) for the performance of professional engineering services under this Contract. .

Authorized Representatives: Owner and Design-Builder each hereby designates a specific individual authorized to act as representative with respect to the performance of responsibilities under this Contract. Such an individual shall have authority to transmit instructions, receive formal notices, receive information, and render decisions relative to this Contract on behalf of the respective party that the individual represents.

1. Owner’s Authorized Representative: [James Lynn Raynor, PE, City of Greenville Engineering Department 1500 Beatty Street Greenville, NC 27834, lraynor@greenvillenc.gov, 252-329-4620]
2. Design-Builder’s Authorized Representative: [Christopher J. Myers, T. A. Loving Company, 400 Patetown Rd. Goldsboro, NC 27530, cmyers@taloving.com, 919-580-8934]

Owner and Design-Builder further agree as follows:

ARTICLE 1 – THE WORK

1.01 *General Description:* Design-Builder shall complete all Work as specified or indicated in the Contract. The Work is generally described as the design and construction of the following:

This project will provide design and construction services to create a new, nature-based stormwater control measure in the form of a wet-detention pond with floating wetland islands and culvert improvements under Corey Road (see Attachment C for location map). This pond will be designed

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and constructed to adhere to the NC Stormwater Design Manual Part C: Minimum Design Criteria and Recommendations for Stormwater Control Measures. It will meet the NC statutory definition of nature-based solutions as it weaves natural features such as vegetated shelves and wetland islands and processes such as denitrification, infiltration, and evapotranspiration to store, infiltrate, and treat stormwater, promoting resilience, reducing flood risks, and improving water quality. The types of stormwater control measures included in this project are:

- Wet Detention Pond
- Floating Wetland Islands
- Restored Riparian Buffer

At Corey Road, adding twin 48" pipes to the existing culverts and new headwalls is anticipated. This will allow the tailwater elevations to be lowered for the upstream Trafalgar neighborhood, reducing street, yard, and structure flooding. By sizing the proposed improvements to account for future land uses, it ensures that increased runoff will be managed so that the additional runoff will not cause new or increased flooding or exacerbate flood risks downstream or water quality issues in the watershed or river basin.

Per the approved Engineering Report, included as Exhibit C, the specific objectives of this project will be to:

1. Protect private property and public infrastructure from flooding by lowering water surface elevations upstream of Corey Road during heavy rain events;
2. Provide sufficient water quantity storage and control to offset upstream improvements without passing along additional impacts to properties downstream;
3. Provide water quality treatment through the implementation of stormwater control measures and riparian restoration;
4. Provide public education through social media, webpage, and targeted mailings to the adjacent neighborhoods detailing the elements, functions, and purpose of stormwater control measures and riparian areas.

This project was selected to receive partial funding from NCDEQ through the Local Assistance for Stormwater Infrastructure Investments Program (LASII) which includes federal funds from the American Rescue Plan Act (ARPA) and is subject to federal guidance and timelines. Funds must be encumbered by December 2024 and spent by December 2026.

1.02 *Work Stages:*

- A. *Preliminary Stage(Phase 1 &Phase 2):* As set forth in more detail in Exhibit A, which is attached and incorporated by reference, Design-Builder shall perform the following in the Preliminary Stage: PER /Modeling Study and Report services; drafting of 30% & 60% Preliminary Technical Documents; and Preconstruction/Construction Planning services (including preparation of proposed Completion Stage Price).

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- B. *Completion Stage(Phase 3)*: If Owner and Design-Builder advance to the Completion Stage pursuant to Paragraph 3.03, then Design-Builder shall perform the following in the Completion Stage: Preparation of 100% Construction Drawings and Construction Specifications, based on the Preliminary Technical Documents; Construction; Start-up, Testing, and Commissioning; and Correction Phase services.
- C. Regardless of stage, the Work is subject to the terms of the Standard General Conditions.

ARTICLE 2 – CONTRACT TIMES

2.01 Time of the Essence

- A. All time limits for Design-Builder’s attainment of Milestones, Substantial Completion, and completion and readiness for final payment, as stated in the Contract, are of the essence of the Contract.

2.02 Contract Times: Preliminary Stage (Phase 1 & Phase 2)

- A. Design-Builder shall complete the Work under the Preliminary Stage within [400] days of the Effective Date.

2.03 Contract Times: Completion Stage

- A. The Work will be substantially completed on or before a date established in the Completion Stage Amendment.
- B. The Work will be completed and ready for final payment on or before [6/30/2026]. This date may be modified by mutual agreement of Owner and Design-Builder based on the final design and completion stage pricing.

2.04 Liquidated Damages; Early Completion Bonus

- A. *Construction*: Design-Builder and Owner recognize that time is of the essence as stated in Paragraph 2.01 and that Owner will suffer financial and other losses if the Work is not completed within the times specified in Paragraph 2.03, as such may be revised in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving, in a lawsuit or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Design-Builder agree that as liquidated damages for delay (but not as a penalty):
- B. *Substantial Completion*: Design-Builder shall pay Owner \$[500.00] for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 2.03.B for Substantial Completion, until the Work is substantially complete.

ARTICLE 3 – CONTRACT PRICE

3.01 Contract Price Definitions

- A. For purposes of this Agreement, the following definitions apply:
 - 1. **Contract Price**—The money that Owner has agreed to pay Design-Builder for performance and completion of the Work in accordance with the Contract Documents. Contract Price

is comprised of the Preliminary Stage Price and the Completion Stage Price, and when applicable the Owner's Completion Contingency.

2. Preliminary Stage Price—the portion of the Contract Price established in Paragraph 3.02, as Design-Builder's compensation for the performance of the Preliminary Stage Work.
3. Completion Stage Price—the portion of the Contract Price established in Paragraph 3.03, as Design-Builder's compensation for the performance of the Completion Stage Work.
4. Owner's Completion Contingency—When applicable, a contingent amount included in the Contract Price for use by Owner, at its sole discretion, in funding the Completion Stage Price.

3.02 *Preliminary Stage*

- A. For performance of the Preliminary Stage Work in accordance with the Contract Documents, Owner shall pay Design-Builder the Preliminary Stage Price (1) pursuant to the following compensation methods, and (2) in the amounts that follow, subject to adjustment under the Contract, and subject to the applicable terms of Exhibit B: \$998,194.00
- B. Monetary amounts stated for portions of the work to be performed on a Stipulated Price basis are fixed and binding.

3.03 *Completion Stage*

- A. As part of Construction Planning under the Preliminary Stage, Design-Builder is required to determine an estimate of the cost of completion of the Work, including completion of the design and all Construction labor, administration, equipment, materials, and subcontracts ("Completion Cost Estimate"). Design-Builder shall use the final Completion Cost Estimate as the basis for developing and submitting to Owner a proposed Completion Stage Price based on:
 1. the Stipulated Price method of compensation, as set forth in Exhibit B.
- B. The proposed Completion Stage Price shall be based on the Contract Times established in this Agreement; or if no Contract Times were established with respect to the Completion Stage when the Agreement was executed, then upon proposed or mutually-agreed Contract Times developed during the Preliminary Stage and expressly stated as an essential part of Design-Builder's Completion Stage Price submittal to Owner.
- C. The proposed Completion Stage Price submitted by Design-Builder to Owner constitutes an offer that is binding on Design-Builder for 30 days.
- D. After receipt of the proposed Completion Stage Price from Design-Builder, Owner shall either (1) accept the Completion Stage Price, in which case the Completion Stage Price is binding on both Owner and Design-Builder for the performance of the Completion Stage Work; or (2) enter into negotiations with Design-Builder regarding the Completion Stage Price and the corresponding scope of Work and schedule, or (3) reject the Completion Stage Price. If Owner accepts the Completion Stage Price, or an accord is reached through negotiations, the parties shall prepare and enter into a Change Order or special amendment to the Contract, memorializing the acceptance of such Completion Stage Price, as modified by any

negotiations, and establishing an adjusted Contract Price or Guaranteed Maximum Price based upon such Completion Stage Price.

If Owner does not accept the proposed Completion Stage Price, and negotiations (if any) are not successful, then the Contract shall terminate for convenience. Under such a termination for convenience,

1. Design-Builder shall be entitled to full payment for all Preliminary Stage Work;
 2. Owner shall be entitled to use of the Preliminary Technical Documents only if Owner pays a supplemental termination fee of \$[0.00]; and
 3. Owner shall assume and discharge all remaining payment obligations for any equipment or materials that Design-Builder has ordered or purchased for the Project pursuant to express authorization from Owner, and Design-Builder shall assign to Owner all rights and interests in any such equipment and materials.
- E. *Owner's Completion Contingency.* The Contract Price includes the following contingency for use by Owner at its sole discretion, under Owner's full control, for purposes of paying for the Completion Stage Work: \$6,687,775 ("Owner's Completion Contingency"). After Owner's acceptance of the Completion Stage Price, or an accord reached through negotiations, and entry into the Completion Stage Amendment, memorializing the acceptance of such Completion Stage Price, as modified by any negotiations, and establishing an adjusted Contract Price or Guaranteed Maximum Price based upon such Completion Stage Price, or after any termination of the Contract because an accord is not reached, any remainder of the Owner's Completion Contingency shall be returned to Owner by Change Order or otherwise.

3.04 *Changes in Contract Price Based on Cost of the Work*

- A. If the price of Design Professional Services covered by a Change Order or an adjustment in the Contract Price is determined on the basis of Cost of the Work, then for such Design Professional Services (exclusive of reimbursable expenses, if any) the Engineer, Project Design Professional, or other design entity performing the Design Professional Services (regardless of tier) may invoice per agreed-upon rates, which covers labor costs, overhead, and profit.
- B. If the value of Work covered by a Change Order or an adjustment in the Contract Price is determined on the basis of Cost of the Work, and involves Work performed under Construction Subcontracts or Design Agreements, the allowable mark-ups on lower tier invoices shall be limited as stated in Paragraph 11.05.D.1 and d of the General Conditions.

ARTICLE 4 – PAYMENT PROCEDURES

4.01 Payment for Preliminary Services. Design-Builder and Owner agree upon the following method for partial and final payment to Design-Builder for the services in this Agreement.

4.02 *Contract Price Progress Payments.*

- A. Design-Builder shall submit to Owner on the (12th) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with Article 14 of the General Conditions of Contract.
- B. Owner shall make payment within ten (10) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 14 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Article 14 of the General Conditions of Contract.
- C. If Design-Builder's Fee under Section Exhibit B hereof is a stipulated amount, the amount of Design-Builder's Fee to be included in Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder's Fee.

4.03 *Retainage on Progress Payments.*

- A. Owner will retain five percent (5%) of each Application for Payment provided, however, that when fifty percent (50%) of the Work has been satisfactorily completed by Design-Builder and Design-Builder is otherwise in compliance with its contractual obligations, Owner will not retain any additional retention amounts from Design-Builder's subsequent Applications for Payment. Owner will also reasonably consider reducing retainage for Work completed early in the Project.

4.04 *Submittal and Processing of Payments*

- A. Design-Builder shall submit Applications for Payment for processing by Owner in accordance with Article 14 of the General Conditions.
- B. Within fifteen (15) days after Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 14.01.G of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to: (a) the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion; and (b) all other amounts Owner is entitled to withhold pursuant to Section 14.01G of the General Conditions of Contract.
- C. Final Payment. Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 14.06 of the General Conditions of Contract. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment (less any amount the parties may have agreed to set aside for warranty work) within ten (10) days after Owner's receipt of the Final Application for Payment, provided that Design-Builder has satisfied the requirements for final payment set forth in Section 14.06 of the General Conditions of Contract.

ARTICLE 5 – INTEREST

5.01 *Interest Rate*

- A. Interest. Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall bear interest commencing five (5) days after payment is due at the rate of percent (8%) per month until paid.

ARTICLE 6 – INSURANCE AND BONDS

6.01 Insurance

- A. Design-Builder and Owner shall obtain and maintain insurance as required by the General Conditions and Supplementary Conditions.

6.02 Performance, Payment, and Other Bonds

- A. As part of the Work under the Completion Stage, the Design-Builder shall furnish a performance bond and a payment bond, each in an amount equal to the Completion Stage Price as duly established and modified under this Contract, as security for the faithful performance and payment of Design-Builder's obligations under the Completion Stage. These bonds shall be in the form prescribed by the Contract and governed by the provisions of Paragraph 6.01 of the General Conditions.

ARTICLE 7 – DESIGN-BUILDER'S REPRESENTATIONS

7.01 Representations

- A. Design-Builder makes the following representations for Owner's reliance:
 - 1. Design-Builder has examined and carefully studied the Contract Documents, and any data and reference items identified in the RFQ.
 - 2. Design-Builder is familiar with all requisite and applicable Laws and Regulations that may affect cost, progress, and performance of the Work.
 - 3. Design-Builder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the RFQ.
 - 4. Design-Builder's entry into this Contract constitutes an incontrovertible representation by Design-Builder that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 8 – ACCOUNTING RECORDS

8.01 Maintaining and Preserving Cost Records

- A. Design-Builder shall keep such full and detailed accounts of materials incorporated and labor, services, and equipment utilized for the Work as may be necessary for proper financial management under this Agreement. Subject to prior written notice, Owner shall be afforded reasonable access during normal business hours to all Design-Builder's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to cost-based or time-based compensation or reimbursement of any type or description, including but not limited to direct labor hours, standard rate hours, reimbursable expenses, change order pricing, and the Cost of the Work (if applicable). Design-Builder shall preserve all such documents for a period of three years after the final payment by Owner. Such inspection shall take place at Design-Builder's offices during normal business hours unless

another location and time is agreed to by the parties. Any multipliers or markups agreed to by Owner and Design-Builder as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, but the composition of such multiplier or markup is not subject to audit. Any lump sum agreed to by Owner and Design-Builder as part of this Agreement is not subject to audit.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to [21], inclusive).
 - 2. General Conditions (pages [1] to [58], inclusive).
 - 3. RFQ Documents
 - 4. Exhibit A, Preliminary Stage Work.
 - 5. Exhibit B, Compensation.
 - 6. Design-Builder’s Proposal.
 - 7. Proposal Amendment.
 - 8. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Performance Bond (in the form attached).
 - b. Payment Bond (in the form attached).
 - c. Work Change Directives.
 - d. Change Orders.
 - e. Record Drawings and Record Specifications.
 - 9. Other Exhibits to this Agreement (enumerated as follows):
 - a. Exhibit C, Engineering Report.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and Supplementary Conditions.

10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract. This clause does not impair the Design-Builder/Engineer's ability to subcontract out the work or enter into typical suretyship arrangements as necessary for Design-Builder's bonding company to issue P&P bonds.

10.03 *Successors and Assigns*

- A. Owner and Design-Builder each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract.

10.04 *Severability*

- A. Any provision or part of the Contract held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Design-Builder, who agree that the Contract shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Design-Builder's Certifications*

- A. Design-Builder certifies that it has not engaged in corrupt, fraudulent, collusive or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 1. "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

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A. None

IN WITNESS WHEREOF, Owner and Design-Builder have signed this Agreement.

This Agreement will be effective on the date of final signature (which is the Effective Date of the Contract).

OWNER:

City of Greenville

By: P. J. Connelly

Title: Mayor

Date: _____

DESIGN-BUILDER:

T. A. Loving Company

By: T. C. Edmondson, III, PE

Title: _____

Date: _____

[If Design-Builder is a corporation, partnership, LLC, or a joint venture, attach evidence of authority to sign. In the case of a joint venture, expand the signature section to accommodate execution of the Agreement by an authorized representative of each joint venturer.]

Address for giving notices:

Attn: James Lynn Raynor, PE

1500 Beatty Street

Greenville, NC 27834

Address for giving notices:

Attn: Christopher J. Myers

400 Patetown Rd.

Goldsboro, NC, 27530

License No.: 325

APPROVED AS TO FORM:

BY: _____
City Attorney or designee (Assistant 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: _____
Jacob Joyner, Director of Financial Services

ACCOUNT NUMBER: _____

PROJECT CODE: _____

This is **EXHIBIT A**, consisting of [15] pages, referred to in and part of the **Agreement between Owner and Design-Builder for Progressive Design-Build** dated

EXHIBIT A – PRELIMINARY STAGE WORK

ARTICLE 1 –BASIC SERVICES: Preliminary Stage

A1.01 See Attachment 1 for T.A. Loving/ WK Dickson Scope (14 pages)

This is **EXHIBIT B-1**, consisting of [1] pages, referred to in and part of the **Agreement between Owner and Design-Builder for Progressive Design-Build** dated _____.

B-1: PRELIMINARY STAGE—STIPULATED PRICE

Article 3 of the Agreement is supplemented as follows:

B3.01 Preliminary Stage Work Subject to Stipulated Price Compensation

- A. For each phase of Work under the Preliminary Stage that is subject to Stipulated Price compensation under Paragraph 3.02 of the Agreement, Owner shall pay Design-Builder for performance of such Work the Stipulated Price indicated in that paragraph.
- A. The Stipulated Price includes compensation for the subject Work and the services, labor, and materials furnished by Design-Builder's Project Design Professionals and Construction Subcontractors, if any. Appropriate factors have been incorporated into the Stipulated Price to account for labor, overhead, profit, and expenses.
- B. The portion of the Stipulated Price billed will be based upon Design-Builder's estimate of the proportion of the total Work actually completed during the billing period to the Stipulated Price for the phase.

This is **EXHIBIT B-6**, consisting of [1] pages, referred to in and part of the **Agreement between Owner and Design-Builder for Progressive Design-Build** dated _____.

ARTICLE 11 – CHANGE OF CONTRACT PRICE

11.01 *Changes in the Contract Price*—The amount of any increases or decreases which results from a Change Order, shall be set forth in the applicable Change Order subject to the following:

- A. If Design-Builder’s fee is a percentage fee, Design-Builder’s fee will adjust automatically as the Cost of the Work changes.

This is **EXHIBIT B-7**, consisting of [1] pages, referred to in and part of the **Agreement between Owner and Design-Builder for Progressive Design-Build** dated _____.

B-7: COMPLETION STAGE PRICE—STIPULATED PRICE

ARTICLE 1 – STIPULATED PRICE

- 1.01 Owner shall pay Design-Builder for performance of the Completion Stage Work in accordance with the Contract Documents the following stipulated amount: To be determined at end of Preliminary Stage (Completion Stage Price).

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

STANDARD GENERAL CONDITIONS OF THE CONTRACT BETWEEN OWNER AND DESIGN-BUILDER

Prepared by



Issued and Published Jointly by



These General Conditions have been prepared for use with one of the three Agreements between Owner and Design-Builder (EJCDC® D-512, D-520, and D-525, 2016 Editions). Their provisions are interrelated and a change in one may necessitate a change in the others. The comments and instructions contained in the Guide to Use of EJCDC Design-Build Documents (EJCDC® D-001, 2016 Edition) are also carefully interrelated with the wording of these General Conditions.

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STANDARD GENERAL CONDITIONS OF THE CONTRACT BETWEEN OWNER AND DESIGN-BUILDER

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STANDARD GENERAL CONDITIONS OF THE CONTRACT BETWEEN OWNER AND DESIGN-BUILDER

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Contract Documents and printed with initial capital letters, the following terms have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*: Written or graphic instruments issued by Owner prior to the opening of Proposals which clarify, correct, or change the Request for Qualifications, Request for Proposals, or the proposed Contract Documents, including the Conceptual Documents.
 2. *Agreement*: The written instrument, executed by Owner and Design-Builder, that sets forth the Contract Price and Contract Times, identifies the parties, and designates the specific items that are Contract Documents.
 3. *Application for Payment*: The form which is to be used by Design-Builder during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Authorized Representative*: The individual designated by a party to represent it with respect to this Contract, as indicated in the Agreement.
 5. *Change Order*: A document which is signed by Design-Builder and Owner and authorizes an addition, deletion, or revision in the Work, or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 6. *Claim*: A demand or assertion by Owner or Design-Builder seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A request or proposal for a Change Order is not a Claim.
 7. *Conceptual Documents*: The documents prepared by or for the Owner to describe the Work to be performed, issued to Proposers during the design-builder selection process, and which are the RFQ and PER documents.
 8. *Constituent of Concern*: Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other Laws or Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

9. *Construction*: The part of the Work that consists generally of making physical improvements at the Site, and is the result of performing or furnishing of labor, the furnishing and incorporating of materials and equipment into the Work (including any correction of defective Construction), and the furnishing of services (other than Design Professional Services) and documents, all as required by the Contract Documents and Construction Drawings and Construction Specifications, as duly modified.
10. *Construction Drawings*: Documents prepared by or for Design-Builder, and approved by Owner for purposes of allowing Design-Builder to proceed with the Construction or specific portions of the Construction, and consisting of drawings, diagrams, illustrations, schedules, and other data that graphically show the scope, extent, and character of the Construction (or specific portions of the Construction) to be performed by or for Design-Builder. Construction Drawings are not Contract Documents.
11. *Construction Specifications*: Documents prepared by or for Design-Builder, and approved by Owner for purposes of allowing Design-Builder to proceed with the Construction or a specific portion of the Construction, and consisting of written requirements for materials, equipment, systems, standards, workmanship, and administrative procedures as applied to the Construction (or a specific portion of the Construction). Construction Specifications are not Contract Documents.
12. *Construction Subcontract*: A written agreement between Design-Builder and a Construction Subcontractor for provision of all or a portion of the Construction, and any delegated Design Professional Services.
13. *Construction Subcontractor*: An individual or entity (other than a Supplier) having a direct contract with Design-Builder or with any other Construction Subcontractor for the performance of a part of the Construction, and any delegated Design Professional Services.
14. *Contract*: The entire and integrated written agreement between Owner and Design-Builder concerning the Work.
15. *Contract Documents*: Those items so designated in the Agreement, and which together comprise the Contract.
16. *Contract Price*: The money that Owner has agreed to pay Design-Builder for completion of the Work in accordance with the Contract Documents.
17. *Contract Times*: The numbers of days or the dates stated in the Agreement to (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
18. *Design-Builder*: The individual or entity with which Owner has contracted for performance of the Work, as designated in the Agreement.
19. *Design Professional Services*: That part of the Work comprised of the furnishing of engineering, surveying, architecture, and other design services, and including but not limited to providing research, analysis, and conclusions regarding engineering and related matters; exercising professional judgment with respect to technical issues; the preparation of plans, reports, calculations, models, schematics, drawings, specifications, Design Submittals, the Construction Drawings, Construction Specifications, and other instruments of service; other services included in the Contract Documents and required to be performed by or under the responsible charge of licensed design professionals; and

the review of shop drawings, observation of construction, response to requests for information or interpretation, analysis of the technical aspects of Change Orders, and other engineering and related professional services provided by or for licensed design professionals during Construction.

20. *Design Agreement*: A written agreement between Design-Builder and a design firm or entity for provision of Design Professional Services.
21. *Design Submittal*: A Submittal that pursuant to Laws and Regulations or this Contract must be prepared by or under the supervision of a licensed engineer or other licensed design professional, including drawings, specifications, Construction Drawings, Construction Specifications, and revisions to such documents (but not including Record Documents).
22. *Effective Date of the Contract*: The date indicated in the Agreement on which the Contract becomes effective, but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
23. *Engineer*: The Project Design Professional identified as Engineer in the Agreement, and engaged by Design-Builder to provide engineering and related professional services under a Design Agreement.
24. *Hazardous Environmental Condition*: The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*: Any and all applicable laws, statutes, rules, regulations, ordinances, binding resolutions, codes, decrees, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens*: Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*: A principal event in the performance of the Work that the Contract requires Design-Builder to achieve by an intermediate completion date or by a time prior to Substantial Completion of Construction.
28. *Notice of Award*: The written notice by Owner to a Proposer stating that Owner will enter into the design-build contract with the Proposer.
29. *Notice to Proceed*: A written notice by Owner to Design-Builder fixing the date on which the Contract Times will commence to run and on which Design-Builder shall start to perform the Work.
30. *Owner*: The individual or entity with which Design-Builder has contracted regarding the Work, and which has agreed to pay Design-Builder for the performance of the Work, pursuant to the terms of the Contract.
31. *Owner's Consultant*: An individual or entity with which the Owner has contracted to furnish services (typically including planning, preparation of Conceptual Documents, and

advisory services) to Owner with respect to the Project, and which is identified as such in the Agreement.

32. *Owner's Site Representative*: A representative of Owner at the Site, as indicated in Paragraph 10.05.
33. *Project*: The total undertaking to be accomplished for Owner by engineers, consultants, Design-Builder, subcontractors, and others, including planning, study, design, construction, testing, start-up, and commissioning, and of which the Work to be performed under the Contract Documents is a part.
34. *Project Design Professionals*: The Engineer and any other independent entities or individuals, or employees of Design-Builder, engaged by Design-Builder or a Construction Subcontractor to provide Design Professional Services with respect to a portion of the Work.
35. *Proposal*: The documents submitted by Design-Builder in response to the Request for Proposals, setting forth technical concepts, proposed prices, and other conditions for the Work to be performed, and stating any proposed revisions, modifications, clarifications, exceptions, or supplements to the proposed Contract Documents.
36. *Proposal Amendment*: A Contract Document that is prepared after submittal of Design-Builder's Proposal; identifies mutually agreed revisions, modifications, exceptions, supplements, and clarifications to the Proposal or proposed Contract Documents; and is executed by Owner and Design-Builder.
37. *Proposer*: An entity that submits a Statement of Qualifications or Proposal to Owner.
38. *Record Documents*: The record copy of all Construction Drawings, Construction Specifications, Addenda, Change Orders, Work Change Directives, and approved Submittals maintained by Design-Builder at the Site, including any annotations to such documents made by Design-Builder during Construction.
39. *Record Drawings and Record Specifications*: Documents depicting the completed Project, or a specific portion of the completed Project, based on or comprised of the Record Documents delivered to Owner by Design-Builder at the completion of the Construction.
40. *Request for Proposals*: The document prepared by or for Owner specifying and describing Owner's objectives, the procedures to be followed in preparing and submitting a Proposal, and the process for evaluating Proposals and awarding a contract.
41. *Request for Qualifications*: The document prepared by or for Owner requesting that Proposers submit a Statement of Qualifications with respect to their candidacy for selection as Design-Builder.
42. *Schedule of Values*: A schedule, prepared and maintained by Design-Builder, allocating portions of the Contract Price to various portions of the Work, and used as the basis for reviewing Design-Builder's Applications for Payment.
43. *Site*: Lands or areas indicated in the Contract Documents as being furnished by Owner upon which Construction is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for use of Design-Builder.
44. *Statement of Qualifications*: The document submitted by a Proposer in response to the Request for Qualifications, including any completed forms, attachments, and exhibits.

45. *Submittal*: A written or graphic document, prepared by or for Design-Builder, which the Contract Documents require the Design-Builder to submit to the Owner. Submittals may include reports, preliminary drawings and specifications, cost estimates, proposed Construction Drawings and Construction Specifications, progress schedules, cash flow projections, Schedules of Values, shop drawings, product data, samples, delegated designs, certifications, proposed modifications to the Construction Drawings and Construction Specifications, results of tests and evaluations, results of source quality control testing and inspections, results of field or Site quality control testing and evaluations, sustainable design information, information on special procedures, operations and maintenance data, sustainable design closeout information, record documents, records of spare parts and extra stock materials, and other such documents required by the Contract Documents. Submittals, whether approved or accepted by Owner or not, are not Contract Documents. Claims, notices, Change Orders, Applications for Payment, and requests for information/interpretation are not Submittals.
46. *Substantial Completion*: The time at which the Construction (or a specified part thereof) has progressed to the point where it is sufficiently complete, in accordance with the Contract Documents, so that the Construction (or the specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Construction refer to Substantial Completion thereof.
47. *Supplementary Conditions*: The part of the Contract Documents which amends or supplements these General Conditions. There are no Supplementary Conditions. Any reference to Supplementary Conditions herein are considered stricken and void.
48. *Supplier*: A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Design-Builder or with any Construction Subcontractor to furnish materials or equipment to be incorporated in the Work by Design-Builder or a Construction Subcontractor, and any lessor of rental equipment used by Design-Builder or a Construction Subcontractor during Construction at the Site.
49. *Technical Data*: Data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding (a) subsurface conditions at the Site, (b) physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), or (c) environmental conditions at the Site, that are set forth in any geotechnical or environmental report prepared for the Project and relied upon by Design-Builder in agreeing to a price (either stipulated, or a Guaranteed Maximum Price) that includes Construction.
50. *Underground Facilities*: All underground lines, pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems, including but not limited to those that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, fire or police signal systems, or traffic or other control systems; and any encasements containing such facilities or systems.
51. *Underground Facilities Data*: Information and data shown or indicated in the Contract Documents or otherwise provided to Design-Builder by Owner with respect to existing Underground Facilities at or adjacent to the Site.

52. *Unit Price Work*: Work to be paid for on the basis of unit prices.
53. *Work*: The entire design and construction or the various separately identifiable parts thereof required to be performed or furnished by Design-Builder under the Contract Documents. Work includes and is the result of performing or furnishing Design Professional Services and Construction required by the Contract Documents and all labor, services, and documentation necessary to produce such Design Professional Services and Construction; furnishing, installing, and incorporating all materials and equipment into such Construction; and related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
54. *Work Change Directive*: A written directive to Design-Builder, issued on or after the Effective Date of the Contract, signed by Owner, ordering an addition, deletion or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in Paragraph 1.02.B are not defined terms that require initial capital letters, but when used in the Contract Documents have the indicated meanings.
- B. *Intent of Certain Terms or Adjectives*:
1. The word “day” shall constitute a calendar day of 24 hours measured from midnight to the next midnight.
 2. The word “defective,” when modifying the word “Construction” refers to Construction that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents, or does not meet the requirements of any applicable inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged by Design-Builder or a party for which Design-Builder is responsible prior to Owner’s final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion) provided that the defect was not caused by Owner.
 3. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 4. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials or equipment or equipment complete and ready for intended use.
 5. The words “perform” or “provide” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 6. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Design-Builder, “provide” is implied.
 7. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with that meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds*: When Design-Builder delivers the executed Agreements to Owner, Design-Builder shall also deliver to Owner such Bonds as Design-Builder may be required to furnish in accordance with Paragraph 6.01.A.
- B. *Evidence of Insurance*: Before any Work is started, Design-Builder and Owner shall each deliver to the other those certificates of insurance that Design-Builder and Owner respectively are required to purchase and maintain in accordance with Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Design-Builder four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract. Owner shall make such original printed record version of the Contract available to Design-Builder for review.

2.03 *Conceptual Documents*

- A. *Design-Builder's Review of Conceptual Documents*:
 - 1. Design-Builder acknowledges that the Conceptual Documents furnished by Owner are preliminary and incomplete, and subject to stated limitations and reservations.
 - 2. Design-Builder shall carefully review, analyze, and verify the contents and suitability of the Conceptual Documents before proceeding with the Work (including but not limited to the Design Professional Services).
 - 3. Design-Builder shall promptly report in writing to Owner any conflict, error, ambiguity, or discrepancy that Design-Builder may discover in the Conceptual Documents, whether during such review or at any later point.
 - 4. Upon receipt of a report from Design-Builder that there is a conflict, error, ambiguity, or discrepancy in the Conceptual Documents, Owner shall either provide a written interpretation, clarification, or correction to Design-Builder, or authorize Design-Builder to correct or resolve the issue under a Change Order providing an equitable adjustment in Contract Times or Contract Price, or both.
 - 5. Design-Builder shall not proceed with any Work affected by a reported conflict, error, ambiguity, or discrepancy in the Conceptual Documents until the issue is resolved.
- B. Owner shall not be responsible for any deficiency in the Conceptual Documents that Design-Builder does not discover or report to Owner.
- C. Subject to the foregoing review and reporting obligations, Design-Builder may use the Conceptual Documents as a partial basis for performing or furnishing Design Professional Services, including the preparation of Design Submittals such as the Construction Drawings and Construction Specifications, but despite any such use of the Conceptual Documents the Design-Builder nonetheless shall be responsible to Owner for the quality and soundness of the Design Professional Services.

2.04 *Before Starting the Work*

- A. *Preliminary Schedules:* Within 10 days after commencement of the Contract Times (unless otherwise specified in the Contract Documents), Design-Builder shall submit the following to Owner for Owner's timely review:
1. A preliminary progress schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
 2. A preliminary schedule of Submittals (including Design Submittals) which will list each required Submittal and the times for submitting, reviewing, and processing each Submittal;
 3. A preliminary Schedule of Values for all of the Work which will include quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work; and
 4. A preliminary cash flow projection estimating that portion of the Contract Price to be due during each month of performance.

2.05 *Authorized Representatives*

- A. The Authorized Representative for each party has been designated in the Agreement. A party may change its Authorized Representative at any time by giving notice to the other party of the name, mailing and delivery addresses, e-mail address, and telephone numbers of the new Authorized Representative.

2.06 *Initial Conference*

- A. Within 20 days after the Contract Times start to run, Design-Builder will arrange a conference attended by Owner and Design-Builder and others as appropriate to establish a working understanding among the parties as to the Work and to discuss the design concepts, schedules referred to in Paragraph 2.04.A, procedures for handling Submittals, processing Applications for Payment, maintaining required records, and other matters.

2.07 *Review of Schedules*

- A. Not less than 10 days before submission of the first Application for Payment (unless otherwise provided in the Contract Documents), Design-Builder will arrange a conference attended by Design-Builder, Owner, and others as appropriate to review and discuss the schedules submitted in accordance with Paragraph 2.04.A. Design-Builder shall have an additional 10 days after the conference to make corrections and adjustments and to complete and resubmit the schedules for Owner's acceptance. No progress payment shall be made to Design-Builder until Design-Builder submits schedules that comply with the following requirements:
1. Design-Builder's progress schedule shall provide an orderly progression of the Work to completion within any specified Milestones and the Contract Times.
 2. Design-Builder's schedule of Submittals shall provide a workable arrangement for submitting, reviewing, and processing Submittals in accordance with Article 8.
 3. Design-Builder's Schedule of Values shall provide a reasonable allocation of the Contract Price to component parts of the Work.

2.08 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner and Design-Builder may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner and Design-Builder shall jointly develop such protocols.
- C. Unless expressly stated otherwise elsewhere in this Contract, Design-Builder shall not be obligated to furnish documents (including but not limited to Construction Drawings, Construction Specifications, or Record Drawings and Record Specifications) to Owner in any executable, native-file format.
- D. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Contract Documents*

- A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.
- B. It is the intent of the Contract Documents to require the design and construction of a functionally complete project as agreed to in the final design documents.
- C. Design-Builder shall prepare or furnish Construction Drawings and Construction Specifications that are in accord with the Contract Documents and that describe a functionally complete Project (or part thereof) to be constructed in accordance with such Construction Drawings and Construction Specifications, as duly modified.
- D. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.
- E. Design-Builder will furnish or perform all labor, documentation, services (including professional services), materials, and equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result whether or not specifically called, for at no additional cost to Owner.

3.02 *Reference Standards*

- A. *Standards, Specifications, Codes, Laws or Regulations:*
 - 1. Reference to standards, specifications, manuals or codes of any technical society, organization or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect on the Effective Date except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard, specification, manual, or code, or instruction of a Supplier, shall be effective to change the duties and responsibilities of Owner, Design-

Builder, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to Owner or its officers, directors, members, partners, employees, agents, consultants, or subcontractors any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Resolving Discrepancies*

- A. If there is a discrepancy between (1) the Conceptual Documents or other Contract Documents issued with the Request for Qualifications or Request for Proposals and (2) the Proposal, the Proposal will control.
- B. If there is a discrepancy between (1) the Conceptual Documents, other Contract Documents issued with the Request for Qualifications or Request for Proposals, or the Proposal and (2) the Proposal Amendment, the Proposal Amendment will control.
- C. If there is a discrepancy between (1) the Contract Documents and (2) the Construction Drawings and Construction Specifications, the Contract Documents will control unless Design-Builder gave notice of the discrepancy in a Submittal, and Owner approved the Submittal, pursuant to the provisions of Article 8.

3.04 *Ownership and Reuse of Documents*

- A. All documents prepared for or furnished to Owner by Design-Builder pursuant to this Contract (including but not limited to Design Submittals) are instruments of service. With respect to such documents:
 - 1. Design-Builder shall have and retain the ownership, title, and property rights, including copyright, patent, intellectual property, and common law rights, in the documents.
 - 2. During the course of the Project, Design-Builder will provide copies of Design Submittals to Owner for purposes of review and comment. Owner may retain copies of such documents for its records.
 - 3. Owner may use its copy of the Record Drawings and Record Specifications for Owner's purposes in operating and maintaining the constructed facilities.
 - 4. Upon Owner's termination of this Contract for cause pursuant to Paragraph 15.02, Owner shall receive a limited, non-exclusive license to use any completed Design Submittals in continuing the Project, subject to the limitations in this Paragraph 3.04.
 - 5. The documents prepared or furnished by Design-Builder under this Contract, regardless of ownership, transfer, license, completion status, or termination of the Contract, are for Design-Builder's use, and are not intended or represented to be suitable for use on the Project by Owner or any party other than Design-Builder, or for reuse by Owner or others on extensions of the Project or on any other project, except as otherwise stated in this Contract. Any use or reuse by Owner or others on Owner's behalf will be at Owner's sole risk, and without liability or legal exposure to Design-Builder, the Project Design Professionals, or their subconsultants, and Owner shall indemnify and hold harmless Design-Builder, the Project Design Professionals, and their subconsultants from all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting from any such use or reuse.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times*

- A. The Contract Times will commence to run on the Effective Date of the Contract.

4.02 *Starting the Work*

- A. Design-Builder shall start to perform the Work as of the Effective Date of the Contract. No Construction shall be done at the Site prior to the Effective Date of the Contract.

