



Agenda

Greenville City Council

August 8, 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 Les Robinson

III. Pledge of Allegiance

IV. Roll Call

V. Approval of Agenda

VI. Special Recognitions

1. Chris Ivey - Police Department Retiree

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. Appointments

2. Appointments to Boards and Commissions

IX. New Business

Public Hearings

3. Ordinance to annex Dennis R. Davis and Vickie W. Davis property involving 1.20 acres located 445+/- feet west of Frog Level Road and 410+/- feet south of Dickinson Avenue Extension
4. Ordinance requested by B. Marshall Whitehurst to rezone 13.86 acres located south of the Norfolk Southern Railroad and 465+/- feet east of Portertown Road from RA20 (Residential-Agricultural) to R6A (Residential [Medium Density Multi-Family])
5. Ordinance requested by Greenville Church of Christ, Inc. to rezone 13.33 acres located along the northern right-of-way of East 10th Street and at the current terminus of Liberty Drive from RA20 (Residential-Agricultural) to R6S (Residential-Single-Family)
6. Ordinance requested by Happy Trail Farms, LLC to rezone 0.488 acres located along the eastern right-of-way of Dickinson Avenue Extension and 420+/- feet southwest of West Arlington Boulevard from RA20 (Residential-Agricultural) to CG (General Commercial)
7. Resolution for a Job Creation Economic Development Incentive and Grant Agreement for Nipro Medical Corporation/Project Bluefin
8. Resolution for a Building Reuse Economic Development Incentive and Pass-Through Grant Agreement for UNX-Christeyns, LLC/Project Spotless
9. Resolution for a Job Creation Economic Development Incentive and Grant Agreement for Attends Healthcare Products, Inc./Project Block
10. Resolution for an Economic Development Incentive and Pass-Through Grant for Boviet Solar Technology (North Carolina) LLC/Project Gen

X. City Manager's Report

XI. Comments from Mayor and City Council

XII. Adjournment



City of Greenville, North Carolina

Meeting Date: 08/08/2024

Title of Item: Appointments to Boards and Commissions

Explanation: City Council appointments need to be made to the Board of Adjustment, Housing Authority, Multimodal Transportation Commission, Pitt-Greenville Airport Authority, Pitt-Greenville Convention and Visitors Authority, Planning and Zoning Commission, and the Youth Council.

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

- 2 seats on the Youth Council

Fiscal Note: No direct fiscal impact.

Recommendation: Make appointments to the Board of Adjustment, Housing Authority, Multimodal Transportation Commission, Pitt-Greenville Airport Authority, Pitt-Greenville Convention and Visitors Authority, Planning and Zoning Commission, and the Youth Council.

ATTACHMENTS

[August 2024 Boards and Commissions List.pdf](#)

Appointments to Boards and Commissions

August 2024

Board of Adjustment

Council Liaison: Mayor Pro Tem Monica Daniels

Name	District #	Current Term	Reappointment Status	Expiration Date
Sharon Evans <i>(Mayor Pro Tem Daniels)</i>	1	Second Term	Ineligible	June 2024
Ryan Purtle <i>(Mayor Connelly)</i>	4	First Term	Eligible	June 2024

Housing Authority

Council Liaison: Council Member Tonya Foreman

Name	District #	Current Term	Reappointment Status	Expiration Date
Garrett Taylor <i>(Mayor Connelly)</i>	5	First Term	Eligible	May 2024
Luke Stavish <i>(Council Member Foreman)</i>	5	First Term	Resigned	May 2028

Multimodal Transportation Commission

Council Liaison: Council Member Matthew Scully

Name	District #	Current Term	Reappointment Status	Expiration Date
Anthony Little	5	First term	Resigned	January 2025

Pitt-Greenville Airport Authority

Council Liaison: Council Member Les Robinson

Name	District #	Current Term	Reappointment Status	Expiration Date
Cheryl Brown <i>(Mayor Connelly)</i>		Second Term	Resigned	June 2028

Pitt-Greenville Convention and Visitors Authority

Council Liaison: Council Member Matthew Scully

Name	District #	Current Term	Reappointment Status	Expiration Date
Chamika White <i>(resident not involved in tourist or convention-related business)</i>		First Term	Eligible	July 2024
Brenda Fairfax <i>(member of tourist or convention-related business)</i>		First Term	Eligible	July 2024
Christy Jahn <i>**County Seat (owner/operator of hotel/motel)</i>		First Term	Eligible	July 2024
Kenneth Ross <i>**County Seat (member of tourist or convention-related business)</i>		Second Term	Ineligible	July 2024

Planning and Zoning Commission

Council Liaison: Council Member Tonya Foreman

Name	District #	Current Term	Reappointment Status	Expiration Date
Christopher West <i>(Council Member Willis)</i>		Second Term	Ineligible	June 2024
Hunter Peyton <i>(Mayor Connelly)</i>		Unexpired Term	Eligible	June 2024

Youth Council

Council Liaison: Council Member Portia Willis

Name	Current Term	Reappointment Status	Expiration Date
Alex Guilford	Second Term	Ineligible	September 2024
Carson Fraley	Second Term	Ineligible	September 2024
Michael Brode	Second Term	Ineligible	September 2024

(2 open seats)

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

Boards and Commissions Applicants

Name	Board Applied To	Email Address
Mckenzie M Byrnes	Board of Adjustment	byrnesmckenzie@gmail.com
Kyle T Parker	Board of Adjustment	ktparker17@gmail.com
David Newman	Board of Adjustment	newmaniac52@gmail.com
Clayton A Self	Board of Adjustment	clayton.a.self@gmail.com
Ivery L Johnson	Board of Adjustment	iveryljohanson@gmail.com
Mckenzie M Byrnes	Housing Authority	byrnesmckenzie@gmail.com
Anitra Cook	Housing Authority	anitracook67@gmail.com
David Newman	Housing Authority	newmaniac52@gmail.com
Phyllis J Smith	Housing Authority	smithpj1940@gmail.com
Kennis E Wilkins	Housing Authority	faithworkshsd@yahoo.com
Valerie M Torres-torres	Housing Authority	valerietorresrealtor@gmail.com
Phyllis Barrett	Housing Authority	pbarrett544@gmail.com
Ray Waddell	Human Relations Council	raywadd02@gmail.com
Zakiyah L Thomas	Human Relations Council	zakiyaht52@gmail.com
Duncan A Patrick	Human Relations Council	duncanpatrick50@gmail.com
Josiah E. Ebron-duncan	Human Relations Council	jamontedaroberson@gmail.com
Stephen A Blackburn	Human Relations Council	sablackburn20@gmail.com
Mckenzie M Byrnes	Human Relations Council	byrnesmckenzie@gmail.com
Anitra Cook	Human Relations Council	anitracook67@gmail.com
Walter L Grubb Iii	Human Relations Council	grubbw@ecu.edu
Asiya Khaatoon	Human Relations Council	khaatoon520@gmail.com
Ashley B Elks	Human Relations Council	ashley.elks1@gmail.com
Joey X Austin	Multimodal Transportation Commission	joeyaustinx@gmail.com
Mckenzie M Byrnes	Multimodal Transportation Commission	byrnesmckenzie@gmail.com
Sheila Barnes	Pitt-Greenville Airport Authority	sheilamarie0106@gmail.com
Mckenzie M Byrnes	Pitt-Greenville Airport Authority	byrnesmckenzie@gmail.com
Sandra T Cannon	Pitt-Greenville Airport Authority	s_cannon11@yahoo.com
Anitra Cook	Pitt-Greenville Airport Authority	anitracook67@gmail.com
Walter L Grubb Iii	Pitt-Greenville Airport Authority	grubbw@ecu.edu
David Newman	Pitt-Greenville Airport Authority	newmaniac52@gmail.com
Mckenzie M Byrnes	Pitt-Greenville Convention and Visitors Authority	byrnesmckenzie@gmail.com
Anitra Cook	Pitt-Greenville Convention and Visitors Authority	anitracook67@gmail.com
Kyle T Parker	Pitt-Greenville Convention and Visitors Authority	ktparker17@gmail.com
David Newman	Pitt-Greenville Convention and Visitors Authority	newmaniac52@gmail.com
Asiya Khaatoon	Pitt-Greenville Convention and Visitors Authority	khaatoon520@gmail.com
Ashley B Elks	Pitt-Greenville Convention and Visitors Authority	ashley.elks1@gmail.com



City of Greenville, North Carolina

Meeting Date: 08/08/2024

Title of Item: Ordinance to annex Dennis R. Davis and Vickie W. Davis property involving 1.20 acres located 445+/- feet west of Frog Level Road and 410+/- feet south of Dickinson Avenue Extension

Explanation: A. SCHEDULE

1. Advertising date: July 27, 2024
2. City Council public hearing date: August 8, 2024
3. Effective date: August 8, 2024

B. CHARACTERISTICS

1. Relation to primary city limits: Noncontiguous
2. Relation to recognized industrial area: Outside
3. Acres: 1.20
4. Voting District: 2
5. Township: Arthur
6. Zoning: RA20 (Residential-Agricultural)
7. Existing land use: One (1) single-family residence
8. Anticipated land use: One (1) single-family residence
9. Population estimate

	Formula	Number of people
Total current:	0	0
Estimated at full development	1 X 2.18	2
Current minority	0	0
Estimated minority at full development	2 X 43.4%	1
Current white	0	0
Estimated white at full development	2 - 1	1

* Source: Census.gov

10. Rural fire tax district: Red Oak
11. Greenville fire district: Station 5
12. Present tax value: \$31,454
13. Estimated tax value: \$150,000

Fiscal Note: Estimated tax value at full development is \$150,000.

Recommendation: Approve the attached ordinance to annex the Dennis R. Davis and Vickie W. Davis property

ATTACHMENTS

- [Ordinance Dennis R_ Davis Annexation.DOC](#)
- [Dennis R. Davis Annexation Map.pdf](#)

ORDINANCE NO. 24-
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville has been petitioned under G.S. 160A-58.1, as amended, to annex the area described herein; and

WHEREAS, the City Council has directed the City Clerk to investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at 6:00 p.m. on the 8th day of August, 2024, after due notice by publication in The Daily Reflector on the 27th day of July, 2024; and

WHEREAS, the City Council does hereby find as a fact that said petition meets the requirements of G.S. 160A-31, as amended.

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

Section 1. That by virtue of the authority vested in the City Council of the City of Greenville, North Carolina, under G. S. 160A-58.1, as amended, the following described noncontiguous territory is annexed:

TO WIT: Being all of that certain property as shown on the annexation map entitled “Dennis R. Davis and Wife Vickie W. Davis”, involving 1.20 acres

LOCATION: Situate in Arthur Township, Pitt County, North Carolina, located 445+/- feet west of Frog Level Road and 410+/- feet south of Dickinson Avenue Extension

GENERAL DESCRIPTION:

BEGINNING AT AN EXISTING IRON PIPE, SAID IRON PIPE BEING THE NORTH WESTERN CORNER OF THAT PROPERTY RECORDED IN DB 282 PG 623 IN THE PITT COUNTY REGISTER OF DEEDS AND SHOWN ON MAP BOOK 91 PG 30. THENCE S 09°16’07” W 352.20’ TO AN EXISTING IRON PIPE IN THE LINE OF SANDRA S. SMITH’S PROPERTY. THENCE WITH SAID LINE N 89°06’18” W 88.22’ TO AN EXISTING IRON PIPE IN THE LINE OF LANDMARK MISSIONARY BAPTIST CHURCH’S PROPERTY. THENCE WITH SAID LINE N 03°07’31” W 451.20’ TO AN EXISTING IRON ROD. SAID POINT BEING THE SOUTH WESTERN CORNER OF THAT PROPERTY SHOWN ON MAP BOOK 81 PG 69 AND THE EASTERN MOST CORNER OF PITT COUNTY NC PROPERTIES, LLC RECORDED IN DB 2664 PG 267 AND SHOWN ON THAT MAP

RECORDED IN MB 50 PG 122. THENCE WITH THE SAID PROPERTY LINE S 58°24'00' E 199.05' TO THE SAID POINT OF BEGINNING. CONTAINING 1.20 ACRES.

Section 2. Territory annexed to the City of Greenville by this ordinance shall, pursuant to the terms of G.S. 160A-23, be annexed into Greenville municipal election district two. The City Clerk, City Engineer, representatives of the Board of Elections, and any other person having responsibility or charge of official maps or documents shall amend those maps or documents to reflect the annexation of this territory into municipal election district two.

Section 3. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Greenville and shall be entitled to the same privileges and benefits as other territory now within the City of Greenville. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 4. The Mayor of the City of Greenville, North Carolina, shall cause a copy of the map of the territory annexed by this ordinance and a certified copy of this ordinance to be recorded in the office of the Register of Deeds of Pitt County and in the Office of the Secretary of State in Raleigh, North Carolina. Such a map shall also be delivered to the Pitt County Board of Elections as required by G.S. 163-288.1.

Section 5. This annexation shall take effect from and after the 8th day of August, 2024.

ADOPTED this 8th day of August, 2024.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

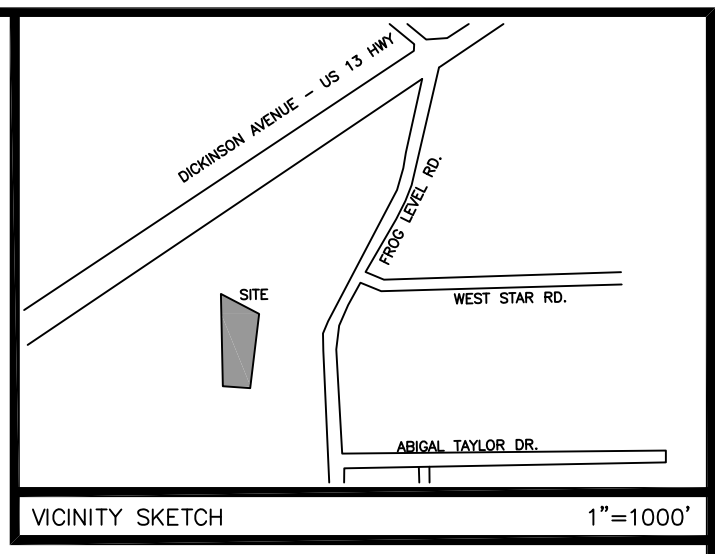
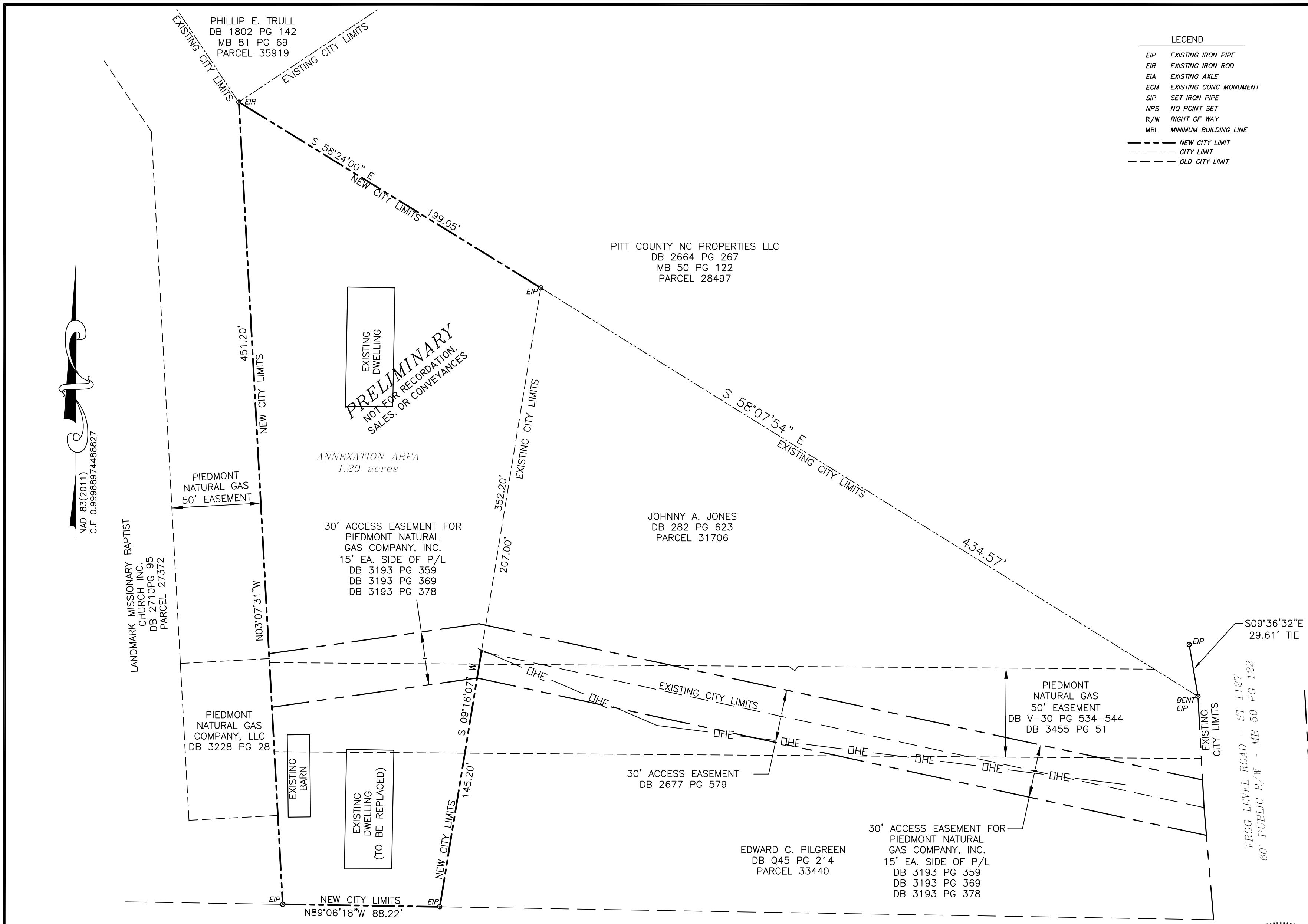
I, _____, a Notary Public for said County and State, certify that Valerie Shiuwegar personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing instrument was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

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

Notary Public

My Commission Expires: _____

1196440



- LEGEND**
- EIP EXISTING IRON PIPE
 - EIR EXISTING IRON ROD
 - EIA EXISTING AXLE
 - ECM EXISTING CONC MONUMENT
 - SIP SET IRON PIPE
 - NPS NO POINT SET
 - R/W RIGHT OF WAY
 - MBL MINIMUM BUILDING LINE
 - NEW CITY LIMIT
 - - - CITY LIMIT
 - OLD CITY LIMIT

NOTES:
 1. AREA BY COORDINATES
 2. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT REPORT. GASKINS LAND SURVEYING, P.A. DOES NOT CLAIM THAT ALL MATTERS OF RECORD WHICH MAY OR MAY NOT AFFECT THIS PROPERTY ARE SHOWN HEREON.

- REFERENCES**
- DB 2677 PG 579
 - DB 282 PG 623
 - DB 3455 PG 51
 - DB 3193 PG 359
 - MB 24 PG 68
 - DB V-30 PG 533/544
 - DB 44 PG 252
 - DB 142 PG 209
 - DB 142 PG 206
 - DB 139 PG 615

NAD 83(2011)
 C.F. 0.99988974488827

LANDMARK MISSIONARY BAPTIST CHURCH INC.
 DB 2710 PG 95
 PARCEL 27372

PIEDMONT NATURAL GAS 50' EASEMENT

ANNEXATION AREA
 1.20 acres

PRELIMINARY
 NOT FOR RECORDATION,
 SALES, OR CONVEYANCES

30' ACCESS EASEMENT FOR
 PIEDMONT NATURAL GAS COMPANY, INC.
 15' EA. SIDE OF P/L
 DB 3193 PG 359
 DB 3193 PG 369
 DB 3193 PG 378

PIIT COUNTY NC PROPERTIES LLC
 DB 2664 PG 267
 MB 50 PG 122
 PARCEL 28497

JOHNNY A. JONES
 DB 282 PG 623
 PARCEL 31706

PIEDMONT NATURAL GAS COMPANY, LLC
 DB 3228 PG 28

EXISTING BARN

EXISTING DWELLING
 (TO BE REPLACED)

30' ACCESS EASEMENT
 DB 2677 PG 579

EDWARD C. PILGREEN
 DB Q45 PG 214
 PARCEL 33440

30' ACCESS EASEMENT FOR
 PIEDMONT NATURAL GAS COMPANY, INC.
 15' EA. SIDE OF P/L
 DB 3193 PG 359
 DB 3193 PG 369
 DB 3193 PG 378

PIEDMONT NATURAL GAS 50' EASEMENT
 DB V-30 PG 534-544
 DB 3455 PG 51

S09°36'32"E
 29.61' TIE
 BENT EIP
 FROG LEVEL ROAD - ST 1127
 60' PUBLIC R/W - MB 50 PG 122

NEW CITY LIMITS
 N89°06'18"W 88.22'

SANDRA S. SMITH
 ESTATE FILE 2014-486
 PARCEL 28010



I, KENDALL E. GASKINS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM A SURVEY MADE UNDER MY SUPERVISION (SEE DESCRIPTION RECORDED IN BOOK SEE PAGE REFERENCES); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AND DRAWN FROM INFORMATION FOUND IN BOOK Q-14 PG 68. I CERTIFY THAT THE RATIO OF PRECISION ASSIGNED IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. THIS MAP IS EXEMPT FROM G.S. 47-30 AS (J).
 WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL
 THIS 17TH DAY OF JUNE, A.D., 2024.

KENDALL E. GASKINS L-3824

ANNEXATION MAP FOR
 DENNIS R. DAVIS
 AND WIFE VICKIE W. DAVIS
 GREENVILLE, ARTHUR TOWNSHIP, PITT COUNTY, NORTH CAROLINA

OWNER: DENNIS R. DAVIS AND VICKIE W. DAVIS
 ADDRESS: 3354 FROG LEVEL RD
 GREENVILLE NC 27834
 PHONE:

MAP NO.	PLATS RECORDED	BOOK	PAGE
	JOHNNY A. JONES	91	30
	PHILLIP E. TRULL	81	69

MAP SHOWING AREA ANNEXED BY
 THE CITY OF GREENVILLE, N.C.
 (EFFECTIVE DATE _____ ORDINANCE # _____ AREA 1.20 AC.)
 ARTHUR TOWNSHIP, PITT COUNTY, N.C.

Gaskins Land Surveying, P.A.
 PROFESSIONAL LAND SURVEYING
 Phone: 252-244-0599
 Fax: 252-244-5899
 PO Box 354
 Vanceboro, NC 28586

SURVEYED: KEG
 DRAWN: KEG
 CHECKED: KEG
 APPROVED: KEG
 DATE: 6/17/24
 SCALE: 1"=60'

REVIEW OFFICER'S CERTIFICATION
 I, _____, A REVIEW OFFICER OF PITT COUNTY, N.C., CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING
 BY _____ REVIEW OFFICER
 DATE: _____



City of Greenville, North Carolina

Meeting Date: 08/08/2024

Title of Item: Ordinance requested by B. Marshall Whitehurst to rezone 13.86 acres located south of the Norfolk Southern Railroad and 465+/- feet east of Portertown Road from RA20 (Residential-Agricultural) to R6A (Residential [Medium Density Multi-Family])

Explanation:

Required Notices:

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on June 4, 2024.

On-site sign(s) posted on June 4, 2024.

City Council public hearing notice (property owner and adjoining property owner letter) mailed on July 23, 2024.

Public hearing legal advertisement published on July 27, 2024 and August 3, 2024.

Comprehensive Plan:

The Future Land Use and Character Map recommends traditional neighborhood, medium-high density (TNMH) roughly between Portertown Road and L. T. Hardee Road, south of the Norfolk Southern Railroad and transitioning to residential, low-medium density (LMDR) to the west of L. T. Hardee Road and further south.

Traditional Neighborhood, Medium-High Density

Primary residential area featuring a mix of higher density housing types ranging from multifamily, townhomes, and small-lot single-family detached. They are typically located within a walkable distance to a neighborhood activity center. Traditional neighborhoods should have a walkable street network of small

blocks, a defined center and edges, and connections to surrounding development.

Intent:

- Provide streetscape features such as sidewalks, street trees, and lighting.
- Allow neighborhood-scale commercial or mixed-use centers at key intersections within neighborhoods.

Primary uses:

Multi-family residential

Single-family residential attached (townhomes) and detached (small-lot)

Secondary uses:

Institutional (neighborhood scale)

Residential, Low-Medium Density

Residential, low to medium density areas are primarily single-family developments arranged along wide, curvilinear streets with few intersections. Building and lot size range in size and density but tend to be highly consistent within a development with limited connectivity between different residential types and non-residential uses.

Intent:

- Provide better pedestrian and vehicular connectivity between residential developments
- Improve streetscape features such as consistent sidewalks, lighting, and street trees

Primary uses:

Single-family detached residential

Secondary uses:

Two-family residential

Institutional/civic (neighborhood scale)

Thoroughfare/Traffic Report Summary (Engineering Department):

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 573 trips to and from the site on Portertown Road, which is a net increase of 243 additional trips.

During the review process, measures to mitigate the traffic will be determined.

History/Background:

In 1989, the property was incorporated into the City's extra-territorial jurisdiction (ETJ) and zoned to its present zoning.

Existing Land Uses:

Farmland

Water/Sewer:

Water is available from Eastern Pines Water Corporation. Public sanitary sewer is available.

Historic Sites:

There are no known effects on historic sites.

Environmental Conditions/Constraints:

The property drains to the Hardee Creek Watershed (Tar River Basin). If stormwater rules apply, it would require 10-year detention, nitrogen and phosphorus reduction.

The property is not located in the Special Flood Hazard Area. No jurisdictional wetlands, streams and riparian buffers exist on the property.

Surrounding Land Uses and Zoning:

North: CG - Hardee Creek Shopping Center

South: RA20 - Lake Glenwood Subdivision

East: RA20 - Stormwater detention facility for the Hardee Creek Shopping Center

West: R6 - Farmland

Density Estimates:

Under the current zoning, the site could accommodate 30-35 single-family lots.

Under the proposed zoning, the site could accommodate 80-85 multi-family units.

The anticipated build-out is within 2-3 years.

Fiscal Note: No cost to the City.

Recommendation: In staff's opinion, the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

Therefore, staff recommends approval.

The Planning and Zoning Commission voted unanimously to approve the request at its June 18, 2024 meeting.

"In compliance with the comprehensive plan" should be construed as meaning the requested zoning is (i) either specifically recommended in the text of the Horizons Plan (or addendum to the plan) or is predominantly or completely surrounded by the same or compatible and desirable zoning and (ii) promoted the desired urban form. The requested district is considered desirable and in the public interest, and staff recommends approval of the requested rezoning.

If City Council determines to approve the request, a motion to adopt the attached rezoning ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

"Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest."

Note: In addition to the other criteria, the Planning and Zoning Commission and City Council shall consider the entire range of permitted and special uses for the existing and proposed districts as listed under Title 9, Chapter 4, Article D of the Greenville City Code.

ATTACHMENTS

- Ordinance B_ Marrshall Whitehurst Rezoning.DOC**
- Text Excerpt B. Marshall Whitehurst.pdf**
- B. Marshall Whitehurst APO Map.pdf**
- B. Marshall Whitehurst Rezoning Map.pdf**
- List of Uses RA20 to R6A.pdf**
- B. Marshall Whitehurst Traffic Report.pdf**
- Density and Veg Charts.pdf**

LOCATION: Located south of the Norfolk Southern Railroad and 465+/- feet east of Portertown Road

DESCRIPTION: Beginning at a point on the southern right-of-way of the Norfolk-Southern Railroad, said point being located approximately 446' feet as measured along the southern right-of-way of the Norfolk-Southern Railroad in an easterly direction from a point located where the southern right-of-way of the Norfolk-Southern Railroad intersects the eastern right-of-way of NCSR 1726-Portertown Road. From the above described beginning, so located, running thence as follows: With the southern right-of-way of the Norfolk-Southern Railroad, S 79°22'03" E 997.98', to the northwest corner of the Greenville Retail Investment, LLC property. Thence leaving the southern right-of-way of the Norfolk-Southern Railroad and with the western line of said Greenville Retail Investment, LLC property, S 07°24'47" W 380.71', S 33°12'54" W 100.63, S 45°54'34" W 33.40' and S 74°18'14" W 416.22' to the northern common corner of Lots 91 & 92, Glenwood Subdivision as shown in Map Book 16, Pages 58 & 58A of the Pitt County Register of deeds. Thence with the northern line of Lots 87-91, Glenwood Subdivision, N 57°05'19" W 78.94', N 62°41'22" W 151.47' and N 55°32'46" W 529.32' to the eastern line of the Amy Jones Edwards property as recorded in Deed Book 3858, Page 210 of the Pitt County Register Of Deeds, Thence with the eastern line of said Edwards property, N 26°37'53" E 413.73' to the point of beginning containing 13.86 acres.

Section 2. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 3. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. That this ordinance shall become effective upon its adoption.

ADOPTED this 8th day of August, 2024.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk
1196526

Excerpt from the draft Planning & Zoning Commission Minutes (06/18/24)

1. REQUEST BY B. MARSHALL WHITEHURST TO REZONE 13.86 ACRES LOCATED SOUTH OF THE NORFOLK SOUTHERN RAILROAD AND 465+/- FEET EAST OF PORTERTOWN ROAD FROM RA20 (RESIDENTIAL-AGRICULTURAL) TO R6A (RESIDENTIAL [MEDIUM DENSITY MULTI-FAMILY]).

Chantae Gooby, Chief Planner, presented on behalf of City Staff. Currently this property doesn't have access to a road but will be tied into development to Eastern Pines and Portertown Roads. The property drains to the Hardee Creek Watershed. If stormwater rules apply, it would require 10-year detention, nitrogen, and phosphorus reduction. The property is not located in the Special Flood Hazard Area. No jurisdictional wetlands, streams and riparian buffers exist on the property. The requested zoning could generate a net increase of 243 trips per day. The Future Land Use and Character Map recommends traditional neighborhood, medium to high density roughly between Portertown Road and L.T. Hardee Road, south of the Norfolk Southern Railroad and transitioning to residential, low to medium density to the west and south of L.T. Hardee Road. In staff's opinion the requested zoning is in compliance with the Horizons 2026: Greenville Community Plan and the Future Land Use and Character Map. Therefore, staff recommends approval.

Vice Chair Faison opened the public hearing.

Mike Baldwin, Baldwin Design Consultants, spoke in favor of the request.

No one spoke in opposition of the request.

Vice Chair Faison closed the public hearing and opened board discussion.

Motion made by Mr. West, seconded by Mr. Thomas, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

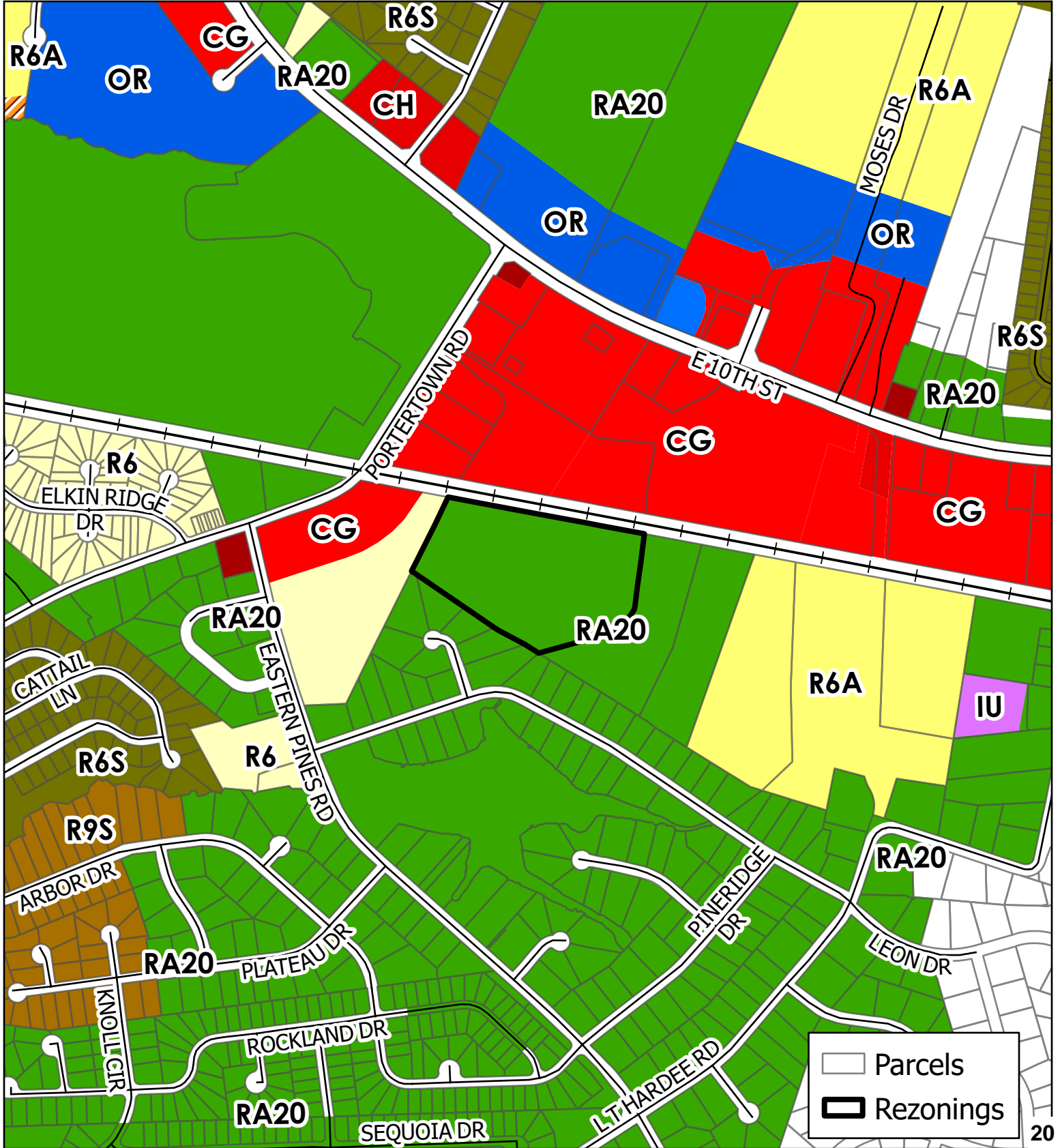
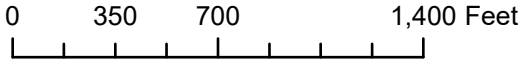
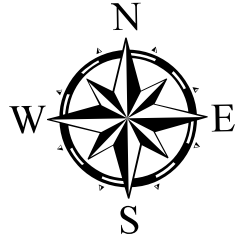
B. Marshall Whitehurst

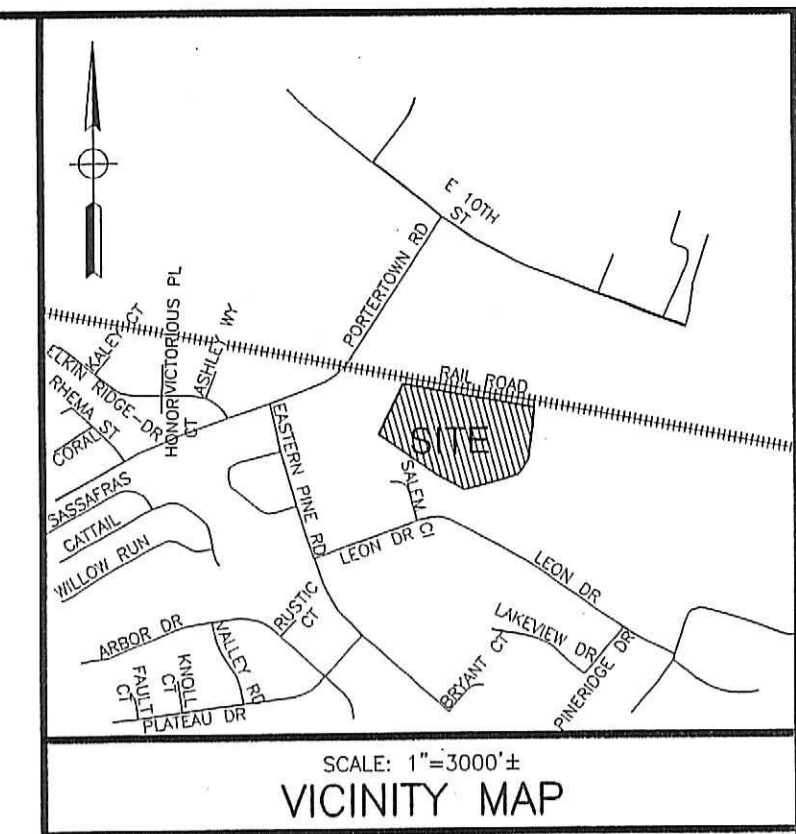
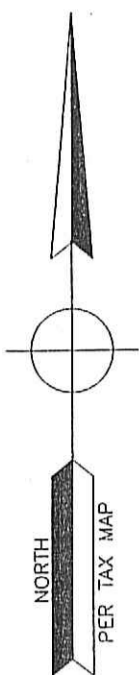
From: RA20

To: R6A

Acres: 13.86

June 18, 2024





RA-20
ROBERTO M. WILLIAMS
DB 689, PG 522
MB 18-24, PG 24A

RA-20
DAWN ANNE COX
DB 4072, PG 366
MB 88, PG 580

VACANT
CG
GREENVILLE RETAIL INVESTMENT, LLC
DB 2943, PG 826
MB 75, PG 102

COMMERCIAL
CG
GREENVILLE RETAIL INVESTMENT, LLC
DB 2943, PG 826
MB 75, PG 102

COMMERCIAL
CG
WAL-MART REAL ESTATE BUSINESS TRUST
DB 2944, PG 139
MB 75, PG 102

AGRICULTURAL
CG
AMY JONES EDWARDS
DB 3858, PG 210
MB 18, PG 24

AGRICULTURAL
R-6
AMY JONES EDWARDS
DB 3858, PG 210
MB 18, PG 24

SINGLE-FAMILY RESIDENTIAL
RA-20
GLENWOOD SUBDIVISION
MB 16, PGs 58-58A

STORMWATER POND
RA-20
GREENVILLE RETAIL INVESTMENT, LLC
DB 2943, PG 826
MB 75, PG 102

STORMWATER POND
RA-20
WALMART REAL ESTATE BUSINESS TRUST
DB 2944, PG 139
MB 75, PG 102

FUTURE MULTI-FAMILY RESIDENTIAL
R-6A
BILL CLARK HOMES OF GREENVILLE, LLC
DB 4373, PG 50
MB 89, PG 130

NCSR 1726 - PORTERTOWN ROAD
(60' R/W ASPHALT VARIES PUBLIC)

NCSR - 1727 EASTERN PINES ROAD
(60' R/W 24' B/B PUBLIC)

LEON DRIVE
(60' R/W 20' ASPHALT PUBLIC)

LOT OWNER INFORMATION

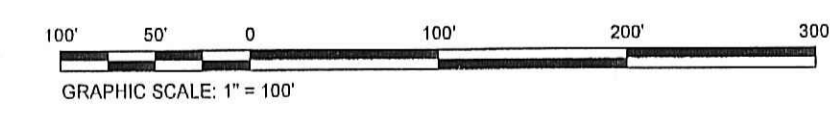
LOT#	OWNER	DB - PG
87	JOSEPH EDWARDS DAVIS, etux	DB 816, PG 94
88	GARY JERMAINE HOWARD, etux	DB 2700, PG 199
89	J. DONALD LOFTON, etux	DB C46, PG 365
90	GERRY DONELL HARRIS JR., etux	DB 4075, PG 505
91	DANIEL RAY HOUSE, etux	DB 523, PG 609
92	ENC HOME SOLUTIONS, LLC	DB 4502, PGs 498-501
93	ENC HOME SOLUTIONS, LLC	DB 4502, PGs 498-501
94	LAWRENCE M. AUSBON, etux	DB 1712, PG 793
95	EMERSON SHERROD WATFORD, etux	DB 4017, PGs 500-503
96	JOHN JOSEPH GRILLO, etux	DB 147, PG 3
97	STEPHEN H. WILSON, etux	DB 104, PG 843
98	JOSHUA L. ENNIS, etux	DB 3618, PGs 518-521
99	NICOLE N. FRANKLIN	DB 3756, PGs 190-191
100	JENNIFER L. SISLER	DB 3475, PGs 540-542

LEGEND
R/W = RIGHT-OF-WAY
B/B = BACK TO BACK
MBL = MINIMUM BUILDING LINE
EIP = EXISTING IRON PIPE
PROP = PROPOSED
CONC = CONCRETE
EX = EXISTING
TYP = TYPICAL



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- CONTRACTOR IS FULLY RESPONSIBLE FOR CONTACTING APPROPRIATE PARTIES AND ENSURING THAT ALL EXISTING UTILITIES ARE LOCATED PRIOR TO CONSTRUCTION.
- CONTRACTOR IS RESPONSIBLE FOR PLACING BARRICADES, USING FLAG MEN, ETC., AS NECESSARY TO ENSURE SAFETY OF THE PUBLIC.
- ALL PAVEMENT CUTS, CONCRETE OR ASPHALT, ARE TO BE PLACED ACCORDING TO THE STANDARDS OF THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, OR LOCAL JURISDICTION, WHICHEVER IS MORE STRINGENT.
- SHORING SHALL BE IN ACCORDANCE WITH OSHA TRENCHING STANDARDS, 29 PART 1926, SUBPART, OR AS AMENDED.