4.03 *Progress Schedule*

- A. Design-Builder shall adhere to the progress schedule established in accordance with Paragraph 2.04 as it may be adjusted from time to time, as provided below:
 - 1. Design-Builder may make adjustments in the progress schedule so long as such adjustments do not change the Contract Times.
 - 2. Design-Builder shall submit proposed adjustments in the progress schedule that will change the Contract Times (including Milestones) in accordance with the requirements of Paragraph 11.06. Such adjustments may only be made by a Change Order.
- B. *Continuing the Work:* Design-Builder shall continue, to the extent possible, the Work and adhere to the progress schedule during all disputes or disagreements with Owner. Unless the issue in disagreement by its nature prevents performance of some or all of the Work, no Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as Design-Builder and Owner may otherwise agree in writing.

4.04 *Delays in Design-Builder's Progress*

- A. If Owner or anyone for whom Owner is responsible delays, disrupts, or interferes with the performance or progress of the Work, then Design-Builder shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Design-Builder's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Design-Builder's ability, without acceleration, to complete the Work within the Contract Times. In the event Design-Builder accelerates the work to address a delay caused wholly by Owner or anyone for whom Owner is responsible, nothing in this section bars or impairs Design-Builder's entitlement to an adjustment of the Contract Times and Contract Price to compensate Contractor for the delay and/or acceleration actually caused by the Owner .
- B. Design-Builder shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference wholly within the control of Design-Builder. Delay, disruption, and interference attributable to and within the control of a Project Design Professional, Construction Subcontractor, or Supplier shall be deemed to be delays within the control of Design-Builder.
- C. If Design-Builder's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Design-Builder, and those for which they are responsible, then Design-Builder shall be entitled to an equitable adjustment in Contract Times. Design-Builder's entitlement to such an adjustment of the Contract Times is conditioned on such adjustment being essential to Design-Builder's ability to complete the Work within the Contract Times. Such an adjustment shall be Design-Builder's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. In no event is Contractor barred from seeking an adjustment of the Contract Price

for acceleration as set forth in Section 4.04(A), even if the acceleration was necessitated by the causes listed in this subsection. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 2. Abnormal weather conditions;
 3. Acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 9); and
 4. Acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5
- E. NOT USED.
- F. Design-Builder shall be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Design-Builder, inasmuch as the concurrent delays are of equal impact to the Contract Times.
- G. If Design-Builder seeks an adjustment in Contract Price or Contract Times under this paragraph, Design-Builder shall submit a request for a Change Order to Owner within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Design-Builder of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Design-Builder will have to comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Design-Builder with a current statement of record legal title and legal description of the lands upon which the Construction is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws or Regulations.
- C. Design-Builder shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas:*

1. Design-Builder shall confine construction equipment, the storage of materials and equipment, and the operations of construction workers to the Site and other areas permitted by Laws or Regulations, and shall not unreasonably encumber the Site and

other areas with construction equipment or other materials or equipment. Design-Builder shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any adjacent land or areas, resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of Work, Design-Builder shall promptly settle with such other party by negotiation, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law.
 3. To the fullest extent permitted by Laws or Regulations, Design-Builder shall indemnify and hold harmless Owner, Owner's consultants, and anyone directly or indirectly employed by any of them from and against all claims, costs, losses and damages (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court and arbitration or other dispute resolution costs) arising out of or resulting from any claim brought by any such owner or occupant against Owner, or any other party indemnified hereunder to the extent caused by or based upon Design-Builder's performance of the Construction.
- B. *Removal of Debris:* During the performance of the Construction, Design-Builder shall keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the Construction. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws or Regulations.
- C. *Cleaning:* Prior to Substantial Completion, Design-Builder shall clean the Site and make it ready for utilization by Owner. At completion of Construction, Design-Builder shall remove all tools, appliances, construction equipment, temporary construction and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading Structures:* Design-Builder shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Design-Builder subject any part of the Construction or adjacent property to stresses or pressures that will endanger it.

5.03 *Reference Points*

- A. Design-Builder shall be responsible for laying out the Work and shall protect and preserve reference points and property monuments established by Owner, and shall make no changes or relocations of such reference points or monuments without the prior written approval of Owner. Design-Builder shall report to Owner whenever any reference point or property monument is lost or destroyed, or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

5.04 *Differing Site Conditions*

- A. Design-Builder shall promptly, and before the conditions are corrected/removed, give a written notice to Owner of (i) subsurface or latent physical conditions at the Site (whether discovered during investigation of the Site or during Construction) which differ materially from those indicated in the Contract Documents, or in any Technical Data, or (ii) unknown physical conditions at the Site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character called for by the Contract Documents.

- B. Owner will investigate the Site conditions promptly after receiving the notice. Design-Builder shall supplement the notice by promptly submitting to Owner any additional information regarding schedule and cost impacts, and a specific request for a Change Order. Owner shall then make a determination regarding the site condition and the impact, if any, on Contract Price and Contract Times. If the conditions do materially so differ and cause an increase or decrease in the Design-Builder's cost of, or the time required for, performing any part of the Work, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the Contract Price or Times modified in writing by Change Order in accordance with Article 11.
- C. No request by Design-Builder for an equitable adjustment under this Paragraph 5.04 shall be allowed unless Design-Builder has given the written notice required.
- D. The provisions of this Paragraph 5.04 are not intended to apply to a Hazardous Environmental Condition or Underground Facility uncovered or revealed at the Site.

5.05 *Underground Facilities*

- A. *Procedure for Identifying Underground Facilities:* Promptly after the Effective Date of the Contract, Design-Builder shall review the Underground Facilities Data furnished by Owner and use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as a basis for establishing a procedure ("Underground Facilities Procedure") for the further identification, investigation, and mapping of Underground Facilities at or adjacent to the Site. Design-Builder shall establish and use the Underground Facilities Procedure to aid in the provision of Design Professional Services and the performance of Construction, and to reduce and manage risks associated with Underground Facilities. Such Underground Facilities Procedure shall take into account the Site and the nature of the Project.
 - 1. The Underground Facilities Procedure shall include a plan to keep Underground Facilities information current as Design-Builder proceeds with the provision of Design Professional Services, and to add new or relocated Underground Facilities information to the base utility or Site drawings.
 - 2. To manage the potential impact of design changes on Underground Facilities, Design-Builder shall modify or reapply the Underground Facilities Procedure as the design progresses and changes.
- B. *Design-Builder's Responsibilities:* Unless otherwise expressly provided in the Contract, Design-Builder shall have full responsibility for the following; and, subject to the provisions of Paragraphs 5.05.C, D, and E, the cost of all of the following will be included in the Contract Price:
 - 1. Establishing and executing the Underground Facilities Procedure referred to in Paragraph 5.05.A, including updating, modification, and reapplication duties;
 - 2. Coordinating the Work with the owners (including Owner) of such Underground Facilities, during the provision of Design Professional Services and Construction;
 - 3. Verifying the actual location of specific Underground Facilities through exposure, as needed for the Design Professional Services;
 - 4. Complying with applicable state and local utility damage prevention Laws and Regulations during Construction; and

5. The safety and protection of all existing Underground Facilities at the Site, and repairing any damage to such Underground Facilities resulting from the Construction, subject to the provisions of Paragraph 5.05.D.
- C. *Results of Design-Builder's Execution of Underground Facilities Procedure:* If, during the execution of the Underground Facilities Procedure referred to in Paragraph 5.05.A, the Design-Builder identifies an Underground Facility that was not shown or indicated in the Underground Facilities Data, or was not shown or indicated with reasonable accuracy, causing an increase or decrease in the Design-Builder's cost of, or the time required for, providing Design Professional Services or performing the Construction, then Design-Builder shall submit to Owner a request for a Change Order seeking an equitable adjustment to the Contract Price or Times under this clause. Such request shall be made within 30 days of the identification of the Underground Facility in question.
- D. *Underground Facility Found During Construction:* If Design-Builder believes that an Underground Facility that is uncovered, exposed, or revealed at the Site during Construction was not shown or indicated in the Underground Facilities Data, or was not shown or indicated with reasonable accuracy, and also that such Underground Facility was not identified or mapped with reasonable accuracy despite Design-Builder's adequate establishment and execution of the Underground Facilities Procedure referred to in Paragraph 5.05.A, then Design-Builder shall promptly give written notice to Owner, and supplement the notice by submitting to Owner a request for a Change Order seeking an equitable adjustment to the Contract Price or Times under this clause. Such request shall be made within 30 days of the uncovering or revealing of the Underground Facility in question.
1. *Owner's Review:* Owner will investigate the Underground Facility found during Construction promptly after receiving the notice. If Owner concurs with Design-Builder that the Underground Facility that is uncovered, exposed, or revealed at the Site was not shown or indicated in the Underground Facilities Data, or was not shown or indicated with reasonable accuracy, and further was not identified or mapped with reasonable accuracy despite Design-Builder's adequate establishment and execution of the Underground Facilities Procedure referred to in Paragraph 5.05.A, causing an increase or decrease in the Design-Builder's cost of, or the time required for, performing any part of the Work, whether or not changed as a result of the actual location, then an equitable adjustment shall be made under this clause and the Contract Price or Times modified in writing by Change Order in accordance with Article 11. If Owner does not concur with Design-Builder, then Owner shall so indicate in writing, with a specific explanation of the reason for non-concurrence.
 2. No request by Design-Builder for an equitable adjustment under Paragraph 5.05.D shall be allowed unless Design-Builder has given the written notice required.
- E. *Inadequate Establishment or Execution of Underground Facilities Procedure:* If Design-Builder does not establish an Underground Facilities Procedure that is (1) adequate for the Site and the nature of the Project and (2) consistent with the guidelines set forth in ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," or Design-Builder does not adequately execute a duly established Underground Facilities Procedure, then Design-Builder shall bear all costs associated with the presence of an Underground Facility that was not identified or located with reasonable accuracy, including but not limited to delay, redesign, relocation, and increased Construction costs, if such Underground Facility

would have been identified and located with reasonable accuracy by an adequate and properly executed Underground Facilities Procedure that was consistent with ASCE 38.

5.06 *Hazardous Environmental Conditions at Site*

- A. No reports of drawings related to Hazardous Environmental Conditions at the Site or technical data with respect to environmental conditions at the site are known to Owner.
- B. Design-Builder shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- C. Design-Builder shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Design-Builder, Project Design Professionals, Construction Subcontractors, Suppliers, or anyone else for whom Design-Builder is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- D. If Design-Builder encounters, uncovers, or reveals a Hazardous Environmental Condition (whether during Site investigation or during Construction) whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Design-Builder or anyone for whom Design-Builder is responsible creates a Hazardous Environmental Condition, then Design-Builder shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.16); and (3) notify Owner (and promptly thereafter confirm such notice in writing). Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take corrective action, if any, and take such actions as are necessary to permit Owner to timely obtain required permits and provide Design-Builder the written notice required by Paragraph 5.06.E. If Design-Builder or anyone for whom Design-Builder is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- E. Design-Builder shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Design-Builder either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- F. If after receipt of such written notice Design-Builder does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then the portion of the Work that is in the area affected by such condition shall be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 9.
- G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Design-Builder, Project Design Professionals, Construction Subcontractors, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of

each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Contract Documents or the Technical Data, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Design-Builder or by anyone for whom Design-Builder is responsible. Nothing in this Paragraph 5.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

- H. To the fullest extent permitted by Laws and Regulations, Design-Builder shall indemnify and hold harmless Owner and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the Design-Builder's failure to control, contain, or remove a Constituent of Concern brought to the Site by Design-Builder or by anyone for whom Design-Builder is responsible, or to a Hazardous Environmental Condition created by Design-Builder or by anyone for whom Design-Builder is responsible. Nothing in this Paragraph 5.06.H shall obligate Design-Builder to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Design-Builder shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Design-Builder's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due, or until completion of the correction period specified in Paragraph 14.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other specific provisions of the Contract. Design-Builder shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Design-Builder shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Design-Builder is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Design-Builder shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise

to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

- E. If Design-Builder has failed to obtain a required bond, Owner may exclude the Design-Builder from the Site and exercise Owner's termination rights under Article 15.
- F. Upon request to either Owner or Design-Builder from any Construction Subcontractor, Project Design Professional, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, the recipient of the request shall provide a copy of the payment bond to such person or entity.

6.02 *Insurance—General Provisions*

- A. Owner and Design-Builder shall obtain and maintain insurance as required in this Article 6.03.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Design-Builder shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. All companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. All insurance required by the Contract to be purchased and maintained by Design-Builder shall be primary and without contribution by insurance maintained by Owner.
- D. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract.
- E. Design-Builder shall require (a) its Construction Subcontractors and Engineer (and any other Project Design Professional that is an independent individual or entity) to purchase and maintain commercial general liability, automobile liability, workers' compensation, employer's liability, professional liability (as applicable), and umbrella or excess liability insurance, and (b) its Construction Subcontractors to purchase and maintain contractor's pollution liability insurance. All such required insurance shall meet the same requirements for the applicable category of insurance established in this Contract for Design-Builder.
- F. Design-Builder shall deliver to Owner, with copies to each additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Design-Builder has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Design-Builder shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, documentation of applicable self-insured retentions (if permitted) and deductibles, and evidence of insurance required to be purchased and maintained by Design-Builder's Construction Subcontractors, Engineer, and any other Project Design Professional that is an independent individual or entity. Design-Builder may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- G. Owner shall deliver to Design-Builder, with copies to each additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Design-Builder or any other insured, Owner shall also provide other evidence of such required insurance (if

any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

- H. Failure of Owner or Design-Builder to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Design-Builder to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- I. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- J. If Design-Builder has failed to obtain and maintain required insurance, Owner may exclude the Design-Builder from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 15.
- K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Design-Builder or Design-Builder's interests.
- M. The insurance and insurance limits required herein shall not be deemed as a limitation on Design-Builder's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Design-Builder's Insurance*

Design-Builder will maintain at its own expense the following insurance coverages:

- A. Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence for bodily injury or property damage; City of Greenville, North Carolina, 200 W. Fifth St. Greenville, NC 27834 shall be named as additional insured;
- B. Professional Liability insurance in an amount not less than \$1,000,000 per occurrence-if providing professional services;
- C. A minimum of \$1,000,000 of professional errors and omissions insurance;
- D. Workers Compensation Insurance as required by the general statutes of the State of North Carolina and Employer's Liability Insurance not less than \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, and \$1,000,000 policy limit;
- E. Commercial Automobile Insurance applicable to bodily injury and property damage, covering all owned, non-owned, and hired vehicles, in an amount not less than \$1,000,000 per occurrence as applicable;
- F. Other as referenced elsewhere herein. Certificates of Insurance shall be furnished prior to the commencement of Services.

- G. *General provisions:* The policies of insurance required by this Paragraph 6.03 shall:
1. Include at least the specific coverages provided in this Article.
 2. Be written for not less than the limits of coverage provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 3. Contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days' prior written notice has been given to Design-Builder. Within 3 days of receipt of any such written notice, Design-Builder shall provide a copy of the notice to Owner and each other insured under the policy.
 4. Remain in effect at least until final payment and Design-Builder's departure from the Site (and longer if expressly required elsewhere in this Contract), and at all times thereafter when Design-Builder may be correcting, removing, or replacing defective Construction as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 5. Provide applicable protection from claims that may arise out of or result from the performance of the Work, whether such performance is by Design-Builder, a Project Design Professional, any Construction Subcontractor or Supplier, or anyone directly or indirectly retained by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

6.04 *Owner's Liability Insurance*

- A. In addition to the liability insurance required to be provided by Design-Builder, the Owner, at Owner's option and expense, may purchase and maintain Owner's own liability insurance to protect Owner against claims which may arise with respect to the Project.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Design-Builder, and Design-Builder cannot rely upon Owner's liability policies for any of Design-Builder's obligations to the Owner or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Design-Builder shall purchase and maintain builder's risk insurance upon the Construction on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 1. Include the Owner and Design-Builder as named insureds, and all Construction Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
 2. Be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Construction, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact;

aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Design-Builder.

3. Cover, as insured property, at least the following: (a) the Construction (including but not limited to all buildings, structures, foundations, excavations, underground property, pilings, underground pipes, flues, drains, wiring, cables, and the like) and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into the Construction, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent Construction but which are intended to provide working access to the Site, or to the Construction, or which are intended to provide temporary support for the Construction, including scaffolding, form work, fences, shoring, lighting, cribbing, falsework, and temporary structures.
4. Cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
5. Extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
6. Extend to cover damage or loss to insured property while in transit.
7. Allow for partial occupation or use of the Construction by Owner, such that those portions of the Construction that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
8. Provide for the waiver of claims and waiver of the insurer's subrogation rights, as set forth in Paragraph 6.06.
9. Provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
10. Not include a co-insurance clause.
11. Include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
12. Include performance/hot testing and start-up.
13. Be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Construction by Owner, until the Construction is complete.

- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days' prior written notice has been given to the purchasing policyholder. Within 3 days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Construction prior to Substantial Completion of all the Work as provided in Paragraph 14.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Design-Builder) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Construction that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Construction not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance:* If Design-Builder elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Design-Builder's expense.
- F. *Insurance of Other Property:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Design-Builder, a Construction Subcontractor, or an employee of Design-Builder or a Construction Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.
- G. *Loss of Use and Delay in Start-up:* Unless otherwise expressly stated elsewhere in this Contract, the Owner is responsible, at its option, for purchase and maintenance of insurance to protect Owner against the loss of use or delays in start-up caused by property damage.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against any Project Design Professional or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Design-Builder waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Construction; and, in addition, waive all such rights against the Project Design Professionals, their consultants, all Construction Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by

Owner or Design-Builder as trustee or fiduciary, or otherwise payable under any policy so issued.

- B. Owner waives all rights against Design-Builder, the Project Design Professionals, and the Construction Subcontractors, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. Loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Construction caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 - 2. Loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 14.04, after Substantial Completion pursuant to Paragraph 14.03, or after final payment pursuant to Paragraph 14.06.
- C. Any insurance policy maintained by Owner covering any loss, damage, or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that the insured is allowed to waive the insurer's rights of subrogation against Design-Builder, Project Design Professionals, Construction Subcontractors, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, in a written contract executed prior to the loss, damage, or consequential loss.
- D. Design-Builder shall be responsible for assuring that each Construction Subcontract contains provisions whereby the Construction Subcontractor waives all rights against Owner, Design-Builder, all individuals or entities identified in the Supplementary Conditions as insureds, the Project Design Professionals, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Project.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall maintain such funds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.

- C. If no other special agreement is reached, the damaged Construction shall be repaired or replaced, the money so received applied on account thereof, and the Construction and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – DESIGN-BUILDER’S RESPONSIBILITIES

7.01 *Design Professional Services*

- A. Design-Builder shall provide the Design Professional Services needed to successfully perform and complete the Work required under this Contract.
- B. *Standard of Care:* The standard of care for all Design Professional Services performed or furnished by Design-Builder under this Contract will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.

7.02 *Construction*

- A. Design-Builder shall perform and furnish the Construction pursuant to the Contract Documents, the Construction Drawings, and the Construction Specifications, as duly modified.
- B. Design-Builder shall keep Owner advised as to the progress of the Construction.

7.03 *Supervision and Superintendence of Construction*

- A. Design-Builder shall supervise, inspect, and direct the Construction competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to provide the Construction in accordance with the Contract Documents. Design-Builder shall be solely responsible for the means, methods, techniques, sequences, and procedures of Construction.
- B. At all times during the progress of Construction, the Design-Builder shall assign a competent resident superintendent who shall not be replaced without written notice to Owner except under extraordinary circumstances.

7.04 *Labor; Working Hours*

- A. Design-Builder shall provide competent, suitably qualified personnel to perform the Work as required by the Contract Documents. Design-Builder shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise indicated in the Contract Documents or specifically set forth as a limitation in the permits obtained for prosecution of the Work, and in the absence of any Laws or Regulations to the contrary, Design-Builder may perform the Construction on legal holidays, during any or all hours of the day, and on any or all days of the week, at Design-Builder’s sole discretion.

7.05 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Design-Builder shall furnish or cause to be furnished and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

- B. All materials and equipment incorporated into the Work shall be as approved by the Owner or in the Final approved design Construction Drawings/Specifications, and unless specified otherwise shall be new and of good quality. All warranties and guarantees specifically called for by the Contract Documents shall expressly run to the benefit of Owner. If required by Owner, Design-Builder shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise provided in the Contract Documents.

7.06 *“Or Equals” and Substitutions*

- A. If an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, then during the preparation of the proposed Construction Drawings and Construction Specifications, the Design-Builder may request that Owner authorize the use of other items of material or equipment, or items from other proposed suppliers, by including the proposed items in the proposed Construction Drawings or Construction Specifications, with required notice to Owner that the Submittal contains a variation from the Contract Documents. Owner in its sole discretion may approve the use of the item if Owner determines that the item is functionally equal to that named and sufficiently similar so that no change in related Work will be required, taking into consideration whether the item:
 - 1. Is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2. Will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3. Has a proven record of performance and availability of responsive service; and
 - 4. Is not objectionable.
- B. *Effect of Owner’s Determination:* Neither approval nor denial of an “or-equal” request shall result in any change in Contract Price unless that or-equal request is outside of the Design-Builders Control. The denial of an “or-equal” request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- C. *Substitutes:* During the preparation of the proposed Construction Drawings and Construction Specifications, the Design-Builder may propose a substitute to an item of material or equipment that is required to be furnished by the Contract Documents. Any such proposal shall be made in a transmittal to Owner that is separate from and independent of any Design Submittals. The proposal shall describe the advantages, disadvantages, and changes in Contract Price or Contract Time associated with the proposed substitute. Approval of the proposed substitute shall be at Owner’s sole discretion. If approved, the substitute item shall be incorporated in the Construction Drawings and Construction Specifications.
- D. *Design Professional Review:* Before Design-Builder transmits its proposal to Owner, the Project Design Professional that designed the portion of the Work affected by the proposed “or equal” or substitute shall review and approve the proposal.
- E. *Construction Drawings and Construction Specifications:* “Or equal” or substitute proposals with respect to items of material or equipment that are required in the Construction Drawings

and Construction Specifications shall be considered proposed modifications of the Construction Drawings and Construction Specifications, and shall be governed by the provisions of Paragraph 8.02.H.

7.07 Concerning Project Design Professionals, Construction Subcontractors, Suppliers, and Others

- A. Design-Builder may retain Project Design Professionals, Construction Subcontractors, and Suppliers for the performance of parts of the Work. Such Project Design Professionals, Construction Subcontractors, and Suppliers must be acceptable to Owner.
- B. Design-Builder shall retain specific Project Design Professionals, Construction Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required to do so by the Contract Documents (including but not limited to the Proposal Amendment) as of the Effective Date.
- C. Prior to entry into any binding Design Agreement, Construction Subcontract, or purchase order, Design-Builder shall submit to Owner the identity of the proposed Project Design Professional, Construction Subcontractor, or Supplier (unless Owner has already deemed such proposed contractual party acceptable, during the bidding process or otherwise). Such proposed contractual party shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- D. Owner may require the replacement of any Project Design Professional, Construction Subcontractor, Supplier, or other entity retained by Design-Builder to perform any part of the Work solely on the basis of substantive, reasonable objection after due investigation. Design-Builder shall submit an acceptable replacement for the rejected Project Design Professional, Construction Subcontractor, Supplier, or other entity.
- E. If Owner requires the replacement of any Project Design Professional, Construction Subcontractor, Supplier, or other entity retained by Design-Builder to perform any part of the Work, then Design-Builder shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement.
- F. No acceptance by Owner of Engineer or of any Project Design Professional, Construction Subcontractor, Supplier, or other entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- G. Design-Builder shall be fully responsible to Owner for all acts and omissions of the Project Design Professionals, Construction Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work, just as Design-Builder is responsible for Design-Builder's own acts and omissions.
- H. Design-Builder shall be solely responsible for scheduling and coordinating the services and work of the Project Design Professionals, Construction Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- I. Design-Builder shall restrict all Project Design Professionals, Construction Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating directly with Owner, except in case of an emergency or a matter involving public health, safety, or welfare, or as otherwise expressly allowed herein.

- J. Owner may furnish to any Project Design Professional, Construction Subcontractor, or Supplier, to the extent practicable, information about amounts paid to Design-Builder on account of Work performed for Design-Builder by the requesting party.
- K. Nothing in the Contract Documents:
 - 1. Shall create for the benefit of any Project Design Professional, Construction Subcontractor, Supplier, or other third-party individual or entity any contractual relationship between Owner and such third-party individual or entity; nor
 - 2. Shall create any obligation on the part of Owner to pay or to see to the payment of any money due any Project Design Professional, Construction Subcontractor, Supplier, or other third-party individual or entity except as may otherwise be required by Laws and Regulations.

7.08 *Patent Fees and Royalties*

- A. Design-Builder shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Conceptual Documents or other Contract Documents for use in the performance of the Construction, and if to the actual knowledge of Owner its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, then Owner has disclosed the existence of such rights to Design-Builder in the Conceptual Documents or other Contract Documents.
- B. To the fullest extent permitted by Laws or Regulations, Design-Builder shall indemnify and hold harmless Owner and Owner's Consultant, and the officers, directors, partners, employees or agents, and other consultants of each and any of them from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or resulting from any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the specification or incorporation in the Work of any invention, design, process, product or device, except those required by the Contract Documents.
- C. To the fullest extent permitted by Laws or Regulations, Owner shall indemnify and hold harmless Design-Builder and its officers, directors, members, partners, employees or agents, Project Design Professionals, Construction Subcontractors, and Suppliers from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or resulting from any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product or device required by the Contract Documents, but not identified by Owner as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

7.09 *Permits and Utility Charges*

- A. The Contract Documents allocate responsibility for obtaining and paying for specified permits, licenses, certificates of occupancy, and approvals of governmental authorities having jurisdiction over the Work. Each party shall assist the other, when necessary, in obtaining such permits, licenses, certificates, and approvals.

- B. Design-Builder shall pay all charges of utility owners for temporary service to the Work. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work, and for capital costs related thereto.
- C. Unless noted otherwise herein, Design-Builder shall prepare, or cause to be prepared by Design-Builder's Project Design Professional, such information as may be necessary to obtain all applicable permits required to facilitate the Work. Design-Builder shall submit such information, in formats required by governmental agencies having jurisdiction over the Work. Such agencies may include, but not be limited to, the US Army Corps of Engineers and the NC Department of Environmental Quality.

7.10 *Taxes*

- A. Design-Builder shall pay all sales, consumer, use, and other similar taxes required to be paid by Design-Builder in accordance with the Laws or Regulations of the place of the Project which are applicable during the performance of the Work.

7.11 *Laws and Regulations*

- A. Design-Builder shall give all notices required by and comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, Owner shall not be responsible for monitoring Design-Builder's compliance with any Laws or Regulations.
- B. If Design-Builder performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Design-Builder shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work.
- C. Changes in Laws or Regulations that occur after the date on which the Design-Builder committed to the Contract Price (whether by negotiation or making an offer or proposal) and affect the cost or time of performance shall be the subject of an equitable change in Contract Price or Contract Times.

7.12 *Record Documents*

- A. Design-Builder shall maintain the Record Documents in good order, in a safe place at the Site. Design-Builder shall annotate the Record Documents to show all changes and clarifications made (whether in the field or otherwise) during performance of Construction. The Record Documents, as annotated, will be available to Owner for reference. Upon completion of the Construction, Design-Builder shall deliver the Record Documents, as annotated, to Owner.
- B. After receipt and review of the Record Documents from Design-Builder upon completion of Construction, the Owner may comment on any possible inaccuracies. After Owner and Design-Builder collaboratively address any such comments, the Record Documents shall be deemed to be Record Drawings and Record Specifications.
- C. The Record Drawings and Record Specifications are Contract Documents, and are binding upon Design-Builder with respect to its obligations to comply with the Contract Documents, including but not limited to correction period responsibilities and warranty obligations.

7.13 *Safety and Protection*

- A. Design-Builder shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Construction Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Design-Builder shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. All persons on the Site or who may be affected by the Work;
 - 2. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. Other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and Underground Facilities not designated for removal, relocation, or replacement in the course of Construction.
- B. Design-Builder shall comply with applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Design-Builder shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- C. Design-Builder shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Design-Builder shall inform Owner of the specific requirements of Design-Builder's safety program with which Owner and its employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.13.A.2 or 7.13.A.3 caused, directly or indirectly, in whole or in part, by Design-Builder, any Construction Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Design-Builder.
- F. Design-Builder's duties and responsibilities for safety and for protection of the Construction shall continue until such time as all the Work is completed, Owner has issued a notice to Design-Builder in accordance with Paragraph 14.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion), and Design-Builder has left the Site.
- G. Design-Builder's duties and responsibilities for safety and protection shall resume whenever Design-Builder or any Construction Subcontractor, Supplier, or other representative returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Safety Representative*

- A. Design-Builder shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.15 *Hazard Communication Programs*

- A. Design-Builder shall be responsible for coordinating any exchange of safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.16 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Design-Builder is obligated to act to prevent threatened damage, injury or loss. Design-Builder shall give Owner prompt written notice if Design-Builder believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If a change in the Contract Documents is required because of the action taken by Design-Builder in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.17 *Post-Construction Phase*

- A. Design-Builder shall:
 - 1. Provide assistance in connection with the start-up and testing of any equipment or system.
 - 2. Assist Owner in training staff to operate and maintain the Work.

7.18 *Design-Builder's General Warranty and Guarantee*

- A. Design-Builder warrants and guarantees to Owner that Design-Builder will perform and complete the Construction as required by the Contract Documents, and that all Construction will be in accordance with the Contract Documents, the Construction Drawings, and the Construction Specifications (as duly modified in accordance with the Contract), and will not contain defects, except for those inherent in the quality of the Work the Contract Documents require or permit.
- B. Design-Builder's warranty and guarantee hereunder excludes defects or damage caused by:
 - 1. Abuse, modification or improper maintenance or operation by persons other than Design-Builder, Construction Subcontractors, or Suppliers or any other individual for whom Design-Builder is responsible; or
 - 2. Normal wear and tear under normal usage.
- C. None of the following will constitute an acceptance by Owner of Work that is not in accordance with the Contract Documents or a release of Design-Builder's obligation to perform the Work in accordance with the Contract Documents, unless expressly stated otherwise in writing:
 - 1. Observations by Owner;
 - 2. The making of any progress or final payment;
 - 3. The issuance of a certificate of Substantial Completion;

4. Use or occupancy of the Work or any part thereof by Owner;
5. Any review and approval of a Submittal;
6. Any inspection, test, or approval by others; or
7. Any correction of defective Construction by Owner.

7.19 *Indemnification*

- A. To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner and its agents and employees from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Design-Builder or anyone for whose acts Design-Builder may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section. The Parties acknowledge the application of N.C. Gen. Stat. § 22B-1 and the limits on indemnity therein. This section shall be construed to comply with that statute. In no event will Design-Builder be responsible for indemnifying Owner, its agents, or its employees for claims, damages, losses, and expenses arising out of the negligent acts or omissions of Owner, its agent, or its employees.
- B. In any and all claims or actions against Owner, or any of its officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Design-Builder, a Project Design Professional, any Construction Subcontractor, any Supplier, any individual or entity directly or indirectly employed or retained by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.19.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Design-Builder, a Project Design Professional, or any Construction Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Design-Builder under Paragraph 7.19.A shall not extend to the liability of other consultants or design professionals of Owner, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, designs, or specifications.

ARTICLE 8 – SUBMITTALS

8.01 *Design-Builder's Preparation of Submittals*

- A. Design Submittals shall be prepared by Project Design Professionals, on behalf of Design-Builder.
- B. The appropriate Project Design Professional shall review and approve each Submittal (including but not limited to all Design Submittals), other than those Submittals not involving technical or engineering matters, before Design-Builder's transmittal of such Submittal to Owner. Such review and approval shall account for the following, as appropriate:

1. That any items covered by such Submittal will, after installation or incorporation in the Construction, comply with the information and requirements in the Contract Documents and the Construction Drawings and Construction Specifications, as duly modified, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents, Construction Drawings, and Construction Specifications, as duly modified.
 2. That if the Submittal includes any proposed modification of the Contract Documents, Construction Drawings, or Construction Specifications, or any proposed variation from the requirements of such documents, such proposed modification or variation is acceptable based on the standards of the engineering profession (or other applicable design profession), and if implemented will be supported by signing or sealing by a licensed design professional, as necessary.
- C. Before Design-Builder's transmittal of a Submittal to Owner, the Design-Builder shall, as applicable:
1. Review and coordinate the Submittal with other Submittals and with the requirements of the Work, the Contract Documents, the Construction Drawings, and the Construction Specifications, as duly modified;
 2. Determine and verify all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal, and confirm that the Submittal is complete with respect to all related data included in the Submittal;
 3. Determine and verify the suitability of proposed materials and equipment with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation; and
 4. Determine and verify all information relative to Design-Builder's responsibilities for the means, methods, techniques, sequences, and procedures of construction, and for safety precautions and programs incident thereto.
- D. Design-Builder shall give Owner specific written notice of any proposed modification of the Contract Documents, Construction Drawings, or Construction Specifications, and any variations that a Submittal may have from the requirements of the Contract Documents, Construction Drawings, and Construction Specifications, as duly modified. This notice shall be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Submittal in drawing form, by a specific notation made on the drawing itself.
- E. Each Submittal shall bear a stamp or specific written certification by Design-Builder that it has satisfied its obligations under the Contract Documents with respect to preparation of the Submittal, and that Design-Builder approves the Submittal.
- F. All Submittals must be acceptable based on compliance with form and content requirements of the Contract Documents. Design-Builder shall submit Design Submittals for Owner's review and approval. Other Submittals shall not require express approval, except as indicated in the Supplementary Conditions or elsewhere in the Contract Documents.

8.02 *Owner's Review of Submittals*

- A. Owner will review all Submittals, and may comment on any Submittal. Any response to a Submittal by Owner shall be in accordance with the schedule of required Submittals accepted by Owner as required by Paragraph 2.07, and the provisions of the Contract Documents.
- B. For those Submittals requiring Owner's review and approval, Owner's response will be in writing and will indicate either that Owner approves the Submittal or rejects the Submittal. Owner may also include comments regarding the approved or rejected Submittal. For those Submittals that do not require approval, the Submittal shall be deemed acceptable to Owner unless Owner responds with a timely objection or adverse comment.
- C. Unless a specific provision of the Contract Documents expressly provides otherwise, Owner's review of a Submittal will be to determine if the Submittal complies with and is consistent with the Contract Documents. If Owner concludes that a Submittal requiring approval complies with and is consistent with the Contract Documents, the Owner shall approve such Submittal.
- D. Owner's approval, rejection, or acceptance of a Submittal will not extend to the means, methods, techniques, sequences, or procedures of Construction, or to safety precautions or programs incident thereto.
- E. Owner's review, comments, approval, rejection, or acceptance of Submittals shall not relieve Design-Builder from responsibility for (1) performance of the Work in accordance with the Contract Documents, (2) the scheduling and progress of the Work, (3) the means, methods, sequences, techniques, and procedures of Construction, and safety precautions and programs incident thereto, or (4) any variation from the requirements of the Contract Documents, unless Design-Builder has in a separate written communication at the time of submission called Owner's attention to each such variation, and Owner has given written approval of each such variation; nor shall Owner's review, comments, approval, rejection, or acceptance of a Submittal impose any such responsibility on Owner.
- F. Construction tasks and expenditures by Design-Builder prior to Owner's review and approval or acceptance of any Submittal will be at the sole risk of Design-Builder.
- G. In reviewing, approving, rejecting, accepting, or commenting on any Design Submittal, Owner does not assume responsibility for the design, for any deficiencies in the Design Submittal or in the Design Professional Services by which they were prepared, or for constructability, cost, or schedule problems that may arise in connection with the Design Submittal.
- H. The parties acknowledge that Design-Builder's design responsibilities continue after commencement of Construction. During the course of Construction, the Design-Builder may propose modifications to the Construction Drawings and Construction Specifications. Owner shall approve such proposed modifications if (1) they comply with and are consistent with the Contract Documents, (2) Design-Builder has demonstrated that the modification is minor in character, or will not be detrimental to the quality and function of the Work, (3) the appropriate Project Design Professional has reviewed and approved the proposed modification with respect to any technical or engineering matters, and (4) Owner has not relied on the previously-approved Construction Drawings and Construction Specifications, such that the proposed modification would be detrimental to the Owner's interests. At its option, Owner may also approve more substantial or divergent proposed modifications,

provided that the appropriate Project Design Professional has reviewed and approved the proposed modification with respect to any technical or engineering matters.

ARTICLE 9 – OTHER CONSTRUCTION -N/A

ARTICLE 10 – OWNER’S RESPONSIBILITIES

10.01 *General*

- A. Owner shall do the following in a timely manner so as not to delay the services of Design-Builder:
1. If requested in writing by Design-Builder, furnish reasonable evidence satisfactory to Design-Builder that sufficient funds are available and committed for the entire cost of the Project. Unless such reasonable evidence is furnished, Design-Builder is not required to commence or continue any Work, or may, if such evidence is not presented within a reasonable time, stop Work upon 15 days’ notice to the Owner;
 2. Make payments to Design-Builder promptly when they are due, as provided in Paragraph 14.01 and 14.06;
 3. Furnish the Site as set forth in Paragraph 5.01; arrange for safe access to and make all provisions for Design-Builder to enter upon public and private property as may reasonably be required for Design-Builder to perform Work under the Contract.
 4. Furnish to Design-Builder, as required for performance of the Work, the following, all of which Design-Builder may use and rely upon in performing services under this Agreement:
 - a. Environmental assessment and impact statements;
 - b. Property, boundary, easement, right-of-way, and other special engineering surveys or data;
 - c. Property descriptions;
 - d. Zoning, deed, and other land use restrictions;
 - e. Utility and topographic mapping and surveys;
 - f. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; any information or data known to Owner concerning underground facilities at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data;
 - g. Any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site;
 - h. Engineering surveys to establish reference points which in Owner’s judgment are necessary to enable Design-Builder to proceed with the Work;
 - i. Assistance to Design-Builder in filing documents required to obtain necessary permits, licenses, and approvals of governmental authorities having jurisdiction over the Project; and
 - j. Permits, licenses, and approvals of government authorities that the Contract Documents expressly require Owner to obtain.

5. Provide information known to Owner relating to the presence of materials and substances at the Site that could create a Hazardous Environmental Condition.
- B. If an obligation ascribed to Owner in Paragraph 10.01.A is expressly assigned to Design-Builder, in the description of the Work or elsewhere in the Contract Documents, then such express assignment to Design-Builder shall supersede the provision in Paragraph 10.01.A.
- C. Owner shall furnish or obtain, as required for the Project:
 - a. Accounting, bond and financial advisory (including, if applicable, “municipal advisor” services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 - b. Legal services with regard to issues pertaining to the Project as Owner requires, or Design-Builder reasonably requests.
 - c. Such auditing services as Owner requires to review cost submittals or ascertain how or for what purpose Design-Builder has used the money paid.
- D. Examine all studies, reports, alternate solutions, sketches, drawings, specifications, proposals, Submittals (including Design Submittals), and other documents presented by Design-Builder (including obtaining advice of an attorney, insurance counselor, and other consultants as Owner deems appropriate with respect to such examination), and if a decision is required with respect to any such document, render such decision in writing pursuant to any specific schedule, or if no specific schedule pertains, within a reasonable time after receipt of the document.

10.02 *Insurance*

- A. Owner’s responsibilities with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

10.03 *Limitations on Owner’s Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Design-Builder’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Design-Builder to comply with Laws or Regulations applicable to the furnishing or performance of the Work. Owner will not be responsible for Design-Builder’s failure to perform the Work in accordance with the Contract Documents.

10.04 *Undisclosed Hazardous Environmental Condition*

- A. Owner’s responsibility with respect to undisclosed Hazardous Environmental Conditions uncovered or revealed at the Site is set forth in Paragraph 5.06.

10.05 *Owner’s Site Representative (OSR)*

- A. Owner may furnish an Owner’s Site Representative to observe the performance of Construction. The duties, responsibilities and limitations of authority of any such Owner’s Site Representative and assistants shall be as follows:
 1. General: OSR's dealings in matters pertaining to the Construction in general shall be with Design-Builder’s designated representatives at the Site. OSR's dealings

with Design-Builder's Construction Subcontractors and Suppliers, including Project Design Professionals, shall only be through or with the knowledge and approval of Design-Builder.

2. Schedules: Review the Construction progress schedule, schedule of Submittals, and Schedule of Values prepared by or for Design-Builder.
3. Conferences and Meetings: Attend meetings with Design-Builder and Construction Subcontractors, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings.
4. Liaison. Serve as Owner's liaison:
 - a. with Design-Builder regarding the Construction.
 - b. with Design-Builder when Design-Builder's operations affect Owner's onsite operations.
 - c. with respect to Design-Builder requests for additional details or information from Owner, or for clarifications and interpretations of the Contract Documents.
 - d. with respect to proposed modifications of the Contract Documents, Change Orders, and similar matters.
5. Submittals:
 - a. Record date of receipt of Submittals and samples approved by Design-Builder.
 - b. Receive samples furnished at the Site by Design-Builder, and notify Owner of availability of samples for examination.
 - c. Advise Owner and Design-Builder of the commencement of any portion of the Construction requiring a Submittal or sample for which OSR believes that the Submittal has not been accepted by Owner
6. Observation of the Construction:
 - a. Conduct on-site observations of Design-Builder's Construction in progress.
7. Inspections, Tests, and System Start-ups:
 - a. Observe tests, equipment and systems start-ups, and operating and maintenance training.
 - b. Review Design-Builder's recordkeeping regarding tests, equipment and systems start-ups, and operating and maintenance training.
8. Records:
 - a. Prepare a daily report or keep a diary or log book, recording Design-Builder's hours at the Site, Construction Subcontractors present at the Site, weather conditions, Site visitors, any Site accidents, force majeure or delay events, emergencies, damage to property by fire or other causes, the discovery of any Constituent of Concern or Hazardous Environmental Condition, and deliveries of equipment or materials.

- b. Record names, addresses, fax numbers, e-mail addresses, website locations, and telephone numbers of all Construction Subcontractors and major Suppliers of materials and equipment.
 - 9. Payment Requests: Review each Construction-related Application for Payment received from Design-Builder; note compliance with the established procedure for Application for Payment submission; meet with Design-Builder to review each Application for Payment; and forward the Application for Payment with recommendations to Owner, noting particularly the relationship of the payment requested to: (a) the Schedule of Values accepted by Owner, (b) relevant cost of the work provisions, (c) Construction completed, and (d) materials and equipment delivered to the Site but not incorporated in the Construction.
 - 10. Certificates, Operation and Maintenance Manuals: During the course of Construction, review materials and equipment certificates, operation and maintenance manuals, and other documentation required by the Contract Documents to be assembled and furnished by Design-Builder, noting whether the documentation is applicable to the items actually installed, and deliver such documentation to Owner for its review and acceptance prior to payment for that part of the Work.
 - 11. Completion:
 - a. Participate in Owner's visits to the Site to determine Substantial Completion, assist in the preparation of a punch list of items to be completed or corrected, and in preparation of the certificate of Substantial Completion.
 - b. Participate in Owner's final inspection at the Site to determine completion of the Work, in the company of Owner and Design-Builder, and assist in preparation of a final punch list of items to be completed and deficiencies to be remedied, if any.
 - c. Observe whether items on the final punch list have been completed or corrected, and make recommendations to Owner concerning acceptance and issuance of the notice of acceptability of the Work. Assist Owner with preparing the notice of acceptability of the Work.
- C. The OSR shall not:
- 1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 - 2. Exceed limitations of Owner's authority as set forth in the Contract Documents.
 - 3. Undertake any of the responsibilities of Design-Builder, Construction Subcontractors, Project Design Professionals, or Suppliers.
 - 4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work.
 - 5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Design-Builder.
 - 6. Accept Submittals from anyone other than Design-Builder.

7. Have any authority with respect to Owner's occupancy of the Construction, in whole or in part.

10.06 *Owner's Consultants and Managers*

- A. Owner's Consultant, if any, is identified in the Agreement.
- B. Owner shall advise Design-Builder of the identity and scope of services of any other independent consultants or managers retained by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, constructability review, program management, project management, or contract administration.
- C. Neither Owner's Consultant, Owner's Site Representative, nor any other consultant or manager retained by Owner, has any duties, responsibilities, or authorities with respect to Design-Builder, unless expressly provided in this Contract. Owner's Consultant and such other consultants and managers shall not supervise, direct, or have control or authority over, nor be responsible for, Design-Builder's means, methods, techniques, sequences, or procedures of construction or the safety precautions and programs incident thereto, or for any failure of Design-Builder to comply with Laws or Regulations applicable to the furnishing or performance of the Work; and will not be responsible for Design-Builder's failure to perform the Work in accordance with the Contract Documents.

10.07 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Design-Builder's safety programs of which Owner has been informed pursuant to Paragraph 7.13.D.
- B. Owner shall inform Design-Builder of any specific requirements of safety or security programs that are applicable to Design-Builder while at the Site.

10.08 *Permits and Approvals*

- A. Owner shall reasonably coordinate and cooperate with Design-Builder as needed to obtain all required permits. The owner shall coordinate reviews and approval of an encroachment permit from NCDOT using information as provided in Paragraph 7.09.C.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order or a Work Change Directive.
 1. *Change Orders*: If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 2. *Work Change Directives*: The Work modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order. When a Work Change Directive is issued, the parties will promptly meet to attempt to negotiate the Work Change Directive's effect, if any, on the Contract Times and Contract Price. The effect, if any, on Contract Times and Contract Price, together with the Work Change

Directive's addition, deletion, or revision to the Work, will be set forth in a subsequently issued Change Order. If the Parties cannot agree on the terms of a written Change Order, this does not bar the Design-Builder from seeking a change in the Contract Time or Contract Price through the Dispute Resolution Procedures.

- B. Either Owner or Design-Builder may propose or request a Change Order. With respect to certain events, this Contract may indicate specific times in which such requests or proposals must be submitted to the other party. With respect to all other events, the request or proposal shall be submitted to the other party within 30 days of the event giving rise to the request or proposal.

11.02 *Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, and notwithstanding any other provision of the Contract, Owner may, at any time or from time to time, order or authorize additions, deletions, or revisions in the Work within the general scope of the Contract. Such changes may be accomplished by a Change Order, if Owner and Design-Builder have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Design-Builder shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Design-Builder to undertake work that Design-Builder reasonably concludes cannot be performed in a manner consistent with Design-Builder's safety or professional obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

- A. Design-Builder shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any Work performed that is not required by the Contract Documents, as duly amended, except in the case of an emergency as provided in Paragraph 7.16, or in the case of uncovering Construction as provided in Paragraph 13.03.A.3. Consistent with Section 11.01.A.2, Design-Builder is not prohibited by this section from pursuing a Claim pursuant to the Dispute Resolution Procedures for a change in the Contract Time or the Contract Price for any valid basis under this Agreement.

11.04 *Changes Involving the Design*

- A. To the extent a change, whether proposed by Design-Builder or Owner, ordered by Owner, or set forth in a proposed Change Order or in a Work Change Directive, involves the design (as set forth in the Construction Drawings, Construction Specifications, or otherwise) or other engineering or technical matters, such changes must be reviewed and approved by the applicable Project Design Professional. The review and approval may occur at the time the change occurs, or as part of Design-Builder's provision of Professional Design Services in response to the change.

11.05 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim regarding an adjustment in the Contract Price shall be presented by written notice to the other party in accordance with Paragraph 16.01. Consistent with Section 11.01.A.2, a Party's right to seek an adjustment of the Contract Price and/or Contract Time through Article 16 is not barred by the absence of a Change Order.

- B. If the Contract Price is based on Cost of the Work, then the provisions in the Agreement regarding Cost of the Work and changes in the Design-Builder's fee, Contract Price, Guaranteed Maximum Price, and Guaranteed Maximum Fee, apply.
- C. The value of any Work covered by a Change Order or of any adjustment in the Contract Price will be determined as follows:
 - 1. Where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 12.02); or
 - 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.05.D); or
 - 3. Where the Work involved is not covered by unit prices contained in the Contract Documents, and agreement to a lump sum is not reached under Paragraph 11.05.C.2, then on the basis of the Cost of the Work for price adjustments (determined as provided in the Cost of the Work provisions in the Agreement, if applicable, or in Paragraph 12.01), plus a Design-Builder's Fee for overhead and profit (determined as provided in Paragraph 11.05.D).
- D. *Design-Builder's Fee*: The Design-Builder's fee for overhead and profit on Change Orders shall be determined as follows:
 - 1. A fixed fee of 15%.

11.06 *Change of Contract Times*

- A. The Contract Times shall be changed by a Change Order, subject to Design-Builder's rights to pursue a claim for a change in the Contract Times through the dispute resolution process. Any Claim regarding an adjustment of the Contract Times shall be presented by written notice to the other party pursuant to Paragraph 16.01.
- B. Design-Builder's entitlement to an adjustment of the Contract Times under this Contract is conditioned on such adjustment being essential to Design-Builder's ability to complete the Work within the Contract Times.

11.07 *Execution of Change Orders*

- A. Owner and Design-Builder shall execute appropriate Change Orders covering:
 - 1. Changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. Changes in Contract Price resulting from an Owner set-off, unless Design-Builder has duly contested such set-off;
 - 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's correction of defective Work under Paragraph 13.05 or Owner's acceptance of defective Work under Paragraph 13.07, or (c) agreed to by the parties (all subject to the need for review and approval by the applicable Project Design Professional pursuant to Paragraph 11.04); and

4. Changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Article 16.
- B. If Owner or Design-Builder refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notice to Sureties*

- A. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be Design-Builder's responsibility. The amount of each applicable Bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – COST OF THE WORK ADJUSTMENTS; UNIT PRICE WORK

12.01 *NOT USED*

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE CONSTRUCTION

13.01 *Access to Construction*

- A. Owner, Owner's Consultant, Owner's Site Representative, and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Construction at reasonable times for their observation, inspecting, and testing. Owner shall provide reasonable notice of such visits to the Design-Builder. Design-Builder shall provide them proper and safe conditions for such access and advise them of Design-Builder's Site safety procedures and programs so that they shall comply therewith as applicable while at the Site.

13.02 *Tests, Inspections, and Approvals*

- A. Design-Builder shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 1. By the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 2. By Laws and Regulations, unless the Contract Documents or Laws and Regulations expressly allocate responsibility for a specific inspection or test to Owner;
 3. To attain Owner's acceptance of materials or equipment to be incorporated in the Construction;
 4. By manufacturers of equipment furnished under the Contract Documents;
 5. To meet the requirements of the Construction Drawings and Construction Specifications;
 6. For testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Construction; and
 7. For acceptance of materials, mix designs, or equipment submitted for approval prior to Design-Builder's purchase thereof for incorporation in the Construction.

- B. Owner shall be responsible for arranging, obtaining, and paying for all inspections and tests expressly required by the Contract Documents or Laws and Regulations to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Construction shall be governed by the provisions of Paragraph 13.03.
- C. All inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Design-Builder.
- D. If the Contract Documents require the Construction (or part thereof) to be approved by Owner or another designated individual or entity, then Design-Builder shall assume full responsibility for arranging and obtaining such approvals.
- E. Design-Builder shall give Owner reasonable notice of the planned schedule for all required inspections, tests, and approvals.
- F. Design-Builder shall give Owner timely notice of readiness of the Construction (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- G. Each party shall provide the other with copies of any certificates of inspection or approval obtained with respect to tests and inspections.
- H. Both parties may rely on the results of inspections and tests, performed pursuant to this paragraph and the governing provisions of the Contract Documents, Laws and Regulations, and the Construction Drawings and Construction Specifications.
- I. If any Construction (or the construction work of others) that is required to be inspected, tested, or approved is covered by Design-Builder without written concurrence of Owner, then Contractor shall, if requested by Owner, uncover such Construction for observation. Such uncovering shall be at Design-Builder's expense unless Design-Builder has given Owner timely notice of Design-Builder's intention to cover the same and Owner has not acted with reasonable promptness in response to such notice.

13.03 *Uncovering Construction*

- A. If Owner considers it necessary or advisable that covered Construction be observed by Owner or inspected or tested by others, then Design-Builder, at Owner's request, shall uncover, expose or otherwise make available for observation, inspection, or testing, as Owner may require, that portion of the Construction in question, furnishing all necessary labor, material, and equipment.
 - 1. If the Construction had been covered contrary to the timely and reasonable written request of Owner or a requirement of the Contract Documents, then uncovering it for Owner's observation and re-covering it shall be at Design-Builder's expense, regardless of whether it is defective.
 - 2. If it is found that the covered Construction is defective, Design-Builder shall pay all costs and damages caused by or resulting from such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement, re-covering, or reconstruction (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, all court or arbitration or other dispute resolution costs, and all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price.

3. If the covered Construction is not found to be defective, Design-Builder shall be allowed an increase in the Contract Price or an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, re-covering, and reconstruction, subject to the provisions of Paragraph 13.03.A.1.

13.04 *Defective Construction*

- A. It is Design-Builder's obligation to assure that the Construction is not defective.
- B. Owner shall give Design-Builder prompt written notice of all defective Construction of which Owner has actual knowledge. Owner may reject, accept, or correct defective Construction.
- C. Promptly after receipt of written notice of defective Construction, unless Owner expressly indicates that it will accept the defective Construction, Design-Builder shall correct all such defective Construction, whether or not fabricated, installed, or completed; or, if Owner has rejected the defective Construction, remove it from the Project and replace it with Construction that is not defective.
- D. When correcting defective Construction, Design-Builder shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Construction.

13.05 *Owner May Correct Defective Construction*

- A. If Design-Builder fails within a reasonable time after written notice from Owner to correct defective Construction or to remove and replace rejected Construction, or if Design-Builder fails to perform the Construction in accordance with the Contract Documents, or if Design-Builder fails to comply with any other provision of the Contract Documents, Owner may, after 7 days' written notice and opportunity to cure to Design-Builder, correct and remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.05 Owner shall proceed expeditiously. In connection with such corrective and remedial action, Owner may exclude Design-Builder from all or part of the Site, take possession of all or part of the Construction, and suspend Design-Builder's services related thereto, and incorporate in the Construction all materials and equipment stored at the Site or for which Owner has paid Design-Builder but which are stored elsewhere. Design-Builder shall allow Owner, Owner's Consultant, Owner's Site Representative, and Owner's other representatives, agents, employees, and contractors, access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

13.06 *Costs*

- A. Design-Builder shall bear all costs arising out of or relating to the correction, removal, or replacement of defective Construction, including but not limited to repair of adjacent Work or property; delay costs and impacts; fees and charges of engineers, architects, attorneys, and other professionals; and all court, arbitration, or other dispute resolution costs.
- B. All costs, losses, and damages (included but not limited to fees and charges of engineers, architects, attorneys and other professionals, all court or arbitration or other dispute resolution costs, and all costs of repair or replacement of work of others) incurred or sustained by Owner in exercising its rights and remedies arising from defective Construction under this Article will be charged against Design-Builder, by set-off against payment or otherwise.

- C. Design-Builder shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to defective Construction.

13.07 *Owner's Acceptance of Defective Construction*

- A. If, instead of requiring correction or removal and replacement of defective Construction, Owner prefers to accept it, Owner may do so. If such acceptance is proposed prior to final payment, it shall be subject to confirmation by the applicable Project Design Professional that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety. Design-Builder shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Construction. If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents, and Owner shall be entitled to an appropriate decrease in the Contract Price reflecting the diminished value of the Construction so accepted.

ARTICLE 14 – PAYMENTS TO DESIGN-BUILDER; COMPLETION

14.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Paragraph 2.04 will serve as the basis for progress payments. Progress payments on account of Unit Price Work will be based on the number of units completed.
- B. *Application for Progress Payment:* On or about the date established in the Agreement for submission of each application for progress payment (but not more often than once a month), Design-Builder shall submit to Owner for review an Application for Payment filled out and signed by Design-Builder covering the Work completed as of the date indicated on the Application and accompanied by supporting documentation as required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect Owner's interest therein, all of which will be satisfactory to Owner.
- C. *Payment of Obligations:*
 - 1. Beginning with the second Application for Payment, each Application shall include an affidavit of Design-Builder stating that all previous progress payments received on account of the Work have been applied on account to discharge Design-Builder's legitimate obligations associated with prior Applications for Payment.
 - 2. If Design-Builder contends that it has withheld payment of underlying obligations for good cause, then Design-Builder shall inform Owner of the identity of the entity from which Design-Builder has withheld payment, the amount of the withholding, and the reason for the withholding.

- D. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- E. *Review of Applications:*
1. Owner will, within 7 days of receipt of each Application for Payment, either indicate in writing its acceptance of the Application and state that the Application is being processed for payment, or return the Application to Design-Builder indicating in writing its reasons for refusing to accept the Application. Owner shall pay the undisputed portion of the pay application within 14 days after receipt of a revised, accepted pay application from Design-Builder for the undisputed portion.
- F. Not more than 7 days after accepting such Application the amount will become due and when due will be paid by Owner to Design-Builder.
1. If Owner should fail to pay Design-Builder at the time the payment of any amount becomes due, then Design-Builder may, at any time thereafter, upon serving written notice that he will stop the Work within 7 days after receipt of the notice by Owner, and after such 7-day period, stop the Work until payment of the amount owing has been received. Written notice shall be deemed to have been duly served if sent by certified mail to the last known business address of Owner.
 2. Payments due but unpaid shall bear interest at the rate specified in the Agreement.
 3. No Progress Payment nor any partial or entire use or occupancy of the Project by Owner shall constitute an acceptance of any Work not in accordance with the Contract Documents.
- G. *Reduction in or Refusal to Make Payment:*
1. Owner may impose a set-off against the whole or any part of any such payment, or nullify any previous payment because of subsequently discovered evidence or the results of subsequent inspections or tests, to the extent that is reasonably necessary to protect Owner from loss because:
 - a. Claims have been made against Owner on account of Design-Builder's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Design-Builder's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from breach of warranty, workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Design-Builder has failed to provide and maintain required bonds or insurance;
 - c. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Design-Builder is responsible;
 - d. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities, to the extent such extra charges are the direct result of submittals, tests and/or inspections that fail to meet the requirements of the Contract Documents.
 - e. The Construction is defective, requiring correction or replacement;

- f. Owner has been required to correct defective Construction in accordance with Paragraph 13.05, or has accepted defective Construction pursuant to Paragraph 13.07;
 - g. The Contract Price has been reduced by Change Orders and the change is not incorporated in the pay application;
 - h. An event that would constitute a default by Design-Builder and therefore justify a termination for cause has occurred;
 - i. Liquidated damages, special damages, or performance damages have accrued under the Contract Documents as a result of Design-Builder's failure to achieve Milestones, Substantial Completion, final completion of the Work, or performance requirements, as applicable;
 - j. There are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, Owner will give Design-Builder immediate written notice stating the reasons for such action and the specific amount of the reduction, and promptly pay Design-Builder any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Design-Builder the amount so withheld, or any adjustment thereto agreed to by Owner and Design-Builder, if Design-Builder remedies the reasons for such action. The reduction imposed shall be binding on Design-Builder unless it duly presents a written notice of Claim contesting the reduction.

14.02 *Design-Builder's Warranty of Title*

- A. Design-Builder warrants and guarantees that title to all Construction, materials, and equipment covered by any Application for Payment, whether already incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.03 *Substantial Completion*

- A. When Design-Builder considers the Work ready for its intended use Design-Builder shall notify Owner in writing that the Work is substantially complete (except for items specifically listed by Design-Builder as incomplete) and request that Owner issue a certificate of Substantial Completion. Promptly thereafter, Owner and Design-Builder shall make an inspection of the Work to determine the status of completion. If Owner does not consider the Work substantially complete, Owner will notify Design-Builder in writing giving the reasons therefor and shall refrain from utilizing the Work except as otherwise provided in Paragraph 14.04. .
- B. If Owner considers the Work substantially complete:
 - 1. Owner and Design-Builder will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Design-Builder agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
 - 2. Owner will prepare and deliver to Design-Builder a certificate of Substantial Completion which shall fix the date of Substantial Completion. Owner shall attach to the certificate a punch list of items to be completed or corrected before final payment.

- C. After Substantial Completion the Design-Builder shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Design-Builder may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- D. Owner shall have the right to exclude Design-Builder from the Site after the date of Substantial Completion subject to allowing Design-Builder reasonable access to remove its property and complete or correct items on the punch list.

14.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Construction which (1) has specifically been identified in the Contract Documents, or (2) Owner and Design-Builder agree constitute a separately functioning and usable part of the Construction that can be used by Owner for its intended purpose without significant interference with Design-Builder's performance of the remainder of the Construction, subject to the following:
 - 1. Owner at any time may request Design-Builder in writing to permit Owner to use or occupy any such part of the Construction that Owner believes to be ready for its intended use and substantially complete. If Design-Builder agrees that such part of the Work is substantially complete, Design-Builder and Owner will follow the procedures of Paragraph 14.03 for that part of the Construction.
 - 2. Design-Builder at any time may notify Owner in writing that Design-Builder considers any such part of the Work ready for its intended use and substantially complete and request Owner to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner and Design-Builder shall make an inspection of that part of the Work to determine its status of completion. If Owner does not consider that part of the Work to be substantially complete, Owner will notify Design-Builder in writing giving the reasons therefor. If Owner considers that part of the Work to be substantially complete, the provisions of Paragraph 14.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 - 4. No use or occupancy of part of the Construction will be accomplished prior to compliance with the requirements of Paragraph 6.05 regarding property insurance.

14.05 *Final Inspection*

- A. Upon written notice from Design-Builder that the entire Work or an agreed portion thereof is complete, Owner will make a final inspection with Design-Builder and will notify Design-Builder in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Design-Builder shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.06 *Final Payment*

- A. *Application for Payment:*
 - 1. After Design-Builder has completed all such corrections as required by the Contract Documents and delivered in accordance with the Contract Documents all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence

of insurance, certificates of inspection, and Record Documents, Design-Builder may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (unless previously delivered) by:
 - a. All documentation called for in the Contract Documents;
 - b. Consent of the surety, if any, to final payment;
 - c. Satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment;
 - d. A list of all disputes that Design-Builder believes are unsettled; and
 - e. Complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
 3. In lieu of such releases or waivers of Liens specified in Paragraph 14.06.A.2, and as approved by Owner, Design-Builder may furnish receipts or releases in full and an affidavit of Design-Builder that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed, and (b) all payrolls, material and equipment bills and other indebtedness connected with the Work for which Owner might in any way be responsible, or which in any way might result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Project Design Professional, Construction Subcontractor, or Supplier fails to furnish such a release or receipt in full, Design-Builder may furnish a Bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.
- B. *Final Payment and Acceptance:* If Owner is satisfied that the Work has been completed and Design-Builder's other obligations under the Contract Documents have been fulfilled, Owner will, within 10 days after receipt of the final Application for Payment, give written notice to Design-Builder that the Work is acceptable. Otherwise, Owner will return the Application to Design-Builder, indicating in writing the reasons for refusing to process final payment, in which case Design-Builder shall make the necessary corrections and resubmit the Application.
- C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment.
- D. *Payment Becomes Due:* The amount will become due and will be paid by Owner to Design-Builder 30 days after the presentation to Owner of the acceptable Application and accompanying documentation, in appropriate form and substance and with Owner's notice of acceptability.

14.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Design-Builder. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.05, from Design-Builder's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from unresolved disputes or Claims presented by Owner, or from Design-Builder's continuing obligations under the Contract. This section does not alter or diminish Owner's obligations to duly submit matters to dispute resolution under the provisions of Article 16.

- B. The acceptance of final payment by Design-Builder will not constitute a waiver by Design-Builder of claims or rights against Owner. Design-Builder expressly reserves claims and rights unsettled at the time of making of final payment. This section does not alter or diminish Design-Builder's obligations to duly submit matters to dispute resolution under the provisions of Article 16.

14.08 Correction Period

- A. If within one year after the date of Substantial Completion of the entire Work or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Construction is found to be defective, Design-Builder shall promptly, without cost to Owner and in accordance with Owner's written instructions, (1) correct such defective Construction, or, if it has been rejected by Owner, remove it from the Site and replace it with Construction that is not defective, and (2) satisfactorily correct or remove and replace any damage to other Construction or the work of others resulting therefrom. If Design-Builder does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Construction corrected or the rejected Construction removed and replaced, and all costs, losses, and damages caused by or resulting from such removal and replacement (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, all court or arbitration or other dispute resolution costs, and all costs of repair or replacement of work of others) will be paid by Design-Builder.
- B. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Conceptual Documents.
- C. Where defective Construction (and damage to other Construction resulting therefrom) has been corrected, or removed or replaced, under this Paragraph 14.08, the correction period hereunder with respect to such Construction will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 Owner's Right to Stop Work.

- A. Owner may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.
- B. Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by suspension or stoppage of the Work by Owner under Paragraph 15.01.A.

15.02 Owner's Right to Perform and Terminate for Cause.

- A. If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers or equipment, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other

rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 15.02.B and 15.03.C below.

- B. Upon the occurrence of an event set forth in Paragraph 15.02.A above, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, by Design-Builder within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or provide a reasonable plan for curing within a reasonable time (such time being determined by the nature of the specific default at issue) such default, then Owner may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) day period. If Design-Builder, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.
- C. Upon declaring the Agreement terminated pursuant to Paragraph 15.02.B above, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by Owner in completing the Work, such excess shall be paid by Owner to Design-Builder. Notwithstanding the preceding sentence, if the Agreement establishes a Guaranteed Maximum Price, Design-Builder will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the procurement and defense of claims arising from Design-Builder's default, subject to the waiver of consequential loss set forth in Section 6.06 hereof.
- D. If Owner improperly terminates the Agreement for cause as determined by Article 16, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Paragraph 15.06 hereof.

15.03 Design-Builder's Right to Stop Work.

- A. Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop the Work for the following reasons:
 - 1. Owner's failure to provide financial assurances as required under Section 3.3 hereof; or
 - 2. Owner's failure to pay amounts properly due under Design-Builder's Application for Payment.
- B. Should any of the events set forth in Paragraph 15.03.A above occur, Design-Builder has the right to provide Owner with written notice that Design-Builder will stop the Work unless said event is cured within seven (7) days from Owner's receipt of Design-Builder's notice. Design-Builder shall not stop work unless it provides such written notice and Owner has failed to cure

the reason for default within the seven (7) day cure period. If Owner does not cure the problem within such seven (7) day period, Design-Builder may stop the Work. In such case, Design-Builder shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted by such stoppage.

15.04 *Design-Builder's Right to Terminate for Cause.*

- A. Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:
 - 1. The Work has been stopped for more than sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Paragraph 15.01.A hereof, provided that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.
 - 2. Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for more than sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Paragraph 15.01.A hereof.
 - 3. Owner's failure to cure the problems set forth in Paragraph 15.03.A above after Design-Builder has stopped the Work.
- B. Upon the occurrence of an event set forth in Paragraph 15.04.A above, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured by Owner or provide a reasonable plan for curing within a reasonable time (such time being determined by the nature of the specific default at issue) such default, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 8 of the Agreement.

15.05 *Bankruptcy of Owner or Design-Builder.*

- A. If either Owner or Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code (such party being referred to as the "Bankrupt Party"), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:
 - 1. The Bankrupt Party, its trustee or other successor, shall furnish, upon request of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and
 - 2. The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action. If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request

the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this Article 15.

- B. The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Builder to stop Work under any applicable provision of these General Conditions of Contract.

15.06 *Termination for Convenience.*

- A. Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:
 - 1. All Work executed and for proven loss, cost or expense incurred by Design-Builder in connection with performance of the Work as allowed by and in the manner set forth by the Contract Documents;
 - 2. The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants.
- B. If Owner terminates this Agreement pursuant to Paragraph 15.06.A above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Section 3.04 of the General Conditions. Such rights may not be transferred or assigned to others without Design-Builder's express written consent and such third parties' agreement to the terms of Article 3.

ARTICLE 16 – DISPUTES

16.01 *Methods and Procedures*

- A. *Notice of Claim:* If Owner and Design-Builder are not in agreement regarding a proposed or requested Change Order, other proposed adjustment of Contract Price or Contract Times, a Work Change Directive issued by Owner, or any other relief proposed or requested under the Contract, then either party may provide written notice of a Claim to the other party. Such notice of Claim shall be given within 90 days of: the proposal or request for a Change Order; such other proposed adjustment of Contract Price or Contract Times; the issuance of the Work Change Directive; or the proposal or request for other relief under the Contract. The notice of Claim shall be given within the 90 days regardless of whether the other party has responded to such proposal, request, or issuance, and regardless of whether discussions or negotiations are in progress; provided, however, that the parties may extend the time to give such notice of Claim by mutual written agreement. The notice of Claim shall include a statement of position, specification of the remedy sought, and supporting documentation.
- B. *Response:* Within 30 days of the date of notice of Claim, the receiving party shall respond with a written statement of position and any supporting documentation.
- C. *Direct Negotiations:* Owner and Design-Builder agree to directly negotiate all Claims between them in good faith for a period of 60 days from the date of notice of Claim.

- D. *Mediation*: If direct negotiations are unsuccessful in resolving a Claim, then Owner and Design-Builder shall submit the unsettled Claim to mediation by a mutually agreeable mediator or mediation service. Owner and Design-Builder agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days.
1. The fees and expenses, including filing fees, of the mediator and any mediation service shall be shared equally by Owner and Design-Builder.
 2. The mediation shall be held in the locality where the Project is located, unless another location is mutually agreed upon by the parties.
 3. A settlement (if any) resulting from such mediation will be specifically enforceable under the prevailing law, by any court having jurisdiction.
 4. Participation in the mediation process in good faith is a condition precedent to commencing final or binding dispute resolution.
- E. In the event of a dispute between Owner and Design-Builder which the parties are unable to resolve within the normal course of business, Owner and Design-Builder, within fifteen (15) days after delivery of written notice of the dispute, shall promptly appoint a designated representative who has authority to settle the dispute. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. If the parties are unable to resolve issues related to the dispute within thirty (30) days after appointment of the designated representatives, then either may submit their dispute to non-binding mediation before the regulatory authority having proper jurisdiction pursuant to such regulatory authority's rules and practices for handling such disputes. Each Party shall bear its own costs and expenses of participating in the mediation (including, without limitation, reasonable attorneys' fees), and each Party shall bear one-half (½) of the costs and expenses of the mediator. The matters discussed or revealed in the mediation session shall not be revealed in any subsequent litigation. In the event the matter is not resolved in mediation, the dispute resolution procedures in this section shall not preclude either party from filing a proceeding or commencing a dispute process before a regulatory authority having proper jurisdiction pursuant to such regulatory authority's rules and practices for handling such matters.
- F. Final Dispute Resolution will be as follows: This Agreement is deemed to be made in Pitt County, North Carolina under and shall be governed by and construed according to the laws of the State of North Carolina and the ordinances of the City of Greenville. North Carolina law shall govern the interpretation and enforcement of this Agreement, and any other matters relating to this Agreement. The exclusive forum and venue for all actions arising out of this Agreement shall be the North Carolina General Court of Justice, in Pitt County, North Carolina. Such actions shall neither be commenced in nor removed to federal court. This subsection shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this subsection. By execution of this Agreement, the Parties submit to the jurisdiction of such herein stated courts and hereby irrevocably waive any and all objections which they may have with respect to venue in any said court sitting in Pitt County, North Carolina.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice to the other party to this Contract, it will be deemed to have been validly given if delivered to the Authorized Representative of the other party:
 - 1. In person, by a commercial courier service or otherwise; or
 - 2. By registered or certified mail, postage prepaid; or
 - 3. By e-mail, with the words “Formal Notice” or similar in the e-mail’s subject line.

17.02 *Computation of Times*

- A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

- A. Unless expressly stated otherwise in this Contract, the duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, or waiver of, any rights and remedies available to any or all of them which are otherwise imposed or available by:
 - 1. Laws or Regulations; or
 - 2. Any special warranty or guarantee; or
 - 3. Other provisions of the Contract.
- B. The provisions of Paragraph 17.03.A will be as effective as if repeated specifically in the Contract in connection with each particular duty, obligation, right and remedy to which they apply.

17.04 *Limitation of Damages*

- A. With respect to this Contract and any and all Claims and other matters at issue, Owner shall not be liable to Design-Builder for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Design-Builder on or in connection with any other project or anticipated project.

17.05 *No Waiver*

- A. A party’s non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

17.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Work and termination or completion of the Contract.

17.07 *Controlling Law*

- A. The Contract Documents will be construed in accordance with the law of the place of the Project.

17.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

17.09 *Iran Divestment Act Certification*

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

17.10 *E-Verify*

- A. The Design-Builder shall comply with the requirements of Chapter 64, Article 2 of the North Carolina General Statutes. Further if the Design-Builder utilizes a subcontractor or subconsultant, the Design-Builder shall require the subcontractor and subconsultant to comply with the requirements of Chapter 64, Article 2 of the North Carolina General Statutes. The Design-Builder represents that the Design-Builder and its subcontractors and subconsultants are in compliance with the requirements of Chapter 64, Article 2 of the North Carolina General Statutes.

17.11 *Israeli Boycott Divestment*

- A. The Design-Builder certifies that it has not been designated by the North Carolina State Treasurer as a company engaged in the boycott of Israel pursuant to NCGS 147-86.81.

Exhibit A – Attachment 1

0-60% Preliminary Stage Scope

COREY ROAD REGIONAL DETENTION AND STREAM RESTORATION CONCEPT

Project Description:

The overall objective is to develop 60% design plans for the Corey Road Regional Detention project which will include flood storage and green infrastructure downstream of Corey Road and capacity increases of the Corey Road crossing. The project goals include meeting the requirements of the LASII funded grant including nutrient reduction, flood reduction in the vicinity of Trafalgar Road, and detention to prevent increases of downstream flows. Phase 1 will end at 60% design plans and development of the estimated Completion Stage LS. The scope of Phase 1 includes survey, geotechnical assessment, utility location, baseline geomorphic assessment, preliminary H&H modeling, conceptual design, 30% design, 60% design, regulatory pre-application meetings, funding support, and stakeholder engagement.

1 PROJECT ADMINISTRATION

The DESIGN-BUILDER shall manage the project in a manner that is responsive to the needs and schedule of the OWNER and ensure the quality of the product. The following project management efforts shall be conducted by DESIGN-BUILDER in coordination with the OWNER:

1.1 Project Formulation and Quality Control Project Plan

The Design-Builder shall develop a Quality Control Project Plan (QAPP) that includes the essential elements needed to ensure a successful project. The QAPP shall be developed to meet the requirements of LASII grant and funding sources. As part of this effort, Design-Builder will take into account the OWNER 's and various subconsultants' schedules, as well as budget, and grant requirements, and will work to avoid duplication of work previously completed to provide cost efficiency and expedition of the schedule. This task will also include project planning and formulation including a kickoff scoping meeting that will establish the management process to ensure the quality control program throughout the life of the project.

At a minimum, the following elements will be used as the framework of the project approach and workplan:

- Project Description;
- Roles and Responsibilities;

- Project Workflow and Communications Plan;
- Quality Assurance / Quality Control;
- Technical Approach;
- Assumptions and Methodologies;
- Schedule of Performance with milestone and deliverable dates;
- Technical and Design Standards;
- Coordination with adjacent projects;
- Available Utility GIS data sets;
- City of Greenville Stormwater Regulations; and
- Flood Mitigation.