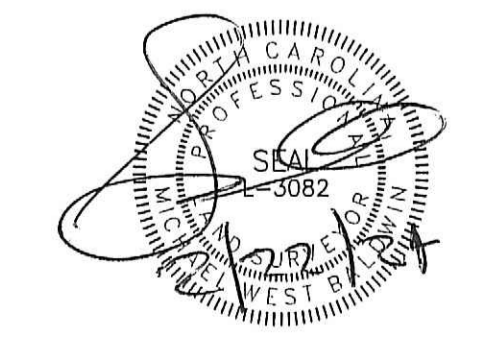


SHEET 1 OF 1
REZONING MAP
TAX PARCEL #24690

B. MARSHALL WHITEHURST

REFERENCE: DEED BOOK 3866, PAGE 515 OF THE PITT COUNTY REGISTER OF DEEDS
Greenville TOWNSHIP, PITT COUNTY, N.C.

OWNER: B. MARSHALL WHITEHURST
ADDRESS: 232 CHURCHILL DRIVE
GREENVILLE NC 27858
PHONE: 252-531-2234



Baldwin Design Consultants, PA
ENGINEERING - SURVEYING - PLANNING
1700-D EAST ARLINGTON BOULEVARD
GREENVILLE, NC 27858 252.756.1390

DESIGNED: MWB APPROVED: MWB
DRAWN: AJM/MTR DATE: 02/22/2024
CHECKED: MWB SCALE: 1" = 100'

CLOSURE CHECK BOUNDARY
CHECKED: AJM/G DATE: 02/22/2024

email: admin@baldwindesignconsultants.com

X:\DRAWINGS\23-023_MARSHALL_WHITEHURST_SHEETS\23-023_MARSHALL_WHITEHURST.dwg Fri, Apr 12, 2024 - 8:51 am MRIVERA

Existing Uses	
RA20 (RESIDENTIAL-AGRICULTURAL) - PERMITTED USES	
(1) General	
a.	Accessory use or building
c.	On-premise signs per Article N
(2) Residential	
a.	Single-family dwelling
b(1).	Master Plan Community per Article J
f.	Residential cluster development per Article M
k.	Family care homes (see also 9-4-103)
q.	Room renting
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
c.	Wayside market for farm products produced on-site
e.	Kennel (see also section 9-4-103)
f.	Stable; horse only (see also section 9-4-103)
g.	Stable; per definition (see also section 9-4-103)
h.	Animal boarding not otherwise listed; outside facility, as an accessory or principal use
l.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility
g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
RA20 (RESIDENTIAL-AGRICULTURAL) - SPECIAL USES	
(1) General - None	
(2) Residential	
b.	Two-family attached dwelling (duplex)
g.	Mobile home (see also section 9-4-103)
n.	Retirement center or home
o.	Nursing, convalescent or maternity home; major care facility
o(1).	Nursing, convalescent or maternity home; minor care facility
(3) Home Occupations	
a.	Home occupation; not otherwise listed

	b.	Home occupation; barber and beauty shop
	c.	Home occupation; manicure, pedicure or facial salon
(4) Governmental		
	a.	Public utility building or use
(5) Agricultural/Mining		
	b.	Greenhouse or plant nursery; including accessory sales
	m.	Beekeeping; major use
	n.	Solar energy facility
(6) Recreational/Entertainment		
	a.	Golf course; 18-hole regulation length (see also section 9-4-103)
	a(1).	Golf course; 9-hole regulation length (see also section 9-4-103)
	c(1).	Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None		
(8) Services		
	a.	Child day care facilities
	b.	Adult day care facilities
	d.	Cemetery
	g.	School; junior and senior high (see also section 9-4-103)
	h.	School; elementary (see also section 9-4-103)
	i.	School; nursery and kindergarten (see also section 9-4-103)
(9) Repair - None		
(10) Retail Trade - None		
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None		
(12) Construction - None		
(13) Transportation - None		
(14) Manufacturing/Warehousing - None		
(15) Other Activities (not otherwise listed - all categories) - None		
PROPOSED ZONING		
R6A (RESIDENTIAL) - PERMITTED USES		
(1) General		
	a.	Accessory use or building
	c.	On-premise signs per Article N
(2) Residential		
	a.	Single-family dwelling
	b.	Two-family attached dwelling (duplex)
	b(1).	Master Plan Community per Article J
	c.	Multi-family development per Article I
	f.	Residential cluster development per Article M
	k.	Family care homes (see also 9-4-103)
	q.	Room renting
(3) Home Occupations - None		
(4) Governmental		
	b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining		
	a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
	l.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment		

f.	Public park or recreational facility
g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
R6A (RESIDENTIAL) - SPECIAL USES	
(1) General - None	
(2) Residential	
d.	Land use intensity multi-family (LUI) development rating 50 per Article K
e.	Land use intensity multi-family (LUI) development rating 67 per Article K
l.	Group care facility
n.	Retirement center or home
o(1).	Nursing, convalescent or maternity home; minor care facility
p.	Board or rooming house
r.	Fraternity or sorority house
(3) Home Occupations	
a.	Home occupation; not otherwise listed
b.	Home occupation; barber and beauty shop
c.	Home occupation; manicure, pedicure or facial salon
(4) Governmental	
a.	Public utility building or use
(5) Agricultural/Mining - None	
	* None
(6) Recreational/Entertainment	
a.	Golf course; 18-hole regulation length (see also section 9-4-103)
a(1).	Golf course; 9-hole regulation length (see also section 9-4-103)
c(1).	Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical	
(8) Services	
a.	Child day care facilities
b.	Adult day care facilities
d.	Cemetery
g.	School; junior and senior high (see also section 9-4-103)
h.	School; elementary (see also section 9-4-103)
i.	School; nursery and kindergarten (see also section 9-4-103)
m.	Multi-purpose center
t.	Guest house for a college or other institution of higher learning
(9) Repair - None	

(10) Retail Trade - None
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None
(12) Construction - None
(13) Transportation - None
(14) Manufacturing/Warehousing - None
(15) Other Activities (not otherwise listed - all categories) - None

REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 24-07

Applicant: B. Marshall Whitehurst

Property Information

Current Zoning: RA20 (Residential-Agricultural)

Proposed Zoning: R6A (Residential)

Current Acreage: 13.86 acres

Location: Portertown Rd, south of E. 10th Street

Points of Access: Portertown Rd

Location Map



Transportation Background Information

1.) Portertown Rd- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	2 lanes - paved shoulders	4-lane with raised median
Right of way width (ft)	60	90
Speed Limit (mph)	45	45
Current ADT:	13,525 (*)	
Design ADT:	12,000 vehicles/day (**)	39,700 vehicles/day (**)
Controlled Access	No	

Thoroughfare Plan Status Minor Thoroughfare

Other Information: There are no sidewalks along Portertown Rd that service this property.

Notes: (*) 2022 NCDOT count adjusted for a 2% annual growth rate
 (**) Traffic volume based on an operating Level of Service D for existing geometric conditions
 ADT – Average Daily Traffic volume

Transportation Improvement Program Status: Project U-5870, which involves widening Fire Tower Road to Portertown Road and widening Portertown Road to 10th Street (N.C. 33), a distance of 2.2 miles.

Trips generated by proposed use/change

Current Zoning: 330 -vehicle trips/day (*) **Proposed Zoning: 573** -vehicle trips/day (*)

Estimated Net Change: increase of 243 vehicle trips/day (assumes full-build out)

(* - These volumes are estimated and based on an average of the possible uses permitted by the current and proposed zoning.)

Impact on Existing Roads

The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on Portertown Rd are as follows:

1.) Portertown Rd, North of Site (60%): **“No build” ADT of 13,525**

Estimated ADT with Proposed Zoning (full build) – 13,869
 Estimated ADT with Current Zoning (full build) – 13,723
Net ADT change = 146 (1% increase)

2.) Portertown Rd, South of Site (40%): "No build" ADT of 13,525

Estimated ADT with Proposed Zoning (full build) – 13,754

Estimated ADT with Current Zoning (full build) – 13,657

Net ADT change = 97 (<1% increase)

Staff Findings/Recommendations

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 573 trips to and from the site on Portertown Rd, which is a net increase of 243 additional trips per day.

During the review process, measures to mitigate the traffic will be determined.

RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

*** Maximim allowable density in the respective zoning district.

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

Bufferyard Requirements: Match proposed land use with adjacent permitted land use or adjacent vacant zone/nonconforming use to determine applicable bufferyard.

PROPOSED LAND USE CLASS (#)	ADJACENT PERMITTED LAND USE CLASS (#)					ADJACENT VACANT ZONE OR NONCONFORMING USE		PUBLIC/PRIVATE STREETS OR R.R.
	Single-Family Residential (1)	Multi-Family Residential (2)	Office/Institutional, light Commercial, Service (3)	Heavy Commercial, Light Industry (4)	Heavy Industrial (5)	Residential (1) - (2)	Non-Residential (3) - (5)	
Multi-Family Development (2)	C	B	B	B	B	C	B	A
Office/Institutional, Light Commercial, Service (3)	D	D	B	B	B	D	B	A
Heavy Commercial, Light Industry (4)	E	E	B	B	B	E	B	A
Heavy Industrial (5)	F	F	B	B	B	F	B	A

Bufferyard A (street yard)		
Lot Size	Width	For every 100 linear feet
Less than 25,000 sq.ft.	4'	2 large street trees
25,000 to 175,000 sq.ft.	6'	2 large street trees
Over 175,000 sq.ft.	10'	2 large street trees

Street trees may count toward the minimum acreage.

Bufferyard B (no screen required)	
Lot Size	Width
Less than 25,000 sq.ft.	4'
25,000 to 175,000 sq.ft.	6'
Over 175,000 sq.ft.	10'

Bufferyard C (screen required)	
Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs

Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.

Bufferyard D (screen required)	
Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard E (screen required)	
Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard F (screen required)	
Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Parking Area: Thirty (30) inch high screen required for all parking areas located within fifty (50) feet of a street right-of-way.



City of Greenville, North Carolina

Meeting Date: 08/08/2024

Title of Item: Ordinance requested by Greenville Church of Christ, Inc. to rezone 13.33 acres located along the northern right-of-way of East 10th Street and at the current terminus of Liberty Drive from RA20 (Residential-Agricultural) to R6S (Residential-Single-Family)

Explanation:

Required Notices:

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on July 1, 2024.

On-site sign(s) posted on July 1, 2024.

City Council public hearing notice (property owner and adjoining property owner letter) mailed on July 23, 2024.

Public hearing legal advertisement published on July 27, 2024 and August 3, 2024.

Comprehensive Plan:

The Future Land Use and Character Map recommends commercial (C) at the northwestern corner of the intersection of Port Terminal Road and East 10th Street transitioning to traditional neighborhood, low-medium density (TNLM), potential conservation open space (PCOS), and residential, low-medium density (LMDR) to the east. Potential conservation open space (PCOS) is recommended to indicate potential environmental constraints.

Commercial

Primarily community- and regional-scale commercial development situated near

and along major roadway corridors. Existing development is characterized by buildings set back from streets behind surface parking. That existing pattern should evolve to become more walkable with shorter blocks, buildings near streets, shared parking, and connections to surrounding development.

Intent:

- Provide connectivity to nearby uses (paths, streets)
- Locate new buildings near street on at least one side and accommodate parking to the side or rear of buildings
- Improve/provide public realm features such as signs, sidewalks, landscaping
- Reduce access-points into development for pedestrian and vehicular safety
- Reduce and consolidate surface parking

Primary uses:

Commercial (small and large format)

Office

Secondary uses:

Institutional/civic

Traditional Neighborhood, Low-Medium Density

Residential area with a mix of housing types on small lots with a single-family neighborhood appearance. Traditional neighborhoods should have a walkable street network of small blocks, a defined center and edges, and connections to surrounding development.

Intent:

- Provide streetscape features such as sidewalks, street trees, and lighting
- Introduce neighborhood-scale commercial centers at key intersections

Primary uses:

Single-family residential

Two-family residential

Attached residential (townhomes)

Secondary uses:

Multi-family residential

Small-scale institutional/civic (churches and school)

Residential, Low-Medium Density

Residential, low to medium density areas are primarily single-family developments arranged along wide, curvilinear streets with few intersections. Building and lot size range in size and density but tend to be highly consistent within a development with limited connectivity between different residential types and non-residential uses.

Intent:

- Provide better pedestrian and vehicular connectivity between residential developments
- Improve streetscape features such as consistent sidewalks, lighting, and street trees

Primary uses:

Single-family detached residential

Secondary uses:

Two-family residential

Institutional/civic (neighborhood scale)

Potential Conservation/Open Space

Potential conservation/open space land is typically located in areas that contain existing parkland, needed land buffers, exhibit potential for flooding, or are deemed inappropriate for development due to physical or environmental barriers. Some land within this area may not contain barriers to development, or there may be reasonable mitigation. Site analysis is needed to determine development capabilities in these areas.

The Future Land Use and Character Map identifies certain areas as potential conservation/open space. Much of this area is designated based upon data on flood-prone land and environmental constraints that may not correspond precisely with conditions on the ground. Seeing an area designated this way is the beginning of a conversation. When considering rezoning requests or other development proposals, some areas classified as potential conservation/open space may be determined not to contain anticipated limitations on development, or that existing concerns can reasonably be mitigated. In such cases, the future preferred land use should be based on adjacent Land Use and Character designations, contextual considerations, and the general policies of the comprehensive plan.

Intent:

- Conserve environmentally-sensitive land
- Buffer incompatible land uses with open space
- Provide open space network through the city for recreation
- Conservation/open space buffers adjacent to industrial development should be maintained at a width based on the type of industry and its potential to create compatibility problems
- Greenways and greenway connectors should be maintained to be consistent with the Greenway Plan.

Thoroughfare/Traffic Report Summary (Engineering Department):

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 472 trips to and from the site on East 10th Street, which is a net increase of 189 additional trips per day (over current zoning).

During the review process, measures to mitigate the traffic will be determined.

History/Background:

In 1972, the property was zoned to its current zoning.

Existing Land Uses:

Vacant

Water/Sewer:

Water and sanitary sewer are available to the property.

Historic Sites:

There are no known effects on historic sites.

Environmental Conditions/Constraints:

The property drains to the Hardee Swamp Watershed (Tar River Basin). If stormwater rules apply, it would require 10-year detention, nitrogen, and phosphorus reduction.

A portion of the property is located in the Special Flood Hazard Area and Floodway. There may be jurisdictional wetlands on the property. There are jurisdictional streams and buffers on the property.

Surrounding Land Uses and Zoning:

North: RA20 - Vacant (under common ownership of the applicant)

South: RA20 - Two (2) single-family residences; O - One (1) office building

East: RA20 - Vacant (City-owned property)

West: R6S - Courthouse Square Subdivision

Density Estimates:

Under the current zoning, the site could accommodate 25-30 single-family lots.

Under the proposed zoning, the site could accommodate 45-50 single-family lots.

The anticipated build-out is within 3-5 years.

Fiscal Note:

No cost to the City.

Recommendation:

In staff's opinion, the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

Therefore, staff recommends approval.

The Planning and Zoning Commission voted unanimously to approve the request at its July 16, 2024 meeting.

"In compliance with the comprehensive plan" should be construed as meaning the requested zoning is (i) either specifically recommended in the text of the Horizons Plan (or addendum to the plan) or is predominantly or completely surrounded by the same or compatible and desirable zoning and (ii) promoted the desired urban form. The requested district is considered desirable and in the public interest, and staff recommends approval of the requested rezoning.

If City Council determines to approve the request, a motion to adopt the attached rezoning ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

"Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest."

Note: In addition to the other criteria, the Planning and Zoning Commission and City Council shall consider the entire range of permitted and special uses for the existing and proposed districts as listed under Title 9, Chapter 4, Article D of the Greenville City Code.

ATTACHMENTS

- [Ordinance Greenville Church of Christ_ Inc Rezoning.DOC](#)
- [Text_Excerpt__Greenville_Church_of_Christ.pdf](#)
- [Greenville Church of Christ APO Map.pdf](#)
- [Greenville Church of Christ Survey.pdf](#)
- [List of Uses RA20 to R6S.pdf](#)
- [Greenville Church of Christ Traffic Report.pdf](#)
- [Density and Veg Charts.pdf](#)

LOCATION: Located along the northern right-of-way of East 10th Street and at the current terminus of Liberty Drive

DESCRIPTION: Being a portion of two parcels of land lying and being situated in the City of Greenville, Pitt County, North Carolina and being bounded on the west by Anthony J. Battle, Courthouse Square, and J&S Partnership; on the north by J&S Partnership; on the east by Hardee Creek; on the south by NC Highway 33 and Daniel P. Powers, Sr.; and being more particularly described as follows: Commencing at an existing concrete right of way monument located in the northern right of way line of NC Highway 33, thence N 38°36'53" W 586.03 feet along and with the right of way line of NC Highway 33 to a point in the center of Hardee Creek; thence N 38°36'53" W 30.00 feet to an iron pipe; thence N 38°36'53" W 69.74 feet to a point on the northern right of way line, said point being the POINT OF BEGINNING; thence along and with the northern right of way line of line of NC Highway 33 N 38°36'53" W 135.88 feet to an iron pipe, said iron pipe being the southern corner of the Daniel P. Powers, Sr. line; thence leaving the right of way and following the Powers line N 51°10'20" E 250.24 feet to an iron pipe; thence N 62°46'40" W 99.10 feet to an iron pipe; thence N 62°46'40" W 58.95 feet to an iron pipe; thence S 72°25'20" W 198.79 feet to an iron pipe, said iron pipe lying in the northern right of way line of NC Highway 33; thence leaving the Powers line and with the right of way line N 38°36'53" W 215.12 feet to an iron pipe, said iron pipe being the southern corner of the Lawrence property; thence leaving the right of way line and along the Lawrence line N 36°15'57" E 162.05 feet to an iron pipe; thence N 50°15'23" W 151.96 feet to an iron pipe, said iron pipe being the southern corner of the Courthouse Square subdivision as recorded in Map Book 45, Page 144; thence along and with the Courthouse Square line N 36°32'34" E 110.55 to an iron pipe; thence N 36°32'34" E 50.05 feet to an iron pipe; thence N 36°32'34" E 113.77 feet to an iron pipe; thence N 36°32'34" E 137.31 feet to an iron pipe; thence N 36°32'34" E 160.02 feet to an iron pipe; thence N 36°32'34" E 158.75 feet to an iron pipe; thence leaving the Courthouse Square line N 78°30'32" E 210.89 feet to a point; thence S 11°29'28" E 835.87 feet to a point in the center of Hardee Creek; thence along and with the centerline of Hardee Creek to a point in the centerline of Hardee Creek, said point being S 29°30'44" W 427.20 feet from the previous point; thence S 63°51'31" W 247.87 feet to the POINT OF BEGINNING containing 13.33 acres. This description was prepared from information shown in the boundary survey prepared by Spruill & Associates, Inc. and information from the Pitt County Registry; all deeds and maps referenced herein are found at the Pitt County Cadastre.

Section 2. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 3. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. That this ordinance shall become effective upon its adoption.

ADOPTED this 8th day of August, 2024.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk
1196530

Excerpt from the draft Planning & Zoning Commission Minutes (07/16/2024)

3. REQUEST BY GREENVILLE CHURCH OF CHRIST, INC. TO REZONE 13.33 ACRES LOCATED ALONG THE NORTHERN RIGHT-OF-WAY OF EAST 10TH STREET AND AT THE CURRENT TERMINUS OF LIBERTY DRIVE FROM RA20 (RESIDENTIAL-AGRICULTURAL) TO R6S (RESIDENTIAL-SINGLE-FAMILY).

Chris Kelly, Planner I, presented on behalf of City Staff. The property drains to the Hardee Creek Watershed (Neuse River Basin). If stormwater rules apply, it would require 10-year detention, nitrogen and phosphorus reduction. A portion of the property is located in the Special Flood Hazard Area and Floodway. There may be jurisdictional wetlands on the property. There are jurisdictional streams and buffers on the property. The requested zoning could generate a net increase of 189 trips per day. Under the current zoning of RA20, the site could accommodate 25-30 single-family lots. Under the proposed zoning of R6S, the site could accommodate 45-50 single-family lots. The Future Land Use and Character Map recommends commercial (C) at the northwestern corner of the intersection of Port Terminal Road and East 10th Street transitioning to traditional neighborhood, low-medium density (TNLM), potential conservation open space (PCOS), and residential, low-medium density (LMDR) to the east. Potential conservation open space (PCOS) is recommended to indicate potential environmental constraints. In staff's opinion the requested zoning is in compliance with the Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map. Therefore, staff recommends approval.

Chair Brock opened the public hearing.

Scott Anderson, ARK Consulting Group, spoke in favor of request. This property has significant environmental constraints to the rear and also to the side. This request will allow us to place higher density residential on the developable areas of the property. The zoning does match the adjacent property, Courthouse Square Subdivision.

Mary Worthington, homeowner, spoke in opposition of request. The field that is adjacent to Courthouse Square, in the middle of that field, they have a gas line. I have been at that location for 29 years. It is a flood zone.

William Lawrence, homeowner, spoke in opposition of request. I stay right beside the property, and I feel nothing should be built there. It floods really bad when it rains.

Willie Brooks, homeowner, spoke in opposition of request. I built my home in 1995 and some years ago they built the firehouse right by my house. This will bring down my property value.

Kimberly Harrison, homeowner, spoke in opposition of request. I live in Courthouse Square. I am concerned about the traffic.

Kevin Faison, homeowner, spoke in opposition of request. My neighbors and I are concerned about the gas line that is out there.

Chair Brock closed the public hearing.

Mr. Anderson stated there is a gas easement located on the property. It borders Courthouse Square Subdivision. There is a 50-foot gas easement, and the easement has very specific restrictions. No homes will be allowed in that easement.

Mr. Thomas asked is it a 50-foot or 100-foot gas easement?

Mr. Anderson stated a 50-foot gas easement is recorded at the Pitt County Courthouse. In regard to the flooding, we will have to meet the City's stormwater ordinance. This is only the first step of many.

Questions were asked from the audience, but unable to transcribe due to citizens not coming to the microphone.

Chair Brock closed the public hearing and opened board discussion.

Motion made by Mr. Peyton, seconded by Mr. Collins, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

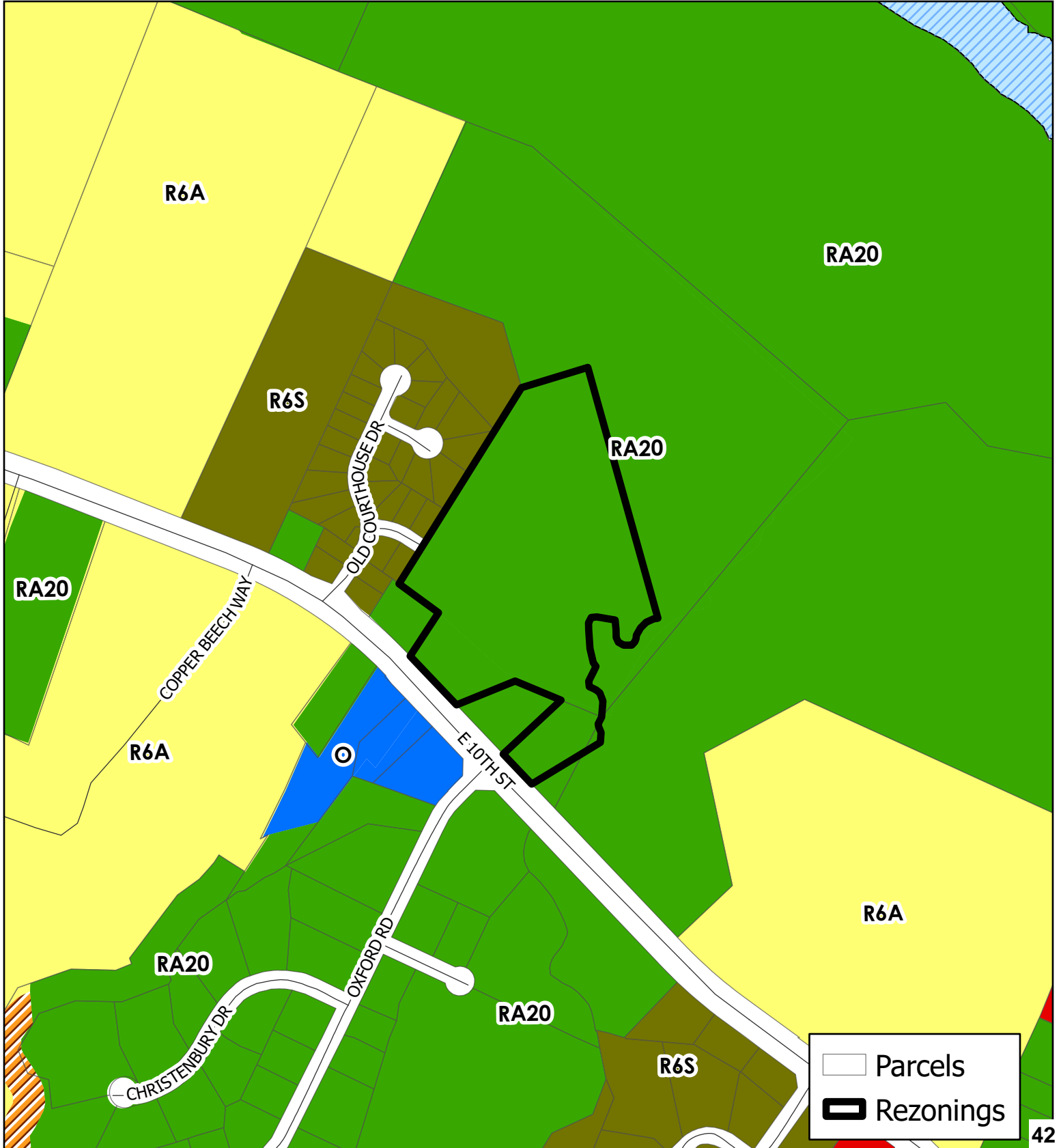
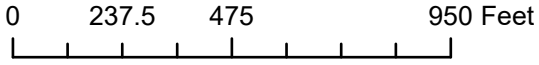
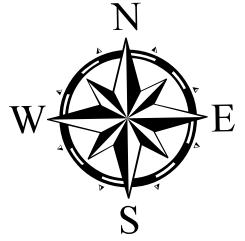
Greenville Church of Christ, Inc

From: RA20

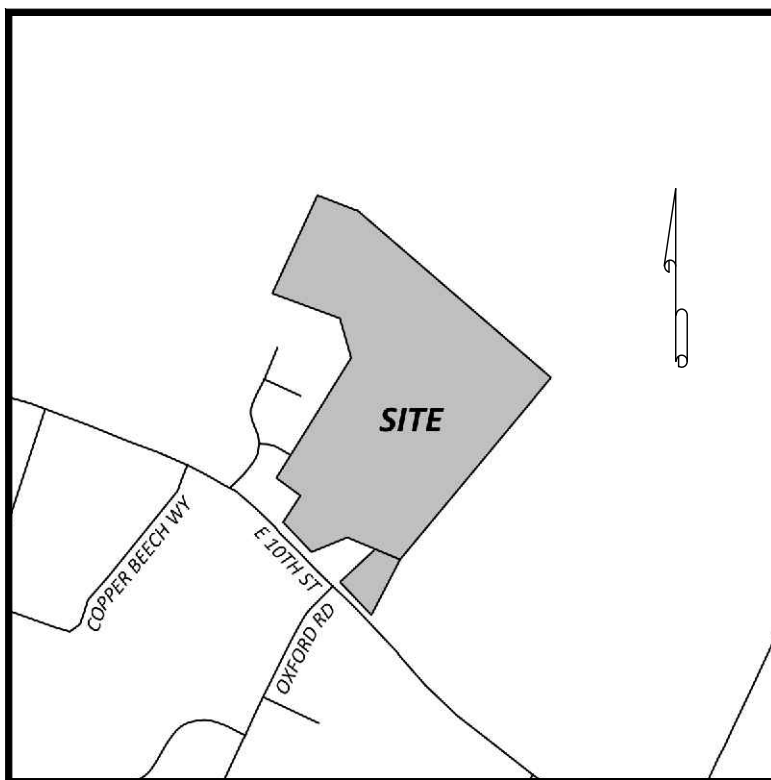
To: R6S

Total Acres: 13.33

July 16, 2024



PRELIMINARY PLAT;
NOT FOR RECORDATION,
CONVEYANCES, OR SALES



Vicinity Map
SCALE: 1" = 1,000'

Legend

- EXISTING IRON PIPE
- NO POINT SET IN CENTER OF CREEK
- IRON PIPE SET
- SUBJECT PROPERTY LINE
- ADJOINER PROPERTY
- R/W RIGHT OF WAY

Owner:

GREENVILLE CHURCH OF CHRIST, INC.
1706 SE GREENVILLE BOULEVARD
GREENVILLE, NC 27834

References:

- D.B. 957, PG. 559 (SUBJECT PROPERTY)
- D.B. 3666, PG. 297 (PNG GAS EASEMENT)
- "SURVEY FOR GREENVILLE CHURCH OF CHRIST" BY SPRULL & ASSOCIATES, INC. DATED OCTOBER 12, 2001 (UNRECORDED)

PRELIMINARY PLAT;
NOT FOR RECORDATION,
CONVEYANCES, OR SALES

STATE OF NORTH CAROLINA, PITT COUNTY

I, J. DANTZLER WITHERS, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM DEEDS AND MAPS OF RECORD AS REFERENCED HEREON AND THAT NO FIELD SURVEY WAS PERFORMED IN THE PREPARATION OF THIS COMPOSITE MAP; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600) WITNESS MY HAND AND SEAL THIS ____ DAY OF ____, 2024.

J. DANTZLER WITHERS L-5508

		NC License P-1599 925-A Conference Drive Greenville, NC 27858 (252) 558-0888 www.arkconsultinggroup.com
COMPOSITE REZONING MAP FOR GREENVILLE CHURCH OF CHRIST, INC. PITT COUNTY PARCEL NOS. 52454 & 11514 CITY OF GREENVILLE, GREENVILLE TOWNSHIP, PITT COUNTY, NC ARK DRAWING NO. C-1031		
SCALE 1" = 150'	DATE June 14, 2024	SHEET 1 of 1

Total Area in Tract: 35.70± AC
Area to be Rezoned: 13.33± AC
Current Zoning: RA20
Proposed Zoning: R6S

Notes:

1. AREA DETERMINED BY COORDINATES.
2. THIS MAP WAS PREPARED FOR REZONING PURPOSES ONLY AND IS NOT A BOUNDARY SURVEY OF THE PROPERTIES SHOWN HEREON.
3. BOUNDARY INFORMATION SHOWN HEREON WAS DRAWN FROM SURVEY PREPARED BY SPRULL AND ASSOCIATES, INC. FOR GREENVILLE CHURCH OF CHRIST, INC. DATED NOVEMBER 9, 2001 AND INFORMATION PROVIDED BY THE PITT COUNTY OPIS WEBSITE AND DOES NOT REPRESENT AN ACTUAL FIELD SURVEY BY THIS FIRM.
4. THIS IS A REZONING REQUEST COMPOSITE BOUNDARY MAP OF PITT COUNTY TAX PARCEL NUMBERS 52454 AND 11514.
5. AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP NUMBER 3720469700K, EFFECTIVE DATE 07/07/2014 PORTIONS OF THIS PROPERTY ARE LOCATED IN A SPECIAL FLOOD HAZARD AREA.