1.2 Project Schedule

The Design-Builder shall prepare and submit a project schedule for review and approval by the OWNER's Project Manager. The schedule shall be broken down by work tasks and milestone events. This schedule shall be used as a project control system for the ENGINEER and as a basis for status reporting.

1.3 Progress Meetings

The Design-Builder shall plan/attend/schedule/document the progress meetings with Owner bi-monthly: one in person and one virtual.

1.4 Quality Assurance/Quality Control (QA/QC)/Constructability

The Design-Builder shall coordinate and conduct QA/QC, including reviews at key stages of the project, independent project quality control reviews to assess conformance to project scope, data collection, methodologies, model output, budget, schedule, and prepare QA/QC documentation.

The Design-Builder will conduct Internal Design Team Meetings and, at the Owner and Design Team (Design Professionals) workshops and meetings as required, will review the project as it relates to constructability and provide feedback to the design team.

1.5 Project Controls and Document Management

The DESIGN-BUILDER will provide the following project controls and Document Management:

- Design Coordination
 - This task involves the T. A. Loving Preconstruction Manager, Project Manager, Superintendent meeting with the Engineering Team Bi-weekly to review design progress and provide design input, including constructability reviews, communicating the design changes to vendors, subs, the team and COG as needed.
- Design Expediting /Schedule Management
 - Weekly/Bi-Weekly Design/Project Schedule Updates
 - T. A. Loving will actively maintain the project schedule ensuring the project stays on track and the design is advancing as planned. We will also recognize and

come up with solutions to any potential delays and provide mitigation plans as needed to prevent schedule delays where possible.

- Safety Reviews
 - T. A. Loving's Preconstruction team, will schedule and host project safety reviews of the design and work plans with the safety team, design team, construction team, subcontractors, and owner and provide feedback and adjustment to the design and planned construction method during the design phase(Preliminary Stage)
- Risk Reviews and Risk Management
 - T. A. Loving's Preconstruction team, will generate and maintain a project risk register that provides a running list of identified and anticipated risks, along with a mitigation plan and cost, a responsible party, etc. The risk register is available in the Procore logs and will be reviewed and design workshops and will be incorporated into the completion phase contract.
- Procore Project Management
 - T. A. Loving will provide and maintain the project management platform Procore to the entire project team. Procore will provide the team with a centralized location for all project document storage, we will store minutes, agendas, schedules, and schedule updates, design documents, photos, inspection reports, permits, project logs, daily reports and more on this platform.
- Preliminary Stage Pay applications
 - The DESIGN-BUILDER will provide a schedule of values and will assemble and process the Pay Applications. Including review and approval by the Owner.

1.6 MOPO/Traffic Control Planning

- MOPO
 - The Design Builder with the help of the Preconstruction Team will develop a project specific MOPO plan including site plan, and written plan.

Traffic Control Plan

The Design-Builder's Preconstruction Team will work with the NCDOT, Design Engineer, and any local agencies to develop a detailed traffic control plan during the Preliminary Design Phase that can be Implemented, by the Construction team in the completion stage and incorporated into the final design documents.

- Workshops/Meetings to review and finalize design plans
 - The Design-Builder's Pre-Construction Team in conjunction with the Designer will plan, schedule, host, and document Design Review workshops including 30%, 60%, 90% and Final Design Reviews, MOPO and Risk Reviews as necessary.
 - The Design-Builder's Preconstruction Team will in conjunction with the Designer will plan, schedule, host and document Bi-Weekly/Monthly owner mini- design workshops.

2 Subcontractor/Supplier Outreach

- This service will consist of virtual/in person Subcontractor/Supplier open houses
 - Design-Builder will schedule one or two in person or virtual open houses to share information.
- MBE/WBE/HUB outreaches
- Phone calls/Social Media Outreach
- Pre-qualifications
 - Design-Builder will prequalify as needed subcontractors using our standard pre-qualifications.

3 Early Procurement/Cost Estimating

3..1 Early Procurement

Design Builder will perform early procurement services that include:

- Competitive Vendor Selection and Analysis
- Assemble technical specifications and plans
- Advertising as required
- Procurement and Issuing PO's/Subcontracts
- Submittal Reviews and Processing
- Active Delivery Management/Tracking
- Review and Accept Alternative/Material Substitutions as needed

3..1 Cost Estimating

- Design-Builder will provide Interval/Conceptual Estimates for decision purposes
- Design-Builder will provide 30% Cost Estimate
- Design-Builder will provide 60%-100% Final Cost Estimate for Completion Stage Pricing

4 FIELD SURVEY

Field Survey Scope Under Separate Contract

5 FIELD ASSESSMENTS

Field Assessments Under Separate Contract

6 GEOTECHNICAL INVESTIGATIONS & SUBSURFACE UTILITY ENGINEERING

Subsurface utility engineering (SUE) shall be performed as required to identify depth and location of existing utilities.

The Design-Builder shall coordinate SUE needs with the OWNER and incorporate survey from the SUE into the design plans. SUE services may consist of "Quality Level A" services, vacuum excavations or soft digs,

Subsurface Utility Engineering Level A

Stewart, a sub-consultant of Design-Builder, will perform subsurface utility vacuum excavation services (Quality Level A) at four (4) locations. Tasks to be completed under this item include the following:

- Provide all equipment, personnel and supplies necessary for the completion of Quality Level A information for the test holes.
 - Vacuum excavation will be used to confirm the vertical position of utilities.
 - Obtain all necessary permits from city, county, state or any other municipal jurisdictions to allow Stewart personnel to work within the existing rights-of-way.
 - Stewart will provide safety cones and signs. Traffic arrow boards or flaggers may be possible for this project and is shown in the fees.
 - Perform EM and GPR sweeps of the proposed conflict and other procedures necessary to adequately “set- up” the test hole.
 - Excavate test holes to expose the utility to be measured in such a manner that ensures the safety of excavation and the integrity of the utility to be measured. In performing such excavations, Stewart shall comply with all applicable utility damage prevention laws. Stewart shall schedule and coordinate with the utility companies and their inspectors, as required, so that they may be present during excavation of their facilities.
 - Using hubs/PK nails/other monuments and information provided by Stewart, Stewart will record: (a) the horizontal and vertical location of the top and/or bottom of the utility (b) the elevation of the existing grade over the utility at a test hole. Stewart will collect the following data: (c) the outside diameter of the utility and configuration of non-encased, multi-conduit systems; (d) the utility structure material composition, when reasonably ascertainable; (e) the paving thickness and type, where applicable; (f) the general soil type and site conditions; and (g) such other pertinent information as is reasonably ascertainable from each test hole site.
 - Provide permanent restoration of pavement using cold asphalt patch within the limits of the original cut. When test holes are excavated in areas other than roadway pavement, these disturbed areas shall be restored as nearly as possible to the condition that existed prior to the excavation.
-
- Test holes over 6 feet in depth may be charged at \$50 per foot over 6 feet.
 - Utilities that can't be located with SUE designating equipment may not be able to be found with vacuum excavation depending on the accuracy of the one call marks and/or depth of the utility.
 - Test hole information shall be formatted and presented on Stewart’s certification form and listed in a test hole data summary sheet.
 - Traffic control will be provided as required for completion of test holes.

Once test holes have been performed, Stewart will field survey the installed hub, pk nails or other associated monument collecting both horizontal coordinates and vertical elevations of the test hole point. A final deliverable will include test hole reports for each location as well as a coordinate list illustrating the surveyed location (horizontal and vertical). This information will be signed and sealed by a Professional Land Surveyor licensed to practice in the State of North Carolina.

7 DRAINAGE/H&H MODEL EVALUATION

- **Hydrologic and Hydraulic (H&H) Model Development**
The Design-Builder shall develop a Hydrologic and Hydraulic model utilizing HEC-RAS (2D) or PCSWMM (2D) to evaluate the existing infrastructure topographic survey collected in Task 2.

The model shall extend approximately 1,800 linear feet upstream of Corey Road including the two Trafalgar Drive crossings downstream to the confluence with Fork Swamp. The total hydraulic modeling length is approximately 3,600 linear feet.

The Design-Builder will perform a hydrologic watershed analysis utilizing HEC-HMS or PCSWMM design storm flow rates for the proposed stream restoration/stabilization extents. Flow data will be used to estimate the discharge associated with the 2-, 10-, 25-, 50-, and 100-year peak recurrence intervals.

- **Existing and Proposed Improvements Analysis**

The Design-Builder shall provide the water surface profiles for the 2-, 10-, 25-, 50-, and 100-year design events with and without proposed improvements for existing conditions as part of the modeling efforts with a focus on detention, stream restoration, and floodplain management opportunities. Additionally, the Design-Builder will calculate anticipated peak flows, velocity, shear stress, potential scour, and flooding occurrence based on peak recurrence interval flow rates and channel bed material observed during the site reconnaissance. This analysis will be used to evaluate the existing infrastructure and to determine appropriate stream bed and channel bank stabilization measures. Additionally, the analysis will be used to develop appropriate material size classifications for the proposed stream restoration/stabilization to minimize degradation of the channel within the identified project area.

8 PRELIMINARY ENGINEERING REPORT (PER)

Design-Builder shall develop and provide the OWNER with a PER that documents the existing baseline conditions, H&H model development and evaluation, and summarizes the conclusions and recommendations of the evaluation.

Recommendations may include detention, floodplain reconnection, water quality enhancements, bank stabilization, stream restoration priority I and/or II, stream enhancement, and infrastructure improvements at Corey Road and Trafalgar Drive. Additionally, the PER shall include all relevant modeling data, constraints and design conflicts, the selected alternative, and permitting constraints matrix (Section 404/401, State & Local Buffer Variance, Erosion & Sediment Control, FEMA, etc.)

The PER will be an amendment to the PER previously submitted to DWI in June 2023 and will be resubmitted to DWI for review in support of the awarded grant.

9 Permit Approach Plan

Design-Builder shall develop an initial plan to identify all potential regulatory processes and programs relevant to the project. At a minimum, permitting requirements are expected to include 404/401 Clean Water Act permits from the USACE and DEQ, Erosion Control permit from DEQ, and local floodplain permit through the OWNER. As part of the approach plan the Design-Builder will submit a jurisdictional determination of streams and wetlands to the USACE and schedule a pre-

application meeting with the USACE to finalize the permitting strategy for the proposed project. Application submittals are excluded from this phase of the project.

10 Easement Mapping and Landowner Coordination

Design-Builder will research the current property owners, land values and relevant site constraints that would impact property or easement acquisition. A plan will be developed for each property that will identify potential property/easements, property/easement costs and required documents for property/easement acquisitions. The Design-Builder will provide Easement Plats with metes and bounds descriptions for use in acquisition in Phase II. This plan will be shared with the OWNER in an effort to develop anticipated easement and property acquisition costs. The Design-Builder will engage in a maximum of four (4) property owner meetings in collaboration with the OWNER .

11 CONCEPTUAL PLAN DEVELOPMENT AND 30% DESIGN

- **Conceptual Design (CD) Plan**

The Design-Builder shall prepare up to two conceptual design alternatives for review and approval by the OWNER to illustrate the proposed improvements within the project area. One (1) CD workshop-based meeting with the OWNER and the Design-Builder is anticipated to develop the parameters for the two design alternatives based on the results of the modeling and PER. Conceptual plan development will consider detention downstream of Corey Road, floodplain reconnection, water quality features, increased conveyance capacity at Corey Road and Trafalgar Drive, and natural channel design and bioengineering alternatives to stabilize and enhance up to 3,600 linear feet of the existing aquatic features. The conceptual design plan will include:

- Flood Storage Areas;
- Buffer Planting Zones;
- Water quality treatment;
- Proposed stream restoration/enhancement opportunities and conceptual channel realignment;
- Corey Road crossing configuration;
- Trafalgar Drive crossing configurations;
- Utility conflicts; and
- Proposed Permanent Easement Boundaries.

The Design-Builder will present their draft conceptual plan for the team's input and will create a final conceptual plan based upon the feedback. The plan will be provided on one ARCH D (24"H x 36"W) sized plan sheet at a scale sufficient to show the entirety of the project features on the site.

- **30% Design Plans**

Upon approval of the conceptual design plan, the Design-Builder will develop 30% design drawings for the proposed project. Anticipated drawings for the design include the following at a 30% design level:

- Overall existing conditions, including roadway, planimetric features, structures, vegetation and utilities, water bodies, wetlands, structures, FEMA SFHA zones, as determined by field survey and publicly available data;
- Topographic survey information;
- Overall existing and proposed stream channel alignments (plan view);
- Overall proposed detention and floodplain improvements;
- Proposed water quality enhancements;
- Existing property lines; existing and proposed right-of-way lines; will document existing easements known to OWNER, if any; and proposed storm drainage easements, proposed temporary construction easements, and proposed permanent easements;
- Proposed buffer widths (natural buffer vs. landscaped);
- Proposed buffer vegetation species list;
- Proposed landscape designed areas;
- Proposed storm drain modifications (as needed);
- Location (plan and profile) of proposed stream improvements that show water bodies, wetlands, parcel lines, structures, etc., including:
 - Horizontal alignment and vertical profile of the proposed stream alignments;
 - Proposed in-stream structure types and locations; and
 - Proposed special bank stabilization techniques (i.e. Soil lifts, geo-grids, boulder toe).
- Typical cross sections of open channels showing armoring or stabilization techniques;
- Location of identified existing utilities and proposed utilities and shall indicate proposed underground and overhead utilities to be reconstructed and/or relocated as part of the Project; and
- Location of construction work areas and indication of which existing features may be impacted by construction (fences, trees, sheds, etc.) indicating the party responsible for removal and/or re-establishment.

The Design-Builder shall prepare plans on ARCH D (24”H x 36”W) plan and profile sheets at a scale of 1”=20’ horizontal and 1”=5’ vertical or as determined by the Team. OWNER & NCDOT standard details will be used to the extent possible. The Design-Builder will provide sample details for critical structures. Dimensioning and design elevations are excluded for the 30% design. A set of drawings will be submitted to the OWNER for their review and comment prior to the 30% design workshop.

One (1) 30% Design workshop-based meeting with the OWNER and the Design-Builder is anticipated to review the design progress and details of the 30% design documents. The plans will be adjusted based on final comments from the team and issued for an initial cost estimate. These plans will be used to further develop the design concept into the 60% design.

- **Cost Estimate**

The Design-Builder shall develop an Opinion of Probable Cost for the 30% design submittal including quantity take-offs.

12 60% DESIGN PLANS

- **60% Design Plans**

Upon approval of the 30% Design Plans, the Design-Builder will develop 60% design drawings for the proposed project. Anticipated drawings for the design include the following at a 60% design level:

- Overall existing conditions, including roadway, planimetric features, structures, vegetation and utilities, water bodies, wetlands, structures, FEMA SFHA zones, as determined by field survey and publicly available data;
- Topographic survey information;
- Overall existing and proposed stream channel alignments (plan view);
- Overall proposed detention and floodplain improvements;
- Proposed water quality enhancements;
- Existing property lines; existing and proposed right-of-way lines; will document existing easements known to OWNER, if any; and proposed storm drainage easements, proposed temporary construction easements, and proposed permanent easements;
- Proposed buffer widths (natural buffer vs. landscaped);
- Proposed buffer vegetation species list;
- Proposed landscape designed areas;
- Proposed storm drain modifications (as needed);
- Location (plan and profile) of proposed stream improvements that show water bodies, wetlands, parcel lines, structures, etc., including:
 - Horizontal alignment and vertical profile of the proposed stream alignments;
 - Proposed in-stream structure types and locations; and
 - Proposed special bank stabilization techniques (i.e. Soil lifts, geo-grids, boulder toe).

- Typical cross sections of open channels showing armoring or stabilization techniques;
- Location of identified existing utilities and proposed utilities and shall indicate proposed underground and overhead utilities to be reconstructed and/or relocated as part of the Project; and
- Location of construction work areas and indication of which existing features may be impacted by construction (fences, trees, sheds, etc.) indicating the party responsible for removal and/or re-establishment.

The Design-Builder shall prepare plans on ARCH D (24”H x 36”W) plan and profile sheets at a scale of 1”=20’ horizontal and 1”=5’ vertical or as directed by the Team . Owner standard details will be used to the extent possible. ENGINEER will provide sample details for critical structures.

- **Cost Estimate**

The DESIGN-BUILDER shall develop a Cost Estimate for the 60% design submittal including quantity take-offs.

13 UTILITY COORDINATION

The Utility Coordination efforts during the Design Phase shall at a minimum identify, address, and/or resolve utility conflicts and required utility easements associated with the construction of the recommended drainage improvements. This task also includes the design of public utilities relocations, the development of construction plans and supporting documents if required, along with the coordination of private utilities.

- **Water & Sewer Conflict Resolution**

The following tasks shall be performed with the review and approval of the OWNER ’s Project Manager.

13..1 Water & Sewer Design

The Design-Builder shall coordinate with GUC to include water and sewer design as needed for conflict resolution in the project area. Water and Sewer Design shall include the following tasks:

- Conflict resolution of sanitary sewer lines impacted by proposed stream improvements. Design is limited to the portion of the sanitary sewer line bounded by the manholes immediately upstream and downstream of the project limits.

13..2 Water & Sewer Permitting

Water & Sewer permitting is excluded as changes in water or sewer capacity are not anticipated.

- **Private Utility Coordination**

The Design-Builder shall attempt to identify private utilities and agencies whose facilities (both existing and proposed) may be affected by the Project. The recommended storm drainage improvements and public utility relocations shall be designed with the goal of minimizing conflicts with services. Utility conflicts shall be resolved in a timely manner prior to the completion of the construction plans. Private utility coordination shall include, but is not limited, to the following tasks:

- 13..1 The Design-Builder shall attend a minimum of one (1) field meeting with the utilities between the 30% and 60% submittals.
- 13..2 The Design-Builder shall request existing utility data/maps from the utility owners that define the location or description of existing utilities, easements of record, within the Project limits.
- 13..3 The Design-Builder shall consider the needs of the utilities during the design of the improvements.
- 13..4 The Design-Builder shall work to resolve conflicts (both private and public) identified. These resolutions shall be included in the design and/or shown on the construction plans, right-of-way plats, and easements exhibits.

14 STAKEHOLDER ENGAGEMENT

- **Stakeholder Meeting Support**

The Design-Builder shall attend one meeting with project stakeholders to discuss the project, potential impacts to property owners, and the property acquisition plan. This meeting will inform stakeholders of the proposed improvements included in the 30% design submittal. The OWNER shall be responsible for reserving a meeting facility, scheduling the meeting, and notifying all stakeholders with the assistance of the Design-Builder.

The Design-Builder shall prepare and record relevant discussions for meeting minutes and submit them to the Owner within one (1) week of the meeting. Anticipated stakeholders include the OWNER, NCDOT, and GUC.

- **City Council Meetings**

The Design-Builder shall attend a maximum of one (1) City Council meeting to provide summary information related to the proposed project. The meeting is assumed to occur upon completion of the 60% plans.

- **Graphics and Renderings**

The Design-Builder will develop graphic renderings for the selected alternative upon completion of the 30% design. The renderings will provide visualization to support discussions with stakeholders, and the OWNER.

The Design-Builder will provide the following:

- One (1) graphic rendering image file in electronic format; and

- One (1) cinematic animation video up to thirty (30) seconds in length in electronic format.

15 FUNDING SUPPORT

The Design-Builder will collaborate with DWI throughout the project timeline to ensure compliance with the grant conditions to the most practical extent possible. Anticipated tasks include the following:

- Kickoff meeting with DWI to clarify grant conditions and required schedule;
- Monthly progress updates with DWI to include written update and virtual meeting;
- Two (2) in person meetings (in addition to kickoff) with DWI staff;
- Submittal of revised PER and respond to comments; and
- Submittal of 60% plans and respond to comments.

16 Misc Reimbursable Expenses from Engineering

- **Mileage, lodging and meals for W.K.D.**

17 Legal Fees for Contracting

- **Legal costs for reviewing and approving contracts**

18 Partnering

- One Day Partnering Workshop with outside consultant Over the past year, T. A. Loving has realized that the first step to ensuring project success is ensuring the project team has a firm foundation to stand on, a clear direction, defined project goals, and a firm understanding of the commitment required by all parties to the DB process. Using a partnering process developed specifically for the JV and tailored to DB best practices, T. A. Loving will refine our DB process to fit this particular DB team. This effort will include the City, DB Team, and any key Subconsultant/Subcontractor. The objective of this process is to develop a comprehensive DB process that will guide the design and construction teams throughout the duration of the project and maximize the teams return on investment.
 - Steps for Partnering
 - Executive, project team, and critical subcontractor alignment on:
 - Project-Specific Mission
 - Project-Specific Goals
 - Project-Specific Structure and DB Implementation
 - Project-Specific Decision Matrix
 - Project-Specific Accountability
 - Goal Champions

19 Exclusions

- *FEMA analysis and permitting*
- *Residential structural inspections*
- *Erosion Control Plans*
- *90% and 100% plan development*
- *Private utility design*
- *Full title searches*

- *Permit applications and submittals*
- *Formal Bidding Services*
- *Construction administration and observation*
- *Construction staking*
- *Construction*
- *Special Inspection Services*
- *Asset management planning and development*
- *Expert witness or technical support concerning property surveying or engineering/construction matters for which we have no direct liability*
- *Testing for soil or water contamination*
- *Providing for environmental assessments or an environmental impact statement (EIS)*
- *Providing for detailed investigations and/or surveys for archaeological sites, protected/threatened/endangered species of shellfish, fish, wildlife, and natural vegetation*
- *Phase I and Phase II environmental site assessments*
- *Providing assistance for wetland mitigation or payments for mitigation.*
- *Easement Acquisition excluded in Phase I*
- *Providing for any re-designs after final design drawings have been approved.*
- *Design beyond 60%*
- *Errors in the RFQ Documents*

Budget:

DESIGN-BUILDER has developed a labor hour estimate based on the project steps and outline listed above. Based on this level of effort, DESIGN-BUILDER proposes a project budget of \$1,109,984.00 for the Corey Road Regional Detention and Stream Restoration Project.

Task 1 – Project Administration/Preconstruction Management	\$374,680
Task 2 –Subcontractor/Community Outreach	\$5,000
Task 3 –Early Procurement/Cost Estimating	\$83,530
Task 4 – Field Survey	Under Separate Contract
Task 5 – Field Assessments	Under Separate Contract
Task 6– Geotechnical Investigations and Subsurface Utility Engineering	\$7,205
Task 7 – Drainage/H&H Model Evaluation	\$64,620
Task 8– Preliminary Engineering Report (PER)	\$16,832
Task 9– Permit Approach Plan	\$5,888
Task 10 – Property Acquisition Research	\$19,260
Task 11 – Conceptual Plan Development and 30% Design	\$54,170
Task 12 – 60% Design Plans	\$74,010
Task 13 – Utility Coordination	\$18,320
Task 14 – Stakeholder Engagement	\$13,840
Task 15– Funding Support	\$39,200
Task 16- Reimbursable Expenses	5,000
Task 17- Legal	\$7,000
Task 18- Partnering	\$10,000
Design Builders Mark-up (15%)	\$119,783
Design-Builder Design Contingency (10%)	\$79,856
Project Total	\$998,194

Schedule:

Design Build Team anticipates that the 0-60% Design Phase will take up to approximately ten (10) months to complete dependent upon receipt of notice to proceed from the OWNER and potential weather delays.

EXHIBIT C

Corey Road Regional Detention & Stream Restoration

Engineering Report

June 2023

SRP-SW-ARP-0020



Corey Road Regional Detention & Stream Restoration

Engineering Report

June 2023

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Section 1: Executive Summary:

This project will be for design and construction to create a new, nature-based stormwater control measure in the form of a wet-detention pond with floating wetland islands and culvert improvements under Corey Rd. This pond will be designed and constructed to adhere to the NC Stormwater Design Manual Part C: Minimum Design Criteria and Recommendations for Stormwater Control Measures and meets the NC statutory definition of nature-based solutions as it weaves natural features such as vegetated shelves and wetland islands and processes such as denitrification, infiltration, and evapotranspiration to store, infiltrate, and treat stormwater, promoting resilience, reducing flood risks, and improving water quality. The types of stormwater control measures included in this project are:

- Wet Detention Pond
- Floating Wetland Islands
- Restored Riparian Buffer

At Corey Rd adding twin 48" pipes to the existing culverts and new headwalls are proposed. This will allow the tailwater elevations to be lowered for the upstream Trafalgar neighborhood, reducing street, yard, and structure flooding. By sizing the proposed improvements to account for future land uses, it ensures that increased runoff will be managed so that the additional runoff will not cause new or increased flooding or exacerbate flood risks downstream or water quality issues in the watershed or river basin.

Goal: To improve health and safety for our citizens and protect private property and public infrastructure through water quality treatment, water quantity detention, and stream and buffer restoration.

Objectives: The specific objectives of this project will be to:

1. Protect private property and public infrastructure from flooding by lowering water surface elevations upstream of Corey Rd during heavy rain events
2. Provide sufficient water quantity storage and control to offset upstream improvements without passing along additional impacts to properties downstream
3. Provide water quality treatment through the implementation of stormwater control measures and riparian restoration.
4. Provide public education through social media, webpage, and targeted mailings to the adjacent neighborhoods detailing the elements, functions, and purpose of stormwater control measures and riparian areas.

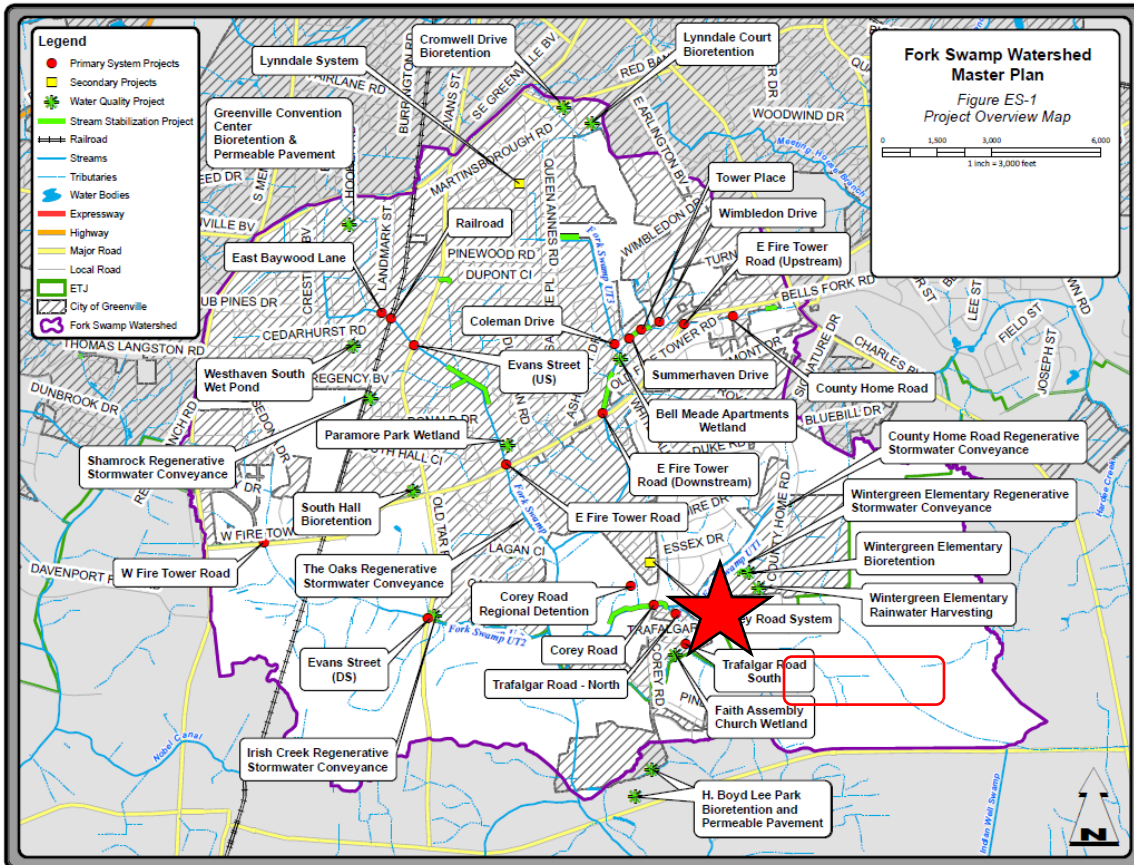
Upon analysis of these various components and the interdependency among them, it was selected that the most beneficial and advantageous alternative for this project is Alternative 2 which consists of Components 3, 6, 7, & 9 collectively. The City has implemented the 25-year regulations in Component 6 allowing the proposed detention pond to reduce in size to 8 acres. The culvert upgrade at Corey Rd (Component 3) is a critical component that must be completed first before any additional benefits will be realized upstream. Component 7, the floating wetland islands, and Component 9, the riparian buffer restoration, take advantage

of the opportunity to provide water quality treatment while implementing water quantity controls. This combination achieves all 4 identified Objectives.

This project was selected to receive partial funding (\$5,000,000) from NCDEQ through the Local Assistance for Stormwater Infrastructure Investments Program (LASII) where it was ranked #9 out of 83 project applications. Application has also been submitted to the NC Environmental Enhancement Grant program for \$500,000 of matching funds. The remaining funds will come from the City of Greenville Stormwater Management Fund.

Sections 2: Current Situation:

Geographic Location: The project is located along Fork Swamp Unnamed Tributary in Eastern North Carolina within the Hall coastal plain in the Neuse River Basin Watershed. The project is specifically located at the intersection of Corey Road and Trafalgar Drive (north and south) near and within a residential neighborhood that leads downstream to agricultural fields, wooded areas, and additional residential neighborhoods. The Corey Road culvert is located at Latitude 35.5430388889 Longitude -77.3636916667, the culvert at Trafalgar Drive North is located at Latitude 35.542258333 Longitude -77.3616527778, and the culvert at Trafalgar Drive South is located at Latitude 35.5400666667 Longitude -77.3607666667. The Fork Swamp tributary flows from east to west into Fork Swamp less than 1 mile downstream.



Figure

1. Fork Swamp Watershed Master Plan Proposed Capital Improvements Project Map (WSMP Figure ES-1)

The project is located in the Neuse River Basin which is listed as Nutrient Sensitive Waters. The stream name is Unnamed Tributary of Fork Swamp, index # 27-97-4 and classification of C;Sw,NSW.

Source of the Stormwater Issue: The source of the stormwater causing the issue for this project is a combination of the rain that falls directly on the project area as well as up and downstream areas. Upstream of the project is a residential neighborhood that experiences flooding around structures and roadways. This is caused in part by limited capacity of the stream culverts, but also affected by the tailwater effect from the water surface elevations downstream.

The existing twin 13' x 4.5' corrugated metal arch pipes under Corey Rd are relatively new and meet the desired 25-year level of service. However, the WSEL at the upstream Trafalgar Drive – North is impacted by the tailwater from Corey Road. There are four properties (1203, 1205, 1209, and 1215 Trafalgar Drive) upstream of Corey Road located in the existing conditions 25- and 100-year floodplain. The resident located at 1209 Trafalgar Drive has reported storage building flooding.

Goal: To improve health and safety for our citizens and protect private property and public infrastructure through water quality treatment, water quantity detention, and stream and buffer restoration.

Objectives: The specific objectives of this project will be to:

1. Protect private property and public infrastructure from flooding by lowering water surface elevations upstream of Corey Rd during heavy rain events
2. Provide sufficient water quantity storage and control to offset upstream improvements without passing along additional impacts to properties downstream
3. Provide water quality treatment through the implementation of stormwater control measures and riparian restoration.
4. Provide public education through social media, webpage, and targeted mailings to the adjacent neighborhoods detailing the elements, functions, and purpose of stormwater control measures and riparian areas.

Section 3: Design Basis/Future Situation:

Corey Rd is classified as a minor thoroughfare and owned by NCDOT. The desired level of service for culverts under this classification of roadway is to safely pass a 25 yr / 24 hr storm event without overtopping.

Hydraulics: (Objective #1) The purpose of the hydraulic analysis is to determine an existing level of flooding for the storm drainage network and to develop proposed solutions to mitigate flooding. The USACE HEC- RAS was selected to model the primary systems to remain consistent with the existing FEMA modeling. HEC-RAS calculates water surface

profiles for steady, gradually varied flow in channels and floodplains. The standard backwater analysis for sub-critical flow was modeled for the Fork Swamp Watershed. The model calculates the effect of obstructions, such as culverts, and building structures in the channel and floodplain on the water surface profile. The hydraulic computations are based on the solution of a one-dimensional energy equation with energy loss due to friction evaluated by Manning’s equation. Input data for HEC-RAS include the following:

- Cross-section geometry of the channel and floodplain;
- Roughness coefficients to describe characteristics of the channel and floodplain;
- Size, shape, and characteristics of culverts and roadways along the stream reach; and
- Energy loss coefficients for flow in the channel and at roadway crossings.

Channel cross sections utilized in the HEC-RAS model were based on the existing FEMA cross sections and WK Dickson surveyed cross sections. The channel cross sections were merged with State LiDAR data to develop cross sections spanning the entire floodplain area.

For the Fork Swamp UT1 (FSUT1) HEC-RAS model, the starting water surfaces elevations was set based on values calculated in the Fork Swamp Main Branch HEC-RAS model.



Figure 2. (Left) Trafalgar Drive – North Culvert – Downstream Face &
Figure 3. (Right) Corey Road Culvert – Upstream Face

Hydrology: (Objective #2) The purpose of the hydrologic analysis is to estimate the magnitude of selected frequency floods for the Fork Swamp Watershed. The United States Army Corps of Engineers (USACE) HEC-HMS was selected to model the primary systems. HEC-HMS simulates the surface runoff response to precipitation for an interconnected system of surfaces, channels, and ponds. Input data for the HEC-HMS model was developed using topographic, land use, and soils maps in GIS to delineate and calculate the basin areas and Natural Resources Conservation Service (NRCS) hydrologic parameters. Detailed descriptions of the model parameters can be found in Appendices A and B. The HEC-HMS model offers a variety of methods for simulating the rainfall-runoff response, hydrograph development, channel and pond routing. The selection of methods for the analyses is based on the study objectives, data availability, and watershed characteristics. The precipitation data for the 24-hour duration, Type III storm was used to represent the synthetic rainfall event. The Type III storm was selected based on the location of the City of Greenville. The geographic boundaries for the different NRCS rainfall distributions are

shown on Figure B- 2 of NRCS document Urban Hydrology for Small Watersheds, dated June 1986 and commonly referred to as TR-55 (See Appendix A). As shown in TR-55 for the coastal regions of North Carolina including Greenville, a Type III storm is more characteristic. The NRCS curve number approach was selected to calculate runoff volumes from the precipitation data, and the sub- basin unit hydrographs for these flood volumes were developed using the NRCS lag times. Peak flows for the primary systems were developed for the 2-, 10- , 25- , 50- and 100-year storm events

Storage routing was modeled just upstream of the culverts listed above because of the large storage volume available behind the pipe’s entrance. The culverts that have not been included provide little to no accessible storage volume in the area upstream of its respective crossing. The results of the hydrologic model used as input for HEC-RAS are summarized in Table 3-1. A hard copy of the HEC-HMS output is included as Appendix H. The CD found in Appendix J contains this digital information.

Table 3-1: Existing Conditions Flows from HEC-HMS for Fork Swamp Watershed

HEC-HMS Node	Road Name / Location	HEC-RAS Station	Storm Event				
			2-year (cfs)	10-year (cfs)	25-year (cfs)	50-year (cfs)	100-year (cfs)
FORK SWAMP UT1							
U/S Limit FSUT1	Upstream Limit of FSUT1/Trafalgar Drive – South	5103	107	223	309	387	474
Trafalgar Drive	Trafalgar Drive – North	4235	111	231	319	399	490
Corey Road – FSUT1	Corey Road	3380	195	410	577	719	897

During a field inspection, there were several potential site restrictions and utility conflicts that were identified. Overhead power lines are located along Corey Road, which may need to be temporarily relocated based on where the contractor accesses the site. In order to gain access and to install the proposed regional detention facility, tree removal would be required. Tree removal in the upstream portion of the facility nearest Corey Road will require minimal tree removal since it is located in an open, agricultural field as shown in Picture 4-7. It should be noted that the proposed regional detention facility is located on private property therefore an easement will be required to complete this project and maintain the facility in the future. The installation of construction staging areas and entrances will require additional tree removal and temporary construction easements.

Future Conditions: The future land use was accounted for during the development of the proposed improvements. The hydrologic parameters including curve numbers were adjusted for the future conditions and alternatives models. Peak flows for the primary systems were developed for the 2-, 10-, 25-, 50-, and 100-year storm events considering the future conditions and proposed alternatives. The future conditions peak flows for the project area subbasin in the 25yr storm are modeled as an increase of 8-12% over existing conditions. By

sizing the proposed improvements to account for future land uses, it ensures that increased runoff will be managed so that the additional runoff will not cause new or increased flooding or exacerbate flood risks downstream or water quality issues in the watershed or river basin.

Water Quality: (Objective #3) Traditional stormwater management has typically been designed to reduce flooding, but at times has neglected water quality by collecting runoff directly from impervious surfaces into a closed drainage system. Runoff from impervious areas collects high concentrations of pollutants and nutrients that if left untreated can cause negative impacts to water quality in the receiving waters. Negative impacts may include less biodiversity, hazards to the health of fish and wildlife, as well as human health hazards. Many communities in North Carolina now require some form of water quality treatment for new development; however existing developments typically have little or no water quality treatment. The City of Greenville developed a Stormwater Management Program (September, 2004) to outline its water quality requirements. Best management practices (BMPs) can be constructed to treat runoff prior to being discharged to the stormwater conveyance system and ultimately the receiving waters of the system. Retrofitting BMPs can be difficult due to limited space and other constraints. For several reasons, there is no one SCM that is best for every site. First, different SCMs are better suited for different aspects of stormwater management (sediment removal, nutrient removal, peak runoff reduction, and volume control). One particular SCM might not provide all of the required stormwater management goals of the regulations that apply to a site. Additionally, each site has unique features, such as slope, soils, size, and development density that encourage the use of some types of SCMs and eliminate the use of other types of SCMs.