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EXISTING ZONING	
RA20 (RESIDENTIAL-AGRICULTURAL) - PERMITTED USES	
(1) General	
a.	Accessory use or building
c.	On-premise signs per Article N
(2) Residential	
a.	Single-family dwelling
b(1).	Master Plan Community per Article J
f.	Residential cluster development per Article M
k.	Family care homes (see also 9-4-103)
q.	Room renting
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
c.	Wayside market for farm products produced on-site
e.	Kennel (see also section 9-4-103)
f.	Stable; horse only (see also section 9-4-103)
g.	Stable; per definition (see also section 9-4-103)
h.	Animal boarding not otherwise listed; outside facility, as an accessory or principal use
i.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility
g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
RA20 (RESIDENTIAL-AGRICULTURAL) - SPECIAL USES	
(1) General - None	
(2) Residential	
b.	Two-family attached dwelling (duplex)
g.	Mobile home (see also section 9-4-103)
n.	Retirement center or home
o.	Nursing, convalescent or maternity home; major care facility
o(1).	Nursing, convalescent or maternity home; minor care facility
(3) Home Occupations	
a.	Home occupation; not otherwise listed
b.	Home occupation; barber and beauty shop

c.	Home occupation; manicure, pedicure or facial salon
(4) Governmental	
a.	Public utility building or use
(5) Agricultural/Mining	
b.	Greenhouse or plant nursery; including accessory sales
m.	Beekeeping; major use
n.	Solar energy facility
(6) Recreational/Entertainment	
a.	Golf course; 18-hole regulation length (see also section 9-4-103)
a(1).	Golf course; 9-hole regulation length (see also section 9-4-103)
c(1).	Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
a.	Child day care facilities
b.	Adult day care facilities
d.	Cemetery
g.	School; junior and senior high (see also section 9-4-103)
h.	School; elementary (see also section 9-4-103)
i.	School; nursery and kindergarten (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
PROPOSED ZONING	
R6S (RESIDENTIAL-SINGLE-FAMILY) - PERMITTED USES	
(1) General	
a.	Accessory use or building
c.	On-premise signs per Article N
(2) Residential	
a.	Single-family dwelling
b(1).	Master Plan Community per Article J
f.	Residential cluster development per Article M
k.	Family care homes (see also 9-4-103)
q.	Room renting
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility
g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	

o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
R6S (RESIDENTIAL-SINGLE-FAMILY) - SPECIAL USES	
(1) General - None	
(2) Residential - None	
(3) Home Occupations	
a.	Home occupation; not otherwise listed
d.	Home occupation; bed and breakfast inn
(4) Governmental	
a.	Public utility building or use
(5) Agricultural/Mining - None	
(6) Recreational/Entertainment	
a.	Golf course; 18-hole regulation length (see also section 9-4-103)
a(1).	Golf course; 9-hole regulation length (see also section 9-4-103)
c(1).	Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
d.	Cemetery
g.	School; junior and senior high (see also section 9-4-103)
h.	School; elementary (see also section 9-4-103)
i.	School; nursery and kindergarten (see also section 9-4-103)
t.	Guest house for a college or other institution of higher learning
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	

REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 24-09

Applicant: Greenville Church of Christ

Property Information

Current Zoning: RA20 (Residential-Agricultural)

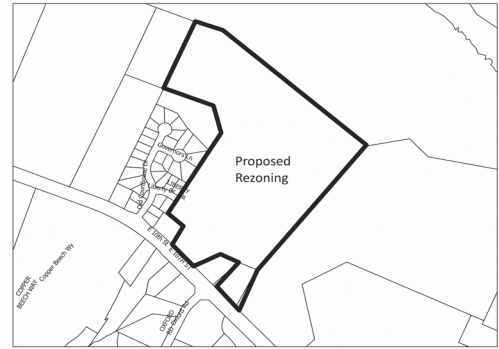
Proposed Zoning: R6S (Residential-Single-Family)

Current Acreage: 13.33 acres

Location: E. 10th St, across from Oxford Rd

Points of Access: E. 10th St

Location Map



Transportation Background Information

1.) E. 10th St- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	5-lane with curb & gutter	no change
Right of way width (ft)	100	no change
Speed Limit (mph)	45	no change
Current ADT:	31,732 (*)	
Design ADT:	29,900 vehicles/day (**)	
Controlled Access	No	

Thoroughfare Plan Status Major Thoroughfare

Other Information: There are sidewalks along E. 10th St that service this property.

Notes: (*) 2022 NCDOT count adjusted for a 2% annual growth rate
 (**) Traffic volume based on operating Level of Service D for existing geometric conditions
 ADT – Average Daily Traffic volume

Transportation Improvement Program Status:

Trips generated by proposed use/change

Current Zoning: 283 -vehicle trips/day (*) **Proposed Zoning: 472** -vehicle trips/day (*)

Estimated Net Change: increase of 189 vehicle trips/day (assumes full-build out)

(* - These volumes are estimated and based on an average of the possible uses permitted by the current and proposed zoning.)

Impact on Existing Roads

The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on E. 10th St are as follows:

1.) E. 10th St , West of Site (70%): **“No build” ADT of 31,732**

Estimated ADT with Proposed Zoning (full build) – 32,062
 Estimated ADT with Current Zoning (full build) – 31,930
Net ADT change = 132 (<1% increase)

2.) E. 10th St , East of Site (30%): “No build” ADT of 31,732

Estimated ADT with Proposed Zoning (full build) – 31,874

Estimated ADT with Current Zoning (full build) – 31,817

Net ADT change = 57 (<1% increase)

Staff Findings/Recommendations

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 472 trips to and from the site on E. 10th St, which is a net increase of 189 additional trips per day (over current zoning).

During the review process, measures to mitigate the traffic will be determined.

RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

*** Maximim allowable density in the respective zoning district.

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

Bufferyard Requirements: Match proposed land use with adjacent permitted land use or adjacent vacant zone/nonconforming use to determine applicable bufferyard.

PROPOSED LAND USE CLASS (#)	ADJACENT PERMITTED LAND USE CLASS (#)					ADJACENT VACANT ZONE OR NONCONFORMING USE		PUBLIC/PRIVATE STREETS OR R.R.
	Single-Family Residential (1)	Multi-Family Residential (2)	Office/Institutional, light Commercial, Service (3)	Heavy Commercial, Light Industry (4)	Heavy Industrial (5)	Residential (1) - (2)	Non-Residential (3) - (5)	
Multi-Family Development (2)	C	B	B	B	B	C	B	A
Office/Institutional, Light Commercial, Service (3)	D	D	B	B	B	D	B	A
Heavy Commercial, Light Industry (4)	E	E	B	B	B	E	B	A
Heavy Industrial (5)	F	F	B	B	B	F	B	A

Bufferyard A (street yard)		
Lot Size	Width	For every 100 linear feet
Less than 25,000 sq.ft.	4'	2 large street trees
25,000 to 175,000 sq.ft.	6'	2 large street trees
Over 175,000 sq.ft.	10'	2 large street trees

Street trees may count toward the minimum acreage.

Bufferyard B (no screen required)	
Lot Size	Width
Less than 25,000 sq.ft.	4'
25,000 to 175,000 sq.ft.	6'
Over 175,000 sq.ft.	10'

Bufferyard C (screen required)	
Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs

Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.

Bufferyard D (screen required)	
Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard E (screen required)	
Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard F (screen required)	
Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Parking Area: Thirty (30) inch high screen required for all parking areas located within fifty (50) feet of a street right-of-way.



City of Greenville, North Carolina

Meeting Date: 08/08/2024

Title of Item:

Ordinance requested by Happy Trail Farms, LLC to rezone 0.488 acres located along the eastern right-of-way of Dickinson Avenue Extension and 420+/- feet southwest of West Arlington Boulevard from RA20 (Residential-Agricultural) to CG (General Commercial)

Explanation:

Required Notices:

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on July 1, 2024.

On-site sign(s) posted on July 1, 2024.

City Council public hearing notice (property owner and adjoining property owner letter) mailed on July 23, 2024.

Public hearing legal advertisement published on July 27, 2024 and August 3, 2024.

Comprehensive Plan:

The Future Land Use and Character Map recommends commercial (C) at the southeastern corner of the intersection of West Arlington Boulevard and Dickinson Avenue Extension transitioning to residential, high density (HDR) towards the south.

Commercial

Primarily community- and regional-scale commercial development situated near and along major roadway corridors. Existing development is characterized by buildings set back from streets behind surface parking. That existing pattern

should evolve to become more walkable with shorter blocks, buildings near streets, shared parking, and connections to surrounding development.

Intent:

- Provide connectivity to nearby uses (paths, streets)
- Locate new buildings near street on at least one side and accommodate parking to the side or rear of buildings
- Improve/provide public realm features such as signs, sidewalks, landscaping
- Reduce access-points into development for pedestrian and vehicular safety
- Reduce and consolidate surface parking

Primary uses:

Commercial (small and large format)

Office

Secondary uses:

Institutional/civic

Residential, High Density

Residential areas composed primarily of multi-family housing in various forms. Defined by existing development patterns where building size and style tend to be consistent within a development, with large blocks, and limited connectivity between different building types and uses. Future development should take a more traditional neighborhood pattern where different residential types are connected in a walkable pattern. High density residential is typically appropriate near activity centers and corridors.

Intent:

- Provide better vehicular and pedestrian connectivity between developments
- Improve architectural variety and site design for new developments
- Improve streetscape features such as consistent sidewalks, lighting and street trees

Primary uses:

Multi-family residential

Two-family residential

Attached residential (townhomes)

Secondary uses:

Office

Single-family residential detached (small lot)

Institutional/civic (churches and schools)

Thoroughfare/Traffic Report Summary (Engineering Department):

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 256 trips to and from the site on Dickinson Avenue, which is a net increase of 237 additional trips per day.

During the review process, measures to mitigate traffic will be determined.

History/Background:

In 1969, the property was zoned to its current zoning.

Existing Land Uses:

Vacant

Water/Sewer:

Water and sanitary sewer are available to the property.

Historic Sites:

There are no known effects on historic sites.

Environmental Conditions/Constraints:

The property drains to the Greens Mill Run (Tar River Basin). If stormwater rules apply, it would require 25-year detention, nitrogen, and phosphorus reduction.

The property is not located in the Special Flood Hazard Area. No jurisdictional wetlands, streams and riparian buffers exist on the property.

Surrounding Land Uses and Zoning:

North: CG - Vacant

South: OR - Brookdale Dickinson Avenue (assisted living facility)

East: OR - Brookdale Dickinson Avenue (assisted living facility)

West: MCH - Royal Farms Convenience Store

Density Estimates:

Under the current zoning, the site could accommodate 1 single-family lot.

Under the proposed zoning, the site could accommodate 4,000+/- square feet of commercial use.

The anticipated build-out is within 2-3 years.

Fiscal Note: No cost to the City.

Recommendation: In staff's opinion, the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

Therefore, staff recommends approval.

The Planning and Zoning Commission voted unanimously to approve the request at its July 16, 2024 meeting.

"In compliance with the comprehensive plan" should be construed as meaning the requested zoning is (i) either specifically recommended in the text of the Horizons Plan (or addendum to the plan) or is predominantly or completely surrounded by the same or compatible and desirable zoning and (ii) promoted the desired urban form. The requested district is considered desirable and in the public interest, and staff recommends approval of the requested rezoning.

If City Council determines to approve the request, a motion to adopt the attached rezoning ordinance will accomplish this. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

"Motion to deny the proposed amendment and to make a finding and determination that, although the rezoning request is consistent with the comprehensive plan, there is a more appropriate zoning classification and, therefore, denial is reasonable and in the public interest."

Note: In addition to the other criteria, the Planning and Zoning Commission and City Council shall consider the entire range of permitted and special uses for the existing and proposed districts as listed under Title 9, Chapter 4, Article D of the Greenville City Code.

ATTACHMENTS

- [Ordinance Happy Trail Farms_ LLC Rezoning.DOC](#)
- [Text Excerpt Happy Trail Farms, LLC.pdf](#)
- [Happy Trail Farms LLC APO Map.pdf](#)
- [Happy Trail Farms, LLC Survey.pdf](#)
- [List of Uses RA20 to CG.pdf](#)

- Happy Trail Farms Traffic Report.pdf**
- Density and Veg Charts.pdf**

LOCATION: Located along the eastern right-of-way of Dickinson Avenue Extension and 420+/- feet southwest of West Arlington Boulevard

DESCRIPTION: Beginning at a point on the eastern right-of-way of U.S. Highway 13 - Dickinson Avenue, said point being located approximately 358' as measured along the eastern right-of-way of U.S. Highway 13 - Dickinson Avenue in a southerly direction from a point located where the eastern right-of-way of U.S. Highway 13 - Dickinson Avenue intersects the southern right-of-way of West Arlington Boulevard. From the above described beginning, so located, running thence as follows: Leaving the eastern right-of-way of U.S. Highway 13 - Dickinson Avenue, S 48°52'34" E 170.42', thence S 41°51'04" W 126.59', thence N 47°24'54" W 171.30' to the eastern right-of-way of U.S. Highway 13 - Dickinson Avenue, thence with the eastern right-of-way of U.S. Highway 13 - Dickinson Avenue, N 42°15'52" E 122.23' to the point of beginning containing 0.488 acre.

Section 2. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 3. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. That this ordinance shall become effective upon its adoption.

ADOPTED this 8th day of August, 2024.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk
1196527

Excerpt from the draft Planning & Zoning Commission Minutes (07/16/2024)

2. REQUEST BY HAPPY TRAIL FARMS, LLC TO REZONE 0.488 ACRES LOCATED ALONG THE EASTERN RIGHT-OF-WAY OF DICKINSON AVENUE EXTENSION AND 420+/- FEET SOUTHWEST OF WEST ARLINGTON BOULEVARD FROM RA20 (RESIDENTIAL-AGRICULTURAL) TO CG (GENERAL COMMERCIAL).

Chris Kelly, Planner I, presented on behalf of City Staff. The property drains to the Greens Mill Run Watershed (Tar River Basin). If stormwater rules apply, it would require 25-year detention, nitrogen and phosphorus reduction. The property is not located in the Special Flood Hazard Area. No jurisdictional wetlands, streams and riparian buffers exist on the property. The requested zoning could generate a net increase of 237 trips per day. Under the current zoning RA20, the site could accommodate 2 single-family lots. Under the proposed zoning of CG, the site could accommodate 4,000+/- square feet of commercial use. The Future Land Use and Character Map recommends commercial (C) at the southeastern corner of the intersection of West Arlington Boulevard and Dickinson Avenue Extension transitioning to residential, high density (HDR) towards the south. In staff's opinion the requested zoning is in compliance with the Horizons2026: Greenville's Community Plan and the Future Land Use and Character Map. Therefore, staff recommends approval.

Chair Brock opened the public hearing.

Mike Baldwin, Baldwin Design Consultants, spoke in favor of the request.

No one spoke in opposition of the request.

Chair Brock closed the public hearing and opened board discussion.

Motion made by Mr. Thomas, seconded by Mr. Parker, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and to adopt the staff report which addresses plan consistency and other matters. Motion passed unanimously.

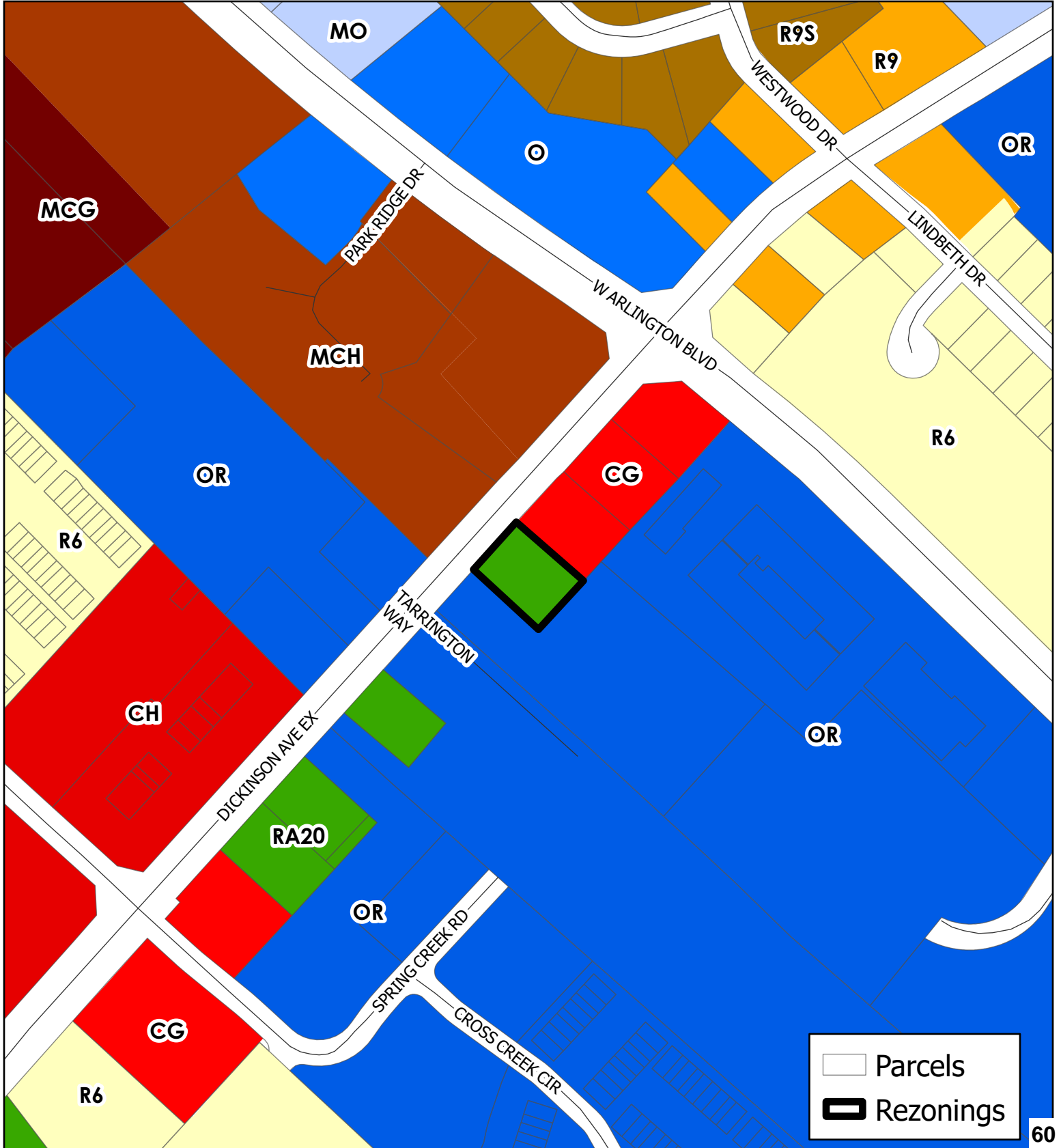
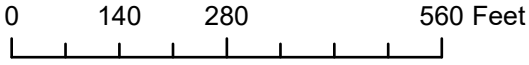
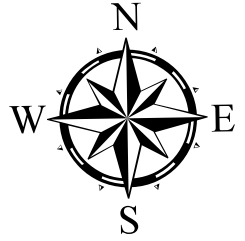
Happy Trail Farms, LLC

From: RA20

To: CG

Total Acres: 0.488

July 16, 2024



EXISTING ZONING	
RA20 (RESIDENTIAL-AGRICULTURAL) - PERMITTED USES	
(1) General	
a.	Accessory use or building
c.	On-premise signs per Article N
(2) Residential	
a.	Single-family dwelling
b(1).	Master Plan Community per Article J
f.	Residential cluster development per Article M
k.	Family care homes (see also 9-4-103)
q.	Room renting
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
c.	Wayside market for farm products produced on-site
e.	Kennel (see also section 9-4-103)
f.	Stable; horse only (see also section 9-4-103)
g.	Stable; per definition (see also section 9-4-103)
h.	Animal boarding not otherwise listed; outside facility, as an accessory or principal use
l.	Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility
g.	Private noncommercial park or recreational facility
(7) Office/Financial/Medical - None	
(8) Services	
o.	Church or place of worship (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
RA20 (RESIDENTIAL-AGRICULTURAL) - SPECIAL USES	
(1) General - None	
(2) Residential	
b.	Two-family attached dwelling (duplex)
g.	Mobile home (see also section 9-4-103)
n.	Retirement center or home
o.	Nursing, convalescent or maternity home; major care facility
o(1).	Nursing, convalescent or maternity home; minor care facility
(3) Home Occupations	
a.	Home occupation; not otherwise listed
b.	Home occupation; barber and beauty shop

c.	Home occupation; manicure, pedicure or facial salon
(4) Governmental	
a.	Public utility building or use
(5) Agricultural/Mining	
b.	Greenhouse or plant nursery; including accessory sales
m.	Beekeeping; major use
n.	Solar energy facility
(6) Recreational/Entertainment	
a.	Golf course; 18-hole regulation length (see also section 9-4-103)
a(1).	Golf course; 9-hole regulation length (see also section 9-4-103)
c(1).	Tennis club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
a.	Child day care facilities
b.	Adult day care facilities
d.	Cemetery
g.	School; junior and senior high (see also section 9-4-103)
h.	School; elementary (see also section 9-4-103)
i.	School; nursery and kindergarten (see also section 9-4-103)
(9) Repair - None	
(10) Retail Trade - None	
(11) Wholesale/Rental/Vehicle-Mobile Home Trade - None	
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing - None	
(15) Other Activities (not otherwise listed - all categories) - None	
PROPOSED ZONING	
CG (GENERAL COMMERCIAL) - PERMITTED USES	
(1) General	
a.	Accessory use or building
b.	Internal service facilities
c.	On-premise signs per Article N
e.	Temporary uses; of listed district uses
f.	Retail sales; incidental
g.	Incidental assembly of products sold at retail or wholesale as an accessory to principal uses
(2) Residential - None	
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
c.	County or state government building or use not otherwise listed; excluding outside storage and major or minor repair
d.	Federal government building or use
g.	Liquor store, state ABC
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)

	l. Beekeeping; minor use (see also section 9-4-103)
(6) Recreational/Entertainment	
	f. Public park or recreational facility
	h. Commercial recreation; indoor only, not otherwise listed
	j. Bowling alley
	n. Theater; movie or drama, indoor only
	q. Circus, carnival, or fair, temporary only (see also section 9-4-103)
	s. Athletic club; indoor only
(7) Office/Financial/Medical	
	a. Office; professional and business, not otherwise listed
	b. Operation/processing center
	d. Bank, savings and loans or other savings or investment institutions
	e. Medical, dental, ophthalmology or similar clinic, not otherwise listed
	g. Catalogue processing center
(8) Services	
	c. Funeral home
	e. Barber or beauty salon
	f. Manicure, pedicure or facial salon
	k. Business or trade school
	o. Church or place of worship (see also section 9-4-103)
	q. Museum
	r. Art gallery
	s. Hotel, motel bed and breakfast inn; limited stay lodging (see also residential quarters for resident manager, supervisor or caretaker and section 9-4-103)
	u. Art studio including art and supply sales
	v. Photography studio including photo and supply sales
	x. dance studio
	y(1) TV and/or radio broadcast facilities, including receiving and transmission equipment and towers not exceeding 200 feet in height or cellular telephone and wireless communication towers not exceeding 200 feet in height (see also section 9-4-103)
	y(4) Distributed Antenna System (See also 9-4-103 (Q))
	z. Printing or publishing service including graphic art, maps, newspapers, magazines and books
	aa. Catering service including food preparation (see also restaurant; conventional and fast food)
	hh. Exercise and weight loss studio; indoor only
	kk. Laundrette; household users
	ll. Dry cleaners; household users
	oo. Clothes alteration or shoe repair shop
	pp. Automobile wash
	qq. Pet grooming facility (see also section 9-4-103)
	ss. Tattooing
	tt. Microblading
(9) Repair	
	g. Jewelry, watch, eyewear or other personal item repair
(10) Retail Trade	
	a. Miscellaneous retail sales; non-durable goods, not otherwise listed

d.	Pharmacy
e.	Convenience store (see also gasoline sales)
f.	Office and school supply, equipment sales
g.	Fish market; excluding processing or packing
h.	Restaurant; conventional
i.	Restaurant; fast food (see also section 9-4-103)
k.	Medical supply sales and rental of medically-related products including uniforms and related accessories
l.	Electronic; stereo, radio, computer, TV and the like, sales and accessory repair
m.	Appliance; household use, sales and accessory repair, excluding outside storage
p.	Furniture and home furnishing sales not otherwise listed
q.	Floor covering, carpet and wall covering sales
r.	Antique sales, excluding vehicles
s.	Book or card store, news stand
t.	Hobby or craft shop
u.	Pet shop (see also animal boarding; outside facility)
v.	Video or music store; records, tape, CD and the like sales
w.	Florist
x.	Sporting goods sales and rental shop
y.	Auto part sales (see also major and minor repair)
aa.	Pawnbroker
bb.	Lawn and garden supply and household implement sales and accessory service
ee.	Christmas tree sales lot; temporary only (see also section 9-4-103)
mm.	Grocery store
(11) Wholesale/Rental/Vehicle-Mobile Home Trade	
b.	Rental of home furniture, appliances or electronics and medically-related products (see also division (10k.))
c.	Rental of clothes and accessories; formal wear, and the like
(12) Construction	
c.	Construction office; temporary, including modular office (see also section 9-4-103)
e.	Building supply; lumber and materials sales, plumbing and/or electrical supply excluding outdoor sales
f.	Hardware store
(13) Transportation	
c.	Taxi or limousine service
e.	Parcel delivery service
h.	Parking lot or structure; principal use
(14) Manufacturing/Warehousing	
c.	Bakery; production, storage, and shipment facilities
(15) Other Activities (not otherwise listed - all categories) - None	
CG (GENERAL COMMERCIAL) - SPECIAL USES	
(1) General - None	
(2) Residential	
i.	Residential quarters for resident manager, supervisor or caretaker; excluding mobile home
(3) Home Occupations - None	

(4) Governmental	
a.	Public utility building or use
(5) Agricultural/Mining - None	
(6) Recreational/Entertainment	
d.	Game center
l.	Billiard parlor or pool hall
m.	Bar
t.	Athletic club; indoor and outdoor facilities
u.	Internet sweepstakes business (see also section 9-4-103)
(7) Office/Financial/Medical	
c.	Office; customer service, not otherwise listed, including accessory service delivery vehicle parking and indoor storage
f.	Veterinary clinic or animal hospital (see also animal boarding; outside facility, kennel and stable)
(8) Services	
a.	Child day care facilities
b.	Adult day care facilities
l.	Convention center; private
(9) Repair	
a.	Major repair; as an accessory or principal use
b.	Minor repair; as an accessory or principal use
(10) Retail Trade	
b.	Gasoline or automotive fuel sales; accessory or principal use, retail
c.	Wine shop; including on-premise consumption (see also section 9-4-103)
j.	Restaurant and/or dining and entertainment establishment; regulated outdoor activities
n.	Appliance; commercial use, sales and accessory repair; excluding outside storage
ff.	Tobacco shop (Class 1) (see also section 9-4-103)
gg.	Tobacco shop (Class 2) (see also section 9-4-103)
hh.	Hookah café (see also section 9-4-103)
(11) Wholesale/Rental/Vehicle-Mobile Home Trade	
d.	Rental of automobiles, noncommercial trucks or trailers, recreational vehicles, motorcycles and boats
f.	Automobile, truck, recreational vehicle, motorcycle and boat sales and service (see also major and minor repair)
(12) Construction - None	
(13) Transportation - None	
(14) Manufacturing/Warehousing	
k.	Mini-storage warehouse; household excluding outside storage
(15) Other Activities (not otherwise listed - all categories)	
a.	Other activities; personal services not otherwise listed
b.	Other activities; professional services not otherwise listed
c.	Other activities; commercial services not otherwise listed
d.	Other activities; retail sales not otherwise listed

REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 24-08

Applicant: Happy Trail Farms, LLC

Property Information

Current Zoning: RA20 (Residential-Agricultural)

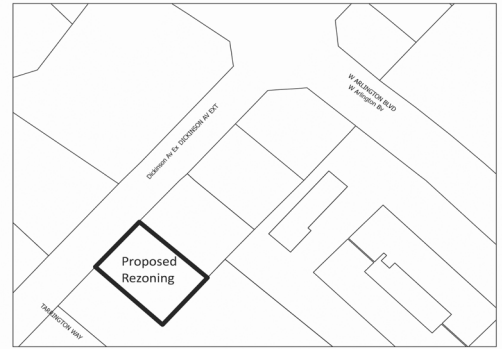
Proposed Zoning: CG (General Commercial)

Current Acreage: 0.488 acres

Location: Dickinson Ave, south of Arlington Blvd

Points of Access: Dickinson Ave

Location Map



Transportation Background Information

1.) Dickinson Ave- State maintained

	<u>Existing Street Section</u>	<u>Ultimate Thoroughfare Street Section</u>
Description/cross section	4-lanes - curb & gutter	4-lanes with raised median
Right of way width (ft)	80	100
Speed Limit (mph)	45	
Current ADT:	18,200 (*)	
Design ADT:	27,600 vehicles/day (**)	39,700 vehicles/day (**)
Controlled Access	No	
Thoroughfare Plan Status	Major Thoroughfare	

Other Information: There are no sidewalks along Dickinson Ave that service this property.

Notes: (*) 2022 NCDOT count adjusted for a 2% annual growth rate
 (**) Traffic volume based on operating Level of Service D for existing geometric conditions
 ADT – Average Daily Traffic volume

Transportation Improvement Program Status: No projects planned.

Trips generated by proposed use/change

Current Zoning: 19 -vehicle trips/day (*) **Proposed Zoning: 256** -vehicle trips/day (*)

Estimated Net Change: increase of 237 vehicle trips/day (assumes full-build out)

(* - These volumes are estimated and based on an average of the possible uses permitted by the current and proposed zoning.)

Impact on Existing Roads

The overall estimated trips presented above are distributed based on current traffic patterns. The estimated ADTs on Dickinson Ave are as follows:

1.) Dickinson Ave , North of Site (70%): “No build” ADT of 18,200

Estimated ADT with Proposed Zoning (full build) – 18,379
 Estimated ADT with Current Zoning (full build) – 18,213
Net ADT change = 166 (<1% increase)

2.) Dickinson Ave , South of Site (30%): "No build" ADT of 18,200

Estimated ADT with Proposed Zoning (full build) – 18,277

Estimated ADT with Current Zoning (full build) – 18,206

Net ADT change = 71 (<1% increase)

Staff Findings/Recommendations

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 256 trips to and from the site on Dickinson Ave, which is a net increase of 237 additional trips per day (over current zoning).

During the review process, measures to mitigate the traffic will be determined.

RESIDENTIAL DENSITY CHART

Density Level	Future Land Use and Character Type	Applicable Zoning District(s)	Units per Acre***
High	Uptown Edge (UE)	CDF and CD*	17 units per acre
	Mixed Use, High Intensity (MUHI)	OR	17 units per acre
		R6, MR	17 units per acre
	Residential, High Density (HDR)	R6, MR, OR	17 units per acre
		R6MH	17 units per acre
Medical-Transition (MT)	MR	17 units per acre	
High to Medium	Mixed Use (MU)	OR	17 units per acre
		R6, MR	17 units per acre
		R6A	9 units per acre
	Uptown Neighborhood (UN)	R6S	7 units per acre
	Traditional Neighborhood, Medium-High Density (TNMH)	R6	17 units per acre
		R6A	9 units per acre
		R6S	7 units per acre
Medium to Low	Traditional Neighborhood, Low-Medium Density (TNLM)	R9	6 units per acre
		R9S	5 units per acre
		R15S	3 units per acre
	Residential, Low-Medium Density (LMDR)	R9S	5 units per acre
		R15S	3 units per acre
		RA20	4 units per acre
		MRS	4 units per acre

* The residential density of the CD zoning district is based on the size of the mechanically conditioned floor area. See Section 9-4-153 in the City Code for development standards.

*** Maximim allowable density in the respective zoning district.

BUFFERYARD SETBACK AND VEGETATION SCREENING CHART

For Illustrative Purposes Only

Bufferyard Requirements: Match proposed land use with adjacent permitted land use or adjacent vacant zone/nonconforming use to determine applicable bufferyard.

PROPOSED LAND USE CLASS (#)	ADJACENT PERMITTED LAND USE CLASS (#)					ADJACENT VACANT ZONE OR NONCONFORMING USE		PUBLIC/PRIVATE STREETS OR R.R.
	Single-Family Residential (1)	Multi-Family Residential (2)	Office/Institutional, light Commercial, Service (3)	Heavy Commercial, Light Industry (4)	Heavy Industrial (5)	Residential (1) - (2)	Non-Residential (3) - (5)	
Multi-Family Development (2)	C	B	B	B	B	C	B	A
Office/Institutional, Light Commercial, Service (3)	D	D	B	B	B	D	B	A
Heavy Commercial, Light Industry (4)	E	E	B	B	B	E	B	A
Heavy Industrial (5)	F	F	B	B	B	F	B	A

Bufferyard A (street yard)		
Lot Size	Width	For every 100 linear feet
Less than 25,000 sq.ft.	4'	2 large street trees
25,000 to 175,000 sq.ft.	6'	2 large street trees
Over 175,000 sq.ft.	10'	2 large street trees

Street trees may count toward the minimum acreage.

Bufferyard B (no screen required)	
Lot Size	Width
Less than 25,000 sq.ft.	4'
25,000 to 175,000 sq.ft.	6'
Over 175,000 sq.ft.	10'

Bufferyard C (screen required)	
Width	For every 100 linear feet
10'	3 large evergreen trees 4 small evergreens 16 evergreen shrubs

Where a fence or evergreen hedge (additional materials) is provided, the bufferyard width may be reduced to eight (8) feet.

Bufferyard D (screen required)	
Width	For every 100 linear feet
20'	4 large evergreen trees 6 small evergreens 16 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard E (screen required)	
Width	For every 100 linear feet
30'	6 large evergreen trees 8 small evergreens 26 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Bufferyard F (screen required)	
Width	For every 100 linear feet
50'	8 large evergreen trees 10 small evergreens 36 evergreen shrubs

Bufferyard width may be reduced by fifty (50%) percent if a fence, evergreen hedge (additional material) or earth berm is provided.

Parking Area: Thirty (30) inch high screen required for all parking areas located within fifty (50) feet of a street right-of-way.



City of Greenville, North Carolina

Meeting Date: 08/08/2024

Title of Item: Resolution for a Job Creation Economic Development Incentive and Grant Agreement for Nipro Medical Corporation/Project Bluefin

Explanation: Project Bluefin is an economic development project for a company, Nipro Medical Corporation, that is active in manufacturing medical equipment, pharmaceuticals, and pharmaceutical packaging, and is proposing to expand in Greenville, North Carolina, with a new medical equipment facility. Nipro Medical Corporation acquired a property in the Indigreen Corporate Park for its medical equipment manufacturing facility.

Nipro Medical Corporation is projected to achieve the following economic impact for Pitt County:

Permanent Full-Time Jobs Over 5 Years	232
Average Annual Wage Per Employee	\$56,108
Capital Investment	
Real Property	\$285,390,000
Personal Property	\$112,836,000
Total Investment	\$398,226,000

Based on the projected economic impact, Nipro Medical Corporation is eligible to receive a Job Creation Grant from the City of Greenville for up to \$500,000 over a 5-year grant period. Qualified jobs for grant funding will be based on jobs created beginning on September 1, 2026, and will require a 3-year maintenance period at the end of the 5-year grant period.

The grant will be paid in annual installments up to \$100,000 or \$1,000 per qualified job, whichever is less, and will be paid upon annual submission of the Nipro Medical Corporation's State of North Carolina NCUI 101 Quarterly Tax and Wage Report to show job creation and maintenance, and other supporting documentation reflecting compliance with federal, state and local laws. The grant is subject to reimbursement upon an event of default.