The NCDEQ Stormwater Design manual recommends the following process for selecting the appropriate SCM.

1. *Determine the treatment capability (TSS removal, nutrient removal, volume reduction, and peak flow control) that is required of the SCM based on the applicable regulatory requirements for the site.* Because this is a retrofit, there aren't specific regulatory requirements, but maximizing nutrient reductions, specifically nitrogen and phosphorus, sediment reductions, and peak flow control are desired outcomes for this project.
2. *Determine which SCMs will meet the treatment capability requirements and create a "short list."* To provide the necessary volume for peak flow controls, SCM's with large storage capacity such as wet ponds or wetlands are considered. To maximize nutrient reductions, primary SCM's with high denitrification processes are considered.
3. *Evaluate which of the "short listed" SCMs will be appropriate for the physical site characteristics.* This is discussed further in the alternatives analysis section.
4. *Consider other factors such as construction cost, maintenance effort, community acceptance, site compatibility, and wildlife habitat.* This is also discussed further in the alternatives analysis section.

Public Education: (Objective #4) Successful implementation of the Fork Swamp Watershed Master Plan and stormwater as a whole requires extensive public education and outreach.

Important factors in designing educational components for this project specifically are the accessibility to the public, potential visibility, target audience, and target message. The target audience would be nearby neighborhood residents. The messaging can be focused to highlight the functionality and purpose of stormwater control measures and riparian buffers and their short-term and long-term impacts to the watershed, river basin, and overall water quality.

Methodology: Addressing flooding concerns and implementing nature-based solutions is a top mitigation and resiliency priority for the City of Greenville. Furthermore, the city has demonstrated success in implementing large-scale flood mitigation and stream restoration projects on time, and within budget. The City of Greenville’s Engineering Department will manage the proposed project and implementation of the grant. The city will contract with a qualified design engineer and construction contractor through an open procurement process that meets 2 CFR 200 requirements. The City of Greenville Grants Coordinator and Financial Services will support grant implementation and monitoring with contributions from the City’s Attorney’s Office. The City’s Engineering Department will manage and complete the mitigation activity with support from third-party design and construction firms. The city, and specifically the Engineering department, has prior experience with projects of similar scope and scale.

The City of Greenville proposes implementing the project using a Design-Build delivery Method. Pursuant to N.C.G.S. § 143-128.1A, The City will solicit proposals from qualified design-build teams that are interested in providing design, landscape architectural, engineering, and general contracting services for the project. The intent of this RFQ is to select a design-build team, by Qualifications-Based Selection (QBS), to provide design and construction services for this project. The City is requiring a General Contractor (GC) lead the team. The GC and the Engineer are one “team” but the contract will be between the City and the GC.

Permits will be obtained from all appropriate local, state, and federal agencies for construction activity, stormwater discharges, floodplain management, land disturbance, drainage review and approval, and environmental quality reviews.

The design-build delivery is a collaborative, multi-phased process using primarily a qualifications-based selection, followed by a process whereby the City then progresses toward a design and contract price with the team. This provides the ability to implement a flexible procurement and delivery approach that emphasizes collaboration on the project on scope, schedule and cost as early as feasible. The design-builder delivers the project in three phases as described below:

1. Validation Services (Phase 1). At the beginning of the initial phase of the contract, the parties enter into a validation and program exercise wherein the design-build team collaborates with the City and its consultants to verify or validate the project’s program, scope, schedule and budget. In addition, this process includes verifying baseline project

requirements such as geotechnical information, existing conditions, potential issues with permitting, supply chain and other major risks on the project. The purpose of the validation exercise is to gather the best information as early in the project as practicable so that decisions made by the parties are based on the most accurate, reliable information available. The end result of the validation exercise is a realistic estimate of the project budget for a reasonable project scope and within an achievable schedule, all of which takes into account known variables and risks on the project. Once the parties agree on realistic parameters for the project, the validated scope, schedule and budget can then be used with collaborative design and construction tools such as design to budget or pull planning to further the design and schedule and develop an accurate maximum cost in the next phase of the project. Some projects start with fixed program requirements and have a flexible maximum cost, and some projects have a fixed maximum cost with flexible program requirements. Progressive design-build allows for both situations, provided that either the program needs or the budget are flexible. This method will allow for the Objectives 1-4 to be met within the fixed LASII grant schedule and budget.

2. Design and Preconstruction (Phase 2). After successful conclusion of the project validation phase, the City and design-build team then collaboratively develop the design and other project decisions based on cost, schedule, quality, operability, lifecycle and other considerations. During this phase, the design-builder provides to the City real-time, frequent and transparent cost estimates to ensure that the City's budgetary requirements are being achieved. The design-builder is also frequently updating the project schedule. At the point in time where the design has been advanced to an appropriate level of definition that aligns with Objectives 1-4 and the City's requirements, approximately 40% complete, the design-builder will provide a formal proposal (including the overall contract value and project schedule) for the Final Design and Construction Phase services. The City and design-builder will negotiate the terms of the proposal and enter into an agreement.
3. Final Design and Construction (Phase 3). Once the City and design-builder agree upon terms (including the project's price, final scope and schedule), the design-builder will complete the design and construction of the project in accordance with those terms. The project may allow the design-builder to proceed on "early work" packages for discrete elements of the physical work (e.g., procurement of long lead items, demolition or site work) before authorization to proceed with the next phase or to start construction on one portion of the project while the design is still being completed on a separate, segregable portion of the project. The goal is to allow for maximum flexibility within the parameters allowed by the City and any applicable permitting authority.

Project Milestones: Project Milestones under this method are proposed as:

- Submit Engineering Report to NCDEQ July 3, 2023
- Approval of Engineering Report August 31, 2023
- Phase 1 & 2 Submittal (40% Design) September 30, 2024
- NCDWR Approval of 40% Design November 29, 2024
- Execute Phase 3 (Final Design & Construction) March 31, 2025
- Construction Complete June 30, 2026
- Final Closeouts and last Reimbursements December 31, 2026

At each milestone, the City will be in communication with NCDEQ about the current status, schedule, budget, and any modifications to the project description. This Engineering Report will be amended as necessary during the design-build process for specific changes, but the Goal and Objectives will remain as proposed within the scoring criteria of the LASII funding.

Prior Experience: The City, and specifically the Engineering department, has prior experience with projects of similar scope and scale. For example, the City of Greenville successfully completed the \$33-million Town Creek Culvert project in October 2020, on-time and under-budget. The project addressed drainage issues along a 250-acre downtown corridor caused by the undersized, failing culvert system. The daylighting project included many green infrastructure components, such as wetland restoration, creation of bioretention cells, and stream stabilization. By coordinating with utility plans and accounting for future development, the City believes the project will be able to handle additional stormwater runoff for years to come. In terms of timing, project planning began in Fall 2013 and was approved by City Council in October 2017. Construction spanned two and a half years.

Ongoing Maintenance: The City of Greenville will perform long-term maintenance. Pipes and culverts will be inspected annually with internal staff, costs are from the general fund and Stormwater Enterprise Fund. The City's Engineering Department will be responsible for the long-term maintenance of the project. The city currently maintains the unnamed stream and has a budget for major repairs and annual inspections through the City's overall stormwater asset management and maintenance program. Nevertheless, the city expects that additional maintenance costs will be needed for vegetation control; approximately \$3,500 per year. This assumes a 4-person crew will work for 4 hours per month to maintain the stream segment. Future maintenance needs may include occasionally removing blockages and debris, repairing eroded areas (which should be reduced by the proposed project), trash and debris removal, and vegetation management.

Section 4: Need for Project:

Located in eastern North Carolina, the city of Greenville serves as the county seat of Pitt County in the zip code 27834. Over 91,000 people reside in Greenville across 36 square miles, most of which is residential. Located less than 60 miles from North Carolina’s coastline, Greenville is considered a frontline community which are communities who experience the first and worst impacts of the climate crisis. As indicated in the North Carolina Climate Science Report, Greenville is vulnerable to severe storms and climate-driven disasters because of its proximity to the coast. The City is committed to taking proactive measures to protect residents from infrastructure failure, erosion risks, and climate change. The Corey Road Regional Detention & Stream Restoration Project represents an important opportunity to protect property, transportation corridors, water quality and prepare Greenville for future severe storm events and the impacts of climate change.

Along FSUT1, one out of the three crossings is meeting its desired level of service. The desired level of service for Trafalgar Drive – South, Trafalgar Drive – North, and Corey Road is the 25- year storm. As shown in Table 3-3, Trafalgar Drive – South is providing a 2-year level of service while Trafalgar Drive – North is providing a 10-year level of service. The new culvert at the Corey Road crossing is performing at the desired 25-year level of service.

Table 3-3: Hydraulic Performance for Existing Conditions Roadway Flooding

Location	Minimum Elevation at Top of Road (feet NAVD)	Desired Level of Service (Year)	Calculated Water Surface Elevations (feet NAVD)				
			2-year flood	10-year flood	25-year flood	50-year flood	100-year flood
FORK SWAMP UT1							
Trafalgar Drive – South (Culvert)	55.81	25-year	53.69	55.95	56.29	56.48	56.63
Trafalgar Drive – North (Culvert)	54.35	25-year	53.05	54.67	55.14	55.43	55.78
Corey Road (Culvert)	54.81	25-year	52.31	53.39	54.26	55.05	55.43

In addition to evaluating the roadway crossings, an evaluation was performed to determine the residences along the primary system streams that are at risk of flooding during the 25- and 100- year storm event. The existing 25- and 100- year floodplains for these streams are shown in Figure 4. The mapped floodplains are based on model results obtained as part of the Master Plan and may differ from the published FEMA floodplains. For flood insurance purposes, the effective FEMA floodplain should be referenced. For structures outside of the 100-year effective FEMA floodplain, property owners must determine if purchasing flood insurance is necessary. The City is in no way responsible for determining if flood insurance is required or for notifying property owners of the potential risk of flooding.

Table 3-5 lists the lowest adjacent grade elevations along with the existing 25- and 100-year water surface elevation for those properties at risk of flooding. The lowest adjacent grade (LAG) elevations shown in the table are not surveyed and are estimated based on the State of North Carolina’s LiDAR data. LAG flooding shown in the tables may not result in actual LAG or finished floor flooding, but it is indicative of structures being at risk of flooding.

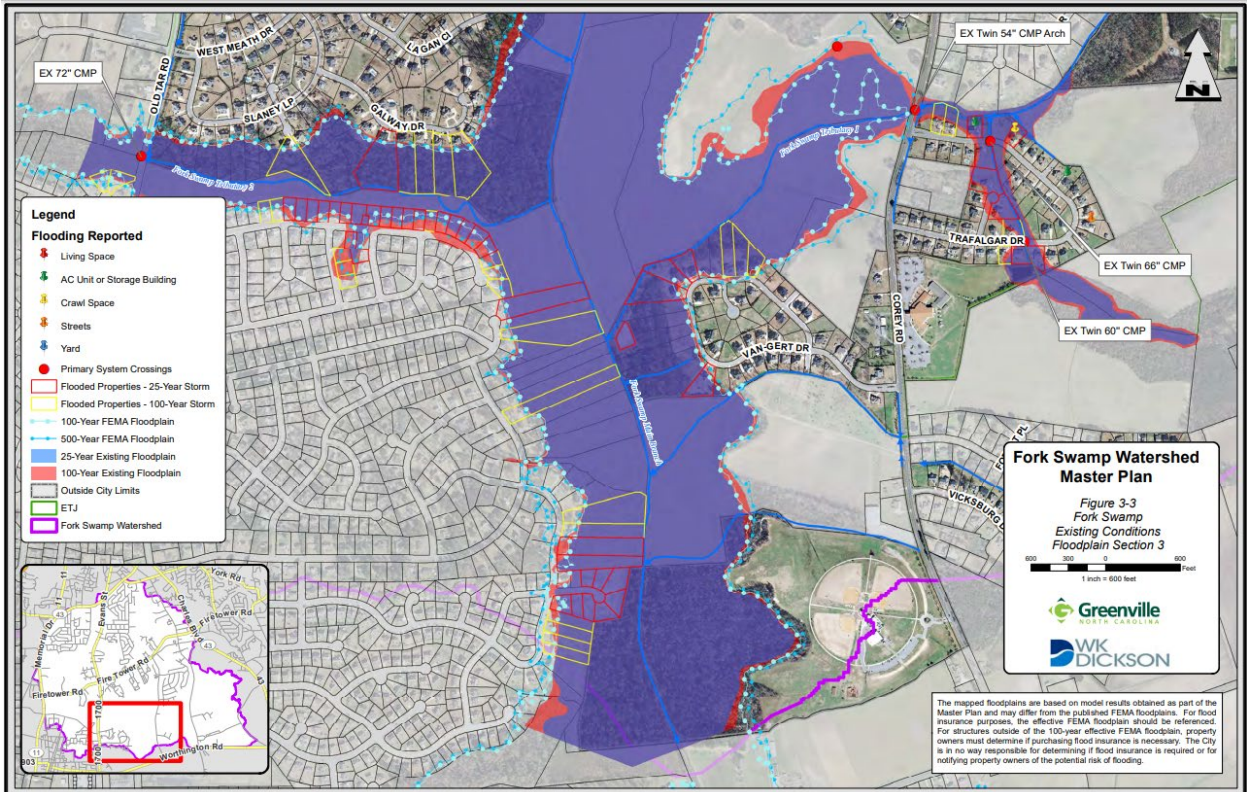


Figure 4. Fork Swamp Watershed Master Plan Existing Conditions Floodplain Section 3 (WSMP Figure 3-3)

Table 3-5: Existing Conditions At-Risk Properties/Structures – FSUT1

Address	LAG (feet NAVD)	Calculated Water Surface Elevations (feet NAVD)	
		25-year flood	100-year flood
1203 TRAFALGAR DR	55.30	54.70	55.78
1205 TRAFALGAR DR	54.84	54.79	55.86
1209 TRAFALGAR DR	52.98	55.10	55.90
1210 TRAFALGAR DR	54.40	55.25	55.96
1214 TRAFALGAR DR	55.80	55.14	55.99
1215 TRAFALGAR DR	52.55	55.14	55.93
1404 TRAFALGAR DR	54.25	55.38	56.16
1405 TRAFALGAR DR	54.17	56.36	56.76
1407 TRAFALGAR DR	55.86	56.33	56.71
1409 TRAFALGAR DR	55.86	56.29	56.70
4800 TREVVETT CI	54.00	55.30	56.01
4801 TREVVETT CI	54.82	55.36	56.08
812 VAN GERT DR	51.56	53.47	54.62
816 VAN GERT DR	50.51	53.47	54.62
820 VAN GERT DR	50.51	53.46	54.61

*Bold text indicates LAG flooding.

As shown in Table 3-5, twelve (12) properties along FSUT1 were identified for being at risk of flooding in the 25-year storm event and an additional three (3) properties were identified for the 100-year event. Residents along this stream reach have provided feedback indicating that they are experiencing yard, crawl space and AC/storage building flooding. These conditions indicate the need for Objectives #1 & 2.

Since the 1980s, nutrient-related pollution has created water quality problems in the Neuse estuary. Excess amounts of nutrients like nitrogen and phosphorus have caused problems including low oxygen levels, extensive fish kills and harmful algal blooms. In response to these issues, North Carolina developed the Neuse nutrient strategy, a set of rules designed to equitably regulate sources of nutrient pollution in the basin including wastewater, stormwater, and agricultural nutrient sources. The rules also protect riparian buffers and mandate training for professionals that apply fertilizer. The rules went into effect in 1997 and seek to reduce nitrogen levels in the estuary by 30% from a 1991-1995 baseline. The ultimate goal of the strategy is the removal of the Neuse estuary from North Carolina’s impaired waters list. Objective #3 to improve water quality is one small, but important, step of this river basin level strategy.

As part of the Neuse and Tar-Pam Nutrient Sensitive Waters program and requirements in Greenville’s NPDES Municipal Separate Storm Sewer Permit, the City has developed a Public Education Plan to gain support from citizens for water quality improvement projects and help them understand the impacts of their actions and how to respond with appropriate

management measures. The public education program aims to inform individuals and households about the steps they can take to reduce storm water pollution, such as ensuring proper septic system maintenance, ensuring the proper use and disposal of landscape and garden chemicals including fertilizers and pesticides, protecting and restoring riparian vegetation, and properly disposing of used motor oil and household hazardous wastes. EPA recommends that the program inform individuals and groups how to become involved in local stream restoration activities and support City improvement projects that benefit water quality. EPA recommends that the public education program be tailored, using a mix of locally appropriate strategies, to target specific audiences and communities. Examples of strategies include distributing brochures or fact sheets, sponsoring speaking engagements before community groups, providing public service announcements, implementing educational programs targeted at school age children, and conducting community-based projects such as storm drain stenciling and watershed and beach cleanups. In addition, EPA recommends that some of the materials or outreach programs be directed toward targeted groups likely to have significant storm water impacts. This Public Education Plan includes a variety of activities directly related to this project such as, SCM demonstration sites, brochures and targeted mailings, educational and project websites, and use of social media.

Section 5: Alternatives Analysis and Project Cost:

This project is multifaceted and several alternatives were analyzed with varying purposes and benefits. Alternatives consist of varying components that may be required to be implemented with other components to achieve the desired benefit. Components 1-6 specifically focus to address Objectives 1-2.

Component 1: Upsize culverts at Trafalgar Drive South. As determined by the existing conditions analysis, the twin 60” CMPs at this crossing are undersized and not meeting the desired 25- year level of service. The culverts are in good condition. To provide the 25-year level of service and reduce the frequency and severity of flooding for the residents adjacent to the Trafalgar Drive – South culvert crossing, the installation of a 60” floodplain culvert with a new headwall would be proposed. The existing CMPs shown in Figure 5 would be left in place.



Figure 5. Trafalgar Drive – South Culverts

There are three (3) downstream properties in the 100-year existing conditions floodplain, that have the potential to experience yard, LAG, or structural flooding. These properties are as follows: 1405, 1407, and 1409 Trafalgar Drive. The proposed improvements will reduce the water surface elevations for the 25-year storm by 0.56 to 0.67 feet upstream of Trafalgar Drive – South. The water surface elevation will be reduced for all of these properties, only 1405 and 1407 Trafalgar Drive will be removed from the 100-year floodplain.

The property at 1409 Trafalgar Drive will remain in the floodplain and continue to be subject to yard, LAG, or structural flooding but at reduced depths and likely reduced duration.

There are several potential site restrictions and utility conflicts that were identified at this project location. There appears to be sanitary sewer, electric, and gas lines that may need to be replaced or relocated. Impacts to traffic flow during construction were considered. Trafalgar Drive is a two-lane residential roadway. It is anticipated that a road closure or a flagged two-way one-lane operation will be required.

Component 2: Upgrade Culverts at Trafalgar Drive North.

As determined by the existing conditions analysis, the 60" and 66" CMPs at this crossing are not meeting the desired 25-year level of service. In order to provide a 25-year level of service at this crossing, this component is to replace and upsize the culverts at Trafalgar Drive – North.

As part of this component, the existing CMPs will be replaced with twin 8' x 5' RCBCs. The upsized culvert will provide the desired 25-year level of service with 0.16 feet of freeboard. Figure 7 summarizes the improvements proposed at Trafalgar Drive – North.

There are three (3) properties in the existing conditions 25-year floodplain and two (2) additional properties in the 100-year floodplain, that have potential to experience LAG or structural flooding. These properties are as follows: 1210, 1214, 1404 Trafalgar Drive and 4800, 4801 Trevvett Circle. The water surface elevation will be reduced for all of these properties. The property at 1210 Trafalgar Drive and 4801 Trevvett Circle will be removed from the 25-year floodplain while 1404 Trafalgar Drive and 4800 Trevette Circle will be removed from the 100-year floodplain with the implementation of this component. The remaining property at 1214 Trafalgar Drive will continue to be exposed to LAG or structural flooding, although depth will be reduced.

However the resulting upstream water surface elevations will be reduced by as much as 0.95 feet in the 25-year storm event, only if improvements are also completed at Corey Road as described in Component 3.

There are several potential site restrictions and utility conflicts that were identified at this project location. There appears to be sanitary sewer, electric, and gas lines that may need to be replaced or relocated. Impacts to traffic flow during construction were considered. Trafalgar Drive is a two-lane residential roadway. It is anticipated that a road closure or a flagged two-way one-lane operation will be required.

Component 3: Upgrade culverts at Corey Road.

Based on the results obtained from the existing conditions analysis, the existing twin 13' x 4.5 CMP arches (See Figure 6) at Corey Road are passing the desired 25-year storm. However, in order to lower the tailwater and improve the performance of the culvert at Trafalgar Drive – North, the capacity at Corey Road will be increased. This component proposes the installation of twin 48" floodplain culverts along with a new headwall at Corey Road.



Figure 5. Corey Rd CMP arches

Component 4: Floodplain benching.

In addition to the proposed floodplain culvert, it is recommended that 2,300 linear feet of floodplain benching be included downstream of Corey Road as shown on Figure 7. The floodplain benching will be located in the left and right overbanks. Although the benching is located outside of the City limits, it will help to reduce the tailwater at Corey Road and subsequently Trafalgar Drive which directly impacts City residents. To implement proposed improvements for FSUT1, the Corey Road project should be completed before the Trafalgar Drive improvements.

There are four properties (1203, 1205, 1209, and 1215 Trafalgar Drive) upstream of Corey Road located in the existing conditions 25- and 100-year floodplain. The resident located at 1209 Trafalgar Drive has reported storage building flooding. The property at 1215 Trafalgar Drive will be removed from the 25-year floodplain and 1209 Trafalgar Drive will be removed from the 100-year floodplain. While the water surface elevations will be reduced at remaining properties, they will remain in the 25- and 100-year floodplains. They will continue to experience flooding but the severity and frequency will be reduced.

A summary of the hydraulic performance for the improvements proposed along Fork Swamp are included in Table 4-3, and a summary of the improvements realized for reduction in WSEL and properties removed from floodplains is shown in Table 4-4. The water surface elevations shown assume all proposed primary system improvements for FSUT1 are constructed. The level of improvement will be reduced if all projects are not implemented.

Table 4-3: Hydraulic Performance for FSUT1

Location	Minimum Elevation at Top of Road (feet NAVD)	Desired Level of Service (Year)	Calculated Water Surface Elevations (feet NAVD)				
			2-year flood	10-year flood	25-year flood	50-year flood	100-year flood
Trafalgar Drive - South (Existing Twin 60" CMPs with Proposed 60" Floodplain Culvert)	55.81	25-year	53.14	54.57	55.62	56.13	56.38
Trafalgar Drive - North (Proposed Twin 8' x 5' RCBCs)	54.35	25-year	52.40	53.48	54.19	54.73	55.16
Corey Road (Existing Twin 13' x 4.5 CMP Arch with Proposed Twin 48" Floodplain Culverts)	54.81	25-year	50.95	51.64	52.30	53.00	53.96

*Bold text indicates the existing water surface has exceeded the crest or low point in the road thereby causing flooding.

** Green shade indicates crossing meets desired level of service. Red shade indicates crossing does not meet desired level of service.

Table 4-4: WSEL Reductions and Properties Removed from Floodplains

Location	WSEL Reduction (feet NAVD)		Properties Removed/Properties in Floodplain	
	25-Year	100-Year	25-Year	100-Year
Trafalgar Drive - South	0.67	0.25	2/3	2/3
Trafalgar Drive - North	0.95	0.62	2/3	2/5
Corey Road	1.96	1.47	1/4	1/4

Component 5: 20-acre Detention Pond.

While developing the alternatives for the Fork Swamp watershed, opportunities for potential regional detention facilities were explored. There was one area downstream of Corey Road on FSUT1 (See Figure 7), that was analyzed to determine its benefits on downstream flooding. Based on the development of a conceptual model, the proposed 20-acre detention pond would lower the flows in the 2-, 10-, 25-, 50-, and 100-year storms by 20 to 25 percent at the confluence of FSUT1 with Fork Swamp. These flow reductions continue through the downstream modeling limits of the Fork Swamp watershed. If the detention is not implemented in conjunction with the other improvements proposed for the primary system, the percent increase at the outfall will be 7 percent in the 25- year storm event.

The implementation of this facility will not impact any of the sizes of the culvert recommended as part of this Master Plan. However, it will reduce downstream flows and help to offset increases that will be created by upsizing upstream culverts. The location of this facility is outside of the City limits close to the border of Winterville. It would be an opportunity to partner with this municipality which would also benefit from the implementation of the regional detention facility. If implemented, the floodplain benching shown downstream of Corey Road (Component 4) would not be necessary.

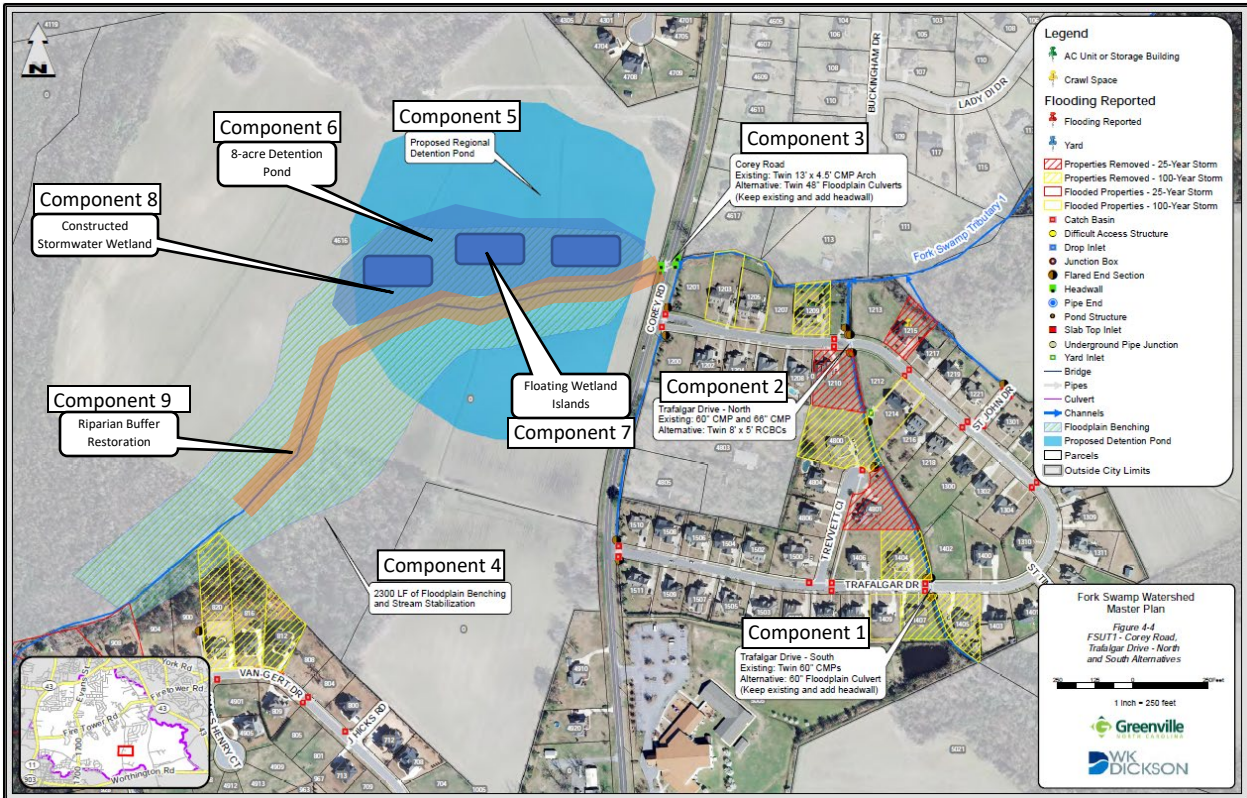


Figure 7. Corey Road Regional Detention & Stream Restoration Project Map from the Fork Swamp Watershed Master Plan (WSMP Figure 4-4)

25-YEAR Detention Analysis: In 2014, the City of Greenville enacted legislation requiring attenuation for new development and re-development for the one-year, five-year, and ten-year, 24-hour storm events. In addition, Section 9-9-10 of Ordinance No. 13-054 states the following:

“New development and redevelopment, as described in section 9-9-3, in areas at special risk with well documented water quantity problems as determined by the City Engineer, shall not result in a net increase in peak flow leaving the site from pre-development conditions for the 25-year, 24-hour storm event.”

As part of the Fork Swamp Master Plan, an analysis was completed to determine if there are areas within the watershed and the ETJ that should be considered “well documented water quantity problems” requiring detention for the 25-year, 24-hour storm event. Areas may be defined as well documented water quantity problems if either of the following is true:

- Structural flooding has been historically noted by property owners during storms considered smaller than the design event and this structural flooding has been corroborated by either high water marks, City staff input, or model results.
- Model results indicate structural flooding or roadway overtopping during storms smaller than the design storm and model results are corroborated by City staff input.

Portions of the watershed draining to the “well documented water quantity problems” may be considered for 25-year detention if any of the following are true:

- Future condition flows are 10% or greater than existing flows for a given subwatershed upstream of the water quantity problem.
- Proposed capital projects are not deemed to be feasible or cost effective for providing the required level of service for these water quantity problems based on future land use conditions.
- Cost differential between designing for existing conditions and future conditions is deemed to be significant and/or a significant number of structures would become floodprone during the 25-year design storm based on future conditions flows when compared to existing conditions flows.

It is assumed that for this analysis, systems with a 10-year level of service design would not be considered for the 25-year detention since the existing 10-year detention requirements would result in little to no increase in peak flows for the design event. The secondary systems evaluated in Fork Swamp watershed only required a 10-year level of service, therefore requiring upstream 25-year detention would not impact the design of a system that only needs to meet a 10-year design storm.

Large portions of the Fork Swamp watershed are already fully developed, however there are some areas of the watershed where the future conditions 25-year flows could be greater than 10% higher than the current existing flows. These areas are shown in Figure 4-14. For the purposes of evaluating if 25-year detention is appropriate, the Fork Swamp watershed is divided into four (4) distinct areas based on the drainage feature that conveys runoff from that area. Then the entire Fork Swamp watershed needs to be evaluated to limit increases in runoff from the south end of the City limits entering neighboring communities.

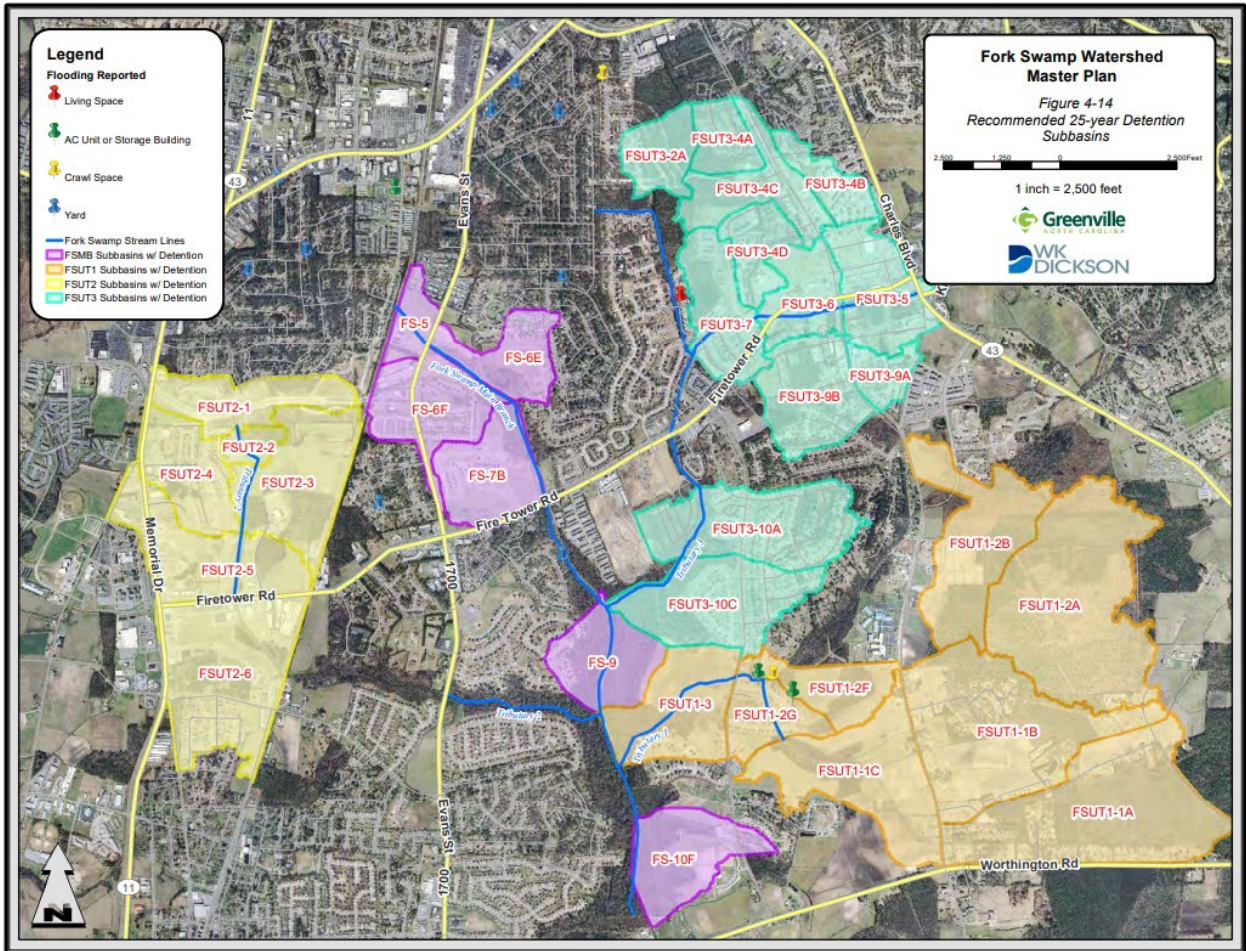


Figure 8. Recommended 25-year Detention Subbasins (WSMP Figure 4-14)

For Fork Swamp Tributary 1, repetitive flooding has been reported within the Farrington subdivision specifically on Trafalgar Drive along Fork Swamp Tributary 1. Each of the highlighted areas shown in Figure 8 have the potential for the 25-year flows to increase by greater than 10% due to the potential future development in these areas. The future condition land use was based on existing zoning. The City should carefully consider rezoning requests within the Fork Swamp Tributary 1 watershed based on the existing known flooding issues.

Component 6: 8-acre Pond with 25-year Detention Regulations.

If 25-year detention is required in the proposed areas, the recommended culvert sizes at Trafalgar Drive can be decreased, although the cost savings would not be substantial. However, the severity, frequency, and duration of flooding would be reduced, which would in return provide savings to the property owners.

For the overall Fork Swamp watershed, changes in land use (future build-out conditions) and increasing culvert capacity will increase the 25-year flow at the outlet of the study area (City limits) by approximately 8%, resulting in a 0.22-foot increase in WSEL at the outlet.

Downstream communities including Winterville and Pitt County already experience flooding along Fork Swamp in existing conditions, so any increase in flows could potentially increase the duration, severity, and frequency of flooding, although the limits of this study do not evaluate these potential impacts downstream of the City limits. If 25-year detention was required in the highlighted areas in Figure 8, the increase in the 25-year flow would be reduced to 1.1%, a reduction in WSEL of 0.17 foot. Therefore, the City could significantly reduce the size of the Corey Road Regional Detention Area to effectively ensure no net increase in the 25- year peak flow at the limits of the study. The size of the detention area could be reduced to eight (8) acres which would reduce the cost substantially. Components 4-6 while primarily analyzed for water quantity benefits for Objectives 1 & 2, also provide opportunities beyond the other components for water quality (Objective 3) and educational (Objective 4) benefits.

Component 7: Floating Wetland Islands.

To enhance the water quality treatment and maximize the retrofit opportunity, floating wetland islands were considered to be added to the proposed wet detention pond in Components 5 & 6. This allows the pond to function to maximize storage and water quantity control, while also increasing the amount of nutrient reduction provided by the measure.

Component 8: Constructed Stormwater Wetland.

While this component provides excellent water quality treatment, it is limited in storage volume by the maximum ponding depth specified by the stormwater design manual. This limits its ability to achieve Objectives 1 & 2.

Component 9: Riparian Buffer Restoration.

Previous components 5 & 6 propose a wet detention pond and therefore eliminate the need to component 4, floodplain benching. However, this site is currently a farm field that is tilled right to the bank of the stream which is heavily eroded and has no vegetated buffer. This component proposed to further enhance water quality and educational opportunities (Objectives 3 & 4) by restoring the riparian buffer along the remaining section of stream by planting trees and riparian vegetation and stabilizing the streambanks to prevent erosion.

Alternative Selection:

With all of the various components analyzed for their varying purposes and benefits, alternatives consisting of multiple varying components were developed and considered to achieve the project Objectives.

Alternative 1: No action.

This alternative proposes no improvements for water quantity or quality. With no action, the homes experiencing flooding will continue to experience flooding of increasing depth, frequency, and duration as the upstream watershed is developed and storm intensities increase. The nutrient levels and pollution will continue to increase and discharge to the Neuse River Basin contributing to the impairment.

Alternative 2 (selected alternative): Upon analysis of these various components and the interdependency among them, it was selected that the most beneficial and advantageous alternative for this project is Alternative 2 which consists of Components 3, 6, 7, & 9 collectively. The City has implemented the 25-year regulations in Component 6 allowing the proposed detention pond to reduce in size to 8 acres. The culvert upgrade at Corey Rd (Component 3) is a critical component that must be completed first before any additional benefits will be realized upstream. Component 7, the floating wetland islands, and Component 9, the riparian buffer restoration, take advantage of the opportunity to provide water quality treatment while implementing water quantity controls. This combination achieves all 4 identified Objectives.

Components 1 & 2, culvert upgrades on Trafalgar, will still be required in the future to realize the full benefits to those upstream properties, but this project allows those less expensive projects to be completed at a later time.

To achieve Objective 4, originally educational signage was considered to be installed around the wet pond, along Corey Rd, and along the restored riparian buffer. However, after considering the accessibility to this site and resulting limited visibility to the public, it was determined that a better alternative would be to provide education through social media, the City's website, local City cable access channel, and targeted mailings to the adjacent neighborhoods. This messaging will describe the natural process and functions of the stormwater control measures, the benefit to water quality, and the flood reduction and peak flow benefits. The messages will also acknowledge the partnership between the City of Greenville and Pitt County as well as the source of the project funds as ARPA LASII funds.

Section 6: Proposed Project Description:

Project Description: The Corey Road Regional Drainage Improvement project will add two-48-inch pipes to the existing culverts and two new headwalls at Corey Road. More than 50% of the construction cost of the project will be used to create a new, nature-based stormwater control measure in the form of an 8-acre wet-detention pond with floating wetland islands. This pond will be designed and constructed to adhere to the NC Stormwater Design Manual Part C: Minimum Design Criteria and Recommendations for Stormwater Control Measures and meets the NC statutory definition of nature-based solutions as it weaves natural features such as vegetated shelves and wetland islands and processes such as denitrification, infiltration, and evapotranspiration to store, infiltrate, and treat stormwater, promoting resilience, reducing flood risks, and improving water quality.

The types of stormwater control measures included in this project are:

- Wet Detention Pond
- Floating Wetland Islands
- Restored Riparian Buffer

These stormwater control measures are the most appropriate and feasible measures for this location given the high peak flows of the stream, desire to reduce nutrients and sediment, and the existing conditions of a cleared farm field currently cultivated right to the top of bank of the stream. This combination of measures provides both needed water quantity and quality improvements.

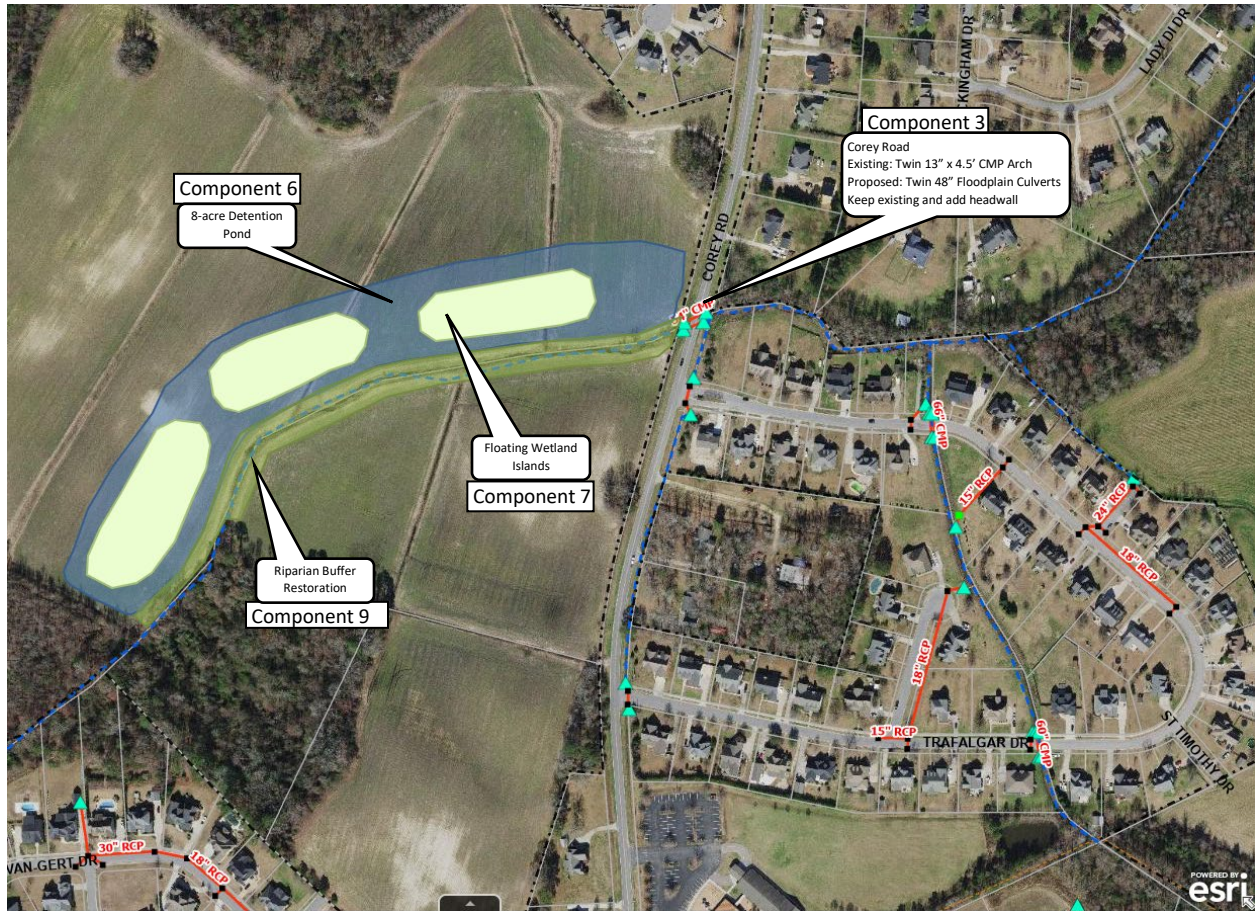


Figure 9. Proposed project components 3, 6, 7, & 9.

The future land use was accounted for during the development of the proposed improvements. The hydrologic parameters including curve numbers were adjusted for the future conditions and alternatives models. Peak flows for the primary systems were developed for the 2-, 10-, 25-, 50-, and 100-year storm events considering the future conditions and proposed alternatives. The future conditions peak flows for the project area subbasin in the 25yr storm are modeled as an increase of 8-12% over existing conditions. By sizing the proposed improvements to account for future land uses, it ensures that increased runoff will be managed so that the additional runoff will not cause new or increased flooding or exacerbate flood risks downstream or water quality issues in the watershed or river basin.

This project will increase level of service for residential stormwater infrastructure and reduce flooding risk to Corey Road (SR170), Trafalgar Drive, and residential homes. Corey Road and Trafalgar Drive serve as the only connections for approximately 55 single-family homes.

When the culverts overflow, the roads flood, emergency egress and ingress access is limited or not available, and the main sewer pump station is flooded. Additionally, the project will directly reduce the water surface elevation for 8 parcels that include single-family residential properties. The flood risk reduction will remove 2 parcels from the 25-year floodplain and 4 parcels from the 100-year floodplain with the implementation of this project. The remaining properties will see reduced depths of the lowest adjacent grade (LAG) or structural flooding.

While the water surface elevations will be reduced at remaining properties, they will remain in the 25- and 100-year floodplains. They will continue to experience flooding but the severity and frequency will be reduced. In order to lower the tailwater, it is proposed that twin 48" floodplain culverts be installed along with an 8-acre detention pond and stream stabilization and buffer restoration downstream of Corey Road. The Corey Road improvements should be constructed prior to culvert upgrades at Trafalgar Drive to provide the desired level of service noted above. The proposed improvements would result in up to 2-foot reduction in WSEL for the 25-year event. This will bring one property out of the 25-year floodplain and an additional property out of the 100-year floodplain.

With respect to Objective 2, the project will increase the carrying capacity of the three roadway culverts to carry the 25-year and 50-year design storm flood event by increasing the pipe diameter and box culvert size. The stream banks along Fork Swamp Unnamed Tributary downstream of Corey Road will also be stabilized to reduce bank erosion. This will eliminate sediment deposition into the watershed and ensure Fork Swamp can carry the designed flood. The banks will be stabilized with a nature-based solution using native non-invasive species of live stakes and bare root plants. Several log and rock vanes will be placed instream below the outlet of Corey Road to ensure stream stability. Geolifts made of natural fibers will also be installed to stabilize the bank and be planted with a riparian buffer mix of native wildflowers and pollinator mix for bees and wildlife. The detention pond and stream bank stabilization will allow the floodwaters to dissipate energy into agricultural fields prior to heading downstream to additional residential properties.

The use of nature-based solutions is central to the proposed mitigation strategy. The project will replant the riparian zone buffer with a riparian seed mix and herbaceous and native woody shrubs and trees. The project will also install bio-engineered (or nature-based) structural enhancements to stabilize the stream bank where most applicable. Stone-based structural enhancements will only be used where necessary. Natural fiber matting will also be used for reinforcement and improve surface stabilization. Compared to conventional stream stabilization solutions which typically depend on steel and concrete, Greenville's approach emphasizes the use of natural, locally available materials that will emulate the morphology of natural stream channels while simultaneously reducing erosion problems along the stream. The riparian vegetation will also offer water quality protection benefits. The replanted riparian vegetation will help to maintain and improve water quality by functioning as a buffer, filtering out sediments and debris. This will improve water quality and protect wildlife habitat. The City's Fork Swamp Watershed Master Plan defines the bankfull elevations as those associated with the channel-forming discharge, typically

between the 1 and 2-year storm events. The bankfull elevation defines the channel's shape and dimensions. As the project will mitigate existing erosion caused by the bankfull elevation, the project's level of protection provided will be the 2-year precipitation event. In addition, the proposed project will address erosion concerns for municipal utilities and residential and commercial structures vulnerable to erosion from the streambank for the full 30-year useful life expected for the project.

The proposed project achieves Objective 1 by reducing structural flooding in habitable structures and improving ability to access habitable structures during a flood event. There are four properties (1203, 1205, 1209, and 1215 Trafalgar Drive) upstream of Corey Road located in the existing conditions 25-year and 100-year floodplain. The modeled water surface elevations show 25yr flood levels at the structures at 1209 and 1215 as 2.12' and 2.59' deep respectively. During the 100yr flood, the four properties range from 1.02' to 3.38' deep respectively. Typical homes in this neighborhood include a 1-3' crawl space and attached garages. Flooding is expected in garages, crawl spaces, and possibly the finished flood of those most affected.



Figure 10. 1215 Trafalgar Drive – Google Street View

With the proposed project the property at 1215 Trafalgar Drive will be removed from the 25-year floodplain and 1209 Trafalgar Drive will be removed from the 100-year floodplain. While the water surface elevations will be reduced at remaining properties, they will remain in the 25-year and 100-year floodplains. They will continue to experience flooding but the depth, severity, and frequency will be reduced.

Water Quality Improvements: To achieve Objective 3 the project will adhere to the NC Stormwater Control Measure Credit Document requirements for regulatory credits. The exact nutrient reduction percentages will be determined during final engineering design, however, using the SNAP tool the project will be designed to reduce at least 35% total Nitrogen and 35% total Phosphorus. A standard wet-detention pond is credited for a 30%

reduction in both Nitrogen and Phosphorus. The chosen design variant with the addition of 55 coverage by Floating Wetland Islands (FWI) further reduces these nutrients. The SCM crediting document shows that the addition of FWI reduces the effluent of Nitrogen and Phosphorus by 30% and 40% respectively over a traditional Wet Pond. This ensures far greater than a 35% reduction in both nutrients.

C.3. Wet Pond

Credit Table

SCM	Role	% Annual Runoff Treated if 100% Sized	% Treated Runoff to Fates			EMC _{effluent} (mg/L)	
			HSG	ET&I	Effluent	TN	TP
Wet Pond per MDC	Primary	84	A	25	75	1.22	0.15
			B	20	80		
			C	15	85		
			D	10	90		
Wet Pond per MDC with ≥ 5% covered by FWI per Fig. 1	Primary	84	A	25	75	0.85	0.09
			B	20	80		
			C	15	85		
			D	10	80		

Figure 11. Wet Pond Nutrient Crediting Table (NC SCM Crediting Document)

The agricultural field downstream of the culvert is devoid of any riparian vegetation and there is evidence of slumping banks in many areas. Bank conditions are currently unstable due to a loamy sand soil texture, lack of sufficient bank vegetation, and the lack of a forested buffer on either bank. This project has opportunities for bank stabilization to prevent bank erosion and sediment loading along to Fork Swamp. Live staking the stream banks along this bend and planting the area with a riparian seed mix will also help prevent future erosion and sediment loading to the channel and planting the riparian zones with native vegetation. Live staking stream banks and planting of hardwood species will help prevent undercutting and bank failures in the future and benefit downstream portions of the watershed.



Figure 12. Erosion and lack of riparian buffer downstream of Corey Road

Educational Messaging: In order to achieve Objective 4, this project will provide education through social media, the City’s website, local City cable access channel, and targeted mailings to the adjacent neighborhoods. This messaging will describe the natural process and functions of the stormwater control measures, the benefit to water quality, and the

flood reduction and peak flow benefits. The messages will also acknowledge the partnership between the City of Greenville and Pitt County as well as the source of the project funds as ARPA LASII funds.

Section 7: Environmental Information Document (EID):

Not Applicable for LASII projects.

Section 8: Financials:

This project has a total estimated budget of just over \$8,000,000. This includes planning, engineering design, permitting, land acquisition, construction, project administration, construction inspection and management, surveying, legal expenses, and funding administration.

The largest share of the budget (~\$3M) is for the excavation and hauling of soil to create an 8 acre wet detention pond. Just over \$500,000 is used to enhance the wet detention pond to provide additional water quality benefits through riparian plantings and floating wetland islands and educational signage. The project was selected to receive \$5,000,000 in grant funds through the LASII program. The project has also been submitted for a \$500,000 matching grant from the NC Environmental Enhancement Grant Program. The remaining funds will come from the City of Greenville Stormwater Management Fund.

City Council adopted the regulations in late 2002 that established the Stormwater Utility, which became effective July 1, 2003. Revenue generated by the Stormwater Utility fund is being used to support the Stormwater Management Program, which includes compliance with the Tar-Pamlico Nutrient Management State Regulations and the Federal National Pollutant Discharge Elimination System (NPDES) Regulations for water quality. It will also provide for the maintenance of the City's drainage system such as pipes and ditches, protecting properties from flooding, protecting our streams and wetlands from erosion and pollution, and major capital investments for the drainage system as it ages. Currently the stormwater utility customers consist of 16,583 single-family residential accounts, 15,869 multifamily residential accounts, and 9,663 commercial, industrial, and institutional accounts. The current rate is \$7.35/ERU/Month with an ERU set at 2000 square feet of impervious area or portion thereof. This rate applies across all account types, however single family residential accounts are capped at 4 ERUs maximum. Information about the stormwater utility can be found on the City's website at <https://greenvillenc.gov/government/engineering/stormwater-management>.

Over the last 12 months the stormwater utility collected approximately \$6 Million in revenue. 100% of the stormwater utility fee is spent on stormwater management, operations, maintenance, and capital improvements. The estimated expenditures for the last 12 months is \$7.5 Million with \$1.5 Million coming from the Stormwater Management

Fund balance. The budget showing official record of the actual amounts collected and expended can be found on the City’s website at <https://www.greenvillenc.gov/home/showdocument?id=21038>. The stormwater program is entirely funded from the Stormwater utility revenues and available grant funding. No funds come from the General Fund or other City funding sources.

In 2018 City Council appointed a Stormwater Advisory Committee to evaluate the stormwater program, level of service, and rate structure and fees. After a detailed analysis with consultants and stakeholders and recommendations from this committee, City Council implemented a plan to increase stormwater utility rates by \$1.00/ERU each year for a period of 4 consecutive years. July 1, 2023 marks the third of these 4 increases. With these increases in rates came additional staff and equipment and directives on expanded level of service for both maintenance and capital improvements. This increased revenue for the stormwater management fund allows projects such as this one to be completed. Projects are identified, ranked, and prioritized in the Watershed Master Plans and are completed as this funding allows. Projects such as this one that are eligible for one or more grants are moved up on the prioritization and other projects are delayed in order to provide the required grant match or cover the remaining need when grants are partially awarded. Increases in the stormwater utility fee are not based on any one particular project but the level of service for the program as a whole.

Corey Road Regional Detention & Stream Restoration

<i>Item Number</i>	<i>Item Description</i>	<i>Quantities</i>	<i>Unit</i>	<i>Unit Price</i>	<i>Amount</i>
1	Mobilization	1	LS	\$ 187,997.91	\$ 187,997.91
2	Comprehensive Grading*	1	LS	\$ 12,946.60	\$ 12,946.60
3	Construction Staking (Greater than 800000)	1	LS	\$ 22,000.00	\$ 22,000.00
4	Select Material	375	CY	\$ 59.00	\$ 22,125.00
5	48" R.C. Pipe Culvert, Class III	110	LF	\$ 600.00	\$ 66,000.00
6	Drainage Structures, custom endwall	2	EA	\$ 16,500.00	\$ 33,000.00
7	Utility Relocations **	1	LS	\$ 16,500.00	\$ 16,500.00
8	Excavation	70,000	CY	\$ 30.00	\$ 2,100,000.00
9	Hauling	70,000	CY	\$ 13.00	\$ 910,000.00
10	Channel Grading	4,970	SY	\$ 22.00	\$ 109,340.00
11	Erosion Control Matting	4,970	SY	\$ 11.00	\$ 54,670.00
12	Clearing & Grubbing	10.0	AC	\$ 5,500.00	\$ 55,000.00
13	Riparian Seed Mix	305	SY	\$ 2.00	\$ 610.00
14	BMP Plantings	12500	SF	\$ 2.00	\$ 25,000.00
15	Buffer Plantings	20500	SY	\$ 5.00	\$ 102,500.00
16	Live Staking	2055	SY	\$ 16.50	\$ 33,907.50
17	Rock Grade Control	1	EA	\$ 11000.00	\$ 11,000.00
18	Rip Rap Stone, Class 1	150	TN	\$ 87.00	\$ 13,050.00
19	Log Grade Control Structure	4	EA	\$ 2200.00	\$ 8,800.00

20	Traffic Control (4+ lane road or multiple 2-lane roads)	1	LS	\$ 50,000.00	\$ 50,000.00
21	Stone Boulder	1	LS	\$ 11,000.00	\$ 11,000.00
22	Erosion Control (Greater than 5 acre LOD)	1	LS	\$ 50,000.00	\$ 50,000.00
23	BMP Outlet Structure	1	EA	\$ 6,600.00	\$ 6,600.00
24	Asphalt Replacement (Surface, Base Course, & Milling)	267	SY	\$ 127.00	\$ 33,909.00
25	Concrete Curb and Gutter	200	LF	\$ 60.00	\$ 12,000.00
26	Educational Signage	1	LS	\$ 5,000.00	\$ 5,000.00
27	Floating Wetland Islands	1500	SY	\$ 200.00	\$ 300,000.00
Subtotal					\$ 4,268,206.01
Contingency					\$ 426,820.60
Construction Subtotal					\$ 4,695,026.61
Engineering			%	20%	\$ 939,005.32
Permitting			%	1%	\$ 46,950.27
Surveying			%	1%	\$ 46,950.27
Engineering Subtotal					\$ 1,032,905.85
Planning (pre-construction costs)			%	4%	\$ 187,801.06
Easement Preparation			%	1%	\$ 46,950.27
Engineering Report Preparation			%	1%	\$ 46,950.27
Legal Costs			%	2%	\$ 93,900.53
Project Funding Administration			%	2%	\$ 93,900.53
Construction Inspection			%	15%	\$ 704,253.99
Construction Administration			%	15%	\$ 704,253.99
Administration Subtotal					\$ 1,878,010.64
Land & Easement Acquisition		14	AC	\$ 30,000.00	\$ 420,000.00
Land Acquisition Subtotal					\$ 420,000.00
Total Opinion of Project Cost					\$ 8,025,943.10

* Cost for comprehensive grading includes roadway excavation, saw cutting, compaction of select material, geotechnical recommendations, home owner coordination, tree and structure protection, structure removal and disposal, shoring, and culvert excavation.

** Cost for utility conflicts includes all utilities that need to be moved including sanitary sewer and potable water lines. Additional survey may be required to locate pressurized utilities.

The Engineer's opinions of probable construction costs are made on the basis of the Engineer's experience and qualifications and represent the Engineer's best judgment as a professional generally familiar with the construction industry. Since the Engineer has no control over the cost of labor, materials, equipment, or services furnished by others; over the contractors methods of determining prices; or over competitive bidding or marketing conditions, the Engineer's cannot and does not guarantee that proposal, bids or actual construction costs will not vary from opinions of probable construction costs prepared by the Engineer.

Section 9: Public Participation:

The development of the Fork Swamp Watershed Master Plan where this project was identified included a broad range of stakeholders to collect as much data, information, and tacit knowledge of the watershed as feasible. The general public was solicited through questionnaires mailed to all property owners in the watershed and through an open house public meeting where residents and business owners were encouraged to provide feedback on stormwater issues in the watershed. City staff served as a critical stakeholder by providing valuable information regarding historical flooding and erosion problems in the watershed as well as providing feedback on potential capital improvements and their prioritization.

In August of 2014, the City began distribution of questionnaires related to stormwater management property owners in the Fork Swamp watershed. Thirty-six (36) questionnaires were completed and returned to the City for consideration from Fork Swamp watershed property owners. The questionnaire results were georeferenced according to the address of the questionnaire respondent. There was one response that was located outside of the City limits. Seven (7) of the respondents indicated some level of property flooding, with one (1) property owners experiencing living space flooding, (4) four crawl space flooding, and 2 (two) AC/storage at least once per year. Twenty-four (24) respondents identified locations where street flooding occurs while another ten (10) residents reported yard flooding. A total of five (5) residents reported erosion threatening streets, yards, garages, or fences. On November 4, 2014, the City provided another avenue for obtaining citizen input by holding a public meeting. An open house format allowed property owners to attend at their convenience and speak to City staff or representatives from WK Dickson. Nine (9) residents from the watershed provided feedback at the meeting. All of these residents were located within the City limits. The results and comments from the citizen's input contributed significantly to the identification and prioritization of problem areas, and validation of model results.

Pit County, City of Winterville, NCDOT, and Greenville Utilities are partners with the City of Greenville. They are coordinating on floodplain management, education, and flood reduction. Because this project has downstream effects, floodplain mapping will be revised with lower flood elevations and flood risk will be reduced onsite and downstream outside of the City of Greenville's jurisdiction. The project will involve close coordination with NCDOT to ensure the design meets NCDOT standards for the second culvert under Corey Road. Greenville Utilities is a significant partner to ensure that the sanitary sewer main pump station along Fork Swamp Unnamed Tributary is elevated and waterproofed to limit stormwater inflow and infiltration. This will reduce and eliminate potential sanitary sewer overflows and sanitary sewer pump failures due to electrical shortages and flooding.

Public Involvement was conducted as part of the NC RCCP program, NCORR RISE Project Portfolio development, and during the Fork Swamp Watershed Master Plan project prioritization. The master planning process used a range of communications tools to engage

and solicit input from stakeholders including a questionnaire, three public meetings, social media, and direct resident contact and interviews. The Corey Road Regional Drainage Improvement and Flood Risk Resilience project was identified as a result of community input.



City of Greenville, North Carolina

Meeting Date: 05/06/2024

Title of Item: Award of Construction Contract to Berry Building Group for the Wildwood Park PARTF Improvements Project

Explanation: The City of Greenville was awarded a Parks and Recreation Trust Fund (PARTF) Grant in late 2022 for \$361,600 for improvements to Wildwood Park. The scope of work includes a new driveway and parking lot adjacent to the existing Bike Park, as well as restroom facilities, an observation deck, and playground equipment that includes a challenge course and ziplines.

The City solicited bids for construction and received two (2) bids which were opened on April 12, 2023. Berry Building Group submitted a base bid of \$833,775, and Farringham & Sons submitted a base bid of \$938,000. The City has elected to proceed with the bid from Berry Building Group and include bid alternates #2 (additional parking), #4 (observation deck), and #5 (bike racks, wash and repair station) for a total contract amount of \$923,276.

The project is anticipated to take 4-5 months and will add convenient parking for the Wildwood Park Bike Park. Once complete, these improvements will allow Recreation & Parks staff to further activate the park with programs and events.

Fiscal Note: Project funds are available from the Wildwood Park Capital Improvement Account and from the PARTF grant.

Recommendation: Award the Wildwood Park PARTF Improvement Project Construction Contract to Berry Building Group for \$923,276.

ATTACHMENTS

- [Wildwood Park PARTF Construction Contract.pdf](#)
- [Map and Site Plan.pdf](#)

Vendor Name: Berry Building Group, Inc.

Vendor Number: 11161

Contract # _____



AGREEMENT FOR CONTRACTOR SERVICES

Wildwood Park PARTF Construction Contract

THIS Agreement is made and entered into on this date _____, by and between the City of Greenville, a municipal corporation organized and existing under the laws of the State of North Carolina, and hereinafter referred to as the “City”, with a primary address of 200 W. Fifth Street, Greenville, NC 27858, and **Berry Building Group, Inc.**, a corporation organized and existing under the laws of the State of North Carolina, and hereinafter referred to as the “Contractor”, whose primary offices are located at 211A Commerce St, Greenville, NC 27858.

GENERAL RECITALS

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

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

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

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

The Consultant/Contractor agrees to perform the assigned services.

ARTICLE I – SCOPE OF WORK

I.A. DESCRIPTION OF WORK REQUIRED

The Consultant/Contractor shall construct Wildwood Park PARTF Improvements *using the Plan Specifications as defined in the Project Manual and Construction Plans provided by The East Group, dated March 01, 2024 (Manual) and March 14, 2024 (Plans)*, and amendments, if any, said work being hereinafter referred to as the “Work”. The solicitation and amendments, if any, are hereby incorporated by reference herein and made a part hereof as fully as if herein set forth. Unless otherwise specified herein, the Consultant/Contractor is to furnish all necessary labor, materials, tools, equipment, superintendence, delivery and perform all necessary services to complete the Work at no additional costs to the City.

I.B. WORK STANDARDS

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

I.C. ORDER OF PRECEDENCE

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

1. This Agreement with any Attachments, including Addendum(s) and Amendment(s) hereto;
2. If applicable, negotiated Amendments or clarification to the Consultant/Contractor’s Proposal which have been incorporated by reference to the final Agreement;
3. City’s solicitation attached hereto as Exhibit A; and
4. Consultant/Contractor’s Proposal attached hereto as Exhibit B.
5. Title VI of Civil Rights Requirements attached hereto as Exhibit C.
6. PARTF Grant Requirements attached hereto as Exhibit D.

I.D. SUBCONTRACTS

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

- I.D.1. The Consultant/Contractor will be responsible for the schedule of any work sublet to others so as to assure the overall schedule of the project is maintained.
- I.D.2. The Consultant/Contractor will be responsible for the completeness, accuracy and presentation of all data, and for the review of any work sublet to others.

- I.D.3. The Consultant/Contractor shall notify all sub-consultants under this contract of ALL new work assignments made by the City to the Consultant/Contractor regardless of any particular sub-consultant's engagement level under a particular task order. This notification information may be requested by the City in the form of a report.

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

II.A. DATA AND SERVICES

- II.A.1. The City's project manager who will be overseeing the Contractor/Consultant in order to ensure that the requirements of this contract are met is the ***City Projects & Development Manager***. If assistance or further information is needed, the Contractor/Consultant shall contact the ***City Projects & Development Manager, 252-329-4242***. All directions and communications from the City to the Contractor/Consultant shall be through the ***City Projects & Development Manager*** or their designee unless otherwise stated herein.
- II.A.2. The City shall provide available data and information, as applicable to the detailed Work to be performed under this Agreement.
- II.A.3. Any City property, information, data, instruments, documents, studies or reports given to or prepared or assembled by or provided to the Consultant/Contractor under this Agreement shall be kept as confidential, used only for the purpose(s) required to perform the Agreement and not divulged or made available to any individual or organization without the prior written approval of the City. The City's data and property in the hands of the Consultant/Contractor shall be protected from unauthorized disclosure, loss, damage, destruction by a natural event or another eventuality. The Consultant/Contractor agrees to reimburse the City for loss or damage of City property while in Consultant/Contractor's custody. Such City data shall be returned to the City in a form acceptable to the City upon the termination or expiration of this Agreement. The Consultant/Contractor shall notify the City of any security breaches within 24 hours as required by G.S. § 143B-1379.

ARTICLE III – TIME OF BEGINNING AND COMPLETION

III.A. PERIOD OF PERFORMANCE

Work will begin no later than ten (10) calendar days following execution of this agreement and issuance of the Notice to Proceed. The work will be substantially completed within 120 days and fully completed within 150 days. The Consultant/Contractor will be responsible for implementing and monitoring the schedule.

This Agreement will expire after 150 days following the execution of this agreement and issuance of the Notice to Proceed, unless there is a duly executed amendment signed by both parties agreeing to extend time for performance.

III.B. DELIVERABLES

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

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

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

ARTICLE IV – COMPENSATION AND PAYMENTS

IV.A. FEES AND COSTS

Upon compliance with Paragraph IV.B below, Consultant/Contract will be eligible for compensation for the services as outlined in the Construction Plans and Project Manual, which is incorporated into this Agreement as Attachment A.

Specifically, Consultant/Contractor will be eligible to receive a not-to-exceed amount of \$923,276.00 (nine hundred and twenty three thousand two hundred and seventy six dollars and zero cents).

The City shall not be obligated to pay the Contractor any payments, fees, expenses, or compensation other than those authorized by this section.

IV.B. PAYMENT

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

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

All invoices shall be directed to: ***Project Management Department, Mark Nottingham, City Projects & Development Manager, 2000 Cedar Lane Greenville, NC 27858*** or emailed to ***mnottingham@greenvillenc.gov***.

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

ARTICLE V - GENERAL TERMS AND CONDITIONS

V.A. **TERMINATION**

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

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

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

the Agreement shall be discharged except that any right based on prior breach or performance survives and any other provisions expressly cited to survive termination. At the time of termination under this provision or as soon afterwards as is practical, Consultant/Contractor shall give the City all Work, including partly completed Work.

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

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

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

V.B. **CONSULTANT/CONTRACTOR'S RESPONSIBILITY**

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

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

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

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

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

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

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

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

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

including moving, demolition and excavating connected therewith, then subsection “a” above shall not require the Contractor to indemnify or hold harmless Indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.

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

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

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

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

Limits:

Workers Compensation: Statutory for the State of North Carolina.

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

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

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

- b. **Commercial General Liability:**

Limits:

Each Occurrence: \$1,000,000

Personal and Advertising Injury \$1,000,000

Vendor Name: Berry Building Group, Inc.

Vendor Number: 11161

Contract # _____

General Aggregate Limit	\$2,000,000
Products and Completed Operations Aggregate	\$2,000,000

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

c. Commercial Automobile Liability:

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

d. Cancellation:

Each certificate of insurance shall bear the provision that the policy cannot be altered or canceled in less than thirty (30) days after mailing written notice to the assured of such alteration or cancellation, sent registered mail.

e. Proof of Carriages:

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

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

In addition to other warranties made in this transaction, Seller represents and warrants that all of the products (which includes goods, items, and other things) furnished under this contract, the process by which those products are made, and their use will not infringe any patent, trademark, or other rights of any other person, firm, or corporation, and Seller shall defend, indemnify, and hold harmless the City and its officers, officials, agents, contractors, and employees from and against any and all claims, judgments, costs, damages, losses, demands, liabilities, obligations, fines,

penalties, royalties, settlements, and expenses (including interest and reasonable attorney's fees assessed as part of any such item) arising out of any:

- (i) actual or alleged infringement of any such patent, trademark, or other rights; or
- (ii) (except to the extent that the personal injury, death, or property damage is caused solely by negligent or intentional acts or omissions of the City) personal injury, death, or property damage allegedly caused by or resulting from the delivery to the City of, or the manufacture, construction, design, formulation, development of standards, preparation, processing, assembly, testing, listing, certifying, warning, instructing, marketing, selling, advertising, packaging, or labeling of any product furnished to the City under this Agreement.

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

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

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

V.D. **CORRECTION OF WORK**

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

V.E. **RELATIONSHIP WITH OTHERS**

Vendor Name: Berry Building Group, Inc.

Vendor Number: 11161

Contract # _____

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

V.F. **NOTICE**

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

City:

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

Consultant/Contractor:

Berry Building Group, Inc.
211A Commerce St.
Greenville, NC 27858
Attn: John Berry

V.G. **ADDITIONAL PROVISIONS**

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

The parties agree that time is of the essence in the completion of the Work to be performed pursuant to this Agreement. Work shall start no later than ten (10) calendar days following issuance of the Notice to Proceed issued by the City and work shall be substantially complete within 120 days, and fully complete within 150 days.

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

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

All tracings, documents, technical reports, charts, plans, specifications, photographic negatives, photographs, survey notes, computations, and maps and other data or documents prepared or obtained under the terms of this Agreement shall be delivered to and become the property of the City without restriction or limitation on their use. However, in the event of any reuse or alteration of any documents furnished to the City, such alteration or reuse

shall be at the City's sole risk. In the case of an Agreement involving preliminary plans only, no commitment is stated or implied that would constitute a limitation on the subsequent use of the plans or ideas incorporated therein for preparation of construction plans. These items could become the property of the City, if the City so elects.

V.G.3. **MINORITY/WOMEN OWNED BUSINESS ENTERPRISE AND NON-DISCRIMINATION**

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

Consultant/Contractor, its assignees and successors in interest, further agrees that in the performance of these services that it shall comply with the requirements of Title VI of the Civil Rights Act of 1964 and other pertinent Nondiscrimination Authorities, as cited in Exhibit C to this Agreement and will not discriminate in its hiring, employment, and contracting practices with reference to political affiliation, genetic information, sexual orientation, age, sex, race, color, religion, national origin, handicap or disability.

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

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

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

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

V.G.6. **ASSIGNMENT**

There shall be no assignment, subletting or transfer of the interest (including payments) of the Consultant/Contractor in any of the work covered by the Agreement without the written consent of the City. Unless the City agrees

otherwise in writing, the Consultant/Contractor and all assignees shall be subject to all of the City's defenses and shall be liable for all of the Consultant/Contractor's duties that arise out of this Agreement and all of the City's claims that arise out of this Agreement. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. Consultant/Contractor is aware of the conflict of interest laws of the City of Greenville, of the State of North Carolina (as set forth in North Carolina General Statutes), and agrees that it will fully comply in all respects with the terms thereof and any future amendments.
- b. Consultant/Contractor covenants that no person or entity under its employ, presently exercising any functions or responsibilities in connection with this Agreement, has any personal financial interests, direct or indirect, with the City. Consultant/Contractor further covenants that, in the performance of this Agreement, no person or entity having such conflicting interest shall be utilized in respect to the Scope of Work or services provided hereunder. Any such conflict of interest(s) on the part of Consultant/Contractor, its employees or associated persons or entities shall be disclosed to the City.
- c. Consultant/Contractor shall disclose any possible conflicts of interest or apparent improprieties of any party under or in connection with the Legal Requirements, including the standards for procurement.
- d. Consultant/Contractor shall make any such disclosure to the City in writing and immediately upon the Consultant/Contractor's discovery of such possible conflict. The City's determination regarding the possible conflict of interest shall be binding on all parties.

No employee, agent, Consultant/Contractor, elected official or appointed official of the City, exercising any functions or responsibilities in connection with this Agreement, or who is in a position to participate in the decision-making process or gain inside information regarding activities, has any personal financial interest, direct or indirect, in this Agreement, the proceeds hereunder, the Project or Consultant/Contractor, either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

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

Consultant/Contractor acknowledges that funding for this Agreement is conditioned upon appropriation and allocation by the governing

body of sufficient funds to support the activities described in this Agreement. By written notice to Consultant/Contractor at the earliest possible date, City may terminate this Agreement, in whole or in part, at any time for lack of appropriation of funds, or other withdrawal, reduction or limitation in any way of the City's budget, funding or financial resources. Such termination is in addition to the City's rights to terminate for convenience or cause.

If this Agreement is terminated for non-appropriation: The City will be liable only for payment in accordance with the terms of this Agreement for Work completed and expenses incurred prior to the effective date of termination. The Consultant/Contractor will not be compensated for any other costs in connection with a termination for non-appropriation. The Consultant/Contractor will not be entitled to recover any damages in connection with a termination for non-appropriation, including, but not limited to, lost profits. Consultant/Contractor shall be released from any further obligation to provide Work affected by such termination, and Termination shall not prejudice any other right or remedy available to the City.

V.G.15

RECORDS RETENTION

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

V.G.16

CONFIDENTIALITY

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

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

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

V.G.17 **SEVERABILITY**

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

V.G.18 **COUNTERPARTS**

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

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

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

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

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

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

This Agreement, including any Exhibits hereto, contains all the terms and conditions agreed upon by the parties. No promises, agreements, conditions,

inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this contract shall be deemed to exist or to bind either party hereto.

V.G.22. **HEADINGS**

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

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

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

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

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

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

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

V.G.26 **CITY MANAGER'S AUTHORITY**

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

V.G.27 **LIQUIDATED DAMAGES**

Vendor Name: Berry Building Group, Inc.

Vendor Number: 11161

Contract # _____

If the Contractor fails to complete the Work within the time specified as stated in V.G.1 of this contract, then the Contractor shall pay liquidated damages to the City in the amount of \$500.00 (five hundred dollars) for each calendar day of delay until the work is completed or accepted.

[Signature Pages Follow]

Vendor Name: Berry Building Group, Inc.

Vendor Number: 11161

Contract # _____

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the dates written below and the undersigned hereby warrants and certifies that they have read the Agreement in its entirety, understand it and agree to be bound by all the terms and conditions stated herein. Further, they warrant and certify they are authorized to enter into this Agreement and to execute same on behalf of the parties as the act of the said parties.