Fiscal Note: Nipro Medical Corporation will be eligible to receive an annual amount of up to \$100,000 or \$1,000 per job, whichever is less, over a 5-year grant period.

Recommendation: City Council hold a public hearing on the grant award and approve the attached

resolution and grant agreement with Nipro Medical Corporation.

ATTACHMENTS

- RESOLUTION - PROJECT BLUEFIN JOB CREATION GRANT.DOCX**
- Job Creation Grant Agreement - Nipro Medical Corporation - Project Bluefin.docx**

RESOLUTION NO. ____-24

RESOLUTION OF THE GREENVILLE CITY COUNCIL APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE FOR PROJECT BLUEFIN

WHEREAS, N.C. Gen. Stat. §158-7.1 grants authority to the City of Greenville (“City”) to make appropriations and expenditures for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the corporate limits of the City or in Pitt County, or for other purposes which the Greenville City Council finds, in its discretion, will increase employment, taxable property base, and business prospects of the City;

WHEREAS, Project Bluefin includes a prospective company that is active in manufacturing medical equipment, pharmaceuticals and pharmaceutical packaging, and is proposing to expand in Greenville, NC with a new medical equipment manufacturing facility;

WHEREAS, the company intends to acquire the property located at 1911 Old Creek Road (Pitt County Parcel 85599), Greenville, NC which is in the Indigreen Corporate Park and the City’s Extraterritorial Jurisdiction. Additionally, the company will create up to 232 jobs and make capital investments (real and personal property) of \$398,226.00 over a 5-year period in Pitt County;

WHEREAS, the job creation will provide high-paying jobs with an average annual wage of \$56,108, and the real and personal property investments will increase the tax base and provide a location for the new positions to work;

WHEREAS, the Job Creation Grant (“Grant”) will award up to \$100,000 annually over a 5-year period and will be paid to the company only upon proof of real and personal property investments, creation of up to 232 full-time jobs and compliance with federal, state and local laws and regulations;

WHEREAS, the Greenville City Council has held a public hearing to consider whether to participate in the economic development project by authorizing the Grant be paid to the company;

WHEREAS, if this Grant were not approved, the company may take its economic development project to another state; and

WHEREAS, the Greenville City Council does hereby find and determine that the proposed economic development project will tend to increase the taxable property base of the County, increase the business prospects of the City, and create high-paying jobs, and that it is in the public interest to provide assistance, as authorized by N.C. Gen. Stat. §158-7.1, in order to encourage the company to develop the project described herein; and

WHEREAS, the City provided 10-day’s public notice and a public hearing was held at the City Council’s August 8, 2024 meeting.

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

1. The City approves the appropriation and expenditure of up to \$100,000 annually for a 5-year period for the company as an economic development incentive.
2. The Economic Development Grant Agreement between the City and company, which includes terms that require the company to make capital investments, including acquisition and improvements to the property located at 1911 Old Creek Road (Pitt County Parcel 85599), and create up to 232 new jobs, is hereby approved.
3. New full-time job creation levels must be created based on the agreed-upon schedule, beginning on the effective date of the agreement and be met each year prior to grant funds being dispersed the following year.
4. All new full-time jobs and capital investments must be maintained at least three years following completion of the annual grant installments, or until August 31, 2034.
5. The Mayor, City Manager or their designee are authorized, empowered and directed to do any and all acts and to execute any and all documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by this Resolution, except that none of the above shall be authorized or empowered to do anything or execute any document which is in contravention, in any way, of the specific provisions of this Resolution. In addition, the City Manager or City Attorney is authorized to make any non-substantive or clerical revisions to the Agreement referenced above.

Adopted this 8th of August, 2024.

P.J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

**ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF
GREENVILLE, NC AND COMPANY FOR AN ECONOMIC
DEVELOPMENT INCENTIVE FOR NIPRO MEDICAL
CORPORATION/PROJECT BLUEFIN**

THIS AGREEMENT is made and entered into this the ____ day of _____, 202__ (“effective date”), by and between the City of Greenville, a municipal corporation organized and existing pursuant to the laws of the State of North Carolina, hereinafter referred to as the “City”, and Nipro Medical Corporation, a corporation duly organized and existing under the laws of the State of Delaware having a facility at 3150 NW 107 Avenue, Doral, FL 33172. The Company, duly organized and existing under the laws of the State of North Carolina and authorized to conduct business in the State of North Carolina, hereinafter referred to as the “Company.”

WITNESSETH:

WHEREAS, North Carolina General Statute (G.S.) § 158-7.1 grants the authority to the City to make appropriations for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the corporate limits of the City or the City’s Extraterritorial Jurisdiction (ETJ), or for other purposes which the City Council of the City finds, in its discretion, will increase the population, taxable property base, and employment prospects of the City or County;

WHEREAS, the Company is developing an economic development project (“Project”) consisting of improvements to an existing greenfield site located within the extraterritorial jurisdiction of the City, expansion of the workforce (creation of up to 232 jobs, with a combined average wage at or above \$56,108) and taxable investment in equipment and machinery, which is expected to increase the taxable property base in the County, and to stimulate the local economy, promote business, and provide employment opportunities;

WHEREAS, the Company has stated in its application for a Job Creation Grant that it is investigating and/or is in discussions with other states about its Project described herein;

WHEREAS, the City’s Job Creation Grant program requires the Company to pay 50% of employee health insurance or an equivalent benefit, and the Company must pay an average wage rate for all employees at the investment site equal to or greater than \$56,108.

WHEREAS, the Company intends to improve its real property located at Pitt County Parcel #85599, Greenville, North Carolina and the Company will invest approximately \$285,390,000 to improve such properties based on the schedule set forth in Section II, subsection 3. Additionally, the Company intends to make new capital expenditures through the acquisition of approximately \$112,836,000 in machinery and equipment with the acquisitions to occur based on the schedule set forth in Section II, subsection 5. For purposes of this specific Agreement, no acquisitions shall occur later than August 31, 2030.

WHEREAS, as an inducement to the Company, the City has approved the appropriations and expenditures as hereinafter set forth for the specific purpose of making economic development grants (“Job Creation Grants”) based upon the creation of jobs based on the schedule set forth in Section II, subsection 6, and shall remain in effect at least three (3) years beyond the completion of annual grant installments. Qualified Jobs created beginning on September 1, 2026, and in alignment with this Agreement will count toward subsequent years for the maximum five (5) year period (Calendar years September 1, 2026 - August 31, 2031);

WHEREAS, in consideration of the economic development incentives, the Company agrees to comply with the covenants and conditions binding upon it as set forth in this Agreement; and

WHEREAS, the parties desire to reduce their agreement to written form, clearly stating their respective responsibilities under the Agreement, and setting forth provisions regarding remedies for breach of those responsibilities by the Company and for recapture of sums appropriated or expended by the City upon the occurrence of events specified in the Agreement, as required by G.S. § 158-7.1(h).

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION I – DEFINITIONS

1. Definitions

1.1 “Qualified Job”: Full-time permanent positions that are created within the City limits or the City’s ETJ as of and following September 1, 2026, and retained within the City limits or the City’s ETJ for three (3) years beyond the completion of annual grant installments, and which are evidenced by the Company’s annual 4th Quarter NCUI 101 Quarterly Tax and Wage Report and any other supporting documentation as reasonably necessary to establish such positions and employment for the applicable duration. A job will be considered created regardless of a change in actual employee due to separations in the normal course of business. The Company shall be considered to have met its Qualified Job target if at least 85% of the anticipated Qualified Jobs that meet at least 95% of the average wage rate required and referenced herein have been obtained.

1.2 “Economic development incentive payment”, “grant payment” or “payment”: \$1,000 per each Qualified Job or \$100,000, whichever is lesser, and maximum amount of \$100,000 per year for a maximum period of five (5) years (calendar years September 1, 2026 – August 31, 2031). In any such event, the total grant payments shall not exceed \$500,000 over the term of this Agreement. Any Grant Period year in which the grant installment payment would make total payments for Qualified Jobs in excess of \$500,000, the grant payment shall be reduced accordingly.

1.3 “Effective date”: The date this Agreement is in effect, and such date is determined by the City and is indicated on the first page of this Agreement.

1.4 Maximum 5-year period, Calendar Years (plural) referenced herein means the period from September 1, 2026 through August 31, 2031.

1.5 “Grant Period”: The term of this Agreement shall commence on the effective date of this Agreement as defined herein and expire on August 31, 2034, unless earlier terminated as provided herein.

SECTION II – COMPANY

2. In order to induce the City to enter into this Agreement and to appropriate and expend monies for payment of economic development incentives, the Company represents, warrants and certifies to the City that as of the execution date hereof:

2.1. Nipro Medical Corporation (together, the “Company”) are limited liability corporations duly organized and existing under the laws of the State of Delaware, authorized and in good standing to conduct business in the State of North Carolina and have a place of business within the State of North Carolina.

2.2 The Company has the corporate power and authority to own its properties and assets and to carry on its business and has the corporate power to execute and perform this Agreement.

2.3 The undersigned Manager of the Company has the right, authority, and duty to execute this Agreement in the name and on behalf of the Company.

2.4 This Agreement (i) is a valid and binding instrument and agreement of the Company, enforceable against the Company in accordance with its terms; (ii) does not violate any order of any court or other agency of government binding on the Company; the charter documents or operating agreement of the Company; or any provision of any indenture, agreement or other instrument to which the Company is a party; and (iii) does not conflict with, result in a breach of, or constitute an event of default, or an event which, with notice or lapse of time, or both, would constitute an event of default, under any indenture, agreement or other instrument to which the Company is a party.

2.5 There is no suit, claim, action or litigation pending, or to the best knowledge of the Company threatened, relating to the Improvements, the use of the Improvements for their intended purpose, or any other matter contained herein.

2.6 To the best of the Company’s knowledge, there is no impediment to the fulfillment of the purpose contemplated by this Agreement.

2.7 The Company is not engaged in a business that would be exempt from property or sales taxes.

2.8 The Company has, or will, obtain all required permits prior to beginning operations for which permits are required. This includes but is not limited to, environmental permits, and any other permits required by local, state or federal entities to perform the Project herein.

2.9 The Company is not in default on any contractual obligations, or other federal, state

or local grant agreements related to the performance of the Project herein.

3. Real Property Investments. The Company shall make taxable investments to acquire and improve the real property located at Pitt County Parcel #85599 Greenville, North Carolina (the “Property”). It is expected that cumulative expenditures for said investments will meet or exceed approximately \$285,390,000 by December 31, 2030, all of which will qualify and result in additional value for ad valorem tax purposes as determined by the Pitt County Tax Office. The Company shall be treated as having met the cumulative expected investment projection if at least 90% of the total anticipated investment (defined as the total of real property and personal property investment) has been obtained.

If applicable, the Company shall provide the City with the final plans for its review for consistency with said depiction and the description of such Improvements as specified herein prior to a building permit being issued. During construction, the Company will allow the City access onto the Property upon reasonable advance notice so that the City may conduct inspections of the work for consistency with said depiction and the description of the improvements as specified herein. The Improvements and the construction related to the Improvements shall be completed and available for occupancy, as evidenced by the issuance of a certificate of occupancy, no later than July 1, 2027. The Company will maintain taxable investments in place, in good condition (ordinary wear and tear excepted) at least through the duration of this agreement, or at least until August 31, 2034.

4. The Company shall be the owner of the taxable investments described herein continuously during the period from the effective date of this Agreement until three (3) years after receipt of the final grant installment.

5. Personal Property Investments. The Company shall make taxable investments through the acquisition of machinery and equipment and will meet or exceed approximately \$112,836,000 by December 31, 2030. The Company shall maintain the machinery and equipment in good condition (ordinary wear and tear excepted) through the duration of this Agreement, or at least to August 31, 2034. The Company shall be treated as having met the expected personal property investment projection if at least 90% of the total anticipated investment (defined as the total of real property and personal property investment) has been obtained.

6. Job Creation. The Company’s intent and desire is to create up to 232 Qualified Jobs within the maximum five (5) year period (Calendar years 2026-2031) of this Agreement based on the following schedule: 27 within the first 27 months after the effective date of this Agreement; 48 additional jobs within 39 months after the effective date of this Agreement; and will have a total of 232 additional jobs by December 31, 2030; and the average wage of such job is equal to or greater than \$56,108. For the avoidance of doubt, the Company shall be treated as having met the expected average wage required herein if the average wage for all Qualified Jobs is greater than \$53,302.60, which represents 95% of \$56,108.00. Qualified jobs shall commence in the period beginning September 1, 2026 or as otherwise defined herein and will remain in effect at least three (3) years beyond the completion of annual grant installments. Qualified Jobs created beginning on September 1, 2026, and in alignment with this Agreement will count toward subsequent years for the maximum five (5) year period (Calendar years September 1, 2026-August 31, 2031). The Company shall be considered to have met its Qualified Job target if at least 85% of the anticipated Qualified Jobs have been created.

7. Health Insurance and Wages. The Company shall pay at least 50% of employee health insurance or an equivalent benefit for recipients of the Qualified Jobs created and the Company shall pay an average wage rate for all Qualified Jobs at the investment site equal to or greater than \$56,108.00. For the avoidance of doubt, the Company shall be treated as having met the expected average wage herein if the average wage for the Qualified Jobs is greater than \$53,302.60, which represents 95% of \$56,108.00. If the Company is not providing health insurance, equivalent benefit shall be reviewed by the City for satisfaction. In addition, the Company shall submit its annual 4th Quarter NCUI 101 Quarterly Tax and Wage Report and complete the annual certification (attached herein and marked as Exhibit A) which among other things documents the number of Qualified Jobs that have been created. The Company shall be treated as having met the expected average wage herein if the average wage for Qualified Jobs is within at least 95% of \$56,108.00.

8. The Company shall provide the City with a copy of all agreements governing incentives it has received for the Project from all North Carolina State and local sources upon reasonable notice and request and shall provide annual updates to the City regarding the amounts of incentives actually received and status of the agreements.

9. Non-discrimination. The Company will exercise good faith efforts to hire residents of the Greenville Metropolitan Service Area (M.S.A.) and use local, small, minority and women-owned businesses when such goods or services can be obtained at competitive prices. The Company shall not discriminate during the performance of this Agreement 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.

10. Insurance. At all times during the term hereof Company shall carry workers compensation insurance with such limits as required under North Carolina law, together with general liability insurance in an amount not less than \$1,000,000 per occurrence for bodily injury or property damage; and a general aggregate limit of \$2,000,000. Additionally, to the fullest extent permitted by law, Company shall indemnify and hold harmless the City of Greenville, its employees, officials (elected and appointed), agents and consultants against any and all liability arising out of or in connection with any of the operations or obligations of Company including but not limited to any said operations or obligations subcontracted or assigned to a different person or entity from claims, damages, losses, and expenses, including but not limited to attorneys' fees, which is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, caused by acts or omissions of the Company or anyone directly or indirectly employed by them or anyone for whose acts of the Company may be liable, regardless of whether such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such an obligation shall not be construed to negate, abridge or reduce other rights or obligation of indemnity which would otherwise exist as to a party or person described in this paragraph.

SECTION III – THE CITY

11. Representations. The City represents to the best of its knowledge, that this Agreement has been duly authorized, executed and delivered by the City; that this Agreement complies with the terms and requirements of the City's enabling laws and ordinances and is binding upon and enforceable against the City with its terms; it is entering this Agreement in good faith; and payment of the grant in accordance with this Agreement will be made as indicated herein.

12. Payment of Grant. The City will only make one grant payment in each of the calendar years in accordance with this Agreement, and such payments will be based upon the confirmed addition of the specified number of Qualified Jobs in each such year, and shall be made annually for a five (5) year period (calendar years September 1, 2026- August 31, 2031) as follows:

12.1 The City will provide an annual grant payment of \$1,000 per each Qualified Job up to the maximum amount of \$100,000, whichever is lesser, based on the number of jobs created and in compliance with the provisions in the Agreement. In any such event, payments from the City shall not exceed \$100,000 per year over the 5-year term of this Agreement up to the maximum grant amount of \$500,000. For any grant year in which the annual grant installment would make the total cumulative payments exceed \$500,000, the grant installment shall be reduced accordingly.

12.2 The Company will be eligible for grant payments beginning September 1, 2027, and the City will, within sixty (60) days of receiving sufficient documentation, to the reasonable satisfaction of the City and confirmation that the Company has complied with required preconditions to be eligible for the grant payment by the City, including such additional information as may be reasonably requested by the City, pay to the Company an economic development incentive payment in an amount of \$1,000 per Qualified Job or \$100,000, whichever is lesser, based on the annual 4th Quarter NCUI 101 Quarterly Tax and Wage Report. This same process will be followed by the City and the Company in each calendar year from 2027 and up to and including the entire 5-year grant period (calendar years September 1, 2026-August 31, 2031) if the Company is in compliance with the terms of this Agreement. In any such event, payments from the City shall not exceed \$100,000 per year over the 5-year term of this Agreement up to the maximum grant amount of \$500,000. Any grant year in which the grant installment would make total payments in excess of \$500,000, the grant installment to be paid shall be reduced accordingly by the City.

12.3 Release of any incentive payment under this Agreement is contingent on the Company providing verification that the Company has complied with all of the provisions herein.

SECTION IV – ADDITIONAL PROVISIONS

13. Event of Default and Obligation to Repay Grant Award.

The Company shall be in default under this Agreement if any one or more of the following events (each, an “Event of Default”) shall occur for any reason whatsoever (and whether such occurrence shall be voluntary or involuntary or come about or be affected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), and the Company fails to cure such event of default (or take remediation steps to the satisfaction of the City) within 30 days after notice by the City:

13.1 **Failure to Create and Maintain Jobs.** If, during the Grant Period the Company fails to create and maintain the required number of Qualified Jobs, then the Company shall repay to the City in an amount equal to \$1,000 for each job below the required number of Qualified Jobs created and maintained by the Company for the year in which such shortfall occurs. A shortfall shall not include jobs which are temporarily vacant due to normal separations, nor shall a shortfall

include open positions which the Company is attempting to fill in good faith, but which remain open due to workforce shortages.

13.2 Failure to Provide Health Insurance. If, at any time during the Grant Period set forth in Section I, the Company fails to provide health insurance to all permanent full-time employees at the amount required herein, or otherwise approved by the City, the Company will be in default of this Agreement and will reimburse the City the total amount of the grant funds previously disbursed in accordance with this Agreement.

13.3 Ceasing Project Operations. If, at any time during the Grant Period, the Company substantially ceases operations, the Company shall immediately repay all grant funds previously disbursed in accordance with this Agreement.

13.4 Failure to Achieve Wage Standard. If, at any time during the Grant Period, the average wage of the group of all permanent full-time jobs at the Company fails to equal or exceed 100% of the average wage rate for the Greenville Metropolitan Service Area (M.S.A.), or \$50,397, the Company will be in default under this Agreement, no further disbursements will be made, and the Company must reimburse the City the total amount of the grant funds previously disbursed in accordance with this Agreement. For the avoidance of doubt, the Company shall be treated as having achieved the expected wage standard if the average wage for all Qualified Jobs is greater than \$53,302.60, which represents 95% of \$56,108.00

13.5 Failure to Make and/or Maintain Ownership of Capital Investments. If, at any time during the Grant Period or the period set forth in this Agreement, the Company fails to meet the required capital investments and maintain ownership of same for taxable purposes, the Company will be in default under this Agreement. Further, the Company cannot claim the Property and Improvements to be tax exempt for property tax purposes at least through August 31, 2032, as specified in this Agreement. In the event the Company fails to comply with this requirement, no additional disbursements will be made, and the Company will be required to reimburse the City the total amount of the grant funds previously disbursed.

13.6 Failure to Comply with Related Project Agreements. If, at any time during the Grant Period or the period set forth in this Agreement, the Company defaults on any federal, state, and/or local agreement related to the activities or Project contained herein or the Company fails to obtain any necessary permits from any federal, state and/or local entities, including but not limited to, environmental permits, prior to or during the performance under this Agreement, no further disbursements will be made, and the Company must reimburse the City the total amount of the grant funds previously disbursed in accordance with this Agreement.

13.7 Other Failures to Comply. The Company will be required to reimburse grant funds previously disbursed for failure to comply, including:

a. any material representation, warranty, certification or other statement of fact contained in this Agreement or in any writing, certificate, or report furnished by the Company to the City in connection with the transaction described in this Agreement is determined to be false or misleading in any material respect when given;

b. a court of competent jurisdiction enters an order, judgment, or decree

appointing a custodian, receiver, trustee, liquidator, or conservator of the Company or of the whole or any substantial part of its Property, or approves a petition filed against the Company seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute; or, under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction assumes custody or control of the Company or of the whole or any substantial part of its Property;

c. the Company is unable to pay its debts generally as they become due; files a petition to take advantage of any insolvency statute; makes an assignment for the benefit of creditors; commences a proceeding for the appointment of a receiver, trustee, liquidator, or conservator of itself or of the whole or any substantial part of its Property; files a petition or answer seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state.

13.8 Recovery of Costs. If the Company fails to reimburse any amount payable hereunder, on demand, the City may recover the costs of collection to obtain recovery from the Company, including reasonable attorney's fees.

13.9 Non-Exclusive. The repayment obligations and remedies addressed in this subsection 13 are in addition to those repayment requirements elsewhere in the Agreement. No remedy conferred or reserved by the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy provided for in this Agreement, or now or hereinafter existing at law, in equity, or by statute, and any such right or power may be exercised from time to time and as often as may be deemed expedient. In no event shall the repayment obligations exceed the amount of Grant payments actually disbursed by the City.

13.10 Force Majeure. Any delay in the performance of any of the duties or obligations of the Company shall not be considered a breach of this Agreement for, and the time required for performance shall be extended for a period equal to, the lesser of (i) the period of such delay or (ii) 24 months, provided that such delay has been caused by or that results from any events beyond the reasonable control of the Company, including, without limitation, 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 facility; or other unforeseeable causes beyond the reasonable control and without the fault or negligence of the Company, which delay affects the Company or the ability to construct Improvements on the Property. The Company shall give prompt notice to the City of such cause and shall take whatever reasonable steps are necessary to relieve the effect of such cause as promptly as possible. No such event shall excuse the payment of any sums due and payable hereunder on the due date thereof except any payment due upon the occurrence of any act or event for which delayed performance is excused as provided above.

14. Reduction in Reimbursement. Notwithstanding any provisions included herein, reimbursement required under this Agreement may be reduced, at the discretion of the City, based on the following:

14.1 If such Event of Default occurs on or before August 31, 2028, the repayment amount shall be 100% of the grant payments disbursed as of this date.

14.2 If such Event of Default occurs on or after September 1, 2028, and on or before August 31, 2029, the repayment amount shall be 75% of the grant payments disbursed as of this date.

14.3 If such Event of Default occurs on or after September 1, 2029, and on or before August 31, 2030, the repayment amount shall be 50% of the grant payments disbursed as of this date.

14.4 If such Event of Default occurs on or after September 1, 2030, and on or before August 31, 2031, the repayment amount shall be 25% of the grant payments disbursed as of this date.

14.5 If such Event of Default occurs on or after September 1, 2031, and on or before August 31, 2032, the repayment amount shall be 10% of the grant payments disbursed as of this date.

15. Non-Appropriation. The Company and the City acknowledge that any monies appropriated and expended by the City for economic development incentives, as provided in this Agreement, are for a bona fide public purpose and are extended in good faith reliance on G.S. § 158-7.1. Funding under the Job Creation Grant program may be contingent upon funding being budgeted by the City to support the program and subject to availability of funding, such incentive grants may be paid by the City from any fund sources of its choice. If funding ceases to be available, this Agreement shall automatically terminate. In the event a court of competent jurisdiction, after final appeal, rules, to which either the Company or the City is a party, that all monies expended by the City pursuant to this Agreement were not offered and accepted in good faith and in compliance with G.S. § 158-7.1 and, further, that such monies must be repaid, the Company will make such repayment to the City. In the event one or more lawsuits are brought against the City or any City elected official, officer, agent or employee, or the Company, challenging the legality of this Agreement, then the City and the Company shall exercise their best efforts to defend against any and all such lawsuits.

16. Notice. All notices, certificates or other communications required or permitted to be given or served hereunder shall be in writing and shall be deemed given at the time of actual delivery, if it is personally delivered or sent by fax. If the notices, certificates or other communications required or permitted to be given or served hereunder are sent by United States Postal Service (USPS) or other courier service that retains receipts for its deliveries, it shall be deemed given or served upon the third calendar day following the day on which such notice, certificate or other communication is deposited with the USPS or upon actual delivery, whichever occurs first, properly addressed as follows:

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

With copy to: City Attorney
City of Greenville
P.O. Box 7207
Greenville, NC 27835

Company: Nipro Medical Corporation
Krizay Elenitoba-Johnson
301 S. Evans St
Suites 221-224
Greenville, NC 27858

The City or the Company may, by notice given to the other, designate any further or other different addresses to which notices, certificates, requests or other communications shall be sent.

17. No Third-Party Rights. This Agreement is intended for the benefit of the City and the Company and not any other person. This Agreement shall inure to the benefit of, and is binding upon, the City and the Company and their respective successors and assigns. However, neither this Agreement nor any rights, privileges, or claims created by this Agreement may be transferred by the Company without the prior written approval of the City, which shall not be unreasonably withheld. An instrument shall be filed in the Office of the Register of Deeds of Pitt County which provides notice that the Property is subject to the conditions, requirements, and restrictions as contained in this Agreement. The instrument shall be indexed in the name of the Company in the grantor index.

18. Modification. Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified or altered except by written agreement of the parties.

19. Severability and Survivability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. Further, any term, condition, covenant or obligation which requires performance by either party subsequent to termination of this Agreement shall remain enforceable against such party subsequent to such termination.

20. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such fully executed counterpart.

21. Governing Law. This Agreement shall be governed by and shall be construed in accordance with the laws of the State of North Carolina; venue of any action shall be in the general court of justice in Pitt County, or if in federal court, in the Eastern District of North Carolina.

22. Construction Against Drafter. Both the Company and the City acknowledge and stipulate that this Agreement is the product of mutual negotiation and bargaining, and that it has been drafted by counsel for both the Company and the City. As such, the doctrine of construction against the

drafter shall have no application to this Agreement.

23. Indemnification and Hold Harmless. Company and City hereby agree to indemnify, defend and hold the other party, its officers, directors, members, partners, agents, consultants, and employees harmless from and against any and all damages or other amounts payable to a third-party claimant, as well as any reasonable attorneys' fees and costs of litigation arising out of or resulting from any claim, suit, proceeding or cause of action brought by a third-party against either party, its officers, directors, members, partners, agents, consultants, and employees based on gross negligence or willful misconduct by such indemnifying party, its officers, directors, members, partners, agents, consultants, or employees as a result of work performed pursuant to this Agreement.

24. Performance of Government Functions. Nothing contained in this contract 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.

25. Forbearance Not Waiver. No action or failure to act by either party shall constitute a waiver of any of its rights or remedies that arise out of this Agreement, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

26. E-Verify Requirements. (A) If this contract is awarded pursuant to G.S. § 143-129, the Company represents and covenants that the Company and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the NCGS; (B) If this contract is subject to G.S. § 143-133.3, the Company and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NCGS.

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

28. Compliance with Laws. The Company shall comply with all applicable Federal, State, and local laws, ordinances, rules, and regulations pertaining to the performance of duties under this Agreement.

29. Assignment. There shall be no assignment, subletting or transfer of the interest (including payments) of the Company in any of the duties covered by the Agreement without the written consent of the City, which shall not be unreasonably withheld. Unless the City agrees otherwise in writing, the Company and all assignees shall be subject to all of the City's defenses and shall be liable for all of the Company's duties that arise out of this Agreement and all of the City's claims that arise out of this Agreement. Without granting the Company the right to assign, it is agreed that the duties of the Company that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

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

31. 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.

32. 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.

33. Conflict of Interest.

The Company 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.

The Company covenants that to the best of its knowledge 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. The Company 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 the Company, its employees or associated persons or entities shall be disclosed to the City.

The Company 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.

The Company shall make any such disclosure to the City in writing and immediately upon the Company’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, to the best of the Company’s knowledge, has any personal financial interest, direct or indirect, in this Agreement, the proceeds hereunder, the Project or Company, either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

34. Independent Contractor. It is the express intent of the Parties that this Agreement shall not create an employer-employee relationship, and the Company, or any other employee or other person acting on behalf of the Company in the performance of this Agreement, shall be deemed to be independent contractor(s) during the entire term of this Agreement or any renewals thereof. The Company shall not receive any additional compensation in the form of wages or benefits from the City which are not specifically set forth in this Agreement. The Company shall assume full

responsibility for payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, social security and income tax law, with respect to the Company or any such employees of Company as may be engaged in the performance of this Agreement. It is the express intent of the Parties that this Agreement shall not create an agency relationship between the Parties. Neither the City nor its employees shall be deemed agents of the Company, and neither the Company nor its employees shall be deemed to be agents of the City.

35. 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.

36. 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.

37. 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.

[signature pages to follow]

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the dates

written below and the undersigned hereby warrant and certify 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, NC

By: _____

P.J. Connelly, Mayor

Attest:

(SEAL)

Valerie Shiuwegar, City Clerk

STATE OF NORTH CAROLINA
COUNTY OF PITT

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

Witness my hand and seal this the _____ day of _____, 202__.

Notary Public

My commission expires: _____

COMPANY

By: _____

STATE OF NORTH CAROLINA
COUNTY OF PITT

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

Witness my hand and seal this the _____ day of _____, 20__.

Notary Public

My commission expires: _____

APPROVED AS TO FORM:

BY: _____
Emanuel D. McGirt, 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 A. Joyner, Director of Financial Services

EXHIBIT A

**TO ECONOMIC DEVELOPMENT AGREEMENT
ANNUAL CERTIFICATION AND DISBURSEMENT REQUEST**

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

Company (“the Company”) hereby requests that a disbursement in the amount of \$_____ be made by the City of Greenville, NC (“City”) to the Company, pursuant to that certain Economic Development Agreement (the “Agreement”) between the Company and the City, dated _____, 20____. Any capitalized terms not otherwise defined herein shall have the meaning assigned to such term in the Agreement.

I, the undersigned, do hereby certify, for and on behalf of the Company, that:

For Job Creation and Maintenance:

- (a) Attached hereto is a true and correct copy of the Company’s latest NCUI 101 form filed with the State; and a copy of the NCUI 101 form filed with the State showing employment prior to the expansion;
- (b) It has created _____ new Qualified Jobs, which are net new positions for the Company’s operations in the State, and no jobs have been transferred from any existing operations of the Company or any of its affiliates;
- (c) It has retained _____ Qualified Jobs;
- (d) It makes available health insurance to all permanent full-time employees at the facility in the amount required for eligibility under the Agreement;
- (e) The average wage rate of all employees in new Qualified Jobs is \$ _____;

For Property Acquisition and Improvement:

- (f) The following Improvements were made during the Improvement Period from September 1, 20____, through August 31, 20____ (*List Improvements and attach invoices and cancelled checks*);
- (g) The amount of the personal and real property valuations of the Property and Improvements, as of September 1, 20____, are in the amount of \$ _____;
- (h) Attached hereto is a true and correct copy of the Company’s fixed asset report showing a description, acquisition date and cost for each asset acquired, disposed

of, or transferred from the date of the Grant Period;

Other Representations, Warranties and Certifications:

- (i) It is in compliance with all of the terms and conditions of the Agreement and affirms the representations, warranties and covenants contained therein;
- (j) It understands that if any of the certifications provided herein prove to be false and/or misleading in any respect, it shall reimburse the City in the amount of this disbursement, and the City may pursue such other legal action as it deems appropriate;
- (k) It has obtained all required permits, including but not limited to, environmental permits, for the Project;
- (l) It is not in default on any other federal, state and/or local grant agreements related to the same or similar project activities;
- (m) It is not liable for any overdue tax debt, and proof of taxes paid is attached to this certificate.

The Company represents, warrants and certifies the truth and accuracy of the statements made herein. These certifications shall be deemed to be made a part of the Agreement and are incorporated therein and governed by its terms and conditions.

Certified, this the ___ day of _____, 20__.

COMPANY NAME

By: _____

Title: _____

STATE OF NORTH CAROLINA
COUNTY OF PITT

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

Witness my hand and seal this the _____ day of _____, 20__.

Notary Public

My commission expires: _____



City of Greenville, North Carolina

Meeting Date: 08/08/2024

Title of Item: Resolution for a Building Reuse Economic Development Incentive and Pass-Through Grant Agreement for UNX-Christeyns, LLC/Project Spotless

Explanation: UNX-Christeyns, LLC/Project Spotless ("UNX-Christeyns") is an economic development project for a company that specializes in commercial quality cleaning chemicals for the laundry, housekeeping, and dry and wet cleaning markets, and it also manufactures the dispensing equipment supporting those products.

UNX-Christeyns owns the property located at 311 Staton Road, Greenville, NC 27834, which is a 62,793 square-foot building and will be used for UNX-Christeyns' expansion. UNX-Christeyns is expected to create 21 jobs and make a capital investment of approximately \$10.5 million, including improvements to its real property totaling about \$703,057.

On June 21, 2024, the State of North Carolina awarded UNX-Christeyns a Building Reuse Grant of \$80,000 and to be eligible, a local match of 5% is required to be provided by the City. Based on the projected economic impact, the City is proposing to provide the required local match of 5%, or \$4,000, for the Building Reuse Grant award by the State of North Carolina.

The grant will be paid in a lump sum upon submission of the appropriate documentation, including the company's State of North Carolina NCUI 101 Quarterly Tax and Wage Report to show job creation and maintenance, invoices reflecting at least \$160,000 expended on property improvements and other supporting documentation reflecting compliance with federal, state and local laws. The grant is subject to reimbursement upon an event of default.

Fiscal Note: UNX-Christeyns will be eligible to receive a disbursement of up to \$80,000 upon submission of appropriate documentation by UNX-Christeyns, and review and approval by the City and the State of North Carolina. Additionally, UNX-Christeyns will be eligible to receive a 5% local match of \$4,000 upon submission of appropriate documentation by UNX-Christeyns, and review and approval by the City and the State of North Carolina.

Recommendation: City Council hold a public hearing on the economic development incentive and approve the attached resolution and grant agreement with the State of North Carolina.

ATTACHMENTS

- Resolution - UNX-Christeyns, LLC - Building Reuse.pdf**
- UNX-Christeyns, LLC - State of North Carolina Award Letter.pdf**
- UNX-Christeyns, LLC - State of North Carolina Contract.pdf**

RESOLUTION NO. ____ - 24

**RESOLUTION OF THE GREENVILLE CITY COUNCIL APPROVING AN
ECONOMIC DEVELOPMENT INCENTIVE FOR UNX-CHRISTEYNS, LLC/
PROJECT SPOTLESS**

WHEREAS, the City of Greenville (“City”) is committed to advancing and promoting economic development in Greenville, North Carolina;

WHEREAS, N.C. Gen. Stat. §158-7.1 grants authority to the City to make appropriations and expenditures for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the corporate limits of the City or in Pitt County, or for other purposes which the Greenville City Council finds, in its discretion, will increase employment, taxable property base, and business prospects of the City;

WHEREAS, UNX-Christeyns, LLC (Company) specializes in commercial quality cleaning chemicals for the laundry, housekeeping, and dry and wet cleaning markets, and it also manufactures the dispensing equipment supporting those products, and has pledged to create 21 new full-time jobs in Greenville, NC, with a total capital investment of approximately \$10.5 million, including improvements to real property totaling about \$703,057;

WHEREAS, the Company has been awarded a Building Reuse Grant totaling \$80,000 by the North Carolina Department of Commerce Rural Division to support the reuse of a 62,793 square-foot building located at 311 Staton Road, Greenville, NC 27834;

WHEREAS, the City of Greenville acknowledges that, the Building Reuse Grant award requires a commitment of a local match totaling 5% of the grant amount, and public notice and a public hearing as required by G.S. §158-7.1 is necessary to expend and appropriate the required local match;

WHEREAS, if this required local match and grant were not approved, the Company may take its economic development project and expand in another location;

WHEREAS, the Greenville City Council does hereby find and determine that the proposed economic development project will tend to increase the taxable property base of the County, increase the business prospects of the City, and create high-paying jobs, and that it is in the public interest to provide assistance, as authorized by N.C. Gen. Stat. §158-7.1, in order to encourage the Company to develop the project described herein; and

WHEREAS, the City provided 10-day’s public notice and a public hearing was held at the City Council’s August 8, 2024 meeting.

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

1. It does hereby support the appropriation and expenditure of an economic development incentive that provides the 5% local match to UNX-Christeyns for a Building Reuse Grant awarded by the State of North Carolina.

2. The Mayor, City Manager or their designee are authorized, empowered and directed to do any and all acts and to execute any and all documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by this Resolution, except that none of the above shall be authorized or empowered to do anything or execute any document which is in contravention, in any way, of the specific provisions of this Resolution. In addition, the City Manager or City Attorney is authorized to make any non-substantive or clerical revisions to the Agreement referenced above.

Adopted this 8th day of August, 2024.

PJ Connelly, Mayor

ATTEST:

Valerie Shiuwegar



**NC DEPARTMENT
of COMMERCE**
RURAL ECONOMIC
DEVELOPMENT

Roy Cooper
GOVERNOR

Machelle Baker Sanders
SECRETARY

Kenny Flowers
ASSISTANT SECRETARY

July 1, 2024

The Honorable PJ Connelly
Mayor
City of Greenville
201 W. 5th St.
Greenville, NC 27835

Re: **Building Reuse Grant Award Notification**
Contract Reference: 2024-042-3201-2587
Project Title: UNX-Christeys, LLC/Project Spotless

Award Date: 6/20/2024
Award Amount: \$80,000.00
Jobs Committed: 21

Dear Mayor Connelly:

On behalf of the Rural Infrastructure Authority, and the Rural Economic Development Division, I am pleased to announce that the local government has been awarded funding under the Building Reuse Program.

In the coming days, the Rural Division will email contract documents to your attention. Once one complete set of signed contract documents is returned to the Rural Division, the local government may begin to request payments. Progress reports for the grant are due on **January 15 and July 15** for each year that the grant is open. When the company has hired and maintained the number of jobs committed for six consecutive months, the local government should submit the required documents for job verification and grant closure. Forms and instructions for payment requests, progress reports, job verification, and project closeout can be found on the Rural Division website at: www.commerce.nc.gov/rgp.

Congratulations on this award and we extend our best wishes to you for success in bringing new job creation to rural North Carolina. We look forward to working with you on this important project. If you have any questions, please contact your program manager Hazel Edmond at hazel.edmond@commerce.nc.gov.

Sincerely,

Kenny Flowers
Assistant Secretary for Economic Development



**NC DEPARTMENT
of COMMERCE**
RURAL ECONOMIC
DEVELOPMENT

Roy Cooper
GOVERNOR

Machelle Baker Sanders
SECRETARY

Kenny Flowers
ASSISTANT SECRETARY

July 1, 2024

The Honorable PJ Connelly
Mayor
City of Greenville
201 W. 5th St.
Greenville, NC 27835

Re: Contract Agreement for Grant Number 2024-042-3201-2587; Your Signature and Reply is Requested
Project Title: "UNX-Christeys, LLC/Project Spotless"

Dear Mayor Connelly:

Enclosed for your review and signature is a complete set of contract documents required to finalize the grant award from the North Carolina Rural Infrastructure Authority. Below is a description of the documents enclosed along with an explanation of the signatures required for each document.

Document:	Document Description:	Signed By:
Grant Agreement	Contract: Outlines the terms of Grant Agreement between the Department of Commerce and the Unit of Local Government.	Highest Elected Official - Unit of Local Government
Exhibit A	Scope of Services: Outlines the scope of the renovation/construction project.	No Signature Required
Exhibit B	Payment Schedule: Outlines the process for the Unit of Local Government to request reimbursements from Department of Commerce.	No Signature Required
Exhibit C	Reporting Schedule: Outlines the schedule of reports that are due from the Unit of Local Government to the Department of Commerce and when they are due.	No Signature Required
Exhibit D	Closeout/Job Requirements: Outlines the process for the Unit of Local Government to report the creation and maintenance of jobs to the Department of Commerce.	No Signature Required
Exhibit E	Legally Binding Commitment (LBC): Outlines terms and conditions of the Loan.	Highest Elected Official - Unit of Local Government and Legal Property Owner listed on the Deed.
Exhibit F	Promissory Note: Defines the repayment terms of the Loan in the event of default.	Legal Property Owner listed on the Deed.
Exhibit G	Limited Waiver of Confidentiality: Contains employment information reported to the Department of Commerce's Division of Employment Security.	Each Business involved in the project.
Exhibit H	Deed of Trust Documentation	Highest Elected Official – Unit of Local Government

Execute these documents, scan a quality copy and return to my attention at REIreports@commerce.nc.gov. If you have any questions or if I can be of any assistance, please contact me at bethany.davenport@commerce.nc.gov.

Sincerely,

Bethany P. Davenport
Fiscal and Compliance Manager

Enclosure

The North Carolina Department of Commerce (“Commerce”), an agency of the State of North Carolina (“State”), enters into this Rural Economic Development Grant Agreement (“Grant Agreement”) with the **City of Greenville** (the “Governmental Unit” and, together with Commerce, the “Parties”).

WHEREAS, the North Carolina General Assembly (“General Assembly”) has determined that it is the policy of the State to stimulate economic activity and to create new jobs for citizens of the State by providing matching grants or loans to specific local governmental units so as to productively reuse certain buildings and properties or expand rural health care facilities subject to the requirements of N.C.G.S. §§143B-472.127 and .128; and

WHEREAS, under N.C.G.S. §143B-472.128, the General Assembly created the North Carolina Rural Infrastructure Authority (“Rural Authority”) to review applications for and, where appropriate, authorize such matching grants or loans, and, under N.C.G.S. §§143B-472.126 and .127, the General Assembly authorized Commerce to administer such grants or loans; and

WHEREAS, pursuant to N.C.G.S. §§143B-472.127 and .128, and based on the terms, conditions and representations in this Grant Agreement’s Exhibits A (Scope of Project), Exhibit B (Payment Schedule), Exhibit C (Reporting Schedule), Exhibit D (Closeout Schedule/Job Requirements), Exhibit E (LBC), Exhibit F (Promissory Note) and Exhibit G (Waiver of Confidentiality (“Waiver”)), the Rural Authority has approved a grant (the “Grant”) to the Governmental Unit; and

WHEREAS, without limitation, the Rural Authority awarded the Grant: (1) based on the application filed by the Governmental Unit and any subsequent materials supporting the application that have been approved of by Commerce in writing, all of which are incorporated by reference herein; (2) based on the representation in the application that **UNX Industries, LLC, a North Carolina limited liability company** (the “Owner”) owns certain real property located at:
311 Staton Rd
Greenville, NC 27834

in **Pitt** County, North Carolina (the “Property”); (3) based on Commerce’s Grant requirements and guidelines, which are incorporated herein and which may be amended, modified or supplemented and applied accordingly to this Grant Agreement by Commerce in its sole discretion; and for (4) the creation and retention of certain jobs in the course of completing certain renovations/construction work at the Property (altogether, the “Project,” as summarized in Exhibit A to this Grant Agreement).

NOW, THEREFORE, in consideration of the mutual promises and such other valuable consideration as set out herein, the Parties mutually agree to the following terms and conditions:

1. Scope of Program/Agreements to be Executed.

- (a). As conditions of the Grant Agreement:
- i. The highest elected official of the Governmental Unit shall execute two originals of this Grant Agreement in its exact form (unless Commerce approves of a change to its terms in writing) and shall return one of them to Commerce;
 - ii. The Governmental Unit shall ensure that its highest elected official and a duly authorized representative of the Owner execute two originals of the Rural Economic Development Loan Agreement and Legally Binding Commitment (“LBC”) in its exact form (unless Commerce approves of a change to its terms in writing) and shall return one such original to Commerce with the one executed original of the Grant Agreement;
 - iii. The Governmental Unit shall ensure with the Owner that every individual or entity that has any ownership interest in the real property which is the subject of the Project executes two originals of the Promissory Note attached as Exhibit F in its exact form and shall return one such original to Commerce with the one executed originals of the Grant Agreement; and
 - iv. Exhibit A refers to the entity (or entities, as applicable) required to create and maintain certain full-time new jobs (“New Jobs”) to complete the Project as the “Company,” the “Employer” and the “Business” (together and hereinafter, the “Business”). The Governmental Unit shall ensure that an authorized representative of each Business executes a Waiver of Confidentiality (“Waiver”), attached as Exhibit G, and shall return the original of any such Waiver to Commerce with the executed originals of the Grant Agreement. The Governmental Unit shall also ensure that any additional Business which becomes involved in the Project after the Grant Agreement is finalized executes a Waiver upon its involvement, the original of which the Governmental Unit shall promptly forward to Commerce.
- (b). The Governmental Unit shall provide Commerce with any information obtained pursuant to the LBC and allow Commerce to execute any rights of the Governmental Unit under the LBC, including the Governmental Unit’s rights of access, review or monitoring and Commerce’s rights as a third-party beneficiary thereunder.
- (c). The Governmental Unit shall exercise all of its rights and duties under the LBC in a prudent and timely manner to ensure the use of the Grant funds for the intended purposes and objectives and to preserve the rights of Commerce in this Grant Agreement and the LBC.
- (d). The LBC specifies how many New Jobs the Business must create and maintain in the performance of the Project and, if the Business fails to do so, those Grant funds that the Owner must repay to the Governmental Unit for return to Commerce or else repay directly to Commerce, upon request and as directed. If such New Jobs are not created or maintained, then the Governmental Unit shall return to Commerce any Grant funds it has not already disbursed to the Owner, make a timely demand for repayment from the Owner and, if such repayment is not forthcoming, initiate and fully litigate legal proceedings against the Owner to recover such repayment.

- (e). Without limitation, failure by the Governmental Unit to timely demand repayment from and, if necessary, initiate and fully litigate such legal proceedings against the Owner may affect the future consideration of the Governmental Unit for grant programs administered by Commerce. Further, and without limitation, if the Governmental Unit fails to timely initiate legal proceedings against the Owner for such repayment and Commerce elects to do so instead, the Governmental Unit is responsible and agrees to reimburse Commerce for all litigation costs and reasonable attorneys' fees that Commerce incurs in pursuing repayment.

2. Changes in the Project or Other Conditions.

- (a). A "Project Change" is any material alteration, addition, deletion or expansion of the Project, including (without limitation) material changes to construction or rehabilitation, the terms or conditions of the loan under the LBC ("Loan"), the required number of New Jobs, the matching investment in the Project, any cessation of business by the Owner or any Business and any filing of bankruptcy by the Governmental Unit, the Owner or any Business. There shall be no Project Changes unless expressly approved of by Commerce in a separate, prior written agreement stating, if applicable, the costs and schedule for completing the Project Change.

Notwithstanding the foregoing and wherever referred to in this Grant Agreement, "cessation of business," "ceasing to do business" and "ceases to do business" shall not include (1) ceasing operations to maintain, service or upgrade real or personal property of the Owner, (2) seasonal shutdowns of operations as long as such cessation do not exceed a total of four (4) weeks in any calendar year (excluding time attributable to an event of force majeure as described below) and (3) under the circumstances of for the period of time described in Paragraph 17 below.

- (b). Additionally, the Governmental Unit shall immediately notify Commerce of any change in conditions or local law, or any other event, which may significantly affect its ability to oversee, administer or perform this Grant Agreement, the LBC or the Project. In its sole and unreviewable discretion, Commerce may deem such a change in conditions, local law or other event to constitute a Project Change.

3. Term of Grant Agreement. The effective period of this Grant Agreement shall commence on **6/20/2024** ("Effective Date") and shall terminate on **6/20/2026** unless terminated on an earlier date under the terms of this Grant Agreement (either one of which dates shall constitute the "Termination Date") or unless extended for an express term in writing by the Governmental Unit.

4. Funding. The Rural Authority grants to the Governmental Unit an amount not to exceed **\$80,000.00** for expenditures directly relating to the Project. The Governmental Unit hereby represents and warrants that all Grant funds shall be utilized exclusively for the purpose of the Project and consistent with all applicable laws, rules, regulations and requirements, and that the Governmental Unit shall not make or approve of any improper expenditure of Grant funds (including Loan funds). Administrative expenses of the Governmental Unit

are not eligible for Grant funding and any such use of Grant funds will violate this Grant Agreement.

5. Independent Status of the Governmental Unit.

- (a). The Governmental Unit is an entity independent from the Rural Authority and Commerce. The Grant Agreement, the LBC, the Project and any actions taken pursuant to them shall not be deemed to create a partnership or joint venture between or among Commerce, the Rural Authority, the Governmental Unit or any third party (including, without limitation, the Owner or any Business). Nor shall the Grant Agreement, the LBC or the Project be construed to make the Governmental Unit (including its employees, agents, members or officials) or any third party (including, without limitation, the Owner or any Business) employees, agents, members or officials of Commerce or the Rural Authority. Neither the Governmental Unit nor any third party (including, without limitation, the Owner or any Business) shall have the ability to bind Commerce or the Rural Authority to any agreement for payment of goods or services or represent to any person that they have such ability.
- (b). The Governmental Unit shall be responsible for payment of all of its expenses, including rent, office expenses and all forms of compensation to employees. The Governmental Unit shall provide worker's compensation insurance to the extent required for its operations and shall accept full responsibility for payments of unemployment tax or compensation, social security, income taxes, and any other charges, taxes or payroll deductions required by law in connection with its operations, for itself and its employees who are performing work pursuant to this Grant Agreement. All expenses incurred by the Governmental Unit are its sole responsibility, and neither Commerce nor the Rural Authority shall be liable for the payment of any obligations incurred in the performance of the Project.

6. Method of Payment. Commerce shall pay the Grant funds to the Governmental Unit in accordance with the Payment Schedule attached hereto as Exhibit B after receipt of written requests for payment from the Governmental Unit certifying that the conditions for such payment under this Grant Agreement have been met and that the Governmental Unit is entitled to receive the amount so requested and any other documentation that may be required by Commerce.

7. Obligation of Funds. The Governmental Unit shall not obligate Grant funds prior to the Effective Date or subsequent to the Termination Date of this Grant Agreement. All obligations outstanding as of the Termination Date shall be liquidated within thirty days.

8. Project Records.

- (a). The Governmental Unit shall maintain full, accurate and verifiable financial records, supporting documents and all other pertinent data for the Project in such a manner as to clearly identify and document the expenditure of the State funds provided under

- this Grant Agreement separate from accounts for other awards, monetary contributions or other revenue sources for this Project.
- (b). The Governmental Unit shall retain all financial records, supporting documents and all other pertinent records related to the Project for a period of five (5) years from the Termination Date. In the event such records are audited, all Project records shall be retained beyond the five-year period until the audit is concluded and any and all audit findings have been resolved.

9. Monitoring, Reports and Auditing.

- (a). The Governmental Unit agrees to ensure compliance and provide its assistance with such monitoring and auditing requirements as the State may request, including following the Termination Date of this Grant Agreement. Additionally, the Governmental Unit shall regularly monitor all performance under Grant-supported activities, including activities performed by the Owner and any Business, to ensure that time schedules are being met, New Jobs are being created and maintained and other performance goals are being achieved.
- (b). The Governmental Unit shall furnish Commerce detailed written progress reports according to the time periods specified in Exhibit C or as otherwise requested by Commerce. Such reports should describe the progress made by the Governmental Unit, the Owner and any Business toward achieving the purpose(s) of the Project, including specifically the goals of New Job creation and maintenance. Such descriptions should include the successes and problems encountered during the reporting period. Failure to submit a required report by the scheduled submission date will result in the withholding of any forthcoming payment until Commerce is in receipt of the delinquent report and the report meets with Commerce's approval, in Commerce's sole discretion.
- (c). The Governmental Unit acknowledges and agrees that, with regard to the Grant funds, it will be subject to the audit and reporting requirements prescribed by N.C.G.S §159-34, Local Government Finance Act - Annual Independent Audit; rules and regulations. Such audit and reporting requirements may vary depending upon the amount and source of Grant funding received by the Governmental Unit and are subject to change from time to time.
- (d). Within thirty (30) days after the Termination Date, the Governmental Unit shall submit a final report to Commerce describing the activities and accomplishments of the Project. The final report shall include a review of performance and activities over the entire Project period. In the final report, the Governmental Unit should describe the Project, how it was implemented, to what degree the established Project objectives were met and the difficulties encountered, what the Project changed and its cost.
- (e). The Governmental Unit grants the State and any of its related agencies, commissions or departments (including, without limitation, Commerce, the North Carolina State Auditor and the North Carolina Office of State Budget and Management) and any of their authorized representatives, at all reasonable times and as often as necessary

(including after the Termination Date), access to and the right to inspect, copy, monitor, and examine all of the books, papers, records and other documents relating to the Grant Agreement, the LBC or the Project. Likewise, the Governmental Unit shall ensure that the Owner and any Business provide the same access. In addition, the Governmental Unit agrees to comply at any time, including after the Termination Date, with any requests by the State (including, without limitation, the Rural Authority or Commerce) for other financial and organizational materials to permit the State to comply with its fiscal monitoring responsibilities or to evaluate the short- and long-range impact of its programs.

10. Termination; Availability of Funds.

- (a). If the Governmental Unit fails to fulfill in a timely and proper manner its obligations or violates any of the covenants or stipulations under this Agreement, if the Owner fails to fulfill in a timely and proper manner its obligations or violates any of its covenants or stipulations under the LBC or if any Business fails to fulfill those requirements applicable to it in the LBC, the Governmental Unit agrees that Commerce has the right to terminate this Grant Agreement and/or the LBC by giving, as applicable, the Governmental Unit or the Governmental Unit and the Owner written notice specifying the Termination Date, which Commerce may determine in its sole discretion. Upon such termination, Commerce shall have no responsibility to make additional Grant payments. Upon such termination, the Governmental Unit shall not expend any Grant funds (including Loan funds) without Commerce's express written authorization and shall return all unspent Grant funds to Commerce upon demand.
- (b). The obligations of the Rural Authority and/or Commerce to pay any amounts under this Grant Agreement are contingent upon the availability and continuation of funds for such purpose. If funds for the Grant (and therefore the Loan) become unavailable, the Governmental Unit agrees that Commerce has the right to terminate this Grant Agreement and/or the LBC by giving written notice specifying the Termination Date, which Commerce shall determine in its sole discretion. Upon such termination, the State shall have no responsibility to make additional Grant payments. Further, upon such termination, the Governmental Unit shall not expend any Grant funds (including Loan funds) without Commerce's express written authorization and shall return all unspent Grant funds to Commerce upon demand.

11. Liabilities and Loss. The Governmental Unit hereby agrees to release, indemnify and hold harmless the State (including, without limitation, the Rural Authority and Commerce), and their respective members, officers, directors, employees, agents and attorneys (together, the "Indemnified Parties"), from any claims of third parties (including, without limitation, the Owner and the Business) arising out of any act or omission of the Governmental Unit or any third party (including, without limitation, the Owner and the Business) in connection with the performance of this Grant Agreement, the LBC or the Project, and for all losses arising from their implementation. Without limiting the foregoing, the Governmental Unit

hereby releases the Indemnified Parties from, and agrees that such Indemnified Parties are not liable for, and agrees to indemnify and hold harmless the Indemnified Parties against, any and all liability or loss, cost or expense, including, without limitation, reasonable attorneys' fees, fines, penalties and civil judgments, resulting from or arising out of or in connection with or pertaining to, any loss or damage to property or any injury to or death of any person occurring in connection with the Project, or resulting from any defect in the fixtures, machinery, equipment or other property used in connection with the Project or arising out of, pertaining to, or having any connection with, the Project or the financing thereof (whether arising out of acts, omissions, or negligence of the Governmental Unit or of any third party (including, without limitation, the Owner and the Business), or of any of their agents, contractors, servants, employees, licensees, lessees, or assignees), including any claims and losses accruing to or resulting from any and all subcontractors, material men, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the Project.

12. Governmental Unit Representations and Warranties. The Governmental Unit hereby represents and warrants that:
- (a). The execution and delivery of this Grant Agreement have been duly authorized by all necessary Governmental Unit action and are not in contravention of law or in contravention of the provisions of any indenture agreement or undertaking to which the Governmental Unit is a party or by which it is bound.
 - (b). There is no action, suit proceeding, or investigation at law or in equity or before any court, public board or body pending, or to the knowledge of the Governmental Unit, threatened against or affecting it, the Owner or the Business, that could or might adversely affect the Project or any of the transactions contemplated by this Grant Agreement or the validity or enforceability of this Grant Agreement or the abilities of the Governmental Unit or the Owner to discharge their obligations under this Grant Agreement. If it is subsequently found that an action, suit, proceeding, or investigation did or could threaten or affect the development of the Project, the Governmental Unit shall be liable to Commerce for repayment of the entire amount of the Grant and this Grant Agreement may be terminated by Commerce effective upon notice.
 - (c). No consent or approval is necessary from any governmental authority as a condition to the execution and delivery of this Grant Agreement by the Governmental Unit or the performance of any of its obligations hereunder, or all such requisite governmental consents or approvals have been obtained. The Governmental Unit shall provide Commerce with evidence of the existence of any such necessary consents or approvals at the time of the execution of this Grant Agreement.
 - (d). The Governmental Unit is solvent.
 - (e). A cash match grant, loan or other funding ("Cash Match") equal to the amount of the Loan shall have been unconditionally committed to the Project. The Governmental Unit shall have procured and contributed at least five percent (5%) of this Cash Match, but no part of this 5% contribution can have derived, either directly or indirectly, from any other State or federal source. All Cash Match funds shall be

utilized exclusively for the purpose of the Project, and there shall be no improper expenditures of Cash Match funds. All Cash Match funds shall be expended prior to or simultaneously with and at the same rate as the Owner's expenditure of Loan funds.

- (f). Upon the Governmental Unit's reasonable inquiry of and receipt of supporting evidence from the Owner, both the Owner and any Business are duly authorized to do business under North Carolina law and are not delinquent on any federal, state or local taxes, licenses or fees.

13. Cessation/Termination, Bankruptcy, Dissolution or Insolvency.

- (a). Under the LBC, the Owner agrees at all times to preserve its legal existence, except that it may merge or consolidate with or into, or sell all or substantially all of its assets to, any entity that expressly undertakes, assumes for itself and agrees in writing to be bound by all of the obligations and undertakings of the Owner contained in the LBC. If the Owner so merges, consolidates or sells its assets without such an undertaking being provided, it agrees in the LBC to repay to the Governmental Unit or Commerce, upon request and as directed, all unspent Loan funds. Further, a merger, consolidation or sale without such an undertaking shall constitute a material default under the LBC, and the Governmental Unit or Commerce may terminate the LBC upon written notice to the Owner and hold the Owner liable for any other repayment provided for under the LBC.
- (b). Other than as provided for in Paragraph 13(a) above, if the Owner or any Business ceases to do business or becomes the subject of any bankruptcy, dissolution or insolvency proceeding prior to the Termination Date, it shall be the sole responsibility of the Governmental Unit to (i) immediately notify Commerce and (ii) pursue any claim for Grant funds owed the State by the Owner or Business, including in any legal proceeding, to obtain the maximum payment allowed by law. To the extent the Governmental Unit fails to pursue repayment of the Grant funds in such a proceeding and obtain the maximum payment allowed by law, and without limitation, the Governmental Unit shall be liable to Commerce for all amounts that should have been awarded to the Unit in the proceeding if it had taken the necessary action (notwithstanding whether such amounts would have actually been paid by the Owner or Business). Alternatively, without limitation, if the Governmental Unit fails to pursue repayment of the Grant funds in such a proceeding and Commerce elects to do so instead, the Governmental Unit is responsible and agrees to reimburse Commerce for all legal costs and reasonable attorneys' fees that Commerce incurs in pursuing repayment.
- (c). If the Governmental Unit fails to provide Commerce notice of the Owner or any Business ceasing to do business or becoming the subject of any bankruptcy, dissolution or insolvency proceeding prior to the Termination Date, it shall constitute a material default under this Grant Agreement. If there is such a cessation or such a proceeding, Commerce may terminate the Grant Agreement upon written notice to the Governmental Unit. If there is such a cessation or such a proceeding, the Governmental Unit agrees that Commerce has the right to terminate this Grant

Agreement and/or the LBC by giving, as applicable, the Governmental Unit or the Governmental Unit and the Owner written notice specifying the Termination Date, which Commerce may determine in its sole discretion. Upon such termination, the Governmental Unit, the Owner and any Business shall not expend any Grant or Loan funds without Commerce's express written authorization and shall return all unspent Grant or Loan funds to Commerce upon demand and if permissible under applicable bankruptcy, dissolution or insolvency law.

14. Additional Repayment Requirements and Remedies.

- (a). The repayment requirements and remedies addressed in this Paragraph 14 are in addition to those repayment requirements and other remedies set forth elsewhere in this Grant Agreement, including the requirements to repay unspent Grant funds. No remedy conferred or reserved by or to the State is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy provided for in this Grant Agreement, or now or hereinafter existing at law, in equity, or by statute, and any such right or power may be exercised from time to time and as often as may be deemed expedient.
- (b). If there is a breach of any of the requirements, covenants or agreements in this Grant Agreement or the LBC, or if there are any representations or warranties which are untrue as to a material fact in this Grant Agreement, the LBC or in relation to the LBC or the Project (including the performance thereof), the Governmental Unit agrees that Commerce has the sole discretion to require repayment from the Governmental Unit of an amount of Grant funds to be determined in Commerce's sole discretion but not to exceed the amount of Grant funds the Governmental Unit has already received under this Grant Agreement. Such requirements, covenants or agreements include but are not limited to Paragraphs 1, 2(a), 4, 10(a), 12 and 13 of this Grant Agreement and include but are not limited to the creation and retention of the New Jobs and the retention of the Baseline Number of jobs under the LBC.

15. No Waiver by the State. Failure of the State (including, without limitation, the Rural Authority and Commerce) at any time to require performance of any term or provision of this Grant Agreement or the LBC shall in no manner affect the rights of the State at a later date to enforce the same or to enforce any future compliance with or performance of any of the terms or provisions hereof. No waiver of the State of any condition or the breach of any term, provision or representation contained in this Grant Agreement or the LBC, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of that or any other term, provision or representation.

16. Waiver of Objections to Timeliness of Legal Action. The Governmental Unit knowingly waives any objections it has or may have to timeliness of any legal action (including any administrative petition or civil action) by the State (including, without limitation, the Rural Authority or Commerce) to enforce its rights under this Grant Agreement. This waiver

includes any objections the Governmental Unit may possess based on the statutes of limitations or repose and the doctrines of estoppel or laches.

17. Force Majeure. If (a) during the term of this Grant the real or personal property located on or constituting the Property suffers damage or destruction caused by acts of God, fires, floods, storms, insurrection, riots, acts of the public enemy, national catastrophe, or similar unexpected events, (b) such damage or destruction was not principally caused by the negligence, willful misconduct or violation of applicable law by the Owner, (c) the Owner uses reasonable efforts to repair, or to work around, such damage or destruction reasonably promptly, and (d) as a direct result of such damage or destruction the Owner cannot satisfy the requirements and obligations of Sections 3 of the LBC as and when the LBC requires, then the Owner will be entitled to an extension of time not to exceed sixty (60) days to satisfy the requirements and obligations of Section 3 of the LBC; provided that the Governmental Unit in its sole discretion with respect to the obligations it is owed by the Owner, may elect to extend that sixty day period to give the Owner additional time to satisfy those requirements.
18. Special Provisions and Conditions.
 - (a). Non-discrimination. The Governmental Unit agrees not to discriminate by reason of age, race, religion, color, sex, national origin or disability related to the activities of this Grant Agreement.
 - (b). Conflict of Interest. The Governmental Unit shall adopt and keep on file, along with the executed copies of this Grant Agreement, a copy of its policy and any ordinance or resolution it has adopted addressing conflicts of interest that may arise involving the members of the Governmental Unit's governing body and/or any of its employees or officers involved in the Grant, the LBC or the Project. Such policy, ordinance or resolution shall address situations in which any of these individuals may directly or indirectly benefit, other than through receipt of their normal compensation in their capacities as the Governmental Unit's employees, officers or members of its governing body, from the Grant, the LBC or Project, and shall include actions to be taken by the Unit or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. Additionally, the Governmental Unit certifies that, as of the date it executes this Grant Agreement, no such individuals have such a conflict of interest or will directly or indirectly benefit, except in the capacities described above, from the Grant, LBC or Project. Throughout the duration of this Grant Agreement, the LBC and the Project, the Governmental Unit has the duty to promptly inform Commerce of any such conflict of interest or direct or indirect benefit of which it becomes aware.
 - (c). Compliance with Laws. The Governmental Unit shall at all times observe and comply with all laws, regulations, codes, rules, ordinances and other requirements (together, "Laws") of the state, federal and local governments which may in any manner affect the performance of the Grant Agreement, the LBC or the Project.
 - (d). Non-Assignability. The Governmental Unit shall not assign or transfer any interest in the Agreement without the prior written consent of Commerce; provided, however,

that claims for money due to Governmental Unit from Commerce under this Agreement may be assigned to any commercial bank or other financial institution without such approval.

- (e). Personnel. The Governmental Unit represents that it has, or will secure at its own expense, all personnel required to monitor, carry out and perform the scope of services of this Agreement. Such employees shall not be employees of Commerce. Such personnel shall be fully qualified and shall be authorized under state and local law to perform such services.

19. Notice. All notices required or permitted to be delivered hereunder and all communications in respect hereof shall be in writing and shall be deemed given when personally delivered or when deposited in the United States mails, certified, return receipt requested, first class, postage prepaid and addressed as follows:

If to the Rural Authority or Commerce: Attn: **Hazel Edmond**
Program Manager
North Carolina Department of Commerce
Rural Economic Development Division
301 North Wilmington Street
4346 Mail Service Center
Raleigh, North Carolina 27699-4346

If to the Governmental Unit: Attn: **The Honorable PJ Connelly**
Mayor
City of Greenville
201 W. 5th St.
Greenville, NC 27835

or addressed to such other address or to the attention of such other individual as Commerce or the Governmental Unit shall have specified in a notice delivered pursuant to this subsection.

20. Entire Agreement. This Grant Agreement supersedes all prior agreements between or among the Rural Authority and/or Commerce and the Governmental Unit with regard to the Project and expresses their entire understanding with respect to the transactions contemplated herein, and shall not be amended, modified or altered except pursuant to a writing signed by both Commerce and the Governmental Unit.
21. Execution. This Grant Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and such counterparts, together, shall constitute one and the same Grant Agreement which shall be sufficiently evidenced by one of such original counterparts.
22. Construction. This Grant Agreement shall be construed and governed by the laws of the State of North Carolina.
23. Severability. Each provision of this Grant Agreement is intended to be severable and, if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect or impair any other provision of this Grant Agreement, but this Grant Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

24. Acceptance. If the Governmental Unit agrees to the Grant conditions as stated, please return the executed documents specified in Paragraph 1(a). This Grant may be withdrawn if Commerce has not received such documents within thirty (30) days from the date of the cover letter from Commerce to the Governmental accompanying this Grant Agreement and its Exhibits.

IN WITNESSETH WHEREOF, the parties hereto have executed this Grant Agreement as of the date first above written.

City of Greenville

Signature: _____ [SEAL]

Printed Name: _____

Title: _____

Date: _____

North Carolina Department of Commerce

Signature: _____ [SEAL]



Printed Name: Kenny Flowers

Title: Assistant Secretary for Rural Economic Development

Date: 7/1/2024

**EXHIBIT A
SCOPE OF PROJECT**

Summary: The project will support the reuse of a 62,793 SF building located at 311 Staton Road. The building was constructed in 1970 and has been vacant for ten months. UNX-Christeyn specializes in commercial quality cleaning chemicals for the laundry, housekeeping, and dry and wet cleaning markets. The company's products are supported with dispensing equipment which is also manufactured by the company.

**EXHIBIT B
PAYMENT SCHEDULE**

Eligible Expenditures:

Vacant Building Category: within the existing building footprint

Existing Business Building Category: within the existing building and/or additions

Rural Health Care Category: within the existing building, additions and/or new construction

Eligible costs under all funding categories include, but are not limited to: materials and labor to install HVAC, electrical, plumbing, fire alarm/suppression systems, roofing, flooring, carpentry, drywall, paint, etc. This is not an exhaustive list; grantees should contact the Rural Development Division for questions about whether a specific expense is eligible under the program.

The following costs are specifically prohibited under the program and may not be submitted for reimbursement or the matching funds requirement: building purchase, architectural costs, engineering costs, permit fees, surveys, legal fees, machinery & equipment, telephone hardware and software, computer hardware and software, furnishings, paving, fencing, kitchen equipment, refrigeration equipment, etc. This is not an exhaustive list; grantees should contact the Rural Development Division for questions about whether a specific expense is eligible under the program.

Any company in which any project partner has an ownership or management interest in may act as a contractor for the renovation project only if the company holds a valid NC General Contractors license. The relationship must have been disclosed to the Rural Development Division and a copy of the company's license must have been included in the application. Licensed contracting companies owned or operated by any project partner that are used in the renovation project will be required to submit original invoices from the provider for all labor, materials, services and subcontracted work plus proof that those invoices have been paid in full.

Reimbursement Requirements:

The Department of Commerce will reimburse 50% of eligible expenditures up to the total grant amount upon receipt of the following:

1. A completed financial request form,
2. Copies of eligible project invoices that support the request amount,
3. Evidence that the invoices submitted for reimbursement have been paid-in-full. Evidence may include copies cleared checks, wire transfer or ACH receipts, and/or credit card receipts. Invoices paid with cash and those not paid in full will not be reimbursed, and
4. Satisfaction of reporting requirements according to Exhibit C below.

Eligible expenditures may not be incurred prior to the effective date or subsequent to the termination date of the grant. Payments are subject to the availability of funds.

EXHIBIT C
REPORTING SCHEDULE

Progress reports are due on January 15th and July 15th for each year that the grant remains open. The final report and job verification documentation are due at the time of project completion or no later than 30 days after the grant end-date, whichever is sooner. The reporting schedule remains in effect for the duration of the grant including time extensions.

Failure to submit progress reports as required:

1. Will result in non-payment of payment requests,
2. Can result in the immediate termination of the grant,
3. Can result in the demand for immediate repayment of any funds paid by The Department of Commerce, and
4. Will negatively impact the grantee's eligibility for future Commerce grants.

EXHIBIT D
JOB VERIFICATION AND CLOSE OUT REQUIREMENTS

Building Reuse and Rural Health Care loans are eligible for forgiveness once the creation and maintenance of the full-time jobs committed for the project, as well as, all reporting requirements are approved by Commerce. Below are the requirements and procedure for approval.

Job Verification

To be considered eligible, a full-time job must be filled with one employee who works at least 35 hours per week and is paid at least minimum wage. Part-time, full-time equivalents, or contract/consulting positions are not eligible.

Grantees should submit the following as evidence of job creation and maintenance:

1. **Job Certification Form**—both the grantee and the participating business are required to complete respective sections of this form that attests to the creation of the number of jobs full-time jobs committed to receive the grant. The form must be signed by the authorized representatives of the local government grantee and the participating business.
2. **NCUI 101 Forms**—The grantee should submit copies of each company's *Employer's Quarterly Tax and Wage Report* (NCUI 101 forms) that have been submitted to the North Carolina Employment Security Commission according to the requirements below.
 - NCUI 101 Forms should be submitted to Commerce.
 - The forms must include the appropriate number of quarters to show that the company maintained the required employment level for six-consecutive months.
 - The employment level reported must meet or exceed the baseline number of employees reported at the time of the application plus the number of new, full-time jobs committed for the grant.
 - The jobs created and the baseline must be maintained concurrently during the same six-month period.
 - If the NCUI 101 forms include employees from other locations in North Carolina, the names of the employees working in the grant funded project facility should be highlighted, and a multi-site report should be provided.
 - If the NCUI 101 forms include both full and part-time employees an "f" should be written next to the name of each full-time employee and a "p" should be written next to the name of each part-time employee.
3. **Final Report**—the grantee must submit the Final Report Form that describes the activities and outcomes of the project.
4. **Photos**—the grantee must submit digital photos that show a variety of views of the completed project.

All forms, including reporting and request for payment, can be found on the Commerce website at <http://www.commerce.nc.gov/rgp>. Email completed forms and reports to rgpreports@commerce.nc.gov.