SIGNATURE OF CITY

CITY OF GREENVILLE:

BY: _____
SIGNATURE

MAYOR

DATE

APPROVED AS TO FORM:

BY: _____
City Attorney or Designee (Designee means Assistant City Attorney)

PRE-AUDIT CERTIFICATION:

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

BY: _____ **DATE:** _____
Jacob A. Joyner, Director of Financial Services

ACCOUNT NUMBER:

PROJECT CODE (IF APPLICABLE): Wildwood PARTF PROJECT-GRANT EXPENSES

[Vendor Signature Page Follows]

Vendor Name: Berry Building Group, Inc.

Vendor Number: 11161

Contract # _____

SIGNATURE OF VENDOR

Berry Building Group, Inc.

FULL NAME OF VENDOR

(e.g., Limited Liability Company, Organization, Individual Doing Business Under a Firm Name)

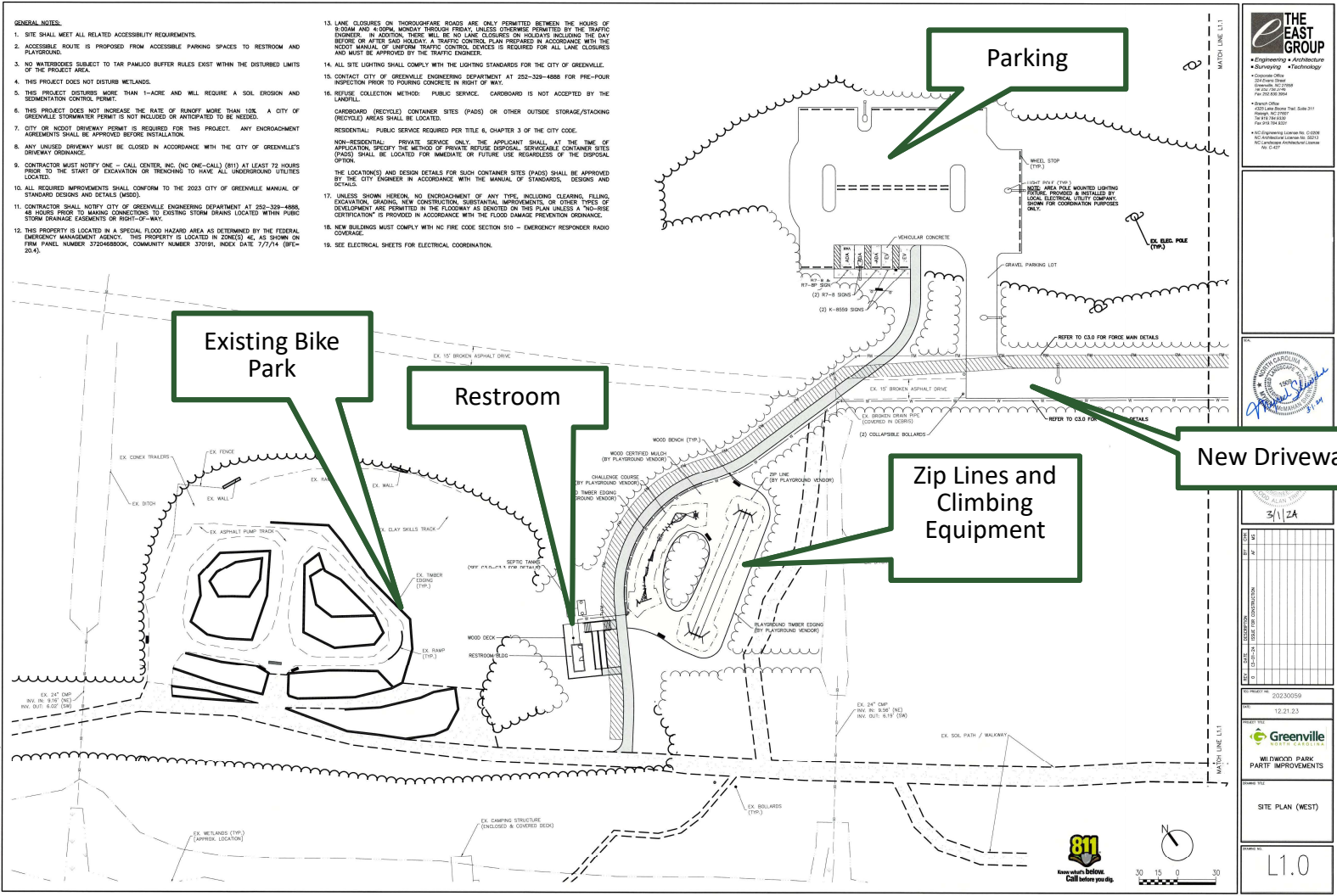
VENDOR:

BY: _____
SIGNATURE

TITLE

DATE





- GENERAL NOTES:**
1. SITE SHALL MEET ALL RELATED ACCESSIBILITY REQUIREMENTS.
 2. ACCESSIBLE ROUTE IS PROPOSED FROM ACCESSIBLE PARKING SPACES TO RESTROOM AND PLAYGROUND.
 3. NO WATERBODIES SUBJECT TO TARP PAULICO BUFFER RULES EXIST WITHIN THE DISTURBED LIMITS OF THE PROJECT AREA.
 4. THIS PROJECT DOES NOT DISTURB WETLANDS.
 5. THIS PROJECT DISTURBS MORE THAN 1+ACRE AND WILL REQUIRE A SOIL EROSION AND SEDIMENTATION CONTROL PERMIT.
 6. THIS PROJECT DOES NOT INCREASE THE RATE OF RUNOFF MORE THAN 10%. A CITY OF GREENVILLE STORMWATER PERMIT IS NOT INCLUDED OR ANTICIPATED TO BE NEEDED.
 7. CITY OR NCOTD DRIVEWAY PERMIT IS REQUIRED FOR THIS PROJECT. ANY ENCROACHMENT AGREEMENTS SHALL BE APPROVED BEFORE INSTALLATION.
 8. ANY UNLINED DRIVEWAY MUST BE CLOSED IN ACCORDANCE WITH THE CITY OF GREENVILLE'S DRIVEWAY ORDINANCE.
 9. CONTRACTOR MUST NOTIFY ONE-CALL CENTER, INC. (NC ONE-CALL) (811) AT LEAST 72 HOURS PRIOR TO THE START OF EXCAVATION OR TRENCHING TO HAVE ALL UNDERGROUND UTILITIES LOCATED.
 10. ALL REQUIRED IMPROVEMENTS SHALL CONFORM TO THE 2023 CITY OF GREENVILLE MANUAL OF STANDARD DESIGNS AND DETAILS (MSDD).
 11. CONTRACTOR SHALL NOTIFY CITY OF GREENVILLE ENGINEERING DEPARTMENT AT 252-339-4886, 48 HOURS PRIOR TO MAKING CONNECTIONS TO EXISTING STORM DRAINS LOCATED WITHIN PUBLIC STORM DRAINAGE EASEMENTS OR RIGHT-OF-WAY.
 12. THIS PROPERTY IS LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. THIS PROPERTY IS LOCATED IN ZONE(S) 4E, AS SHOWN ON FIRM PANEL NUMBER 3720488800A, COMMUNITY NUMBER 370191, INDEX DATE 7/7/14 (DFP-254).

13. LANE CLOSURES ON THOROUGHFARE ROADS ARE ONLY PERMITTED BETWEEN THE HOURS OF 8:00AM AND 4:00PM, MONDAY THROUGH FRIDAY, UNLESS OTHERWISE PERMITTED BY THE TRAFFIC ENGINEER. IN ADDITION, THERE WILL BE NO LANE CLOSURES ON REDWAYS INCLUDING THE DAY BEFORE OR AFTER SAID HOURS. A TRAFFIC CONTROL PLAN PREPARED IN ACCORDANCE WITH THE NCOTD MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES IS REQUIRED FOR ALL LANE CLOSURES AND MUST BE APPROVED BY THE TRAFFIC ENGINEER.
 14. ALL SITE LIGHTING SHALL COMPLY WITH THE LIGHTING STANDARDS FOR THE CITY OF GREENVILLE.
 15. CONTACT CITY OF GREENVILLE ENGINEERING DEPARTMENT AT 252-339-4886 FOR PRE-FOUR INSPECTION PRIOR TO POURING CONCRETE IN RIGHT OF WAY.
 16. REFUSE COLLECTION METHOD: PUBLIC SERVICE. CARDBOARD IS NOT ACCEPTED BY THE LANDFILL.
- CARDBOARD (RECYCLE) CONTAINER SITES (PADS) OR OTHER OUTSIDE STORAGE/STACKING (RECYCLED) AREAS SHALL BE LOCATED:
- RESIDENTIAL: PUBLIC SERVICE REQUIRED PER TITLE 6, CHAPTER 3 OF THE CITY CODE.
- NON-RESIDENTIAL: PRIVATE SERVICE ONLY. THE APPLICANT SHALL, AT THE TIME OF APPLICATION, SPECIFY THE METHOD OF PRIVATE REFUSE DISPOSAL. SIMILAR CONTAINER SITES (PADS) SHALL BE LOCATED FOR IMMEDIATE OR FUTURE USE REGARDLESS OF THE DISPOSAL OPTION.
- THE LOCATION(S) AND DESIGN DETAILS FOR SUCH CONTAINER SITES (PADS) SHALL BE APPROVED BY THE CITY ENGINEER IN ACCORDANCE WITH THE MANUAL OF STANDARDS, DESIGNS AND DETAILS.
17. UNLESS SHOWN HEREON, NO ENCROACHMENT OF ANY TYPE, INCLUDING CLEARING, FILING, EXCAVATION, GRADING, NEW CONSTRUCTION, SUBSTANTIAL IMPROVEMENTS OR OTHER TYPES OF DEVELOPMENT ARE PERMITTED IN THE FLOODWAY AS DENOTED ON THIS PLAN UNLESS A "NO-RISE CERTIFICATION" IS PROVIDED IN ACCORDANCE WITH THE FLOOD DAMAGE PREVENTION ORDINANCE.
 18. NEW BUILDINGS MUST COMPLY WITH NC FIRE CODE SECTION 510 - EMERGENCY RESPONDER RADIO COVERAGE.
 19. SEE ELECTRICAL SHEETS FOR ELECTRICAL COORDINATION.

THE EAST GROUP
 Engineering Architecture
 Surveying Technology

Company Office
 1000 West 10th Street
 Greenville, SC 29604
 Tel: 252-339-4886
 Fax: 252-339-4888

Project Office
 200 Millwood Drive
 Millwood, NC 27568
 Tel: 252-339-4886
 Fax: 252-339-4888

NC Engineering License No. 02028
 NC Architecture License No. 35013
 NC Landscaping Architectural License No. 12102

Approved
 3/1/24

DATE	DESCRIPTION
3/1/24	

PROJECT NUMBER: 20230059
 DATE: 12.21.23
Greenville
 MILLWOOD PARK PART II IMPROVEMENTS
 SHEET NO.: SITE PLAN (WEST)
 SCALE: L1.0



City of Greenville, North Carolina

Meeting Date: 05/06/2024

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:

<u>Payee</u>	<u>Adjustment Refunds</u>	<u>Amount</u>
House, Donald Eugene	Registered Motor Vehicle	649.07
Ellison, Darryl Elijah	Registered Motor Vehicle	565.61
Irmen, John Nicholas III	Registered Motor Vehicle	502.80
Avery, Ernest Ray Jr	Registered Motor Vehicle	464.63
Rodriguez Cruz, Javier Alberto	Registered Motor Vehicle	461.60
Ryder Truck Rental Inc	Registered Motor Vehicle	461.52
Brinton, Willis James	Registered Motor Vehicle	410.76
Smith, Latangela Rena	Registered Motor Vehicle	403.26
Reisinger, Leah Ann	Registered Motor Vehicle	399.80
Lee, Courtney Lee	Registered Motor Vehicle	387.34
Oakley, Ashley Zurface	Registered Motor Vehicle	357.49
Whichard, Marcus Heber	Registered Motor Vehicle	347.30
Catapano, Felicea Adrien	Registered Motor Vehicle	325.11
Kelly, Everett Kaumualii Jr	Registered Motor Vehicle	318.83
Southerland, Graicen Nicole	Registered Motor Vehicle	318.65
Keene, Keith Latrell	Registered Motor Vehicle	298.71
Garden, Christopher	Registered Motor Vehicle	294.86
Gordon, Carol Boswell	Registered Motor Vehicle	276.60

Atkinson, Trumekka Nichole	Registered Motor Vehicle	240.73
Wetherington, Daniel Earl	Registered Motor Vehicle	238.89
Hromyak, John	Registered Motor Vehicle	228.82
Rowan, John Phillip	Registered Motor Vehicle	227.76
Davis, Ronnie	Registered Motor Vehicle	268.81
Winstead, Jeffery Johnson	Registered Motor Vehicle	222.04
Mills, Tanner Fox	Registered Motor Vehicle	218.73
Harris, Jimmy Truett	Registered Motor Vehicle	210.07
Smith, Ronald Wayne	Registered Motor Vehicle	209.75
Wilson, Donnie Elbert	Registered Motor Vehicle	208.47
Hutchins, Malik E	Registered Motor Vehicle	204.61
Mclawhorn, Robert Earl Jr	Registered Motor Vehicle	186.97
Price, David Talmadge	Registered Motor Vehicle	182.79
Gay, Marvin Demetrus	Registered Motor Vehicle	182.22
Branch, Janice Jones	Registered Motor Vehicle	168.89
Crawford, Trisha Robin Sarki	Registered Motor Vehicle	167.67
Evans, Cindy Putnam	Registered Motor Vehicle	162.72
King, Willard Charles	Registered Motor Vehicle	158.14
Randolph, Willie Kent	Registered Motor Vehicle	157.64
Cox, Samuel Hubert	Registered Motor Vehicle	144.15
Overbay, William Bruce	Registered Motor Vehicle	140.36
Rowland, Stephen Andrew	Registered Motor Vehicle	140.07
Mcgrail, Herbert Howard II	Registered Motor Vehicle	138.52
Edwards, Charlie David	Registered Motor Vehicle	134.31
Sadler, Lisa Kathryn	Registered Motor Vehicle	132.68
Gingrich, Beth Marie	Registered Motor Vehicle	132.27
Daniels, Dexter Keith	Registered Motor Vehicle	131.51
Mills, Danielle Marie	Registered Motor Vehicle	131.36
Pigg, Ryan Davis	Registered Motor Vehicle	130.59
Payne, James David	Registered Motor Vehicle	127.17
Cole, Bobby James	Registered Motor Vehicle	124.20
Howell, Valerie	Registered Motor Vehicle	123.82
Silvey, Sandra Abrecht	Registered Motor Vehicle	122.76
Avery, Harry Edwin	Registered Motor Vehicle	121.14
Bacon, Daphne Dianna	Registered Motor Vehicle	119.42
Cruz Flores, Lusi Manuel	Registered Motor Vehicle	118.21
Santiago, Nestor Nelson	Registered Motor Vehicle	116.28
White, Leslie Kelley	Registered Motor Vehicle	105.97

Reynolds, Bruce Alexander	Registered Motor Vehicle	102.57
Kinlaw, Louis Elson	Registered Motor Vehicle	102.48
Tyer, William Edward	Registered Motor Vehicle	102.41
Olsen, Jordan Jeffery	Registered Motor Vehicle	100.18
Bed Land Furniture Inc	Business Personal Property	16,327.92
Futrell, William Anthony	Individual Property Taxes	560.76
Martinez, Kenia	Individual Property Taxes	364.82
Randolph, Kristal K	Individual Property Taxes	352.27
Batchelor, Dock Jr	Individual Property Taxes	225.17
Downs, Michael Christopher	Individual Property Taxes	196.56
Foye, Maurice Lamont	Individual Property Taxes	190.98
Hendrix, Liddle	Individual Property Taxes	180.51
Bocardo, Teodoro	Individual Property Taxes	174.48
Betancourt, Fernando	Individual Property Taxes	163.61
McLawhorn, Robert Earl Jr	Individual Property Taxes	142.15
Welch, Michael Derrick	Individual Property Taxes	124.75
Taylor, Douglas Cameron	Individual Property Taxes	113.53

Fiscal Note: The total refunded is \$33,049.60

Recommendation: Approval of taxes refunded by City Council



City of Greenville, North Carolina

Meeting Date: 05/06/2024

-
- Title of Item:** Ordinance Approving Fiscal Year 2023-24 Capital Reserve Fund Designations, as Included in Budget Ordinance Amendment #10
- Explanation:** An ordinance approving the Fiscal Year 2023-24 Capital Reserve Fund Designations, as included in Budget Ordinance Amendment #10, is presented for City Council consideration.
- Budget Ordinance Amendment #10 includes a revenue from the State of North Carolina to the Capital Reserve Fund for the Town Common Bulkhead 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 October 10, 2022, changes to those designations, and the proposed designations as of the May 6, 2024 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 \$8,236,729 and reflects the capital project priorities of the City Council as included in Budget Ordinance #10.
- Recommendation:** Approve Fiscal Year 2023-24 Capital Reserve Fund Designations and adopt the Capital Reserve Fund Ordinance.
-

ATTACHMENTS

- [Capital_Reserve_Designations_1121187.XLS](#)
- [COG-#1123148-v7-Capital_Reserve_Ordinance.docx](#)

City of Greenville
Capital Reserve Fund - Detail of Designations - May, 2024

Purpose	Approved Designations October 10, 2022	Inc/(Dec)	Proposed Designations May 6, 2024
Dickinson Avenue Streetscape	\$ 542,860	\$ -	\$ 542,860
Transportation			
DOT Road Construction projects	1,693,869	-	1,693,869
Subtotal Transportation	<u>1,693,869</u>	-	<u>1,693,869</u>
Industrial Site	1,000,000	-	1,000,000
Recreation and Parks			
Town Common Bulkhead	\$ - ^A	\$ 5,000,000	\$ 5,000,000
Subtotal Recreation and Parks	<u>\$ -</u>	<u>\$ 5,000,000</u>	<u>\$ 5,000,000</u>
Total	<u><u>\$ 3,236,729</u></u>	<u><u>\$ 5,000,000</u></u>	<u><u>\$ 8,236,729</u></u>

^A To recognize funds received from the State within the Capital Reserve fund for costs associated with the Town Common Bulkhead.

ORDINANCE NO. 24-
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>
\$5,000,000	State Funds	Town Common Bulkhead	5 years
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>\$ 8,236,729</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 6th day of May, 2024.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk



City of Greenville, North Carolina

Meeting Date: 05/06/2024

Title of Item: Budget Ordinance Amendment #10 to the 2023-2024 City of Greenville Budget (Ordinance #23-046), the Capital Projects Funds (Ordinance #17-024), Special Revenue Grant Fund (Ordinance #11-003), and the Occupancy Tax Fund (Ordinance #11-003)

Explanation: Attached for consideration at the May 6, 2024 City Council meeting is an ordinance amending the 2023-2024 City of Greenville Budget (Ordinance #23-046), the Capital Projects Funds (Ordinance #17-024), the Special Revenue Grant Fund (Ordinance #11-003), and the Occupancy Tax Fund (Ordinance #11-003).

For ease of reference, a footnote has been added to each line item of the Budget Ordinance Amendment, which corresponds to the explanation below:

<u>Item</u>	<u>Justification</u>	<u>Funds Amended</u>	<u>Increase /(Decrease)</u>
A	To recognize a transfer from the Occupancy Tax fund for the upgrades to the Greenville Convention Center Courtyard which were approved at the March 11, 2024 council meeting.	Occupancy Tax Public Works Capital Projects	\$250,000
B	To recognize funds received within the Capital Reserve Fund designated for the Town Common Bulkhead project.	Capital Reserve	5,000,000
C	To recognize additional revenue received from Downtown Greenville Partnership for the Uptown Beautification Project.	General	20,000
D	To recognize donations from the Community Foundation of NC East for Wildwood Park.	Rec & Parks Capital Projects	150,000

E	To recognize additional revenue received from interest on investments allocated to Neighborhood & Business Services for business loans.	General	50,000
F	To recognize additional donations received for the Police Department.	Donations	3,544
G	To appropriate fund balance for PEG and Opioid funds received in previous years.	General	60,032
H	To Recognize additional Opioid funds received from settlement.	Special Revenue Grant	209,277
I	To recognize funding received from the State for Corey Road Regional Detention Project.	Stormwater Utility Enterprise Capital Projects	257,257 8,025,943
J	Transfer funds from Planning & Development to UDO work by Inspire.	General Community Development Capital Projects	10,530

Fiscal Note:

The Budget Ordinance Amendment affects the following funds:

<u>Fund</u>	<u>2023-24 Original Budget</u>	<u>Amendment #10</u>	<u>2023-24 Budget per Amendment #10</u>
General	\$109,784,063	\$130,032	\$109,914,095
Debt Service	6,863,408	-	6,863,408
Public Transportation (Transit)	8,266,066	-	8,266,066
Fleet Maintenance	6,357,587	-	6,357,587
Sanitation	9,419,549	-	9,419,549
Stormwater Utility	12,618,171	257,257	12,875,428
Housing	2,717,697	-	2,717,697
Health Insurance	14,376,386	-	14,376,386
Vehicle Replacement	11,842,536	-	11,842,536
Facilities Improvement	2,354,639	-	2,354,639
Special Revenue Grants	14,911,848	209,277	15,121,125
Public Works Capital Projects	59,553,361	250,000	59,803,361
Recreation & Parks Capital Projects	18,123,552	150,000	18,273,552
Community Development Capital Projects	19,624,227	10,530	19,634,757
Engineering Capital Projects	60,495,786	-	60,495,786
Donations	591,442	3,544	594,986

Occupancy Tax	4,654,328	-	4,654,328
Fire/Rescue Capital Projects	12,717,183	-	12,717,183
Street Improvement Bond Capital	17,840,414	-	17,840,414
Enterprise Capital Projects	57,973,801	8,025,943	65,999,744
ARPA	24,689,311	-	24,689,311
Capital Reserve	-	5,000,000	5,000,000

Recommendation: Approve Budget Ordinance Amendment #10 to the 2023-2024 City of Greenville Budget (Ordinance #23-046), the Capital Projects Funds (Ordinance #17-024), the Special Revenue Grant Fund (Ordinance #11-003), and the Occupancy Tax Fund (Ordinance #11-003).

ATTACHMENTS

[BA #10.xlsx](#)

ORDINANCE NO. 24-
CITY OF GREENVILLE, NORTH CAROLINA
Ordinance (#10) Amending the 2023-24 Budget (Ordinance #23-046), Capital Projects Funds (Ordinance #17-024),
Special Revenue Grant Fund (Ordinance #11-003), and the Occupancy Tax Fund (Ordinance #11-003)

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

Section I: Estimated Revenues and Appropriations. General Fund, of Ordinance #23-046 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

Budget Amendment #10								
	2023-24 Revised Budget	C.	E.	G.	I.	Total Amend #10	2023-24 Budget per Amend #10	
ESTIMATED REVENUES								
Property Tax	\$ 39,689,205	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 39,689,205	
Sales Tax	30,766,976	-	-	-	-	-	30,766,976	
Video Prog. & Telecom. Service Tax	738,769	-	-	-	-	-	738,769	
Rental Vehicle Gross Receipts	176,125	-	-	-	-	-	176,125	
Utilities Franchise Tax	6,896,611	-	-	-	-	-	6,896,611	
Motor Vehicle Tax	1,705,845	-	-	-	-	-	1,705,845	
Other Unrestricted Intergov't	871,145	20,000	-	-	-	20,000	891,145	
Powell Bill	2,390,610	-	-	-	-	-	2,390,610	
Restricted Intergov't Revenues	769,916	-	-	-	-	-	769,916	
Licenses, Permits and Fees	4,982,550	-	-	-	-	-	4,982,550	
Rescue Service Transport	3,300,000	-	-	-	-	-	3,300,000	
Parking Violation Penalties, Leases,	300,000	-	-	-	-	-	300,000	
Other Revenues	1,398,790	-	-	-	-	-	1,398,790	
Interest on Investments	1,257,739	-	50,000	-	-	50,000	1,307,739	
Transfers In GUC	8,199,596	-	-	-	-	-	8,199,596	
Appropriated Fund Balance	6,160,515	-	-	60,032	-	60,032	6,220,547	
Transfer from Other Funds	179,671	-	-	-	-	-	179,671	
Total Revenues	\$ 109,784,063	\$ 20,000	\$ 50,000	\$ 60,032	\$ -	\$ 130,032	\$ 109,914,095	
APPROPRIATIONS								
Mayor/City Council	\$ 683,537	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 683,537	
City Manager	3,685,426	-	-	14,500	-	14,500	3,699,926	
City Clerk	411,036	-	-	-	-	-	411,036	
City Attorney	765,619	-	-	-	-	-	765,619	
Human Resources	3,583,353	-	-	-	-	-	3,583,353	
Information Technology	4,387,953	-	-	-	-	-	4,387,953	
Engineering	6,134,617	-	-	-	-	-	6,134,617	
Fire/Rescue	19,153,841	-	-	-	-	-	19,153,841	
Financial Services	3,719,914	-	-	-	-	-	3,719,914	
Recreation & Parks	9,650,587	-	-	-	-	-	9,650,587	
Police	30,631,948	-	-	-	-	-	30,631,948	
Public Works	8,315,449	20,000	-	-	-	20,000	8,335,449	
Planning & Development	2,768,827	-	-	-	(10,530)	(10,530)	2,758,297	
Neighborhood & Business Services	1,443,176	-	50,000	-	-	50,000	1,493,176	
OPEB	700,000	-	-	-	-	-	700,000	
Contingency	40,000	-	-	-	-	-	40,000	
Indirect Cost Reimbursement	(1,950,887)	-	-	-	-	-	(1,950,887)	
Total Appropriations	\$ 94,124,396	\$ 20,000	\$ 50,000	\$ 14,500	\$ (10,530)	\$ 73,970	\$ 94,198,366	
OTHER FINANCING SOURCES								
Transfers to Other Funds	\$ 15,659,667	\$ -	\$ -	\$ 45,532	\$ 10,530	\$ 56,062	\$ 15,715,729	
Total Other Financing Sources	\$ 15,659,667	\$ -	\$ -	\$ 45,532	\$ 10,530	\$ 56,062	\$ 15,715,729	
Total Approp & Other Fin Sources	\$ 109,784,063	\$ 20,000	\$ 50,000	\$ 60,032	\$ -	\$ 130,032	\$ 109,914,095	

Section II: Estimated Revenues and Appropriations. Recreation & Parks Capital Project Fund, of Ordinance #17-024 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2023-24 Revised Budget	D.	Total Amend #10	2023-24 Budget per Amend #10
ESTIMATED REVENUES				
Restricted Intergovernmental	\$ 1,122,457	\$ -	\$ -	\$ 1,122,457
Transfer from General Fund	3,668,669	-	-	3,668,669
Transfer from Capital Reserve	128,822	-	-	128,822
Transfer from CD Cap Proj Fund	82,965	-	-	82,965
Transfer from FIP	154,818	-	-	154,818
Transfer from FEMA-Hurricane	117,340	-	-	117,340
Transfer from PW Cap Proj Fund	74,870	-	-	74,870
Transfer from Occupancy Tax Reserve	572,900	-	-	572,900
Special Donations	1,932,755	150,000	150,000	2,082,755
Miscellaneous Revenue	567,148	-	-	567,148
Appropriated Fund Balance	971,573	-	-	971,573
Long Term Financing	8,729,235	-	-	8,729,235
Total Revenues	\$ 18,123,552	\$ 150,000	\$ 150,000	\$ 18,273,552

APPROPRIATIONS				
Water Sports Facility Project	\$ 306,325	\$ -	\$ -	\$ 306,325
Wildwood Park	11,041,321	150,000	150,000	11,191,321
Transfer to General Fund	9,000	-	-	9,000
Parks Improvements	45,000	-	-	45,000
Pool Replacement	4,310,290	-	-	4,310,290
Off-Lease Dog Park	100,000	-	-	100,000
Parks Comprehensive Master Plan	147,000	-	-	147,000
Pickleball Conversion	75,000	-	-	75,000
Sports Complex Feasibility Study	72,900	-	-	72,900
Guy Smith Improvements	1,051,403	-	-	1,051,403
Greenfield Terrace	497,361	-	-	497,361
Elm Street Improvements	44,870	-	-	44,870
Transfer to Other Funds	423,082	-	-	423,082
Total Appropriations	\$ 18,123,552	\$ 150,000	\$ 150,000	\$ 18,273,552

Section III: Estimated Revenues and Appropriations. Donations Fund, of Ordinance #18-062 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2023-24 Revised Budget	F.	Total Amend #10	2023-24 Budget per Amend #10
ESTIMATED REVENUES				
Restricted Intergov/Donations	\$ 388,154	\$ 3,544	\$ 3,544	\$ 391,698
Transfer From General Fund	203,288	-	-	203,288
Total Revenues	\$ 591,442	\$ 3,544	\$ 3,544	\$ 594,986

APPROPRIATIONS				
Mayor & City Council	\$ 550	\$ -	\$ -	\$ 550
Financial Services	1,336	-	-	1,336
Police	71,137	3,544	3,544	74,681
Fire / Rescue	20,202	-	-	20,202
Community Development	3,270	-	-	3,270
Recreation & Parks	494,947	-	-	494,947
Total Appropriations	\$ 591,442	\$ 3,544	\$ 3,544	\$ 594,986

Section IV: Estimated Revenues and Appropriations. Occupancy Tax Fund, of Ordinance #11-003 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2023-24 Revised Budget	A.	Total Amend #10	2023-24 Budget per Amend #10
ESTIMATED REVENUES				
Occupancy Tax	\$ 1,624,738	\$ -	\$ -	\$ 1,624,738
Transfer from Public Works Capital Projects	1,866,866	-	-	1,866,866
Transfer from Debt Service	1,162,724	-	-	1,162,724
Appropriated Fund Balance	-	-	-	-
Total Revenues	<u>\$ 4,654,328</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 4,654,328</u>
APPROPRIATIONS				
Occupancy Tax Reserves	\$ 2,833,428	\$ (250,000)	\$ (250,000)	\$ 2,583,428
Service Charge/Collection Fee	58,000	-	-	58,000
Payments to CVB	1,050,000	-	-	1,050,000
Transfer to Facilities Improvement	100,000	-	-	100,000
Transfer to Other Funds	612,900	250,000	250,000	862,900
Total Appropriations	<u>\$ 4,654,328</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 4,654,328</u>

Section V: Estimated Revenues and Appropriations. Special Revenue Grant Fund, of Ordinance #11-003 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2023-24 Revised Budget	H.	Total Amend #10	2023-24 Budget per Amend #10
ESTIMATED REVENUES				
Special Fed/State/Loc Grant	\$ 11,572,232	\$ 163,745	\$ 163,745	\$ 11,735,977
CARES Act Funding	1,526,923	-	-	1,526,923
Transfer From General Fund	1,677,379	45,532	45,532	1,722,911
Transfer From Pre-1994 Entitlement	27,419	-	-	27,419
Transfer from Other Funds	107,895	-	-	107,895
Total Revenues	<u>\$ 14,911,848</u>	<u>\$ 209,277</u>	<u>\$ 209,277</u>	<u>\$ 15,121,125</u>
APPROPRIATIONS				
Personnel	\$ 2,306,650	\$ -	\$ -	\$ 2,306,650
Operating	6,304,186	-	-	6,304,186
Capital Outlay	2,006,385	-	-	2,006,385
Transfers	27,419	-	-	27,419
COVID-19	1,526,923	-	-	1,526,923
Rural Housing Recovery Grant	350,000	-	-	350,000
Environmental Enhancement Grant	150,935	-	-	150,935
STAR Grant	330,000	-	-	330,000
Governor's Crime Commission Grant 22	24,500	-	-	24,500
Governor's Crime Commission Grant 23	22,900	-	-	22,900
COPS Community Policing Development	175,000	-	-	175,000
Justice Assistance Grant 2022	55,135	-	-	55,135
Justice Assistance Grant 2023	53,522	-	-	53,522
Project Lucky - Job Creation Grant	100,000	-	-	100,000
Opioid Settlement Trust	158,876	209,277	209,277	368,153
Energy Efficient Conservation Block Grant	146,850	-	-	146,850
Assistance to Fire Fighters Grant	297,567	-	-	297,567
Transfer to Other Funds	875,000	-	-	875,000
Total Appropriations	<u>\$ 14,911,848</u>	<u>\$ 209,277</u>	<u>\$ 209,277</u>	<u>\$ 15,121,125</u>

Section VI: 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:

	2023-24 Revised Budget	A.	Total Amend #10	2023-24 Budget per Amend #10
ESTIMATED REVENUES				
Occupancy Tax	\$ 422,610	\$ -	\$ -	\$ 422,610
Transfers from Other Funds	23,313,836	250,000	250,000	23,563,836
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	2,186,736	-	-	2,186,736
Total Revenues	\$ 59,553,361	\$ 250,000	\$ 250,000	\$ 59,803,361
APPROPRIATIONS				
Stantonsburg Rd./10th St Con Project	\$ 7,191,050	\$ -	\$ -	\$ 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
Gateway Sign Project	350,000	-	-	350,000
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	2,351,225	-	-	2,351,225
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	13,414,536	-	-	13,414,536
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	-	-	-	-
Emerald Loop Lighting Upgrades	200,000	-	-	200,000
CVA - Pedestrian Mall Renovation	40,000	250,000	250,000	290,000
Transfer to Other Funds	2,875,135	-	-	2,875,135
Transfer to General Fund	636,801	-	-	636,801
Transfer to Street Improvement	1,002,567	-	-	1,002,567
Transfer to Recreation & Parks Capital	74,870	-	-	74,870
Transfer to Facilities Improvement	300,000	-	-	300,000
Transfer to IT Capital Projects Fund	250,000	-	-	250,000
Total Appropriations	\$ 59,553,361	\$ 250,000	\$ 250,000	\$ 59,803,361

Section VII: Estimated Revenues and Appropriations. Stormwater Management Utility Fund, of Ordinance #23-046 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2023-24 Original Budget	I.	Total Amend #10	2023-24 Budget per Amend #10
ESTIMATED REVENUES				
Utility Fee	\$ 9,652,814	\$ -	\$ -	\$ 9,652,814
Appropriated Fund Balance	2,965,357	257,257	257,257	3,222,614
Total Revenues	\$ 12,618,171	\$ 257,257	\$ 257,257	\$ 12,875,428
APPROPRIATIONS				
Stormwater Management	\$ 12,618,171	\$ 257,257	\$ 257,257	\$ 12,875,428
Total Appropriations	\$ 12,618,171	\$ 257,257	\$ 257,257	\$ 12,875,428

Section VIII: Estimated Revenues and Appropriations. Capital Reserve Fund, of Ordinance #23-046 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2023-24 Original Budget	B.	Total Amend #10	2023-24 Budget per Amend #10
ESTIMATED REVENUES				
Transfers from General Fund	\$ -	\$ 5,000,000	\$ 5,000,000	\$ 5,000,000
Appropriated Fund Balance	-	-	-	-
Total Revenues	\$ -	\$ 5,000,000	\$ 5,000,000	\$ 5,000,000
APPROPRIATIONS				
Increase in Reserve	\$ -	\$ 5,000,000	\$ 5,000,000	\$ 5,000,000
Transfer to Engineering Capital Projects	-	-	-	-
Total Appropriations	\$ -	\$ 5,000,000	\$ 5,000,000	\$ 5,000,000

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

	2023-24 Revised Budget	I.	Total Amend #10	2023-24 Budget per Amend #10
ESTIMATED REVENUES				
Spec Fed/State/Local Grants	\$ 823,369	\$ 4,820,606	\$ 4,820,606	\$ 5,643,975
State Revolving Loans	16,340,571	-	-	16,340,571
Bond Proceeds/Town Creek Culvert	26,199,712	-	-	26,199,712
Transfer from Other Funds	14,610,149	3,205,337	3,205,337	17,815,486
Total Revenues	\$ 57,973,801	\$ 8,025,943	\$ 8,025,943	\$ 65,999,744
APPROPRIATIONS				
Stormwater Drain Maint Improvement	\$ 1,281,000	\$ -	\$ -	\$ 1,281,000
Town Creek Culvert Project	35,503,387	-	-	35,503,387
Watershed Masterplan Project	12,436,632	-	-	12,436,632
South Elm Culvert Replacement	8,124,903	-	-	8,124,903
St. Andrews Streambank	627,879	-	-	627,879
Corey Road Detention	-	8,025,943	8,025,943	8,025,943
Total Appropriations	\$ 57,973,801	\$ 8,025,943	\$ 8,025,943	\$ 65,999,744

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

	2023-24 Revised Budget	J.	Total Amend #10	2023-24 Budget per Amend #10
ESTIMATED REVENUES				
Transfers In / CD Small Business	\$ 4,997,546	\$ -	\$ -	\$ 4,997,546
Transfers / Ctr City Rev Project	160,500	-	-	160,500
Transfers / Trans from Energy Eff	275,000	-	-	275,000
Transfers from General Fund	1,260,000	10,530	10,530	1,270,530
Rstrc Intgv / Spec ST Fed Grant	1,300,000	-	-	1,300,000
Rstrc Intgv / Grant Proceeds	7,500	-	-	7,500
Investment Earnings	399,640	-	-	399,640
Bond Proceeds	10,048,747	-	-	10,048,747
Comm Dev / Sale of Property	422,088	-	-	422,088
Rental Income	316,117	-	-	316,117
Other Revenues	437,089	-	-	437,089
Total Revenues	\$ 19,624,227	\$ 10,530	\$ 10,530	\$ 19,634,757
APPROPRIATIONS				
GUC Energy Improvement Program	\$ 100,000	\$ -	\$ -	\$ 100,000
West Greenville Revitalization Proj	6,270,918	-	-	6,270,918
Center City Revitalization Project	5,349,156	-	-	5,349,156
Energy Efficient Revolving Loan Prog	1,450,000	-	-	1,450,000
4th Street Parking Garage Project	5,194,153	-	-	5,194,153
Imperial Site Purchase	957,035	-	-	957,035
Zoning Ordinance Update	220,000	10,530	10,530	230,530
Transfer to R&P Capital Project	82,965	-	-	82,965
Total Appropriations	\$ 19,624,227	\$ 10,530	\$ 10,530	\$ 19,634,757

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

Adopted this 6th day of May, 2024

P. J. Connelly, Mayor

ATTEST:

Valerie P. Shiuegar, City Clerk



City of Greenville, North Carolina

Meeting Date: 05/06/2024

Title of Item: Presentation of the City of Greenville Fiscal Year 2024-25 Proposed Budget

Explanation: As included in the budget schedule adopted by City Council, the City Manager and staff will present the City of Greenville Proposed Fiscal Year 2024-25 Operating Budget during the May 6, 2024, City Council meeting.