City of Greenville (the “Governmental Unit”) enters into this Loan Agreement and Legally Binding Commitment (the “LBC,” including the “Loan,” defined below with **UNX Industries, LLC, a North Carolina limited liability company** (the “Owner” and, together with the Governmental Unit, the “Parties”).

WHEREAS, pursuant to N.C.G.S. §§143B-472.127 and .128, the North Carolina Rural Infrastructure Authority (the “Rural Authority”) of the State of North Carolina (“State”) has awarded a grant (the “Grant”) to the Governmental Unit, and the North Carolina Department of Commerce (“Commerce”), an agency of the State, will administer the Grant; and

WHEREAS, the Grant is memorialized in an agreement (the “Grant Agreement”) between Commerce and the Governmental Unit, and the Grant Agreement includes Exhibit A (Scope of Project), Exhibit B (Payment Schedule), Exhibit C (Reporting Schedule), Exhibit D (Closeout Schedule/Job Requirements), Exhibit E (this LBC, which incorporates by reference the Grant Agreement and its other Exhibits), Exhibit F (Promissory Note) and Exhibit G (Waiver of Confidentiality (“Waiver”)); and

WHEREAS, without limitation, the Rural Authority awarded the Grant: (1) based on the application filed by the Governmental Unit and any subsequent materials supporting the application that have been approved of by Commerce in writing, all of which are incorporated into the Grant Agreement by reference; (2) based on the representation in the application that the Owner owns certain real property located at:

311 Staton Rd
Greenville, NC 27834

in **Pitt** County, North Carolina (the “Property”); (3) based on Commerce’s Grant requirements and guidelines, which are incorporated herein and which may be amended, modified or supplemented and applied accordingly to the Grant Agreement and this LBC by Commerce in its sole discretion; and for (4) the creation and retention of certain jobs in the course of completing certain renovations/construction work at the Property (altogether, the “Project,” as summarized in Exhibit A to this Grant Agreement); and

WHEREAS, the Governmental Unit and the Owner are required to enter into this LBC as a condition of the Governmental Unit loaning the Grant funds to the Owner.

NOW, THEREFORE, in consideration of the mutual promises and such other valuable consideration set out herein, the Parties mutually agree to the following terms and conditions:

1. **Third-Party Beneficiary.** The Parties agree that the State (including, without limitation, Commerce and the Rural Authority) is an intended third-party beneficiary of this LBC (including the Loan) and may, at its option, enforce the terms of this LBC or appear as a party in any litigation concerning the LBC.

2. Loan.

- (a) The Governmental Unit hereby loans to the Owner the sum of **\$80,000.00** (the “Loan”), which consists entirely of State Grant funds, to fund the Project. Exhibit A to the Grant Agreement refers to the entity (or entities, as applicable) required to create and maintain certain full-time new jobs, as defined in Paragraph 3(a), to complete the Project under this LBC as the “Company,” the “Employer” and the “Business” (together and hereinafter, the “Business”). The Owner specifically acknowledges that: it must repay the Loan in accordance with the terms of this LBC if the Business does not create and maintain the new jobs required by Paragraph 3(a) below; and as evidence of its obligation to repay the Loan, the Owner has executed the Promissory Note, Exhibit F to the Grant Agreement, which the Owner represents, acknowledges and agrees has been signed by every individual or entity that has any ownership interest in the Property and is fully binding on the Owner.
- (b). As conditions of receiving the Loan:
- i. The highest elected official of the Governmental Unit and a duly authorized representative of the Owner shall execute two originals of the LBC in its exact form (unless Commerce approves of a change to its terms in writing), and the Governmental Unit shall return one such original to Commerce;
 - ii. Every individual or entity that has any ownership interest in the Property shall execute two originals of the Promissory Note in its exact form, and the Governmental Unit shall return one such original to Commerce; and
 - iii. The Owner and the Governmental Unit shall ensure that an authorized representative of each Business executes a Waiver, Exhibit G to the Grant Agreement, and the Governmental Unit shall forward the original of any such Waiver to Commerce.
- (c). The Owner hereby represents and warrants that all Loan funds shall be utilized exclusively for the purpose of the Project and that it shall not make or approve of any improper expenditures of Loan funds.

3. New Job Creation, Maintenance of New Jobs and Baseline Number of Jobs and Verification.

- (a). New Job Creation and Maintenance of New Jobs and Baseline Number of Jobs. A “New Job” shall mean a full-time job (consisting of at least 35 hours per week of employment and eligibility for all benefits generally available for full-time employees of the Business) which is with the Business, is located in North Carolina, has a wage at least equal to the minimum wage, is created and maintained by the Business in order to complete the Project and is over and above the **45** full-time jobs in North Carolina (“Baseline Number”) that the Business reported having at the time of the application for the Project. The Owner agrees that the Business shall be required to create and maintain in existence for six (6) consecutive months **21** New Jobs prior to the Termination Date, unless this term is extended pursuant to Paragraph 5. Separate and apart from these New Jobs, the Owner agrees that the Business shall be required to maintain in existence its Baseline Number of jobs for as long as it takes the Business to create and maintain its required number of New Jobs.
- (b). Verification. When the New Jobs required by Paragraph 3(a) have been created and maintained for six (6) consecutive months, the Owner shall notify the Governmental

Unit so that it and/or Commerce can verify their creation and maintenance, as well as the maintenance of the Baseline Number of jobs and the satisfaction of all other conditions and terms of this LBC and the Project. The Owner shall cause any Business to provide to the Governmental Unit and Commerce, or their respective designees, full and complete access to all records of the Business necessary to verify the number and types of jobs created and maintained, the wages paid to employees and all other conditions and terms of this LBC and the Project. Failure of any Business to provide such access upon request shall constitute a material default by the Owner under the terms of this LBC and, in the sole discretion of the Governmental Unit and/or Commerce, may subject the Owner to repayment in an amount calculated under Paragraph 13 below.

4. Changes in the Project or Other Conditions.
 - (a). A “Project Change” is any material alteration, addition, deletion or expansion of the Project, including (without limitation) material changes to construction or rehabilitation, the terms or conditions of the loan under the LBC, the required number of New Jobs, the matching investment in the Project, any cessation of business by the Owner or any Business and any filing of bankruptcy by the Owner or any Business. There shall be no Project Changes unless expressly approved of by Commerce and the Governmental Unit in a separate, prior written agreement stating, if applicable, the costs and schedule for completing the Project Change.
 - (b). Additionally, the Owner shall immediately notify the Governmental Unit of any change in conditions or local law, or any other event, which may significantly affect the ability of it or any Business to perform the LBC or the Project. In their sole discretion, the Governmental Unit or Commerce may deem such a change in conditions, local law or other event to constitute a Project Change.
5. Term of LBC. The effective period of this LBC shall commence **6/20/2024** (“Effective Date”) and shall terminate **6/20/2026** unless terminated on an earlier date under the terms of this LBC (either one of which dates shall constitute the “Termination Date”) or unless extended for an express term in writing by the Governmental Unit.
6. Independent Status of the Governmental Unit.
 - (a). The State (including, without limitation, the Rural Authority and Commerce) and the Governmental Unit are independent entities from one another and from the Owner and any third party (including, without limitation, any Business). The Grant Agreement, the LBC, the Project and any actions taken pursuant to them shall not be deemed to create a partnership or joint venture between the State and the Governmental Unit or between or among either of them and the Owner or any third party (including, without limitation, any Business). Nor shall the Grant Agreement, the LBC or the Project be construed to make any employees, agents or members of the Owner or any third party (including, without limitation, any Business) into employees, agents, members or officials of the Governmental Unit or the State or to make employees, agents, members or officials of the Governmental Unit into employees, agents, members or officials of the State. Neither the Owner nor any third party (including, without limitation, any Business) shall have the ability to bind the

- Governmental Unit or the State to any agreement for payment of goods or services or represent to any person that they have such ability. Nor shall the Governmental Unit have the ability to bind the State to any agreement for payment of goods or services or represent to any person that it has such ability.
- (b). The Owner and any third party (including, without limitation, any Business) shall be responsible for payment of all their expenses, including rent, office expenses and all forms of compensation to their employees. The Owner and any third parties (including, without limitation, any Business) shall provide worker's compensation insurance to the extent required for their operations and shall accept full responsibility for payments of unemployment tax or compensation, social security, income taxes, and any other charges, taxes or payroll deductions required by law in connection with their operations, for themselves and their employees who are performing work pursuant to this LBC or the Project. All expenses incurred by the Owner or any third party (including, without limitation, any Business) are their sole responsibilities, and neither the Governmental Unit nor the State (including, without limitation, Commerce and the Rural Authority) shall be liable for the payment of any obligations incurred in the performance of the Project.
7. Project Records.
- (a). The Owner shall maintain and cause any Business to maintain full, accurate and verifiable financial records, supporting documents and all other pertinent data for the Project in such a manner as to clearly identify and document the expenditure of the State funds provided under this LBC separate from accounts for other awards, monetary contributions or other revenue sources for this Project.
- (b). The Owner shall retain and cause any Business to retain all financial records, supporting documents and all other pertinent records related to this LBC, the Loan and the Project for a period of five (5) years from the Termination Date. In the event such records are audited, all such records shall be retained beyond the five-year period until the audit is concluded and any and all audit findings have been resolved.
8. Monitoring, Reports and Auditing. The Owner agrees to generate and to cause any Business to generate such reports regarding the LBC or the Project as may be requested by the Governmental Unit or the State (including, without limitation, the Rural Authority or Commerce) in such form as they may request, including after the Termination Date. The Owner further grants and shall cause any Business to grant the Governmental Unit or the State (including any of its agencies, commissions or departments such as Commerce, the North Carolina State Auditor and the North Carolina Office of State Budget and Management) and any of their authorized representatives, at all reasonable times and as often as necessary (including after the Termination Date), access to and the right to inspect, copy, monitor and examine all of the books, papers, records and other documents relating to the LBC or the Project. In addition, the Owner agrees to comply and to cause any Business to comply at any time, including after the Termination Date, with any requests by the State (including, without limitation, the Rural Authority or Commerce) for other financial and organizational materials to permit the State to comply with its fiscal monitoring responsibilities or to evaluate the short- and long-range impact of its programs.

9. Termination; Availability of Funds.

- (a). If the Owner fails to fulfill in a timely and proper manner its obligations or violates any of its covenants or stipulations under the LBC or if any Business fails to fulfill those requirements applicable to it in the LBC, the Owner agrees that the Governmental Unit or Commerce has the right to terminate the LBC by giving the Owner written notice specifying the Termination Date, which shall be determined by the Governmental Unit or Commerce in their sole discretion. Upon such termination, neither the State nor the Governmental Unit shall have any responsibility to make Loan payments. Further, upon such termination, the Owner shall not expend any Loan funds without the express written authorization of the Governmental Unit and Commerce and shall return all unspent Loan funds to either the Governmental Unit or Commerce, upon request and as directed.
- (b). If the Governmental Unit fails to fulfill in a timely and proper manner its obligations or violates any of the covenants or stipulations under its Grant Agreement with Commerce, the Owner agrees that Commerce has the right to terminate its Grant Agreement with the Governmental Unit and/or terminate this LBC by giving, as applicable, the Governmental Unit or the Governmental Unit and the Owner written notice specifying the Termination Date, which Commerce may determine in its sole discretion. Upon such termination, neither the State nor the Governmental Unit shall have any responsibility to make Loan payments. Further, upon such termination, the Owner shall not expend any Loan funds without the express written authorization of the Governmental Unit and Commerce and shall return all unspent Loan funds to either the Governmental Unit or Commerce, upon request and as directed.
- (c). The obligations of the Rural Authority and/or Commerce to pay any Grant funds to the Governmental Unit and for the Governmental Unit to pay any Loan amounts to the Owner under this LBC are contingent upon the availability and continuation of funds for such purpose. If funds for the Grant and therefore the Loan become unavailable, the Owner agrees that either Commerce or the Governmental Unit has the right to terminate this LBC by giving written notice specifying the Termination Date, which either the Governmental Unit or Commerce may determine in their sole discretion. Upon such termination, neither the State nor the Governmental Unit shall have any responsibility to make Loan payments. Further, upon such termination, the Owner shall not expend any Loan funds without the express written authorization of the Governmental Unit and Commerce and shall return all unspent Loan funds to the Governmental Unit or Commerce, upon demand and as directed.

10. Liabilities and Loss. The Owner hereby agrees to release, indemnify and hold harmless the Governmental Unit and the State (including the Rural Authority and Commerce), and their respective members, officers, directors, employees, agents and attorneys (hereinafter collectively referred to as "Indemnified Parties"), from any claims of third parties (including, without limitation, any Business) arising out of any act or omission of the Owner or any third party (including, without limitation, any Business) in connection with the performance of this LBC or the Project, and for all losses arising from implementation of this LBC or the Project. Without limiting the foregoing, the Owner hereby releases the Indemnified Parties from, and agrees that such Indemnified Parties are not liable for, and agrees to indemnify and hold harmless the Indemnified Parties against, any and all liability

or loss, cost or expense, including, without limitation, reasonable attorneys' fees, fines, penalties and civil judgments, resulting from or arising out of or in connection with or pertaining to, any loss or damage to property or any injury to or death of any person occurring in connection with the Project, or resulting from any defect in the fixtures, machinery, equipment or other property used in connection with the Project or arising out of, pertaining to, or having any connection with, the Project or the financing thereof (whether or not arising out of acts, omissions or negligence of the Owner or of any third party (including, without limitation, any Business), or of any of their agents, contractors, servants, employees, licensees, lessees, or assignees), including any claims and losses accruing to or resulting from any and all subcontractors, material men, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the Project.

11. Owner Representations and Warranties. The Owner hereby represents and warrants that:
- (a). The Owner and every Business are duly authorized to do business under North Carolina law and are not delinquent on any federal, state or local taxes, licenses or fees.
 - (b). This LBC has been entered into and executed on behalf of the Owner by an individual with full actual and apparent authority to bind the Owner to the terms hereto, and the execution and delivery of this LBC have been duly authorized by all necessary action, and are not in contravention of law nor in contravention of any certificate of authority, bylaws or other applicable organizational documents of the Owner, nor are they in contravention of the provisions of any indenture, agreement or undertaking to which the Owner is a party or by which it is bound.
 - (c). The Promissory Note has been executed by every individual or entity that has any ownership interest in the Property and is fully binding on the Owner.
 - (d). There is no action, suit, proceeding or investigation at law or in equity before any court, public board or body pending, or, to the Owner's knowledge, threatened against or affecting the Owner, that could or might adversely affect the Project, the creation of the New Jobs or any of the transactions contemplated by this LBC, or the validity or enforceability of this LBC or the Owner's ability to discharge its obligations under this LBC.
 - (e). Upon the Owner's reasonable inquiry of any Business, there is no action, suit, proceeding or investigation at law or in equity before any court, public board or body pending, threatened against or affecting any Business that could or might adversely affect the Project, the creation of the Jobs or any of the transactions contemplated by this LBC or the validity or enforceability of this LBC or the ability of any Business to create the Jobs specified herein.
 - (f). No consent or approval is necessary from any governmental authority as a condition to the execution and delivery of this LBC by the Owner or the performance of any of its obligations hereunder, or else all such requisite governmental consents or approvals have been obtained. The Owner shall provide the Governmental Unit or Commerce with evidence of the existence of any such necessary consents or approvals at the time of the execution of this LBC.
 - (g). The Owner is solvent and has inquired of and received reasonable evidence from any Business of the solvency of that Business.

- (h). A cash match grant, loan or other funding (“Cash Match”) equal to the amount of the Loan shall have been unconditionally committed to the Project. The Governmental Unit shall have procured and contributed at least five percent (5%) of this Cash Match, but no part of this 5% contribution can have derived, either directly or indirectly, from any other State or federal source. All Cash Match funds shall be utilized exclusively for the purpose of the Project, and there shall be no improper expenditures of Cash Match funds. All Cash Match funds shall be expended prior to or simultaneously with and at the same rate as the Owner’s expenditure of Loan funds.
12. Cessation/Termination, Bankruptcy, Dissolution or Insolvency.
- (a). The Owner shall at all times preserve its legal existence, except that it may merge or consolidate with or into or sell all or substantially all of its assets to any entity that expressly undertakes, assumes for itself and agrees in writing to be bound by all of the obligations and undertakings of the Owner contained in this LBC. If the Owner so merges, consolidates or sells its assets without such an undertaking being provided, it agrees to repay to the Governmental Unit or Commerce, upon request and as directed, all unspent Loan funds. Further, any merger, consolidation or sale without such an undertaking shall constitute a material default under this LBC, and the Governmental Unit or Commerce may terminate the LBC upon written notice to the Owner and hold the Owner liable for any other repayment provided for under this LBC.
- (b). Other than as provided for in Paragraph 12(a), if the Owner or any Business ceases to do business or becomes the subject of any bankruptcy, dissolution or insolvency proceeding prior to the Termination Date, the Owner shall give the Governmental Unit immediate notice of the event, shall not expend any Loan funds without the express written authorization of the Governmental Unit and shall return all unspent Loan funds to the Governmental Unit or Commerce, upon demand and as directed and if permissible under applicable bankruptcy, dissolution or insolvency law.
- (c). If the Owner fails to provide the Governmental Unit notice of the Owner or any Business ceasing to do business or becoming the subject of any bankruptcy, dissolution or insolvency proceeding prior to the Termination Date, it shall constitute a material default under this LBC. If there is such a cessation or such a proceeding, the Governmental Unit or Commerce may terminate the LBC upon written notice to the Owner. Upon such termination, the Owner shall not expend any Loan funds without the express written authorization of the Governmental Unit and shall return all unspent Loan funds to the Governmental Unit or Commerce upon demand and as directed and if permissible under applicable bankruptcy, dissolution or insolvency law.
- (d). Notwithstanding the foregoing and wherever referred to in this LBC, “ceases to do business” shall not include (1) ceasing operations to maintain, service or upgrade real or personal property of the Owner, (2) season shutdowns of operations as long as such cessation does not exceed a total of four (4) weeks in any calendar year (excluding time attributable to an event of force majeure as described below) and (3) under the circumstances for the period of time described in Paragraph 22 below.

13. Additional Repayment Requirements and Remedies.

- (a). The repayment requirements and remedies addressed in this Paragraph 13 are in addition to those repayment requirements and other remedies set forth elsewhere in this LBC, including the requirements to repay unspent Loan funds. No remedy conferred or reserved by or to the State or the Governmental Unit is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy provided for in this LBC, or now or hereinafter existing at law, in equity, or by statute, and any such right or power may be exercised from time to time and as often as may be deemed expedient.
- (b). The Owner acknowledges that the Grant by the Rural Authority and the Loan by the Governmental Unit are predicated upon the creation and maintenance of the New Jobs and maintenance of the Baseline Number of jobs required by Paragraph 3(a) and that failure to create and/or maintain them will constitute a material default of this LBC.
 - i. If the Business fails to create and maintain such New Jobs, then the Owner shall repay to the Governmental Unit or Commerce, as directed, an amount equal to the product of (i) **\$3,809.52** (the amount of Loan funds divided by the number of New Jobs required to be created in Paragraph 3(a) and (ii) the number of New Jobs required to be created in Paragraph 3(a), minus the number of New Jobs actually created, above the Baseline Number reported, that have been in existence for six (6) consecutive months.
 - ii. Additionally, in the event that the Business fails to maintain its Baseline Number of jobs as required under Paragraph 3(a), the Business shall lose credit for any qualifying New Jobs under this LBC by the same number of jobs that the Baseline Number is short. For example, if the Baseline Number of jobs falls short by three (3) jobs as of the date the Business has created and maintained all required New Jobs, the number of New Jobs deemed created and maintained shall be reduced by three (3). The amount the Business must repay shall then be calculated in accordance with Paragraph 13(b)i.
 - iii. Either Commerce or the Governmental Unit shall notify the Owner in writing of the amount to be repaid and direct the Owner whether to repay such amount to the Governmental Unit for return to Commerce or repay the amount directly to Commerce. All such amounts shall be due immediately upon demand by the Governmental Unit or Commerce. If not paid within thirty (30) days following demand, the unpaid amount due hereunder and under the Promissory Note shall bear interest at the rate of 10% per annum after demand until paid. Upon default in such payment, the Governmental Unit or Commerce may employ an attorney to enforce their respective rights and remedies, and the Owner hereby agrees to pay the legal costs and reasonable attorneys' fees of the Governmental Unit and Commerce plus all other reasonable expenses incurred by such party in exercising any of its rights and remedies upon such defaults.
- (c). If there is a breach of any of the requirements, covenants or agreements in this LBC (including, without limitation, a failure to repay the amount required under Paragraph 13(b) within the time required), or if there are any representations or warranties which

- are untrue as to a material fact in this LBC or in relation to the LBC or the Project (including the performance thereof), the Owner agrees that the Governmental Unit or Commerce may require repayment from the Owner of an amount of Loan funds to be determined in their sole discretion but not to exceed the amount of Loan funds the Owner has already received under this LBC. Such requirements, covenants or agreements include but are not limited to Paragraphs 2, 3, 4, 9, 11 and 12 of this LBC.
14. No Waiver by Governmental Unit or the State. Failure of the Governmental Unit or the State (including, without limitation, the Rural Authority and Commerce) at any time to require performance of any term or provision of this LBC shall in no manner affect the rights of the Governmental Unit or the State at a later date to enforce the same or to enforce any future compliance with or performance of any of the terms or provisions hereof. No waiver of the Governmental Unit or the State of any condition or the breach of any term, provision or representation contained in this LBC, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of that or any other term, provision or representation.
 15. Waiver of Objections to Timeliness of Legal Action. The Owner knowingly waives any objections it has or may have to timeliness of any legal action (including any administrative petition or civil action) by the Governmental Unit or the State (including Commerce) to enforce their rights under this LBC. This waiver includes any objections the Owner may possess based on the statutes of limitations or repose and the doctrines of estoppel or laches.
 16. Special Provisions and Conditions.
 - (a). Nondiscrimination. The Owner agrees that it will not, and will ensure that the Business will not, discriminate by reason of age, race, religion, color, sex, national origin or disability related to the activities of this LBC or the Project.
 - (b). Compliance with Laws. The Owner shall at all times, and shall cause any Business at all times to, observe and comply with all laws, regulations, codes, rules, ordinances and other requirements (together, "Laws") of the state, federal and local governments which may in any manner affect the performance of the LBC or the Project.
 - (c). Non-Assignability. The Owner shall not assign or transfer any interest in the LBC without the prior written consent of the Governmental Unit and Commerce; provided however, that claims for money due to the Owner from the Governmental Unit under this LBC may be assigned to any commercial bank or other financial institution without such approval.
 - (d). Personnel. The Owner represents that it and any Business have or will secure at their own expense all personnel required to monitor, carry out and perform the scope of services of this LBC and the Project. Such employees shall not be employees of the State (including, without limitation, the Rural Authority or Commerce) or the Governmental Unit. Such personnel shall be fully qualified and shall be authorized under state and local law to perform such services.

22. Force Majeure. If (a) during the Grant Term the real or personal property located on or constituting the Property suffers damage or destruction caused by acts of God, fires, floods, storms, insurrection, riots, acts of the public enemy, national catastrophe, or similar unexpected events, (b) such damage or destruction was not principally caused by the negligence, willful misconduct or violation of applicable law by the Owner, (c) the Owner uses reasonable efforts to repair, or to work around, such damage or destruction reasonably promptly, and (d) as a direct result of such damage or destruction the Owner cannot satisfy the requirements and obligations of Sections 3 of this Agreement as and when this Agreement requires, then the Owner will be entitled to an extension of time not to exceed sixty (60) days to satisfy the requirements and obligations of Section 3 of this Agreement; provided that the Governmental Unit in its sole discretion with respect to the obligations it is owed by the Owner, may elect to extend that sixty day period to give the Owner additional time to satisfy those requirements.

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

Governmental Unit Name: _____

Signature: _____ [SEAL]

Printed Name: _____

Title: _____

Owner Name: _____

Signature: _____ [SEAL]

Printed Name: _____

Title: _____

For VALUE RECEIVED and subject to the terms of and secured by the Rural Economic Development Loan Agreement and Legally Binding Commitment – Private-Owner Building Reuse Program, Reference Number **2024-042-3201-2587** (“LBC,” which is incorporated by reference herein), the undersigned borrower[s] (the “Owner”) jointly and severally promise[s] to pay to lender the **City of Greenville** or its assigns (together, the “Governmental Unit”) or to the intended third-party beneficiary of this Promissory Note, the North Carolina Department of Commerce (“Commerce”), upon demand and as directed by either the Governmental Unit or Commerce, an amount of principal loan (“Loan”) funds under the LBC up to and including **\$80,000.00** Dollars but which amount shall not exceed the amount of Loan funds the Owner has actually received under the LBC, plus interest and attorney’s fees as addressed below. Unless otherwise specified herein, capitalized terms in this Promissory Note shall have the same meaning as those set forth in the LBC.

The Owner acknowledges and represents that: (i) the undersigned is or are the only person(s), entity or entities who or that have any ownership interests in the certain real property located at:

311 Staton Rd
Greenville, NC 27834

in **Pitt** County, North Carolina (the “Property”); and (ii) the undersigned shall be jointly and severally liable for any and all debts secured by this Promissory Note.

The Owner further acknowledges that: (i) in order for the Owner to receive the Loan, the LBC requires the Owner to complete a “Project”; (ii) in order for the Owner to receive the Loan, what the LBC identifies as the “Business” must maintain certain jobs and create and maintain certain other jobs in working with the Owner to complete the Project; (iii) the Loan from the Governmental Unit to the Owner under the LBC consists entirely of a grant from the State of North Carolina to the Governmental Unit, subject to certain clawback provisions; (iv) Commerce is an intended third-party beneficiary to the LBC and to this Promissory Note; and (v) the LBC specifies those circumstances in which the Governmental Unit or Commerce can terminate the LBC and require the Owner to repay an amount of Loan funds according to a formula or else in an amount to be determined in the sole discretion of the Governmental Unit or Commerce but which amount shall not exceed the amount of Loan funds the Owner has actually received under the LBC.

Upon default, the Governmental Unit and/or Commerce may employ attorneys to enforce their rights and remedies under this Promissory Note and the LBC, and the Owner agrees to pay their reasonable attorneys’ fees, plus all other reasonable expenses they incur in exercising their rights and remedies upon default. The rights and remedies of the Governmental Unit and Commerce, as described in this Promissory Note and the LBC, shall be cumulative and may be pursued singly, successively or together against the Owner (including each of the undersigned), the Property, or any other funds, property or security held by the Owner for payment or security, in the sole discretion of the Governmental Unit and Commerce. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

The Owner hereby waives protest, presentment, notice of dishonor and notice of acceleration and maturity and agrees to remain bound for the payment of principal, interest and all other sums due under this Promissory Note and the LBC, notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Promissory Note, or by way of any extension or extensions of time for the payment of principal and interest; and the Owner waives all and every kind of notice of such change or changes and agrees that the same may be made without notice of or consent to any of them.

This Promissory Note may not be amended, changed or altered except in writing executed by the Owner, the Governmental Unit and Commerce.

If not repaid within 30 days following demand hereunder, the Loan funds demanded by the Governmental Unit or Commerce under this Promissory Note shall bear interest at the rate of 10% per annum after demand until repaid. If either the Governmental Unit or Commerce initially demands Loan repayment from the Owner ("First Demand") in an amount less than the Loan funds the Owner has actually received under the LBC but, failing to receive repayment and, in its discretion under the LBC, increases the Loan repayment demand ("Second Demand") to the full amount the Owner has received under the LBC, then such interest on the difference between the First and Second Demands shall begin to accrue as of the date of the Second Demand.

For example, if under the terms of the LBC, a Business engages in an improper expenditure of Loan funds, the Governmental Unit has the discretion to require in a First Demand the partial repayment of Loan funds received by the Owner. Interest will begin to accrue at 10% per annum on whatever portion of the sum is not repaid as of the 31st day after the First Demand. Further, if the Owner fails to repay the First Demand in full, the Governmental Unit retains the discretion under the LBC to terminate the LBC and issue a Second Demand for the full repayment by the Owner of all Loan funds. Interest will continue accruing at 10% per annum on the original principal amount still unpaid from the First Demand and, following the expiration of 30 days from the Second Demand, interest will begin to accrue at 10% per annum on the additional unpaid principal Loan amount in the Second Demand.

Payment shall be made in lawful money of the United States of America via United States Mail First Class, Federal Express or UPS to the attention of the person at the address or in person at the address of the Governmental Unit or Commerce as directed in writing.

This Note shall be governed by, and construed in accordance with, the laws of the State of North Carolina.

IN WITNESS WHEREOF, the undersigned has (have) caused these presents to be executed under seal, pursuant to authority duly given, the day and year first above written.

EVERY SIGNATORY BELOW EXPRESSLY REPRESENTS THAT ALL INDIVIDUALS OR ENTITIES WITH ANY OWNERSHIP INTERESTS IN THE PROPERTY HAVE EXECUTED THIS PROMISSORY NOTE.

Dated as of: _____ , 20 _____

If by Individual: _____

Signature: _____ [SEAL]

Printed Name: _____

Dated as of: _____ , 20 _____

If by Entity: _____

Signature: _____ [SEAL]

Printed Name: _____

Limited Waiver of Confidentiality
Unemployment Tax and Wage Records
BUILDING REUSE PROGRAM

EXHIBIT G
2024-042-3201-2587

Name of Taxpayer _____

Address: _____

City: _____ State: _____ Zip: _____ Phone: _____

NC Unemployment Insurance Acct #: _____ Fed Tax ID #: _____

I hereby waive any right to confidentiality, as found in N.C.G.S. 96-4 or otherwise, for the limited purpose of authorizing disclosure of certain information contained in the quarterly unemployment insurance tax records of the above-named taxpayer (hereinafter, "Company") filed with the Division of Employment Security ("DES") of the North Carolina Department of Commerce to the **City of Greenville** ("Governmental Unit") and to the employees of the Rural Economic Division of the North Carolina Department of Commerce ("Rural Division") and members of the North Carolina Rural Infrastructure Authority ("Rural Authority") for the limited purpose of evaluating the issuance of and, in the event of such issuance, administering and ensuring compliance with, a grant and loan pursuant to N.C.G.S. 143B-472.127 and .128.

I recognize that DES is authorized to provide this information to the public officials of the Governmental Unit, the Rural Division and the Rural Authority in the performance of their public duties and that the verification of employment information for the purpose of administering the grant and loan at issue is within the scope of the public duties of the Governmental Unit, the Rural Division and the Rural Authority. I hereby authorize DES to disclose information contained in the Company's quarterly unemployment insurance tax records (the NCUI-101 or successor form) to the Governmental Unit, the Rural Division and/or the Authority for these purposes.

I recognize that unemployment insurance tax information provided in the aggregate to DES and disclosed to the Governmental Unit, the Rural Division and/or the Authority, and the Company's aggregated tax and wage information provided to or otherwise in possession of the Governmental Unit, the Rural Division and/or the Authority, may be treated as public information. This waiver is not intended to release the Governmental Unit, the Rural Division and/or the Authority from any obligation they may have under North Carolina law to maintain the confidentiality of any and all information which could reveal or permit someone to ascertain the identity of any individual employee or that employee's line item unemployment insurance tax or other tax or wage information.

Signature Chief Financial Officer or Other Authorized Company Official

Print Name

Title

The Department of Commerce strongly encourages, but does not require, the Governmental Unit secure the funds loaned to the property owner, **UNX Industries, LLC, a North Carolina limited liability company**, with a Deed of Trust on the property.

Please check the appropriate box below indicating the intention of the Governmental Unit:

- The Governmental Unit will secure the funds with a Deed of Trust listing the **City of Greenville** as the beneficiary in the amount of **\$80,000.00**.

- The **City of Greenville** (“Governmental Unit”) has elected NOT to secure with a deed of trust on the subject property the **\$80,000.00** in grant funds awarded by the North Carolina Department of Commerce (“Commerce”) for a building reuse grant. Governmental Unit acknowledges and agrees that it is liable to the State for any grant funds that must be repaid under the Grant Agreement or Legally Binding Commitment, including (without limitation), any required repayments due to the property owner’s failure to create and maintain jobs, which could include the full amount of the grant. Governmental Unit acknowledges that its liability to Commerce arises whether or not it is able to collect any repayment from the property owner under the Legally Binding Commitment, but still elects not to obtain a deed of trust on the subject property.

Please fill in the box below:

Governmental Unit Name:	<u>City of Greenville</u> _____
By (Signature):	_____
Printed Name:	_____
Title:	_____
Date:	_____



City of Greenville, North Carolina

Meeting Date: 08/08/2024

Title of Item: Resolution for a Job Creation Economic Development Incentive and Grant Agreement for Attends Healthcare Products, Inc./Project Block

Explanation: Project Block/Attends Healthcare Products, Inc. ("Attends") is an economic development project for a company that designs and manufactures high-quality absorbent hygiene products in the United States, Canada and Europe. As part of the project, the company has a 666,000 square foot facility that will undergo renovations.

Attends is projected to create 25 jobs and make a capital investment of \$26,200,000 in real and personal property. Based on the projected economic impact, the company is eligible to receive a Job Creation Grant from the City of Greenville for up to \$50,000 over a 2-year grant period. Qualified jobs for grant funding will be based on jobs created beginning on or after September 1, 2024, and will require a 3-year maintenance period at the end of the 2-year grant period.

The grant will be paid in one lump-sum payment of up to \$50,000 and will be paid upon annual submission of the company's State of North Carolina NCUI 101 Quarterly Tax and Wage Report to show job creation and maintenance, and other supporting documentation reflecting compliance with federal, state and local laws. The grant is subject to reimbursement upon an event of default.

Fiscal Note: The company will be eligible to receive a lump sum payment of up to \$50,000 over a 2-year grant period.

Recommendation: City Council hold a public hearing on the grant award and approve the attached resolution and grant agreement with the company.

ATTACHMENTS

- [Resolution - Job Creation Grant - Project Block.pdf](#)
- [Project Block - Attends Healthcare Products, Inc. - Job Creation Grant Agreement.DOCX](#)

RESOLUTION NO. ___-24

RESOLUTION OF THE GREENVILLE CITY COUNCIL APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE FOR PROJECT BLOCK/ATTENDS HEALTHCARE PRODUCTS, INC.

WHEREAS, N.C. Gen. Stat. §158-7.1 grants authority to the City of Greenville (“City”) to make appropriations and expenditures for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the corporate limits of the City or in Pitt County, or for other purposes which the Greenville City Council finds, in its discretion, will increase employment, taxable property base, and business prospects of the City;

WHEREAS, Project Block includes an existing company, Attends Health Care Products, Inc. (Attends), which designs and manufactures high-quality absorbent hygiene products in the United States, Canada and Europe and is looking to expand in Greenville, NC;

WHEREAS, Attends owns the property located at 1029 Old Creek Road, Greenville, NC 27834 which is in the Indigreen Corporate Park and the City’s Extraterritorial Jurisdiction. The company will create up to 25 jobs and make capital investments (real and personal property) of approximately \$26,200,000 over a 2-year period in Pitt County;

WHEREAS, the job creation will provide high-paying jobs with an average annual wage of \$56,746, and the real and personal property investments will increase the tax base and provide a location for the new positions to work;

WHEREAS, the Job Creation Grant (“Grant”) will award a lump sum of up to \$50,000 total over a 2-year period and will be paid to the company only upon proof of real and personal property investments, creation of up to 25 full-time jobs and compliance with federal, state and local laws and regulations;

WHEREAS, the Greenville City Council has held a public hearing to consider whether to participate in the economic development project by authorizing the Grant be paid to the company;

WHEREAS, if this Grant were not approved, the company may take its economic development project to another location; and

WHEREAS, the Greenville City Council does hereby find and determine that the proposed economic development project will tend to increase the taxable property base of the County, increase the business prospects of the City, and create high-paying jobs, and that it is in the public interest to provide assistance, as authorized by N.C. Gen. Stat. §158-7.1, in order to encourage the company to develop the project described herein.

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

1. The City approves the appropriation and expenditure of a lump-sum for up to \$50,000 total over a 2-year period for the company as an economic development incentive.
2. The Economic Development Grant Agreement between the City and company, which includes terms that require the company to make capital investments, including acquisition and improvements to the property located at 1029 Old Creek Road, and create up to 25 new jobs, is hereby approved.
3. New full-time job creation levels must be created based on the agreed-upon schedule, beginning on the effective date of the agreement and be met each year prior to grant funds being dispersed the following year.
4. All new full-time jobs and capital investments must be maintained at least three years following completion of the annual grant installments, or until August 31, 2029.
5. The Mayor, City Manager or their designee are authorized, empowered and directed to do any and all acts and to execute any and all documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by this Resolution, except that none of the above shall be authorized or empowered to do anything or execute any document which is in contravention, in any way, of the specific provisions of this Resolution. In addition, the City Manager or City Attorney is authorized to make any non-substantive or clerical revisions to the Agreement referenced above.

Adopted this 8th of August, 2024.

P.J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

**ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF
GREENVILLE, NC AND COMPANY FOR AN ECONOMIC
DEVELOPMENT INCENTIVE FOR ATTENDS HEALTHCARE
PRODUCTS, INC./PROJECT BLOCK**

THIS AGREEMENT is made and entered into this the ____ day of _____, 202__ (“effective date”), by and between the City of Greenville, a municipal corporation organized and existing pursuant to the laws of the State of North Carolina, hereinafter referred to as the “City”, and Attends Healthcare Products, Inc., a corporation duly organized and existing under the laws of the State of Delaware, and authorized to conduct business in the State of North Carolina (hereinafter referred to as “the Company”, having its headquarters place of business at 8020 Arco Corporate Drive, Suite 200, Raleigh, NC 27617-2037 and a local address of 1029 Old Creek Road, Greenville, NC 27834.

WITNESSETH:

WHEREAS, North Carolina General Statute (G.S.) § 158-7.1 grants the authority to the City to make appropriations for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the corporate limits of the City or the City’s Extraterritorial Jurisdiction (ETJ), or for other purposes which the City Council of the City finds, in its discretion, will increase the population, taxable property base, and employment prospects of the City or County;

WHEREAS, the Company is developing an economic development project (“Project”) consisting of improvements to existing buildings within the extraterritorial jurisdiction of the City, expansion of the workforce (creation of 25 jobs, with a combined average wage at or above \$56,746) and taxable investment in equipment and machinery, which is expected to increase the taxable property base in the County, and to stimulate the local economy, promote business, and provide employment opportunities;

WHEREAS, the Company has stated in its application for a Job Creation Grant that it is investigating and/or is in discussions with other states about its Project described herein;

WHEREAS, the City’s Job Creation Grant program requires the Company to pay 50% of employee health insurance or an equivalent benefit, and the Company must pay an average wage rate for all employees at the investment site equal to or greater than \$56,746;

WHEREAS, the Company intends to improve its real property located at 1029 Old Creek Rd, Greenville, North Carolina and the Company will invest approximately \$1,500,000.00 to improve such properties based on the schedule set forth in Section II, subsection 3. Additionally, the Company intends to make new capital expenditures through the acquisition of approximately \$25,200,000 in machinery and equipment with the acquisitions to occur based on the schedule set

forth in Section II, subsection 5. No acquisitions shall occur later than August 31st, 2026;

WHEREAS, as an inducement to the Company, the City has approved the appropriations and expenditures as hereinafter set forth for the specific purpose of making economic development grants (“Job Creation Grants”) based upon the creation of jobs based on the schedule set forth in Section II, subsection 6, and shall remain in effect at least three (3) years beyond the completion of annual grant installments. Qualified Jobs created beginning on September 1, 2024, and in alignment with this Agreement will count toward subsequent years for the maximum two (2) year period (Calendar years September 1, 2024 -August 31, 2026);

WHEREAS, in consideration of the economic development incentives, the Company agrees to comply with the covenants and conditions binding upon it as set forth in this Agreement; and

WHEREAS, the parties desire to reduce their agreement to written form, clearly stating their respective responsibilities under the Agreement, and setting forth provisions regarding remedies for breach of those responsibilities by the Company and for recapture of sums appropriated or expended by the City upon the occurrence of events specified in the Agreement, as required by G.S. § 158-7.1(h).

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION I – DEFINITIONS

1. Definitions

1.1 “Qualified Job”: Full-time permanent positions that are created within the City limits or the City’s ETJ as of and following September 1, 2024, and retained within the City limits or the City’s ETJ for three (3) years beyond the completion of annual grant installments, and which are evidenced by the Company’s annual 4th Quarter NCUI 101 Quarterly Tax and Wage Report and any other supporting documentation as reasonably necessary to establish such positions and employment for the applicable duration. A job will be considered created regardless of a change in actual employee due to separations in the normal course of business. The Company shall be considered to have met its Qualified Job target if at least 85% of the anticipated Qualified Jobs that meet at least 95% of the average wage rate required and referenced herein have been obtained.

1.2 “Economic development incentive payment”, “grant payment” or “payment”: A one-time grant payment of up to \$50,000 upon the creation and maintenance of 25 Qualified Jobs during the Grant Period as defined herein. In any such event, the total grant payments shall not exceed \$50,000 over the term of this Agreement. Any Grant Period year in which the grant payment would make total payments for Qualified Jobs in excess of \$50,000, the grant payment shall be reduced accordingly.

1.3 “Effective date”: The date this Agreement is in effect, and such date is determined by the City and is indicated on the first page of this Agreement.

1.4 Maximum 2-year period, Calendar Years (plural) referenced herein means the period from September 1, 2024, through August 31, 2026.

1.5 “Grant Period”: The term of this Agreement shall commence on the effective date of this Agreement as defined herein and expire on August 31, 2029, unless earlier terminated as provided herein.

SECTION II – COMPANY

2. In order to induce the City to enter into this Agreement and to appropriate and expend monies for payment of economic development incentives, the Company represents, warrants and certifies to the City that as of the execution date hereof:

2.1. Attends Healthcare Products, Inc. (together, the “Company”) are limited liability corporations duly organized and existing under the laws of the State of North Carolina, authorized and in good standing to conduct business in the State of North Carolina and have a place of business within the State of North Carolina.

2.2 The Company has the corporate power and authority to own its properties and assets and to carry on its business and has the corporate power to execute and perform this Agreement.

2.3 The undersigned Manager of the Company has the right, authority, and duty to execute this Agreement in the name and on behalf of the Company.

2.4 This Agreement (i) is a valid and binding instrument and agreement of the Company, enforceable against the Company in accordance with its terms; (ii) does not violate any order of any court or other agency of government binding on the Company; the charter documents or operating agreement of the Company; or any provision of any indenture, agreement or other instrument to which the Company is a party; and (iii) does not conflict with, result in a breach of, or constitute an event of default, or an event which, with notice or lapse of time, or both, would constitute an event of default, under any indenture, agreement or other instrument to which the Company is a party.

2.5 There is no suit, claim, action or litigation pending, or to the best knowledge of the Company threatened, relating to the Improvements, the use of the Improvements for their intended purpose, or any other matter contained herein.

2.6 To the best of the Company’s knowledge, there is no impediment to the fulfillment of the purpose contemplated by this Agreement.

2.7 The Company is not engaged in a business that would be exempt from property or sales taxes.

2.8 The Company has, or will, obtain all required permits prior to beginning operations for which permits are required. This includes but is not limited to, environmental permits, and any other permits required by local, state or federal entities to perform the Project herein.

2.9 The Company is not in default on any contractual obligations, or other federal, state

or local grant agreements related to the performance of the Project herein.

3. Real Property Investments. The Company shall make taxable investments to acquire and improve the real property located at 1029 Old Creek Rd., Greenville, North Carolina (the “Property”). It is expected that cumulative expenditures for said investments will meet or exceed approximately \$1,500,000 by August 31, 2026, all of which will qualify and result in additional value for ad valorem tax purposes as determined by the Pitt County Tax Office. The improvements to be made by the Company at the Property shall include a renovation of the building on the Property located at 1029 Old Creek Rd., Greenville, North Carolina for the purposes of expanding the Company’s manufacturing operations in Greenville (the improvements and fixtures to be located on the Property pursuant to the renovation are referred to herein as the “Improvements”). The Company shall be treated as having met the cumulative expected investment projection if at least 90% of the total anticipated investment (defined as the total of real property and personal property investment) has been obtained.

If applicable, the Company shall provide the City with the final plans for its review for consistency with said depiction and the description of such Improvements as specified herein prior to a building permit being issued. During construction, the Company will allow the City access onto the Property upon reasonable advance notice so that the City may conduct inspections of the work for consistency with said depiction and the description of the improvements as specified herein. The Improvements and the construction related to the Improvements shall be completed and available for occupancy, as evidenced by the issuance of a certificate of occupancy, no later than August 31, 2026. The Company will maintain taxable investments in place, in good condition (ordinary wear and tear excepted) at least through the duration of this agreement, or at least until August 31, 2029.

4. The Company shall be the owner of the taxable investments described herein continuously during the period from the effective date of this Agreement until three (3) years after receipt of the final grant installment.

5. Personal Property Investments. The Company shall make taxable investments through the acquisition of machinery and equipment and will meet or exceed approximately \$25,200,000 by August 31, 2026. The Company shall maintain the machinery and equipment in good condition (ordinary wear and tear excepted) through the duration of this Agreement, or at least to August 31, 2029. The Company shall be treated as having met the expected personal property investment projection if at least 90% of the total anticipated investment (defined as the total of real property and personal property investment) has been obtained.

6. Job Creation. The Company’s intent and desire is to create 25 Qualified Jobs within the maximum two (2) year period (Calendar years 2024-2026) of this Agreement based on the following schedule: 6 within the first 6 months after the effective date of this Agreement; 6 additional jobs within 12 months after the effective date of this Agreement; and 13 additional jobs within 24 months of the effective date of this Agreement; and the average wage of such job is equal to or greater than \$56,746. For the avoidance of doubt, the Company shall be treated as having met the expected average wage required herein if the average wage for all Qualified Jobs is greater than \$53,908.70, which represents 95% of \$56,746.00. Qualified jobs shall commence in the period defined herein and will remain in effect at least three (3) years beyond the completion of grant installments. Qualified Jobs created beginning on September 1, 2024, and in alignment

with this Agreement will count toward subsequent years for the maximum two (2) year period for Qualified Jobs creation (Calendar years September 1, 2024-August 31, 2026). The Company shall be considered to have met its Qualified Job target if at least 85% of the anticipated Qualified Jobs have been created.

7. Health Insurance and Wages. The Company shall pay at least 50% of employee health insurance or an equivalent benefit for recipients of the Qualified Jobs created and the Company shall pay an average wage rate for all Qualified Jobs at the investment site equal to or greater than \$56,746.00. For the avoidance of doubt, the Company shall be treated as having met the expected average wage herein if the average wage for the Qualified Jobs is greater than \$53,908.70 which represents 95% of \$56,746.00. If the Company is not providing health insurance, equivalent benefit shall be reviewed by the City for satisfaction. In addition, the Company shall submit its annual 4th Quarter NCUI 101 Quarterly Tax and Wage Report and complete the annual certification (attached herein and marked as Exhibit A) which among other things documents the number of Qualified Jobs that have been created. The Company shall be treated as having met the expected average wage herein if the average wage for Qualified Jobs is within at least 95% of \$56,746.00.

8. The Company shall provide the City with a copy of all agreements governing incentives it has received for the Project from all North Carolina State and local sources upon reasonable notice and request and shall provide annual updates to the City regarding the amounts of incentives actually received and status of the agreements.

9. Non-discrimination. The Company will exercise good faith efforts to hire residents of the Greenville Metropolitan Service Area (M.S.A.) and use local, small, minority and women-owned businesses when such goods or services can be obtained at competitive prices. The Company shall not discriminate during the performance of this Agreement 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.

10. Insurance. At all times during the term hereof Company shall carry workers compensation insurance with such limits as required under North Carolina law, together with general liability insurance in an amount not less than \$1,000,000 per occurrence for bodily injury or property damage, and a general aggregate limit of \$2,000,000. Additionally, to the fullest extent permitted by law, Company shall indemnify and hold harmless the City of Greenville, its employees, officials (elected and appointed), agents and consultants against any and all liability arising out of or in connection with any of the operations or obligations of Company including but not limited to any said operations or obligations subcontracted or assigned to a different person or entity from claims, damages, losses, and expenses, including but not limited to attorneys' fees, which is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, caused by acts or omissions of the Company or anyone directly or indirectly employed by them or anyone for whose acts of the Company may be liable, regardless of whether such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such an obligation shall not be construed to negate, abridge or reduce other rights or obligation of indemnity which would otherwise exist as to a party or person described in this paragraph.

SECTION III – THE CITY

11. Representations. The City represents to the best of its knowledge, that this Agreement has been duly authorized, executed and delivered by the City; that this Agreement complies with the terms and requirements of the City’s enabling laws and ordinances and is binding upon and enforceable against the City with its terms; it is entering this Agreement in good faith; and payment of the grant in accordance with this Agreement will be made as indicated herein.

12. Payment of Grant. The City will only make one grant payment in accordance with this Agreement, and such payment will be based upon the confirmed addition of the specified number of Qualified Jobs in each such years (calendar years September 1, 2024-August 31, 2026) as follows:

12.1 The City will provide a one-time grant payment of \$50,000 based on satisfactory creation and maintenance of 25 jobs during the period of this Agreement. In any such event, payment from the City shall not exceed \$50,000 during the term of this Agreement. For any grant payment in which the grant installment would make the total cumulative payments under this Agreement exceed \$50,000, the grant payment shall be reduced accordingly.

12.2 The Company will be eligible for the grant payment within sixty (60) days of providing to the City sufficient documentation, to the reasonable satisfaction of the City and confirmation that the Company has complied with required preconditions to be eligible for the grant payment by the City, including such additional information as may be reasonably requested by the City. The City will pay to the Company an economic development incentive payment in the amount of \$50,000 based on creation and maintenance of 25 Qualified Jobs based on the annual 4th Quarter NCUI 101 Quarterly Tax and Wage Report. In any such event, payments from the City shall not exceed \$50,000 over the term of this Agreement. Any grant year in which the grant installment would make total payments in excess of \$50,000, the grant installment to be paid shall be reduced accordingly by the City.

12.3 Release of any incentive payment under this Agreement is contingent on the Company providing verification that the Company has complied with all of the provisions herein.

SECTION IV – ADDITIONAL PROVISIONS

13. Event of Default and Obligation to Repay Grant Award.

The Company shall be in default under this Agreement if any one or more of the following events (each, an “Event of Default”) shall occur for any reason whatsoever (and whether such occurrence shall be voluntary or involuntary or come about or be affected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), and the Company fails to cure such event of default (or take remediation steps to the satisfaction of the City) within 30 days after notice by the City:

13.1 **Failure to Create and Maintain Jobs.** If, during the Grant Period the Company fails to create and maintain the required number of Qualified Jobs, then the Company shall repay to the City an amount equal to \$1,000 for each job below the required number of Qualified Jobs created and maintained by the Company for the year in which such shortfall occurs. A shortfall shall not include jobs which are temporarily vacant due to normal separations, nor shall a shortfall

include open positions which the Company is attempting to fill in good faith, but which remain open due to workforce shortages.

13.2 Failure to Provide Health Insurance. If, at any time during the Grant Period set forth in Section I, the Company fails to provide health insurance to all permanent full-time employees at the amount required herein, or otherwise approved by the City, the Company will be in default of this Agreement and will reimburse the City the total amount of the grant funds previously disbursed in accordance with this Agreement.

13.3 Ceasing Project Operations. If, at any time during the Grant Period the Company substantially ceases operations, the Company shall immediately repay all grant funds previously disbursed in accordance with this Agreement.

13.4 Failure to Achieve Wage Standard. If, at any time during the Grant Period the average wage of the group of all permanent full-time jobs at the Company fails to equal or exceed 100% of the average wage rate for the Greenville Metropolitan Service Area (M.S.A.), or \$52,879, the Company will be in default under this Agreement, no further disbursements will be made, and the Company must reimburse the City the total amount of the grant funds previously disbursed in accordance with this Agreement. For the avoidance of doubt, the Company shall be treated as having achieved the expected wage standard if the average wage for all Qualified Jobs is greater than \$53,908.70, which represents 95% of \$56,746.

13.5 Failure to Make and/or Maintain Ownership of Capital Investments. If, at any time during the Grant Period or the period set forth in this Agreement, the Company fails to meet the required capital investments and maintain ownership of same for taxable purposes, the Company will be in default under this Agreement. Further, the Company cannot claim the Property and Improvements to be tax exempt for property tax purposes at least through August 31, 2026, as specified in this Agreement. In the event the Company fails to comply with this requirement, no additional disbursements will be made, and the Company will be required to reimburse the City the total amount of the grant funds previously disbursed.

13.6 Failure to Comply with Related Project Agreements. If, at any time during the Grant Period or the period set forth in this Agreement, the Company defaults on any federal, state, and/or local agreement related to the activities or Project contained herein or the Company fails to obtain any necessary permits from any federal, state and/or local entities, including but not limited to, environmental permits, prior to or during the performance under this Agreement, no further disbursements will be made, and the Company must reimburse the City the total amount of the grant funds previously disbursed in accordance with this Agreement.

13.7 Other Failures to Comply. The Company will be required to reimburse grant funds previously disbursed for failure to comply, including:

a. any material representation, warranty, certification or other statement of fact contained in this Agreement or in any writing, certificate, or report furnished by the Company to the City in connection with the transaction described in this Agreement that is determined to be false or misleading in any material respect when given;

b. a court of competent jurisdiction enters an order, judgment, or decree

appointing a custodian, receiver, trustee, liquidator, or conservator of the Company or of the whole or any substantial part of its Property, or approves a petition filed against the Company seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute; or, under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction assumes custody or control of the Company or of the whole or any substantial part of its Property;

c. the Company is unable to pay its debts generally as they become due; files a petition to take advantage of any insolvency statute; makes an assignment for the benefit of creditors; commences a proceeding for the appointment of a receiver, trustee, liquidator, or conservator of itself or of the whole or any substantial part of its Property; files a petition or answer seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state.

13.8 Recovery of Costs. If the Company fails to reimburse any amount payable hereunder, on demand, the City may recover the costs of collection to obtain recovery from the Company, including reasonable attorney's fees.

13.9 Non-Exclusive. The repayment obligations and remedies addressed in this subsection 13 are in addition to those repayment requirements elsewhere in the Agreement. No remedy conferred or reserved by the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy provided for in this Agreement, or now or hereinafter existing at law, in equity, or by statute, and any such right or power may be exercised from time to time and as often as may be deemed expedient. In no event shall the repayment obligations exceed the amount of Grant payments actually disbursed by the City.

13.10 Force Majeure. Any delay in the performance of any of the duties or obligations of the Company shall not be considered a breach of this Agreement for, and the time required for performance shall be extended for a period equal to, the lesser of (i) the period of such delay or (ii) 24 months, provided that such delay has been caused by or results from any events beyond the reasonable control of the Company, including, without limitation, 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 facility; or other unforeseeable causes beyond the reasonable control and without the fault or negligence of the Company, which delay affects the Company or the ability to construct Improvements on the Property. The Company shall give prompt notice to the City of such cause and shall take whatever reasonable steps are necessary to relieve the effect of such cause as promptly as possible. No such event shall excuse the payment of any sums due and payable hereunder on the due date thereof except any payment due upon the occurrence of any act or event for which delayed performance is excused as provided above.

14. Reduction in Reimbursement. Notwithstanding any provisions included herein, reimbursement required under this Agreement may be reduced, at the discretion of the City, based on the following:

14.1 If such Event of Default occurs on or before August 31, 2027, the repayment amount shall be 100% of the grant payments disbursed as of this date.

14.2 If such Event of Default occurs on or after September 1, 2027, and on or before August 31, 2028, the repayment amount shall be 75% of the grant payments disbursed as of this date.

14.3 If such Event of Default occurs on or after September 1, 2028, and on or before August 31, 2029, the repayment amount shall be 50% of the grant payments disbursed as of this date.

15. Non-Appropriation. The Company and the City acknowledge that any monies appropriated and expended by the City for economic development incentives, as provided in this Agreement, are for a bona fide public purpose and are extended in good faith reliance on G.S. § 158-7.1. Funding under the Job Creation Grant program may be contingent upon funding being budgeted by the City to support the program and subject to availability of funding, such incentive grants may be paid by the City from any fund sources of its choice. If funding ceases to be available, this Agreement shall automatically terminate. In the event a court of competent jurisdiction, after final appeal, rules, to which either the Company or the City is a party, that all monies expended by the City pursuant to this Agreement were not offered and accepted in good faith and in compliance with G.S. § 158-7.1 and, further, that such monies must be repaid, the Company will make such repayment to the City. In the event one or more lawsuits are brought against the City or any City elected official, officer, agent or employee, or the Company, challenging the legality of this Agreement, then the City and the Company shall exercise their best efforts to defend against any and all such lawsuits.

16. Notice. All notices, certificates or other communications required or permitted to be given or served hereunder shall be in writing and shall be deemed given at the time of actual delivery, if it is personally delivered or sent by fax. If the notices, certificates or other communications required or permitted to be given or served hereunder are sent by United States Postal Service (USPS) or other courier service that retains receipts for its deliveries, it shall be deemed given or served upon the third calendar day following the day on which such notice, certificate or other communication is deposited with the USPS or upon actual delivery, whichever occurs first, properly addressed as follows:

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

With copy to: City Attorney
City of Greenville
P.O. Box 7207
Greenville, NC 27835

Company: Attends Healthcare Products, Inc.

Attn: David Struhs
8020 Arco Corporate Drive, Suite 200,
Raleigh, NC 27617-2037

The City or the Company may, by notice given to the other, designate any further or other different addresses to which notices, certificates, requests or other communications shall be sent.

17. No Third-Party Rights. This Agreement is intended for the benefit of the City and the Company and not any other person. This Agreement shall inure to the benefit of, and is binding upon, the City and the Company and their respective successors and assigns. However, neither this Agreement nor any rights, privileges, or claims created by this Agreement may be transferred by the Company without the prior written approval of the City, which shall not be unreasonably withheld. An instrument shall be filed in the Office of the Register of Deeds of Pitt County which provides notice that the Property is subject to the conditions, requirements, and restrictions as contained in this Agreement. The instrument shall be indexed in the name of the Company in the grantor index.

18. Modification. Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified or altered except by written agreement of the parties.

19. Severability and Survivability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. Further, any term, condition, covenant or obligation which requires performance by either party subsequent to termination of this Agreement shall remain enforceable against such party subsequent to such termination.

20. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such fully executed counterpart.

21. Governing Law. This Agreement shall be governed by and shall be construed in accordance with the laws of the State of North Carolina; venue of any action shall be in the general court of justice in Pitt County, or if in federal court, in the Eastern District of North Carolina.

22. Construction Against Drafter. Both the Company and the City acknowledge and stipulate that this Agreement is the product of mutual negotiation and bargaining, and that it has been drafted by counsel for both the Company and the City. As such, the doctrine of construction against the drafter shall have no application to this Agreement.

23. Indemnification and Hold Harmless. Company and City hereby agree to indemnify, defend and hold the other party, its officers, directors, members, partners, agents, consultants, and employees harmless from and against any and all damages or other amounts payable to a third-party claimant, as well as any reasonable attorneys' fees and costs of litigation arising out of or resulting from any claim, suit, proceeding or cause of action brought by a third-party against either party, its officers, directors, members, partners, agents, consultants, and employees based on gross negligence or willful misconduct by such indemnifying party, its

officers, directors, members, partners, agents, consultants, or employees as a result of work performed pursuant to this Agreement.

24. Performance of Government Functions. Nothing contained in this contract 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.

25. Forbearance Not Waiver. No action or failure to act by either party shall constitute a waiver of any of its rights or remedies that arise out of this Agreement, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

26. E-Verify Requirements. (A) If this contract is awarded pursuant to G.S. § 143-129, the Company represents and covenants that the Company and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the NCGS; (B) If this contract is subject to G.S. § 143-133.3, the Company and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NCGS.

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

28. Compliance with Laws. The Company shall comply with all applicable Federal, State, and local laws, ordinances, rules, and regulations pertaining to the performance of duties under this Agreement.

29. Assignment. There shall be no assignment, subletting or transfer of the interest (including payments) of the Company in any of the duties covered by the Agreement without the written consent of the City, which shall not be unreasonably withheld. Unless the City agrees otherwise in writing, the Company and all assignees shall be subject to all of the City's defenses and shall be liable for all of the Company's duties that arise out of this Agreement and all of the City's claims that arise out of this Agreement. Without granting the Company the right to assign, it is agreed that the duties of the Company that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

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

31. 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.

32. 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.

33. Conflict of Interest.

The Company 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.

The Company covenants that to the best of its knowledge 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 the Company, its employees or associated persons or entities shall be disclosed to the City.

The Company 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.

The Company shall make any such disclosure to the City in writing and immediately upon the Company'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, to the best of the Company's knowledge, has any personal financial interest, direct or indirect, in this Agreement, the proceeds hereunder, the Project or Company, either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

34. Independent Contractor. It is the express intent of the Parties that this Agreement shall not create an employer-employee relationship, and the Company, or any other employee or other person acting on behalf of the Company in the performance of this Agreement, shall be deemed to be independent contractor(s) during the entire term of this Agreement or any renewals thereof. The Company shall not receive any additional compensation in the form of wages or benefits from the City which are not specifically set forth in this Agreement. The Company shall assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, social security and income tax law, with respect to the Company or any such employees of Company as may be engaged in the performance of this Agreement. It is the express intent of the Parties that this Agreement shall not create an agency relationship between the Parties. Neither the City nor its employees shall be deemed agents of the Company, and neither the Company nor its employees shall be deemed to be agents of the City.

35. 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.

36. 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.

37. 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.

[signature pages to follow]

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the dates written below and the undersigned hereby warrant and certify 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, NC

By: _____
P.J. Connelly, Mayor

Attest:

(SEAL)

Valerie Shiuwegar, City Clerk

STATE OF NORTH CAROLINA
COUNTY OF PITT

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

Witness my hand and seal this the _____ day of _____, 202__.

Notary Public

My commission expires: _____

COMPANY

By: _____

STATE OF NORTH CAROLINA
COUNTY OF PITT

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

Witness my hand and seal this the _____ day of _____, 20__.

Notary Public

My commission expires: _____

APPROVED AS TO FORM:

BY: _____
Emanuel D. McGirt, 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 A. Joyner, Director of Financial Services

EXHIBIT A

**TO ECONOMIC DEVELOPMENT AGREEMENT
ANNUAL CERTIFICATION AND DISBURSEMENT REQUEST**

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

Company (“the Company”) hereby requests that a disbursement in the amount of \$_____ be made by the City of Greenville, NC (“City”) to the Company, pursuant to that certain Economic Development Agreement (the “Agreement”) between the Company and the City, dated _____, 20____. Any capitalized terms not otherwise defined herein shall have the meaning assigned to such term in the Agreement.

I, the undersigned, do hereby certify, for and on behalf of the Company, that:

For Job Creation and Maintenance:

- (a) Attached hereto is a true and correct copy of the Company’s latest NCUI 101 form filed with the State; and a copy of the NCUI 101 form filed with the State showing employment prior to the expansion;
- (b) It has created _____ new Qualified Jobs, which are net new positions for the Company’s operations in the State, and no jobs have been transferred from any existing operations of the Company or any of its affiliates;
- (c) It has retained _____ Qualified Jobs;
- (d) It makes available health insurance to all permanent full-time employees at the facility in the amount required for eligibility under the Agreement;
- (e) The average wage rate of all employees in new Qualified Jobs is \$ _____;

For Property Acquisition and Improvement:

- (f) The following Improvements were made during the Improvement Period from September 1, 20____, through August 31, 20____ (*List Improvements and attach invoices and cancelled checks*);
- (g) The amount of the personal and real property valuations of the Property and Improvements, as of August 31, 20____, are in the amount of \$ _____;
- (h) Attached hereto is a true and correct copy of the Company’s fixed asset report showing a description, acquisition date and cost for each asset acquired, disposed

of, or transferred from the date of the Grant Period;

Other Representations, Warranties and Certifications:

- (i) It is in compliance with all of the terms and conditions of the Agreement and affirms the representations, warranties and covenants contained therein;
- (j) It understands that if any of the certifications provided herein prove to be false and/or misleading in any respect, it shall reimburse the City in the amount of this disbursement, and the City may pursue such other legal action as it deems appropriate;
- (k) It has obtained all required permits, including but not limited to, environmental permits, for the Project;
- (l) It is not in default on any other federal, state and/or local grant agreements related to the same or similar project activities;
- (m) It is not liable for any overdue tax debt, and proof of taxes paid is attached to this certificate.

The Company represents, warrants and certifies the truth and accuracy of the statements made herein. These certifications shall be deemed to be made a part of the Agreement and are incorporated therein and governed by its terms and conditions.

Certified, this the ___ day of _____, 20__.

COMPANY NAME

By: _____

Title: _____

STATE OF NORTH CAROLINA
COUNTY OF PITT

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

Witness my hand and seal this the _____ day of _____, 20__.

Notary Public

My commission expires: _____



City of Greenville, North Carolina

Meeting Date: 08/08/2024

Title of Item: Resolution for an Economic Development Incentive and Pass-Through Grant for Boviet Solar Technology (North Carolina) LLC/Project Gen

Explanation: Boviet Solar Technology (North Carolina) LLC/Project Gen ("Boviet Solar") is an economic development project for a solar panel manufacturing company known for power, performance and quality and has been rated as a top performer within the industry for over 5 years. The company recently acquired a property in the Indigreen Corporate Park for its solar manufacturing facility.

Project Gen is one of the greatest one-time capital investment projects in Pitt County's history and is projected to achieve the following economic impact for Pitt County:

Permanent Full-Time Jobs Over 5 Years	908
Average Annual Wage Per Employee	\$52,879
Calculated Annual Payroll at Full Employment	\$48,014,132
Capital Investment	
Real Property	\$215,500,000
Personal Property	\$78,560,306
Total Investment	\$294,060,306

On May 9, 2024, Greenville City Council awarded Boviet Solar a Job Creation Grant that provides for payments of up to \$100,000 annually over a 5-year grant period.

On June 21, 2024, the State of North Carolina awarded Boviet Solar a grant from the Industrial Development Fund - Utility Account of \$2,000,000 to be paid as a pass-through grant to Greenville Utilities Commission (GUC) for the addition of a substation to support Boviet Solar's expansion. The grant award requires a local match of 5%, and the City is proposing to provide the local match.

The pass-through grant will be disbursed to GUC upon the submission of the appropriate documentation by GUC, and review and approval by the City and the State of North Carolina. The grant is subject to reimbursement upon an event of default.

Fiscal Note: The City will be eligible to receive from the State of North Carolina a disbursement of up to \$2,000,000 as a pass-through grant to subsequently be paid to Greenville Utilities Commission.

Recommendation: City Council hold a public hearing on the economic development incentive and approve the attached resolutions and grant agreements with the State of North Carolina, Boviet Solar Technology (North Carolina) LLC, and Greenville Utilities Commission.

ATTACHMENTS

- Resolution - IDF Pass Through Incentive - Project Gen.pdf**
- Sample IDF Grant Agreement with State of North Carolina.docx**
- Legally Binding Commitment - IDF- Boviet Solar and City of Greenville, NC.docx**
- IDF Pass-Through Agreement - GUC and COG.docx**

RESOLUTION NO. ___-24

RESOLUTION OF THE GREENVILLE CITY COUNCIL APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE FOR PROJECT GEN/BOVIET SOLAR TECHNOLOGY (NORTH CAROLINA) LLC

WHEREAS, N.C. Gen. Stat. §158-7.1 grants authority to the City of Greenville (“City”) to make appropriations and expenditures for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the corporate limits of the City or in Pitt County, or for other purposes which the Greenville City Council finds, in its discretion, will increase employment, taxable property base, and business prospects of the City;

WHEREAS, Boviet Solar Technology (North Carolina) LLC (“Boviet”) is a solar panel manufacturing company and does business throughout the world;

WHEREAS, Boviet acquired property located at 1125 Sugg Parkway, Greenville, NC which is in the Indigreen Corporate Park and the City’s Extraterritorial Jurisdiction. Additionally, the company will create up to 908 jobs and make capital investments (real and personal property) of \$294,060,306 over a 5-year period in Pitt County;

WHEREAS, the Greenville City Council previously held a public hearing and awarded a Job Creation Grant of up to \$100,000 annually over a 5-year period which will be paid to the company only upon proof of real and personal property investments, creation of up to 908 full-time jobs and compliance with federal, state and local laws and regulations;

WHEREAS, the City desires to further support the project by serving as the administrator for an Industrial Development Fund Utility Account pass-through grant of \$2,000,000 awarded by the State of North Carolina and providing of the required local match, all to be subsequently paid to Greenville Utilities Commission for the addition of a substation to support Boviet’s expansion;

WHEREAS, if this grant were not approved, the company may take its economic development project to another location;

WHEREAS, the City provided 10-day’s public notice and a public hearing was held at the City Council’s August 8, 2024 meeting; and

WHEREAS, the Greenville City Council continues to find and determine that the proposed economic development project will tend to increase the taxable property base of the County, increase the business prospects of the City, and create high-paying jobs, and that it is in the public interest to provide assistance, as authorized by N.C. Gen. Stat. §158-7.1, in order to encourage the company to develop the project described herein.

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

1. The City approves the appropriation and expenditure of up to \$2,000,000 as a pass-through grant and the required local match as an economic development incentive.
2. The Mayor, City Manager or their designee are authorized, empowered and directed to do any and all acts and to execute any and all documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by this Resolution, except that none of the above shall be authorized or empowered to do anything or execute any document which is in contravention, in any way, of the specific provisions of this Resolution. In addition, the City Manager or City Attorney is authorized to make any non-substantive or clerical revisions to the Agreement referenced above.

Adopted this 8th day of August, 2024.

P.J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

**RURAL ECONOMIC DEVELOPMENT GRANT AGREEMENT -
INDUSTRIAL DEVELOPMENT FUND UTILITY ACCOUNT**

The North Carolina Department of Commerce (“Commerce”), an agency of the State of North Carolina (“State”), enters into this Rural Economic Development Grant Agreement (“Grant Agreement”) with **the City of Greenville, NC** (the “Governmental Unit” and, together with Commerce, the “Parties”) for a grant (the “Grant”) from the Industrial Development Fund Utility Account (“Utility Account”). The application (“Application”) filed by the Governmental Unit for the Grant.

WHEREAS, the North Carolina General Assembly (“General Assembly”) has determined that it is the policy of the State to stimulate economic activity and to create new jobs for citizens of the State by affording grants to local governmental units in the State’s economically distressed counties to construct or improve new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility lines or facilities or transportation infrastructure for existing or new or proposed buildings, subject to the applicable requirements of N.C.G.S. §§143B-437.01, 143B-472.127, 143B.143.128 and 04 NCAC 01I.0101; and

WHEREAS, under N.C.G.S. §143B-472.128, the General Assembly empowered the North Carolina Rural Infrastructure Authority (“Rural Authority”) to review applications for and, where appropriate, authorize such Utility Account grants, and, under N.C.G.S. §§143B-472.126 and .127, the General Assembly authorized Commerce to administer such grants; and

WHEREAS, pursuant to N.C.G.S. §§143B-472.127 and .128, the Rural Authority has approved and awarded the Grant: (1) based on the terms, conditions, representations, commitments, maps, schedules and other submissions in the Application and any subsequent materials supporting the Application that have been approved of by Commerce in writing, all of which are incorporated by reference herein as Exhibit A to this Grant Agreement; (2) based on Commerce’s Grant requirements and guidelines, which are incorporated herein and which may be amended, modified or supplemented and applied accordingly to this Grant Agreement by Commerce in its sole discretion; and (3) for the anticipated creation of certain jobs resulting from the construction or improvement of new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility lines or facilities or transportation infrastructure for existing or new or proposed buildings (altogether, the “Project,” as summarized in the Preliminary Engineering Report (“PER”) submitted with the Application).