In compliance with Section 160A-148(5) of the North Carolina General Statutes, the City Council will hold a public hearing on Monday, June 10, and consider adopting the annual budget ordinance on Thursday, June 13.

In summary, the Proposed City Operating Budget for Fiscal Year 2024-25 stands at approximately \$175.6 million with the General Fund comprising approximately 64% of the total. The following is a breakdown of the Proposed Budget by Operating Fund:

General	\$ 175,641,285
Debt Service	7,368,819
Public Transportation (Transit)	5,094,474
Fleet Maintenance	6,523,088
Sanitation	9,462,950
Stormwater	13,514,558
Housing	1,975,598
Health Insurance	14,376,386
Vehicle Replacement	3,601,408
Facilities Improvement	1,200,000
TOTAL	\$ 175,641,285

The City Manager and staff will present an overview of the specific highlights of each fund's Proposed Budget at the May 6, 2024 City Council meeting. During the May 9, 2024 City Council meeting, representatives from the Pitt-Greenville Convention and Visitors Authority, Sheppard Memorial Library, and Greenville Utilities Commission will present their proposed Fiscal Year 2024-25 budgets.

Fiscal Note: The final amount for the City's budget will be determined by City Council action at the June 13, 2024, City Council meeting.

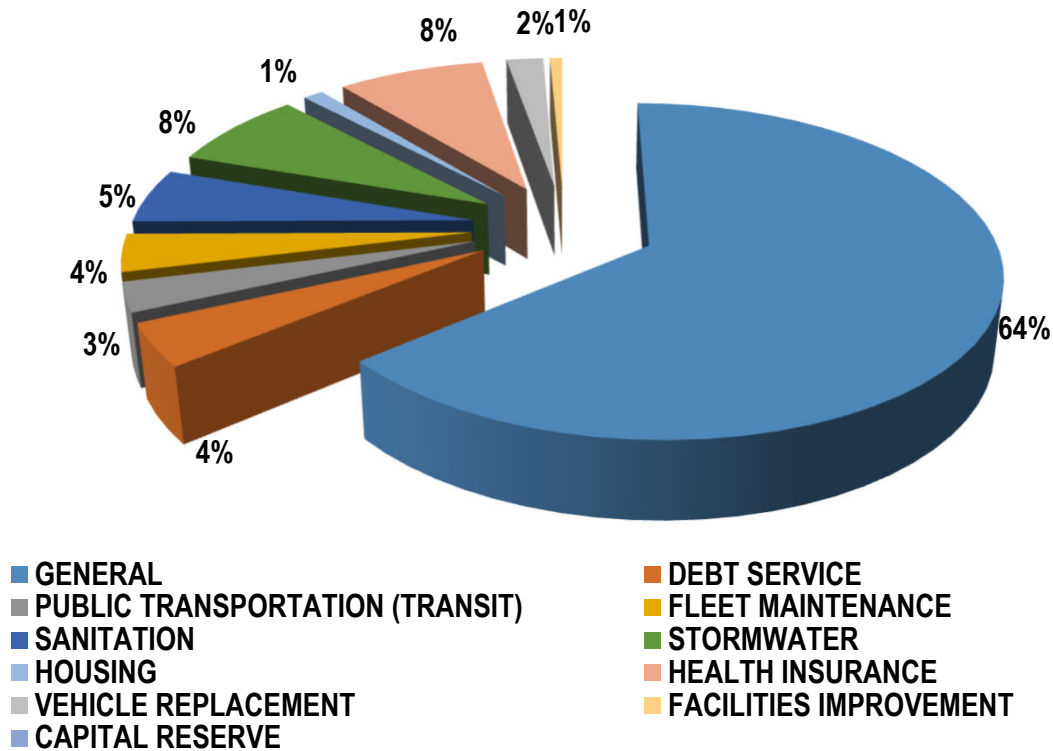
Recommendation: Receive the presentation on the Proposed Fiscal Year 2024-25 Operating Budget and provide feedback and direction.

ATTACHMENTS

[2025 Draft Budget Charts.pdf](#)

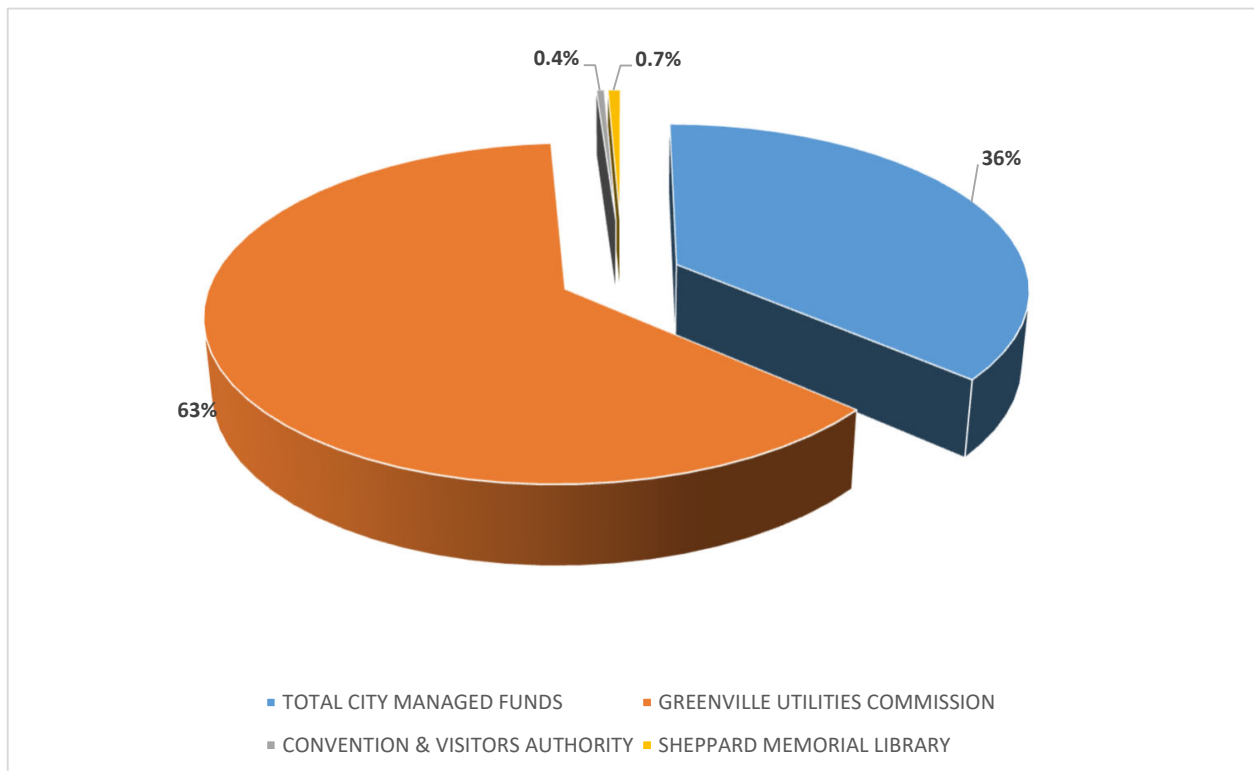
CITY MANAGED FUNDS FOR FISCAL YEAR 2025 BUDGET

FUND	2021 ACTUAL	2022 ORIGINAL	2023 ORIGINAL	2024 ORIGINAL	2025 PROPOSED
GENERAL	\$ 89,821,846	\$ 94,839,538	\$ 95,015,572	\$ 101,189,765	\$ 112,524,004
DEBT SERVICE	5,984,383	6,932,741	6,322,622	6,863,408	7,368,819
PUBLIC TRANSPORTATION (TRANSIT)	2,923,947	2,943,922	3,485,714	3,703,887	5,094,474
FLEET MAINTENANCE	4,343,822	5,320,099	5,203,116	6,279,940	6,523,088
SANITATION	7,358,342	6,838,282	8,387,480	9,248,904	9,492,950
STORMWATER	7,241,465	8,535,490	9,331,357	11,833,273	13,514,558
HOUSING	928,043	2,189,249	2,054,247	1,931,466	1,975,598
HEALTH INSURANCE	10,638,843	14,040,605	14,009,056	14,258,648	14,376,386
VEHICLE REPLACEMENT	4,249,921	4,627,412	3,921,541	3,601,408	3,601,408
FACILITIES IMPROVEMENT	1,501,425	1,350,000	1,000,000	1,200,000	1,200,000
CAPITAL RESERVE	2,205,642	1,919	-	-	-
TOTAL CITY MANAGED FUNDS	\$ 137,197,680	\$ 147,619,257	\$ 148,730,704	\$ 160,110,699	\$ 175,671,285



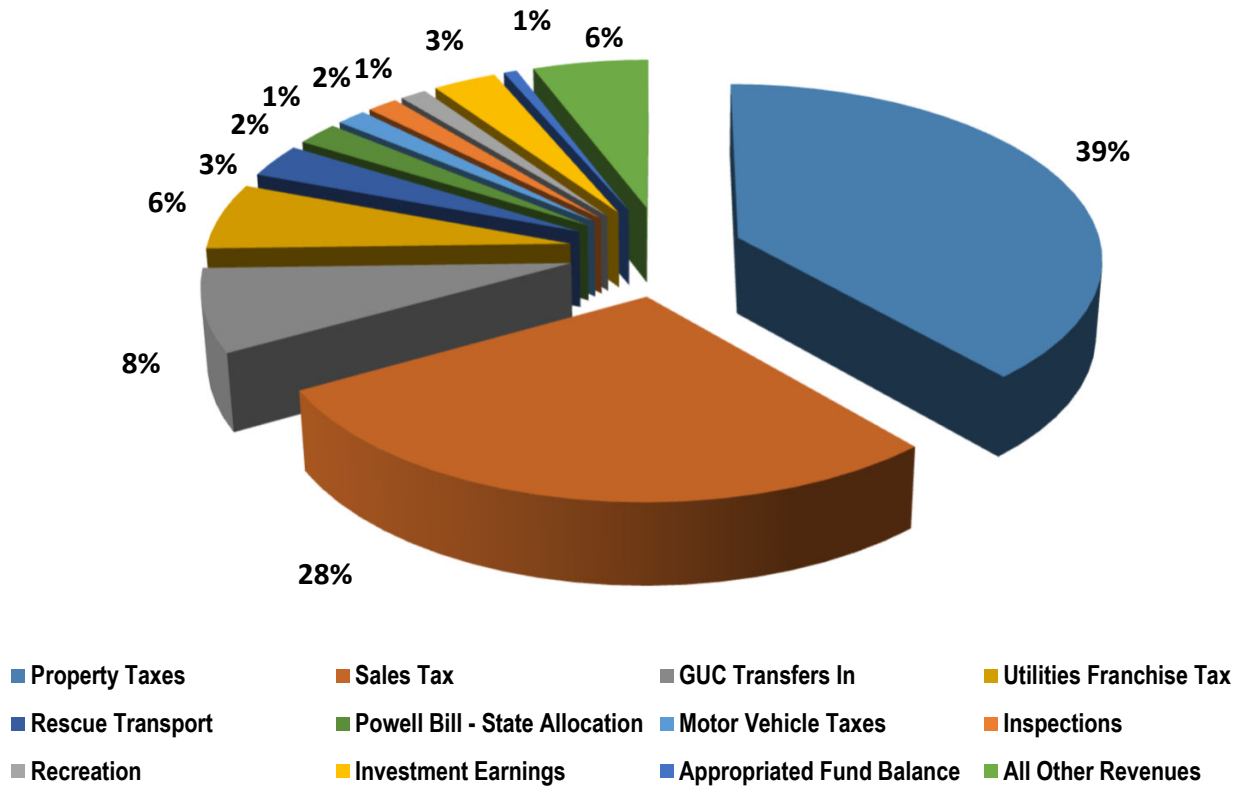
BUDGET COMPARISON FOR CITY MANAGED FUNDS & INDEPENDENT AGENCIES FOR FISCAL YEAR 2025 BUDGET

FUND	2021 ACTUAL	2022 ACTUAL	2023 ORIGINAL	2024 ORIGINAL	2025 PROPOSED
GENERAL	\$ 81,014,084	\$ 89,677,021	\$ 95,165,572	\$ 101,189,765	\$ 112,524,004
DEBT SERVICE	5,984,383	6,932,741	6,322,622	6,863,408	7,368,819
PUBLIC TRANSPORTATION (TRANSIT)	2,923,947	2,943,922	3,485,714	3,703,887	5,094,474
FLEET MAINTENANCE	4,343,822	5,320,099	5,203,116	6,279,940	6,523,088
SANITATION	7,358,342	6,838,282	8,387,480	9,248,904	9,492,950
STORMWATER	7,241,465	8,535,490	9,331,357	11,833,273	13,514,558
HOUSING	2,189,249	2,054,247	1,931,466	1,975,598	1,975,598
HEALTH INSURANCE	14,040,605	14,009,056	14,258,648	14,258,648	14,376,386
VEHICLE REPLACEMENT	4,627,412	3,921,541	5,153,938	3,601,408	3,601,408
FACILITIES IMPROVEMENT	1,350,000	1,000,000	1,200,000	1,200,000	1,200,000
CAPITAL RESERVE	2,205,642	1,919	-	-	-
TOTAL CITY MANAGED FUNDS	\$ 133,278,952	\$ 141,234,318	\$ 150,439,913	\$ 160,154,831	\$ 175,671,285
GREENVILLE UTILITIES COMMISSION	\$ 270,491,838	\$ 265,529,278	\$ 287,798,503	\$ 294,532,670	\$ 302,227,045
CONVENTION & VISITORS AUTHORITY	1,330,371	1,375,450	1,674,358	1,894,317	2,055,832
SHEPPARD MEMORIAL LIBRARY	2,562,052	2,543,572	2,731,653	2,810,296	3,233,591
TOTAL INDEPENDENT AGENCIES	\$ 274,384,261	\$ 269,448,300	\$ 292,204,514	\$ 299,237,283	\$ 307,516,468
TOTAL ALL FUNDS	\$ 407,663,213	\$ 410,682,618	\$ 442,644,427	\$ 459,392,114	\$ 483,187,753



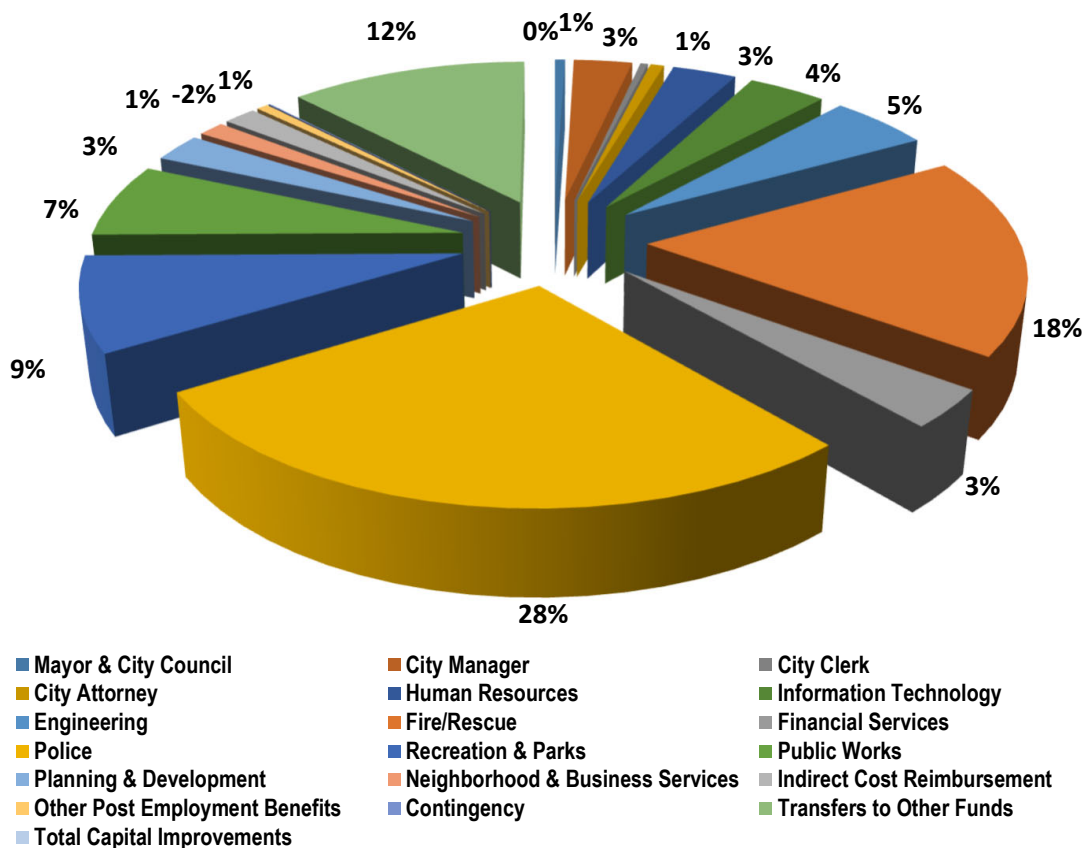
GENERAL FUND REVENUE SUMMARY

REVENUE SOURCE	2020 ACTUAL	2021 ACTUAL	2022 ACTUAL	2023 ORIGINAL	2024 ORIGINAL	2025 PROPOSED
PROPERTY TAXES	\$ 34,250,807	\$ 36,325,825	\$ 37,445,803	\$ 38,030,400	\$ 39,689,205	\$ 43,373,004
SALES TAXES	20,465,509	24,555,870	27,248,610	26,935,346	30,616,976	31,930,000
GUC TRANSFERS IN	6,683,670	6,582,187	6,746,792	7,074,328	7,140,532	8,594,000
UTILITIES FRANCHISE TAX	6,832,754	6,612,710	6,625,128	6,828,328	6,896,611	6,900,000
RESCUE TRANSPORT	3,182,772	2,447,717	3,990,787	3,200,000	3,200,000	3,500,000
POWELL BILL - STATE ALLOCATION	2,174,190	2,124,843	2,390,611	2,123,924	2,390,610	2,400,000
MOTOR VEHICLE TAXES	1,577,823	1,713,410	1,675,940	1,746,059	1,705,845	1,706,000
INSPECTIONS	1,629,682	1,867,697	1,696,712	1,262,437	1,399,868	1,750,000
RECREATION	888,220	769,136	1,300,854	1,060,800	1,335,773	1,500,000
INVESTMENT EARNINGS	1,755,767	114,490	(1,006,916)	742,690	750,000	3,600,000
ALL OTHER REVENUES	7,402,954	6,707,962	6,725,217	6,011,260	5,914,345	6,521,000
SUBTOTAL	\$ 86,844,147	\$ 89,821,846	\$ 94,839,538	\$ 95,015,572	\$ 101,039,765	\$ 111,774,004
APPROPRIATED FUND BALANCE						
GENERAL FUND	-	-	-	-	150,000	750,000
POWELL BILL	-	-	-	-	-	-
TOTAL	\$ 86,844,147	\$ 89,821,846	\$ 94,839,538	\$ 95,015,572	\$ 101,189,765	\$ 112,524,004



GENERAL FUND EXPENSE BY DEPARTMENT

DEPARTMENT	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
MAYOR & CITY COUNCIL	\$ 400,938	\$ 521,459	\$ 503,926	\$ 606,254	\$ 606,254
CITY MANAGER	2,669,460	2,694,008	2,950,567	3,268,730	3,487,763
CITY CLERK	211,863	305,418	362,930	385,555	441,555
CITY ATTORNEY	566,882	643,118	686,116	730,320	817,742
HUMAN RESOURCES	3,028,197	3,134,129	4,383,855	3,491,983	3,816,079
INFORMATION TECHNOLOGY	2,824,369	3,055,009	3,533,373	4,207,039	4,620,563
ENGINEERING	4,698,588	4,686,423	5,021,147	5,615,199	5,937,869
FIRE/RESCUE	15,041,336	17,195,047	17,360,824	18,059,779	21,086,301
FINANCIAL SERVICES	2,688,484	2,768,888	2,844,749	3,132,994	4,024,295
POLICE	24,713,878	26,895,762	27,665,488	29,561,371	32,353,318
RECREATION & PARKS	6,541,020	7,227,702	7,905,239	8,925,004	9,970,875
PUBLIC WORKS	6,233,674	5,923,696	5,547,691	7,033,927	7,816,870
PLANNING & DEVELOPMENT	2,821,575	3,224,875	3,384,929	2,701,160	3,006,481
NEIGHBORHOOD & BUSINESS SERVICES	-	-	-	1,211,340	1,573,928
TOTAL BY DEPARTMENT	\$ 72,440,264	\$ 78,275,536	\$ 82,150,834	\$ 88,930,655	\$ 99,559,893
INDIRECT COST REIMBURSEMENT	\$ (1,369,019)	\$ (1,350,453)	\$ (1,350,453)	\$ (1,950,887)	\$ (1,950,887)
OTHER POST EMPLOYMENT BENEFITS	700,000	800,000	600,000	700,000	700,000
CONTINGENCY	-	-	-	100,000	40,000
TOTAL EXPENSES BY DEPARTMENT	\$ 71,771,245	\$ 77,725,083	\$ 81,400,381	\$ 87,779,768	\$ 98,349,006
TRANSFERS TO OTHER FUNDS	\$ 13,167,334	\$ 17,065,754	\$ 14,062,474	\$ 13,691,607	\$ 14,174,998
TOTAL CAPITAL IMPROVEMENTS	28,083	-	-	474,018	-
TOTAL GENERAL FUND	\$ 84,966,661	\$ 94,790,837	\$ 95,462,855	\$ 101,945,393	\$ 112,524,004



**DEBT SERVICE FUND
FOR FISCAL YEAR 2025 BUDGET**

The Debt Service Fund accounts for the payment of the City's debt. When payments are due, the General Fund transfers the needed funds into this fund for payment.

SUMMARY OF REVENUES	2021 ACTUAL	2022 ACTUAL	2023 ORIGINAL	2024 ORIGINAL	2025 PROPOSED
OCCUPANCY TAX	\$ 783,890	\$ 646,455	\$ 684,958	\$ 659,650	\$ 665,677
TRANSFER FROM POWELL BILL	-	-	-	-	-
TRANSFER FROM GENERAL FUND	5,199,820	6,286,286	5,637,664	6,203,758	6,703,142
INVESTMENT EARNINGS	673	-	-	-	-
TOTAL	\$ 5,984,383	\$ 6,932,741	\$ 6,322,622	\$ 6,863,408	\$ 7,368,819

SUMMARY OF EXPENSES	2021 ACTUAL	2022 ACTUAL	2023 ORIGINAL	2024 ORIGINAL	2025 PROPOSED
PRINCIPAL PAYMENTS	\$ 4,341,468	\$ 4,157,530	\$ 4,169,339	\$ 5,237,916	\$ 6,168,752
INTEREST PAYMENTS	903,434	2,813,714	2,153,283	1,625,492	1,200,067
CLOSING COSTS	11,758	-	-	-	-
TRANSFERS OUT	1,203,510	-	-	-	-
TOTAL	\$ 6,460,170	\$ 6,971,244	\$ 6,322,622	\$ 6,863,408	\$ 7,368,819

**PUBLIC TRANSPORTATION (TRANSIT) FUND
FOR FISCAL YEAR 2025 BUDGET**

Planning activities remain approximately the same and are reimbursed at 80% from Federal funds. Federal operating funding remains at 50% of the total. Capital items and ADA service and preventative maintenance items requested are reimbursable at 80% Federal share.

SUMMARY OF REVENUES	2021 ACTUAL	2022 ACTUAL	2023 ORIGINAL	2024 ORIGINAL	2025 PROPOSED
GRANT INCOME	\$ 2,288,331	\$ 2,383,899	\$ 2,391,820	\$ 2,584,993	\$ 4,059,974
BUS FARE/TICKET SALES	62,106	(4,542)	272,000	289,500	200,000
OTHER REVENUES	-	58,065	50,000	57,500	59,500
TRANSFER FROM GENERAL FUND	-	4,319	771,894	771,894	775,000
APPROPRIATED FUND BALANCE	-	-	-	-	-
TOTAL	\$ 2,350,437	\$ 2,441,741	\$ 3,485,714	\$ 3,703,887	\$ 5,094,474

SUMMARY OF EXPENSES	2021 ACTUAL	2022 ACTUAL	2023 ORIGINAL	2024 ORIGINAL	2025 PROPOSED
PERSONNEL	\$ 1,352,815	\$ 1,331,238	\$ 1,161,249	\$ 1,165,077	\$ 1,379,250
OPERATING	1,252,623	1,142,136	1,839,465	1,880,332	2,241,012
CAPITAL IMPROVEMENTS	318,509	470,548	485,000	658,478	1,474,212
OTHER	-	-	-	-	-
TOTAL	\$ 2,923,947	\$ 2,943,922	\$ 3,485,714	\$ 3,703,887	\$ 5,094,474

**FLEET MAINTENANCE FUND
FOR FISCAL YEAR 2025 BUDGET**

The Fleet Maintenance Fund has been established as an internal service fund to account for charge-backs to the respective departments of the City for labor, fuel, and parts for items needed to maintain City vehicles. The creation of this fund will assist the City in more accurately reflecting the true costs of the vehicle maintenance by department.

SUMMARY OF REVENUES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
FUEL MARKUP	\$ 940,190	\$ 1,708,839	\$ 1,604,780	\$ 2,097,350	\$ 1,804,460
LABOR FEES	1,097,884	1,286,251	1,606,279	1,716,890	2,200,767
PARTS MARKUP	1,083,347	1,201,402	1,284,335	1,622,650	1,738,362
COMMERCIAL LABOR MARKUP	446,571	890,126	665,572	799,670	729,499
OTHER REVENUES	21,601	40,124	42,150	43,380	50,000
TRANSFER FROM GENERAL FUND	1,255,493	-	-	-	-
TOTAL	\$ 4,845,086	\$ 5,126,742	\$ 5,203,116	\$ 6,279,940	\$ 6,523,088

SUMMARY OF EXPENSES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
PERSONNEL	\$ 1,546,838	\$ 1,596,358	\$ 1,652,142	\$ 1,888,156	\$ 2,103,357
OPERATING	2,771,487	3,781,423	3,515,974	4,327,584	4,346,931
CAPITAL OUTLAY	25,497	32,022	35,000	64,200	72,800
TRANSFER TO GENERAL FUND	-	-	-	-	-
OTHER	-	(89,704)	-	-	-
TOTAL	\$ 4,343,822	\$ 5,320,099	\$ 5,203,116	\$ 6,279,940	\$ 6,523,088

**SANITATION FUND
FOR FISCAL YEAR 2025 BUDGET**

The Sanitation Fund is established to account for the user charges, fees, and all operating costs associated with the operation of the Sanitation Division operated through the Public Works Department of the City. The Sanitation Division offers comprehensive solid waste services such as garbage, recyclable, bulky trash, leaf collection, as well as mosquito and rodent control.

SUMMARY OF REVENUES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
REFUSE FEES	\$ 8,061,396	\$ 8,450,219	\$ 8,133,180	\$ 8,448,000	\$ 8,526,000
CART & DUMPSTER SALES	156,266	109,267	158,000	229,200	225,000
OTHER REVENUES	120,535	118,360	96,300	100,700	103,600
APPROPRIATED FUND BALANCE	-	-	-	471,004	638,350
TOTAL	\$ 8,338,196	\$ 8,677,846	\$ 8,387,480	\$ 9,248,904	\$ 9,492,950

SUMMARY OF EXPENSES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
PERSONNEL	\$ 2,928,273	\$ 2,949,655	\$ 3,203,461	\$ 3,810,482	\$ 4,269,119
OPERATING	4,265,003	4,167,931	5,122,470	5,376,873	5,223,831
CAPITAL	-	-	-	-	-
DEBT SERVICE	165,066	-	61,549	61,549	-
TRANSFER TO VRF	-	-	-	-	-
OTHER	-	(279,304)	-	-	-
TOTAL	\$ 7,358,342	\$ 6,838,282	\$ 8,387,480	\$ 9,248,904	\$ 9,492,950

**STORMWATER UTILITY FUND
FOR FISCAL YEAR 2025 BUDGET**

The Stormwater Utility Fund is an enterprise fund established to implement the City's Stormwater Management Program. Revenue for this program is generated through a Stormwater fee paid by citizens owning improved property with buildings, parking lots, driveways, etc. The Stormwater Management Program is implemented through the Public Works Department's Engineering and Street Maintenance Divisions. It is directed at compliance with Federal and State environmental regulations through the implementation of local development regulations, capital improvements, and storm drain maintenance.

SUMMARY OF REVENUES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
STORMWATER UTILITY FEE	\$ 6,131,625	\$ 7,383,251	\$ 8,703,045	\$ 9,652,814	\$ 11,284,300
OTHER REVENUE	-	493,002	-	-	-
TRANSFER FROM OTHER FUNDS	719,506	-	-	-	-
APPROPRIATED FUND BALANCE	-	-	-	2,180,459	2,230,258
TOTAL	\$ 6,851,131	\$ 7,876,253	\$ 8,703,045	\$ 11,833,273	\$ 13,514,558

SUMMARY OF EXPENSES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
PERSONNEL	\$ 2,085,745	\$ 2,415,207	\$ 2,400,725	\$ 2,828,260	\$ 3,630,460
OPERATING	4,284,957	4,127,995	3,677,130	3,991,142	4,771,353
CAPITAL	897,289	260,232	2,094,727	1,630,000	2,164,665
OTHER	(2,058,590)	-	-	-	-
TRANSFER OUT	2,032,063	1,732,056	1,158,775	3,383,871	2,948,080
TOTAL	\$ 7,241,465	\$ 8,535,490	\$ 9,331,357	\$ 11,833,273	\$ 13,514,558

**HOUSING FUND
FOR FISCAL YEAR 2025 BUDGET**

The Housing Division administers US Department of Housing and Urban Development Community Development Block Grant Funds and Local Bond Funds. The funds are used to develop programs to serve low and moderate-income households. To this end, this fund is responsible for monitoring programs for compliance with local, state, and federal program standards. This fund also provides housing rehabilitation assistance to owner occupants, assistance to nonprofit agencies, down-payment assistance to homebuyers, acquisition and demolition of substandard structures, and program administrative funding.

SUMMARY OF REVENUES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
CDBG GRANT INCOME	\$ 1,041,671	\$ 1,531,537	\$ 1,037,668	\$ 1,037,668	\$ 1,037,668
HOME GRANT INCOME	818,883	194,014	565,103	565,103	565,103
TRANSFER FROM GENERAL FUND	328,695	328,695	328,695	372,827	372,827
TOTAL	\$ 2,189,249	\$ 2,054,247	\$ 1,931,466	\$ 1,975,598	\$ 1,975,598

SUMMARY OF EXPENSES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
PERSONNEL	\$ 383,526	\$ 439,970	\$ 552,128	\$ 552,128	\$ 552,128
OPERATING	1,334,359	1,619,548	1,379,338	1,423,470	1,423,470
CAPITAL	-	-	-	-	-
TOTAL	\$ 1,717,885	\$ 2,059,518	\$ 1,931,466	\$ 1,975,598	\$ 1,975,598

**HEALTH FUND
FOR FISCAL YEAR 2025 BUDGET**

The Health Fund is used to account for the administration of the City's health insurance program.

SUMMARY OF REVENUES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
CITY CONTRIBUTION	\$ 11,844,463	\$ 11,630,700	\$ 11,043,959	\$ 11,043,959	\$ 11,161,697
OTHER AGENCIES	784,033	872,970	1,103,731	1,103,731	1,103,731
RETIREE CONTRIBUTIONS	1,406,606	1,502,000	1,327,544	1,327,544	1,327,544
OTHER REVENUES	3,392	146	4,246	4,246	4,246
INSURANCE COMPANY REFUND/REIMB	2,113	3,240	240,000	240,000	240,000
APPROPRIATED FUND BALANCE	-	-	539,168	539,168	539,168
TOTAL	\$ 14,040,605	\$ 14,009,056	\$ 14,258,648	\$ 14,258,648	\$ 14,376,386

SUMMARY OF EXPENSES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
CITY CLAIMS	\$ 10,129,446	\$ 11,245,290	\$ 12,128,284	\$ 12,128,284	\$ 12,246,022
LIBRARY CLAIMS	161,018	166,687	230,602	230,602	230,602
CVA CLAIMS	80,527	74,426	58,218	58,218	58,218
HOUSING AUTHORITY CLAIMS	478,909	487,409	896,878	896,878	896,878
AIRPORT CLAIMS	212,819	226,833	195,338	195,338	195,338
RETIREE CLAIMS	1,213,317	1,327,649	653,383	653,383	653,383
OTHER EXPENSES	88,511	73,828	95,945	95,945	95,945
TOTAL	\$ 12,364,548	\$ 13,602,122	\$ 14,258,648	\$ 14,258,648	\$ 14,376,386

**VEHICLE REPLACEMENT FUND (VRF)
FOR FISCAL YEAR 2025 BUDGET**

The Vehicle Replacement Fund accounts for monies to fund the City's capital budget, for the replacement of vehicles. All vehicles/equipment maintained by the Fleet Maintenance Division of the Public Works Department are considered under this fund. This fund minimizes fluctuations in the annual budget for vehicle expenditures and establishes a manageable replacement cycle.

SUMMARY OF REVENUES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
SALE OF PROPERTY	\$ 182,580	\$ 38,426	\$ -	\$ -	\$ -
OTHER REVENUES	-	-	-	-	-
TRANSFER FROM CITY DEPARTMENTS	4,444,832	3,883,115	5,153,938	3,601,408	3,601,408
TRANSFER FROM GENERAL FUND	-	-	-	-	-
TRANSFER FROM SANITATION FUND	-	-	-	-	-
TOTAL	\$ 4,627,412	\$ 3,921,541	\$ 5,153,938	\$ 3,601,408	\$ 3,601,408

SUMMARY OF EXPENSES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
OPERATING	\$ (1,335,898)	\$ 1,293,644	\$ -	\$ -	\$ -
CAPITAL EQUIPMENT	4,235,275	1,869,625	5,153,938	3,601,408	3,601,408
DEPRECIATION	-	-	-	-	-
TOTAL	\$ 2,899,377	\$ 3,163,269	\$ 5,153,938	\$ 3,601,408	\$ 3,601,408

**FACILITIES IMPROVEMENT FUND (FIP)
FOR FISCAL YEAR 2025 BUDGET**

The Facilities Improvement Fund accounts for monies to fund deferred maintenance projects as outlined in the City's 10 Year Facilities Improvement Plan. The projects funded include facility operations projects that are overseen by the Public Works department as well as Parks and Recreation improvement projects that are overseen by the Parks and Recreation department. The fund was created back in fiscal year 2014-2015 through a \$0.01 increase in the ad valorem property tax rate. The fund receives funding through transfers from the General Fund in an amount needed to fund the annual budgeted projects.

SUMMARY OF REVENUES	2021 ACTUAL	2022 ACTUAL	2023 ORIGINAL	2024 ORIGINAL	2025 PROPOSED
TRANSFER FROM GENERAL FUND	\$ 1,350,000	\$ 1,000,000	\$ 1,200,000	\$ 1,200,000	\$ 1,200,000
TRANSFER FROM CAPITAL RESERVE	-	-	-	-	-
MISCELLANEOUS REVENUE	-	-	-	-	-
TOTAL	\$ 1,350,000	\$ 1,000,000	\$ 1,200,000	\$ 1,200,000	\$ 1,200,000

SUMMARY OF EXPENSES	2021 ACTUAL	2022 ACTUAL	2023 ORIGINAL	2024 ORIGINAL	2025 PROPOSED
CAPITAL IMPROVEMENT	\$ 1,791,667	\$ 1,000,000	\$ 1,200,000	\$ 1,200,000	\$ 1,200,000
OTHER EXPENSES	-	-	-	-	-
TOTAL	\$ 1,791,667	\$ 1,000,000	\$ 1,200,000	\$ 1,200,000	\$ 1,200,000

**CAPITAL RESERVE FUND
FOR FISCAL YEAR 2025 BUDGET**

Capital Reserve Fund is a fund established to set aside and appropriate current funding to future capital projects. Routinely, the Council has transferred unassigned fund balance from the General Fund above the 14% Fund Balance policy into the Capital Reserve Fund to fund specifically identified projects as approved by Council.

SUMMARY OF REVENUES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
INVESTMENT EARNINGS	\$ 55	\$ 1,919	\$ -	\$ -	\$ -
TRANSFER FROM GENERAL FUND	2,205,587	-	-	-	-
APPROPRIATED FUND BALANCE	-	-	-	-	-
TOTAL	\$ 2,205,642	\$ 1,919	\$ -	\$ -	\$ -

SUMMARY OF EXPENSES	2021 ACTUAL	2022 ACTUAL	2023 ACTUAL	2024 ORIGINAL	2025 PROPOSED
TRANSFER TO GENERAL FUND	\$ 605,587	\$ -	\$ -	\$ -	\$ -
TRANSFER TO CAPITAL PROJECT FUND	-	-	-	-	-
TRANSFER TO FACILITIES IMPROVEMENT	140,487	-	-	-	-
TRANSFER TO DICKINSON PARKING	-	-	-	-	-
INCREASE IN RESERVE	-	-	-	-	-
TOTAL	\$ 746,074	\$ -	\$ -	\$ -	\$ -