WHEREAS, the Governmental Unit has contracted Rosebur (“Business”), which has specifically agreed that the Grant will provide significant, direct economic benefit to the Business and allow the Business to create new jobs, which will result in direct economic benefit to the Governmental Unit; and

NOW, THEREFORE, in consideration of the mutual promises and such other valuable consideration as set out herein, the Parties mutually agree to the following terms and conditions:

1. Agreements to be Executed.

- (a). As conditions of the Grant and prior to Commerce's release of any Grant funds:
 - i. The highest elected official of the Governmental Unit shall execute two originals of this Grant Agreement in its exact form (unless Commerce approves of a change to its terms in writing) and shall return one of them to Commerce;
 - ii. Two signatory forms are executed and one is returned to Commerce;
 - iii. Copies of the award letters regarding all other funding sources that are participating in the Project are submitted to Commerce; and
 - iv. The Governmental Unit shall ensure that its highest elected official and a duly authorized representative of any Business execute three originals of the Legally Binding Commitment ("LBC") provided by Commerce in its exact form (unless Commerce approves of a change to its terms in writing) and shall return one such original to Commerce in connection with its Application;
 - v. The Governmental Unit shall ensure that an authorized representative of each Business executes a limited waiver of confidentiality regarding unemployment and wage records ("Waiver") attached hereto as Exhibit B, included with the Application, and shall return the original of any such Waiver to Commerce with the executed originals of the Grant Agreement. The Governmental Unit shall also ensure that any additional Business which becomes involved in the Project after the Grant Agreement is finalized executes a Waiver upon its involvement, the original of which the Governmental Unit shall promptly forward to Commerce.
- (b). The Governmental Unit shall provide Commerce with any information obtained pursuant to the LBC and allow Commerce to execute any rights of the Governmental Unit under the LBC, including the Governmental Unit's rights of access, review or monitoring and Commerce's rights as a third-party beneficiary thereunder.
- (c). The Governmental Unit shall exercise all of its rights and duties under the LBC in a prudent and timely manner to ensure the use of the Grant funds for the intended purposes and objectives and to preserve the rights of Commerce in this Grant Agreement and the LBC.
- (d). The LBC specifies how many New Jobs (as that term is defined in the LBC) the Business must create and maintain and, if required, the Baseline Number (as that term is defined in the LBC) of jobs the Business must maintain.

Further, if the Business fails to create or maintain such jobs, the LBC specifies the amount the Business must pay to the Governmental Unit for return to Commerce or else pay directly to Commerce, upon request and as directed. If such jobs are not created or maintained, then the Governmental Unit shall return to Commerce any Grant funds it has not already disbursed, make a timely demand for payment from the Business under the LBC, and, if such payment is not forthcoming, initiate and fully litigate legal proceedings against the Business to recover such payment.

- (e). Without limitation, failure by the Governmental Unit to timely demand such payment from and, if required, initiate, and fully litigate such legal proceedings against the Business may affect the future consideration of the Governmental Unit for grant programs administered by Commerce. Further, and without limitation, if the Governmental Unit fails to timely initiate legal proceedings against the Business for such payment under the LBC, and Commerce elects to do so instead, the Governmental Unit is responsible and agrees to reimburse Commerce for all litigation costs and reasonable attorneys' fees that Commerce incurs in pursuing payment from the Business.

2. Changes in the Project or Other Conditions.

- (a). A "Project Change" is any material alteration, addition, deletion or expansion of the Project, including (without limitation) material changes to construction or other infrastructure improvement or the PER. Prior to implementing a proposed Project Change, the Governmental Unit shall submit it to Commerce for review. The failure of the Governmental Unit to do so will subject it to the penalties and remedies set forth in Paragraph 14(b) of this Grant Agreement, unless Commerce (in its sole discretion) expressly waives this requirement of pre-implementation review in writing. In any event, there shall be no Project Changes unless expressly approved of by Commerce in its sole discretion in a separate, written agreement stating, if applicable, the costs and schedule for completing the Project Change.
- (b). Additionally, the Governmental Unit shall immediately notify Commerce of any change in conditions or local law, or any other event, which may significantly affect its ability to oversee, administer or perform this Grant Agreement or the Project. In its sole discretion, Commerce may deem such a change in conditions, local law or other event to constitute a Project Change.

3. Term of Grant Agreement.

The effective period of this Grant Agreement shall commence on:

March 9, 2022 ("Effective Date") and shall terminate on **March 9, 2024** unless

terminated on an earlier date under the terms of this Grant Agreement (either one of which dates shall constitute the “Termination Date”) or unless extended for an express term in writing by Commerce.

4. Funding and Administrative Expenses.

- (a). The Rural Authority grants to the Governmental Unit an amount not to exceed **\$000** for Project expenditures. If Commerce determines that the actual costs of the Project are less than the Grant amount, Commerce, in its sole discretion, may reduce the amount of the Grant accordingly. If the Governmental Unit determines that the actual costs of the Project are less than the Grant amount, it shall report so to Commerce and return any surplus Grant funds it has received to Commerce.
- (b). The Governmental Unit hereby represents and warrants that all Grant funds shall be utilized exclusively for the purpose of the Project and consistent with all applicable laws, rules, regulations and requirements, and that the Governmental Unit shall not make or approve of any improper expenditure of Grant funds.
- (c). Without limitation and as determined by Commerce in its sole discretion, eligible expenditures incurred after the date of the Grant award may include those expenditures specified in 04 NCAC 01I .0102(a)(12)(C). Additionally, the Governmental Unit may use up to two percent (2%) of the Grant amount, if necessary, to verify that the Grant funds are used only in accordance with law and to otherwise administer the Grant.
- (d). Eligible expenditures do not include land-acquisition costs or costs for the construction of new buildings. Commerce retains the sole discretion to determine what additional expenditures are ineligible for Grant funding.
- (e). In the event local funds are committed to the Project, Grant funds must be drawn on a pro-rata basis with the local funds.

5. Independent Status of the Governmental Unit.

- (a). The Governmental Unit is an entity independent from the Rural Authority and Commerce. The Grant Agreement, the Project and any actions taken pursuant to them shall not be deemed to create a partnership or joint venture between or among Commerce, the Rural Authority, the Governmental Unit or any third party. Nor shall the Grant Agreement or the Project be construed to make the Governmental Unit (including its employees, agents, members or officials) or any third-party employees, agents, members or officials of Commerce or the Rural Authority. Neither the Governmental Unit nor any third party shall have the ability to bind Commerce or the Rural

Authority to any agreement for payment of goods or services or represent to any person that they have such ability.

- (b). The Governmental Unit shall be responsible for payment of all of its expenses, including rent, office expenses and all forms of compensation to employees. The Governmental Unit shall provide worker's compensation insurance to the extent required for its operations and shall accept full responsibility for payments of unemployment tax or compensation, social security, income taxes, and any other charges, taxes or payroll deductions required by law in connection with its operations, for itself and its employees who are performing work pursuant to this Grant Agreement. All expenses incurred by the Governmental Unit are its sole responsibility, and neither Commerce nor the Rural Authority shall be liable for the payment of any obligations incurred in the performance of the Project.
- 6. Method of Payment. Commerce shall pay the Grant funds to the Governmental Unit after receipt of written requests for payment from the Governmental Unit certifying that the conditions for such payment under this Grant Agreement have been met and that the Governmental Unit is entitled to receive the amount so requested and any other documentation that may be required by Commerce.
 - 7. Obligation of Funds. The Governmental Unit shall not obligate Grant funds prior to the Effective Date or subsequent to the Termination Date of this Grant Agreement. All obligations outstanding as of the Termination Date shall be liquidated within thirty (30) days after the Termination Date.
 - 8. Project Records.
 - (a). The Governmental Unit shall maintain full, accurate and verifiable financial records, supporting documents and all other pertinent data for the Project in such a manner as to clearly identify and document the expenditure of the State funds provided under this Grant Agreement separate from accounts for other awards, monetary contributions or other revenue sources for this Project.
 - (b). The Governmental Unit shall retain all financial records, supporting documents and all other pertinent records related to the Grant Agreement and the Project for a period of five (5) years from the Termination Date. In the event such records are audited, all such records shall be retained beyond the five-year period until the audit is concluded and any and all audit findings have been resolved.
 - 9. Monitoring, Reports and Auditing.
 - (a). The Governmental Unit agrees to ensure compliance and provide its assistance with such monitoring and auditing requirements as the State may

request, including following the Termination Date of this Grant Agreement. Additionally, the Governmental Unit shall regularly monitor all performance under Grant-supported activities to ensure that all performance goals are being achieved.

- (b). The Governmental Unit shall furnish Commerce such detailed written progress reports as Commerce may request in its sole discretion. Such reports should describe the progress made by the Governmental Unit toward achieving the purpose(s) of the Project. Such descriptions should include the successes and problems encountered during the reporting period. Failure to submit a required report by the scheduled submission date may result in the withholding, at Commerce's sole discretion, of any forthcoming payment until Commerce is in receipt of the delinquent report and the report meets with Commerce's approval.
- (c). The Governmental Unit acknowledges and agrees that, with regard to the Grant funds, it will be subject to the audit and reporting requirements prescribed by N.C.G.S §159-34, Local Government Finance Act - Annual Independent Audit; rules and regulations. Such audit and reporting requirements may vary depending upon the amount and source of Grant funding received by the Governmental Unit and are subject to change from time to time. Upon completion, the Governmental Unit shall forward to Commerce one copy of any audited financial statements and accompanying reports generated covering the period between the Effective Date and Termination Date of this Grant Agreement.
- (d). Within thirty (30) days after the Termination Date, the Governmental Unit shall submit a final report to Commerce describing the activities and accomplishments of the Project. The final report shall include a review of performance and activities over the entire Project period. In the final report, the Governmental Unit should describe the Project, how it was implemented, to what degree its established objectives were met and the difficulties encountered, what was changed and the cost.
- (e). The Governmental Unit grants the State and any of its related agencies, commissions or departments (including, without limitation, Commerce, the North Carolina State Auditor and the North Carolina Office of State Budget and Management) and any of their authorized representatives, at all reasonable times and as often as necessary (including after the Termination Date), access to and the right to inspect, copy, monitor, and examine all of the books, papers, records and other documents relating to the Grant Agreement or the Project. In addition, the Governmental Unit agrees to comply at any time, including after the Termination Date, with any requests by the State (including, without limitation, the Rural Authority or Commerce) for other financial and organizational materials to permit the

State to comply with its fiscal monitoring responsibilities or to evaluate the short- and long-range impact of its programs.

- (f). The Governmental Unit shall provide Commerce with a copy of all agreements governing incentives it has received for the Project from all North Carolina State and local sources, and shall provide periodic updates to Commerce regarding the amount of incentives actually received.

10. Termination; Availability of Funds.

- (a). If the Governmental Unit fails to fulfill in a timely and proper manner its obligations or violates any of the covenants or stipulations under this Agreement, the Governmental Unit agrees that Commerce has the right to terminate this Grant Agreement by giving, as applicable, the Governmental Unit written notice specifying the Termination Date of this Grant Agreement, which Commerce may determine in its sole discretion. Upon such termination, Commerce shall have no responsibility to make additional Grant payments. Upon such termination, the Governmental Unit shall not expend any Grant funds without Commerce's express written authorization and shall return all unspent Grant funds to Commerce upon demand.
- (b). The obligations of the Rural Authority and/or Commerce to pay any amounts under this Grant Agreement are contingent upon the availability and continuation of funds for such purpose. If funds for the Grant become unavailable, the Governmental Unit agrees that Commerce has the right to terminate this Grant Agreement by giving written notice specifying the Termination Date of this Grant Agreement, which Commerce shall determine in its sole discretion. Upon such termination, the State shall have no responsibility to make additional Grant payments. Further, upon such termination, the Governmental Unit shall not expend any Grant funds without Commerce's express written authorization and shall return all unspent Grant funds to Commerce upon demand.

11. Liabilities and Loss. The Governmental Unit hereby agrees to release, indemnify and hold harmless the State (including, without limitation, the Rural Authority and Commerce), and their respective members, officers, directors, employees, agents and attorneys (together, the "Indemnified Parties"), from any claims of third parties arising out of any act or omission of the Governmental Unit or any third party in connection with the performance of this Grant Agreement or the Project, and for all losses arising from its implementation. Without limiting the foregoing, the Governmental Unit hereby releases the Indemnified Parties from, and agrees that such Indemnified Parties are not liable for, and agrees to indemnify and hold harmless the Indemnified Parties against, any and all liability or loss, cost or expense, including, without limitation, reasonable attorneys' fees, fines, penalties and civil judgments, resulting from or arising out of or in connection with or pertaining to, any loss or damage to property or any injury to or death of any person

occurring in connection with the Project, or resulting from any defect in the fixtures, machinery, equipment or other property used in connection with the Project or arising out of, pertaining to, or having any connection with, the Project or the financing thereof (whether arising out of acts, omissions, or negligence of the Governmental Unit, the Indemnified Parties or of any third party, or of any of their agents, contractors, servants, employees, licensees, lessees, or assignees), including any claims and losses accruing to or resulting from any and all subcontractors, material men, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the Project.

12. Governmental Unit Representations and Warranties. The Governmental Unit hereby represents and warrants that:

- (a). The execution and delivery of this Grant Agreement have been duly authorized by all necessary Governmental Unit action and are not in contravention of law or in contravention of the provisions of any indenture agreement or undertaking to which the Governmental Unit is a party or by which it is bound.
- (b). There is no action, suit proceeding, or investigation at law or in equity or before any court, public board or body pending, or to the knowledge of the Governmental Unit, threatened against or affecting it that could or might adversely affect the Project or any of the transactions contemplated by this Grant Agreement, the validity or enforceability of this Grant Agreement, or the abilities of the Governmental Unit to discharge its obligations under this Grant Agreement. If it is subsequently found that an action, suit, proceeding, or investigation did or could threaten or affect the development of the Project, the Governmental Unit shall be liable to Commerce for repayment of the entire amount of the Grant and this Grant Agreement may be terminated by Commerce effective upon notice.
- (c). No consent or approval is necessary from any governmental authority as a condition to the execution and delivery of this Grant Agreement by the Governmental Unit or the performance of any of its obligations hereunder, or all such requisite governmental consents or approvals have been obtained. The Governmental Unit shall provide Commerce with evidence of the existence of any such necessary consents or approvals at the time of the execution of this Grant Agreement.
- (d). The Governmental Unit is solvent.
- (f). The Governmental Unit shall comply with all applicable environmental laws, rules, regulations and requirements and this Grant Agreement is made contingent upon a certification from the North Carolina Department of

Environment and Natural Resources that the proposed project will not have a significant adverse effect on the environment.

13. Additional Repayment Requirements and Remedies.
 - (a). The repayment requirements and remedies addressed in this Paragraph 13 are in addition to those repayment requirements and other remedies set forth elsewhere in this Grant Agreement, including the requirements to repay unspent Grant funds. No remedy conferred or reserved by or to the State is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy provided for in this Grant Agreement, or now or hereinafter existing at law, in equity, or by statute, and any such right or power may be exercised from time to time and as often as may be deemed expedient.
 - (b). If there is a breach of any of the requirements, covenants or agreements in this Grant Agreement, or if there are any representations or warranties which are untrue as to a material fact in this Grant Agreement, or in relation to the Project (including the performance thereof), the Governmental Unit agrees that Commerce may require repayment from the Governmental Unit of an amount of Grant funds to be determined in Commerce's sole discretion but not to exceed the amount of Grant funds the Governmental Unit has already received under this Grant Agreement. Such requirements, covenants or agreements include but are not limited to Paragraphs 1, 2(a), 4, 9, 10(a), 12 of this Grant Agreement.
14. No Waiver by the State. Failure of the State (including, without limitation, the Rural Authority and Commerce) at any time to require performance of any term or provision of this Grant Agreement shall in no manner affect the rights of the State at a later date to enforce the same or to enforce any future compliance with or performance of any of the terms or provisions hereof. No waiver of the State of any condition or the breach of any term, provision or representation contained in this Grant Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of that or any other term, provision or representation.
15. Waiver of Objections to Timeliness of Legal Action. The Governmental Unit knowingly waives any objections it has or may have to timeliness of any legal action (including any administrative petition or civil action) by the State (including, without limitation, the Rural Authority or Commerce) to enforce its rights under this Grant Agreement. This waiver includes any objections the Governmental Unit may possess based on the statutes of limitations or repose and the doctrines of estoppel or laches.
16. Cessation/Termination, Bankruptcy, Dissolution or Insolvency.

- (a). Under the LBC, the Business agrees at all times to preserve its legal existence, except that it may merge or consolidate with or into, or sell all or substantially all of its assets to, any entity that expressly undertakes, assumes for itself and agrees in writing to be bound by all of the obligations and undertakings of the Business contained in the LBC, subject to the prior written consent of Commerce as set forth in Paragraph 17(d) if such action constitutes an assignment of the Business' obligations under the LBC. If the Business so merges, consolidates or sells its assets without such an undertaking being provided, it agrees under the LBC to make that payment due under the LBC to the Governmental Unit or Commerce, upon request and as directed. Further, a merger, consolidation or sale without such an undertaking shall constitute a material default under the LBC, and the Governmental Unit or Commerce may terminate the LBC upon written notice to the Business and hold the Business liable for any such payment provided for under the LBC.
- (b). Other than as provided for in Paragraph 13(a) above, if any Business ceases to do business or becomes the subject of any bankruptcy, dissolution or insolvency proceeding prior to the Termination Date, it shall be the sole responsibility of the Governmental Unit to (i) immediately notify Commerce and (ii) pursue any claim for payment owed under the LBC to the Governmental Unit or the State by the Business, including in any legal proceeding, to obtain the maximum payment allowed by law. To the extent the Governmental Unit fails to pursue such payment from the Business in such a proceeding and obtain the maximum payment allowed by law, the Governmental Unit shall be liable to Commerce for all amounts that should have been awarded to the Governmental Unit in the proceeding if it had taken the necessary action (notwithstanding whether such amounts would have actually been paid by the Business). Alternatively, without limitation, if the Governmental Unit fails to pursue payment under the LBC in such a proceeding and Commerce elects to do so instead, the Governmental Unit is responsible and agrees to reimburse Commerce for all legal costs and reasonable attorneys' fees that Commerce incurs in pursuing such payment from the Business.
- (c). If the Governmental Unit fails to provide Commerce notice of any Business ceasing to do business or becoming the subject of any bankruptcy, dissolution or insolvency proceeding prior to the Termination Date, it shall constitute a material default under this Grant Agreement. If there is such a cessation or such a proceeding, Commerce may terminate the Grant Agreement upon written notice to the Governmental Unit. If there is such a cessation or such a proceeding, the Governmental Unit agrees that Commerce has the right to terminate this Grant Agreement and/or the LBC by giving, as applicable, the Governmental Unit or the Governmental Unit and the Business written notice specifying the Termination Date, which

Commerce may determine in its sole discretion. Upon such termination, the Governmental Unit shall not expend any Grant funds without Commerce's express written authorization and shall return all unspent Grant funds to Commerce upon demand.

17. Special Provisions and Conditions.

- (a). Non-discrimination. The Governmental Unit agrees not to discriminate by reason of age, race, religion, color, sex, national origin or disability related to the activities of this Grant Agreement.
- (b). Conflict of Interest. The Governmental Unit shall forward to Commerce along with the executed copies of this Grant Agreement a copy of its policy and any ordinance or resolution it has adopted addressing conflicts of interest that may arise involving the members of the Governmental Unit's governing body and/or any of its employees or officers involved in the Grant or the Project. Such policy, ordinance or resolution shall address situations in which any of these individuals may directly or indirectly benefit, other than through receipt of their normal compensation in their capacities as the Governmental Unit's employees, officers or members of its governing body, from the Grant or Project, and shall include actions to be taken by the Unit or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. Additionally, the Governmental Unit certifies that, as of the date it executes this Grant Agreement, no such individuals have such a conflict of interest or will directly or indirectly benefit, except in the capacities described above, from the Grant or Project. Throughout the duration of this Grant Agreement and the Project, the Governmental Unit has the duty to promptly inform Commerce of any such conflict of interest or direct or indirect benefit of which it becomes aware.
- (c). Compliance with Laws. The Governmental Unit shall at all times observe and comply with all laws, regulations, codes, rules, ordinances and other requirements (together, "Laws") of the State, federal and local governments which may in any manner affect the performance of the Grant Agreement or the Project.
- (d). Non-Assignability. The Governmental Unit shall not assign or transfer any interest in this Grant Agreement without the prior written consent of Commerce; provided, however, that claims for money due to the Governmental Unit from Commerce under this Agreement may be assigned to any commercial bank or other financial institution without such approval.
- (e). Personnel. The Governmental Unit represents that it has, or will secure at its own expense, all personnel required to monitor, carry out and perform the scope of services of this Agreement. Such employees shall not be

exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purposes, that the only venue for any legal proceedings shall be Wake County, North Carolina. The place of this Grant Agreement, and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract, tort, or otherwise, relating to its validity, construction, interpretation, and enforcement, shall be determined.

- 21. Severability. Each provision of this Grant Agreement is intended to be severable and, if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect or impair any other provision of this Grant Agreement, but this Grant Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

- 22. Acceptance. If the Governmental Unit agrees to the Grant conditions as stated, please return the executed documents specified in Paragraph 1(a). This Grant may be withdrawn if Commerce has not received such documents within thirty (30) days from the date of the cover letter from Commerce to the Governmental Unit accompanying this Grant Agreement.

IN WITNESSETH WHEREOF, the parties hereto have executed this Grant Agreement under seal as of the date first above written.

XXXXXX

By: _____

Title: _____

Date: _____

North Carolina Department of Commerce

By: _____
Kenny Flowers

Title: Assistant Secretary, Rural Economic
Development Division

Date: _____

RURAL ECONOMIC DEVELOPMENT LEGALLY BINDING COMMITMENT –
INDUSTRIAL DEVELOPMENT FUND UTILITY ACCOUNT

City of Greenville (“Governmental Unit”) enters into this Rural Economic Development Legally Binding Commitment (“LBC”) with Boviet Solar Technology (North Carolina) LLC (“Business”) and, together with the Governmental Unit, the “Parties”).

WHEREAS, the Governmental Unit has applied to the North Carolina Rural Infrastructure Authority (the “Rural Authority”) of the North Carolina Department of Commerce (“Commerce”) for the award of a grant (“Grant”) to the Governmental Unit from the Industrial Development Fund Utility Account (“Utility Account”) pursuant to N.C.G.S. §§143B-472.127 and .128; and

WHEREAS, this LBC is required as part of the Governmental Unit’s application for a Grant (“Application”) and as a condition for the Governmental Unit to be eligible to receive the Grant; and

WHEREAS, the Application contains a detailed description of the proposed project to be undertaken with the Grant (“Project”) and is fully incorporated herein as Exhibit A to this LBC; and

WHEREAS, if awarded, the Grant will be memorialized in an agreement (the “Grant Agreement”) between Commerce and the Governmental Unit; and

WHEREAS, the Business specifically agrees that the Grant and the Project will provide significant, direct economic benefit to the Business (including improved public infrastructure resulting from the Project) and allow the Business to create new jobs, which will result in direct economic benefit to the Governmental Unit.

NOW, THEREFORE, in consideration of the mutual promises and such other valuable consideration set out herein, the Parties mutually agree to the following terms and conditions:

1. Agreements to be Executed. As conditions of the Grant Agreement and this LBC, and prior to Commerce’s release of any Grant funds:
 - (a). The highest elected official of the Governmental Unit and a duly authorized representative of the Business shall execute three originals of the LBC in its exact form (unless Commerce approves of a change to its terms in writing), and the Governmental Unit shall return one such original to Commerce;
 - (b). The Business shall execute a limited waiver of confidentiality regarding unemployment and wage records (“Waiver”) to be provided to Commerce by the Governmental Unit, which shall forward the original of any such Waiver to Commerce.
2. Third-Party Beneficiary. The Parties agree that the State (including, without limitation, Commerce and the Rural Authority) is an intended third-party beneficiary of this LBC and

may, at its option, enforce the terms of this LBC or appear as a party in any litigation concerning this LBC.

3. New Job Creation, Maintenance of New Jobs and Baseline Number of Jobs and Verification.

(a). New Job Creation and Maintenance of New Jobs and Baseline Number of Jobs. A “New Job” shall mean a full-time job (consisting of at least 1,600 hours of work in a year of employment for an individual who is an employee (as opposed to an independent contractor) of the Business, is eligible for all benefits generally available for other full-time employees of the Business and for whom the Business files an IRS W-2 form and withholds applicable federal, State and local income and payroll taxes) which is with the Business, is located in North Carolina, has a wage at least equal to the minimum wage, is created and maintained by the Business at the site (i) that benefits from the Project and (ii) is specifically described in Exhibit A and is over and above the 362 full-time jobs in North Carolina (“Baseline Number”) that the Business reported having at the time of the application for the Project. In return for the benefit of the improved public infrastructure resulting from the Project, the Business shall be required to create and maintain in existence for six (6) consecutive months 362 New Jobs prior to the expiration of twenty-four (24) months from _____, which is the date of the Grant’s approval by the Rural Authority, unless this term is extended pursuant to Paragraph 5. If the Business reported having a Baseline Number of jobs at the time of the application for the Project, then, separate and apart from these New Jobs, the Business shall be required to maintain in existence its Baseline Number of jobs for as long as it takes the Business to create and maintain its required number of New Jobs.

(b). Verification. When the New Jobs required by Paragraph 3(a) have been created and maintained for six (6) consecutive months, the Business shall notify the Governmental Unit so that it and/or Commerce can verify the creation and maintenance of the New Jobs, as well as the maintenance of the Baseline Number of jobs (if required) and the satisfaction of all other conditions and terms of this LBC and the Project. The Business shall provide to the Governmental Unit and Commerce, or their respective designees, full and complete access to all records of the Business necessary to verify the number and types of jobs created and maintained, the wages paid to employees and all other conditions and terms of this LBC and the Project. Failure of any Business to provide such access upon request shall constitute a material default by the Business under the terms of this LBC and, in the sole discretion of the Governmental Unit and/or Commerce, may subject the Business to repayment in an amount calculated under Paragraph 13 below.

4. Changes in the Project or Other Conditions.

(a). A “Project Change” is any material alteration, addition, deletion or expansion of the Project, including (without limitation) material changes to construction or rehabilitation, the PER, the terms or conditions of the LBC, the required number of

New Jobs, the preliminary engineering report, any cessation of business by the Business and any filing of bankruptcy by the Business. There shall be no Project Changes unless expressly approved of by Commerce and the Governmental Unit in a separate, written agreement stating, if applicable, the costs and schedule for completing the Project Change.

- (b). Additionally, the Business shall immediately notify the Governmental Unit of any change in conditions or local law, or any other event, which may significantly affect its ability to perform the LBC. In their sole discretion, the Governmental Unit or Commerce may deem such a change in conditions, local law or other event to constitute a Project Change.
5. Term of LBC. The effective period of this LBC shall commence on _____ (“Effective Date”) and shall terminate on _____ unless terminated on an earlier date under the terms of this LBC (either one of which dates shall constitute the “Termination Date”) or unless extended for an express term in writing by the Governmental Unit.
6. Independent Status of the State, the Governmental Unit, the Business and Any Third Parties.
 - (a). The State (including, without limitation, the Rural Authority and Commerce) and the Governmental Unit are independent entities from one another and from the Business and any third party. The Grant Agreement, the LBC, the Project, the creation and maintenance of New Jobs, the maintenance of the Baseline Number of jobs (if required) and any actions taken pursuant to them shall not be deemed to create a partnership or joint venture between the State and the Governmental Unit or between or among either of them and the Business or any third party. Nor shall the Grant Agreement, the LBC, the Project, the creation and maintenance of New Jobs or the maintenance of the Baseline Number of jobs (if required) be construed to make any employees, agents or members of the Business or any third party into employees, agents, members or officials of the Governmental Unit or the State or to make employees, agents, members or officials of the Governmental Unit into employees, agents, members or officials of the State. Neither the Business nor any third party shall have the ability to bind the Governmental Unit or the State to any agreement for payment of goods or services or represent to any person that they have such ability. Nor shall the Governmental Unit have the ability to bind the State to any agreement for payment of goods or services or represent to any person that it has such ability.
 - (b). The Business and any third party shall be responsible for payment of all their expenses, including rent, office expenses and all forms of compensation to their employees. The Business and any third parties shall provide worker's compensation insurance to the extent required for their operations and shall accept full responsibility for payments of unemployment tax or compensation, Social Security, income taxes, and any other charges, taxes or payroll deductions required

by law in connection with their operations, for themselves and their employees who are performing work pursuant to this LBC or the Project. All expenses incurred by the Business or any third party are their sole responsibilities, and neither the Governmental Unit nor the State (including, without limitation, Commerce and the Rural Authority) shall be liable for the payment of any obligations incurred in the performance of the Project or the LBC.

7. Records. The Business shall retain all financial records, supporting documents and all other pertinent records related to the Grant Agreement, the Project, this LBC, the New Jobs and the Baseline Number of jobs (if required) for a period of five (5) years from the Termination Date. In the event such records are audited, all such records shall be retained beyond the five-year period until the audit is concluded and any and all audit findings have been resolved.
8. Monitoring, Reports and Auditing. The Business agrees to generate such reports regarding the Project, the LBC, the New Jobs and the Baseline Number of jobs (if required) as may be requested by the Governmental Unit or the State (including, without limitation, the Rural Authority or Commerce) in such form as they may request, including after the Termination Date. The Business further grants the Governmental Unit or the State (including any of its agencies, commissions or departments such as Commerce, the North Carolina State Auditor and the North Carolina Office of State Budget and Management) and any of their authorized representatives, as well as the Joint Legislative Commission on Governmental Operations and any of its authorized representatives, at all reasonable times and as often as necessary (including after the Termination Date), access to and the right to inspect, copy, monitor and examine all of the books, papers, records and other documents relating to the Grant Agreement, the Project, the LBC, the New Jobs or the Baseline Number of jobs (if required). In addition, the Business agrees to comply at any time, including after the Termination Date, with any requests by the State (including, without limitation, the Rural Authority or Commerce) for other financial and organizational materials to permit the State to comply with its fiscal monitoring responsibilities or to evaluate the short- and long-range impact of its programs. If any audit, litigation, or other action arising out of or related in any way to this project is commenced before the end of such retention of records 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 record retentions period, whichever is later.
9. Termination; Availability of Funds.
 - (a). If the Business fails to fulfill in a timely and proper manner the obligations or requirements applicable to it in the LBC, or if the Business violates any of its covenants or stipulations under the LBC, the Business agrees that the Governmental Unit or Commerce has the right to terminate the LBC by giving the Business written notice specifying the Termination Date, which shall be determined by the Governmental Unit or Commerce in their sole discretion. Upon such termination, Commerce may require (in its sole discretion) the Business to repay up to the full amount of the Grant. However, if the failure of the Business is solely the failure to create and maintain the requisite number of jobs set forth in Paragraph 3 above, then

the Business shall pay the amount calculated under Paragraph 13(b) to the Governmental Unit or Commerce, upon request, as directed and without regard to whether the twenty-four (24) month period under Paragraph 3(a) has yet to expire.

- (b). The obligations of the Rural Authority and/or Commerce to pay any Grant funds to the Governmental Unit are contingent upon the availability and continuation of Grant funds for such purpose. If Grant funds become unavailable, the Business agrees that either Commerce or the Governmental Unit has the right to terminate this LBC by giving written notice specifying the Termination Date, which either the Governmental Unit or Commerce may determine in their sole discretion.

10. Liabilities and Loss. The Business hereby agrees to release, indemnify and hold harmless the Governmental Unit and the State (including the Rural Authority and Commerce), and their respective members, officers, directors, employees, agents and attorneys (hereinafter collectively referred to as "Indemnified Parties"), from any claims of third parties arising out of any act or omission of the Business or any third party in connection with the performance of this LBC or the Project, and for all losses arising from implementation of this LBC or the Project. Without limiting the foregoing, the Business hereby releases the Indemnified Parties from, and agrees that such Indemnified Parties are not liable for, and agrees to indemnify and hold harmless the Indemnified Parties against any and all liability or loss, cost or expense, including, without limitation, reasonable attorneys' fees, fines, penalties and civil judgments, resulting from or arising out of or in connection with or pertaining to, any loss or damage to property or any injury to or death of any person occurring in connection with the Project, or resulting from any defect in the fixtures, machinery, equipment or other property used in connection with the Project or arising out of, pertaining to, or having any connection with, the Project or the financing thereof (whether or not arising out of acts, omissions or negligence of the Business, the Indemnified Parties or of any third party, or of any of their agents, contractors, servants, employees, licensees, lessees, or assignees), including any claims and losses accruing to or resulting from any and all subcontractors, material men, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the Project.

11. Business Representations and Warranties. The Business hereby represents and warrants that:

- (a). The Business is duly authorized to do business under North Carolina law and is not delinquent on any federal, State or local taxes, licenses or fees.
- (b). This LBC has been entered into and executed on behalf of the Business by an individual with full actual and apparent authority to bind the Business to the terms hereto, and the execution and delivery of this LBC have been duly authorized by all necessary action, and are not in contravention of law nor in contravention of any certificate of authority, bylaws or other applicable organizational documents of the Business, nor are they in contravention of the provisions of any indenture, agreement or undertaking to which the Business is a party or by which it is bound.

- (c). There is no action, suit, proceeding or investigation at law or in equity before any court, public board or body pending, or, to the Business' knowledge, threatened against or affecting the Business, that could or might adversely affect the Project, the creation or maintenance of the New Jobs, the maintenance of the Baseline Number of jobs (if required), any of the transactions contemplated by this LBC, the validity or enforceability of this LBC or the Business' ability to discharge its obligations under this LBC.
- (d). No consent or approval is necessary from any governmental authority as a condition to the execution and delivery of this LBC by the Business or the performance of any of its obligations hereunder, or else all such requisite governmental consents or approvals have been obtained. The Business shall provide the Governmental Unit or Commerce with evidence of the existence of any such necessary consents or approvals at the time of the execution of this LBC.
- (e). The Business is solvent.

12. Cessation/Termination, Bankruptcy, Dissolution or Insolvency.

- (a). The Business shall at all times preserve its legal existence, except that it may merge or consolidate with or into or sell all or substantially all of its assets to any entity that expressly undertakes, assumes for itself and agrees in writing to be bound by all of the obligations and undertakings of the Business contained in this LBC, subject to the approval of the Governmental Unit and Commerce as set forth in Paragraph 16(c) if such action constitutes an assignment of the Business' obligations under this LBC. If the Business so merges, consolidates or sells its assets without such an undertaking being provided, the Business shall pay the amount calculated under Paragraph 13(b) to the Governmental Unit or Commerce, upon request, as directed and without regard to whether the twenty-four (24) month period under Paragraph 3(a) has yet to expire. Further, a merger, consolidation or sale without such an undertaking shall constitute a material default under the LBC, and the Governmental Unit or Commerce may terminate the LBC upon written notice to the Business and hold the Business liable for any such payment.
- (b). Other than as provided for in Paragraph 12(a), if the Business ceases to do business or becomes the subject of any bankruptcy, dissolution or insolvency proceeding prior to the Termination Date, the Business shall give the Governmental Unit immediate notice of the event, and shall pay the amount calculated under Paragraph 13(b) to the Governmental Unit or Commerce, upon request, as directed and without regard to whether the twenty-four (24) month period under Paragraph 3(a) has yet to expire, but only if such payment is permissible under applicable bankruptcy, dissolution or insolvency law.
- (c). If the Business fails to provide the Governmental Unit notice of the Business ceasing to do business or becoming the subject of any bankruptcy, dissolution or

insolvency proceeding prior to the Termination Date, it shall constitute a material default under this LBC. If there is such a cessation or such a proceeding, the Governmental Unit or Commerce may terminate the LBC upon written notice to the Business. Upon such termination, the Business shall pay the amount calculated under Paragraph 13(b) to the Governmental Unit or Commerce, upon request, as directed and without regard to whether the twenty-four (24) month period under Paragraph 3(a) has yet to expire, but only if such payment is permissible under applicable bankruptcy, dissolution or insolvency law.

13. Additional Payment Requirements and Remedies.

- (a). The payment requirements and remedies addressed in this Paragraph 13 are in addition to those repayment requirements and other remedies set forth elsewhere in this LBC, including the requirements to repay unspent Grant funds. No remedy conferred or reserved by or to the State or the Governmental Unit is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy provided for in this LBC, or now or hereinafter existing at law, in equity, or by statute, and any such right or power may be exercised from time to time and as often as may be deemed expedient.
- (b). The Business acknowledges and agrees that: its receipt of the substantial benefit of the improved public infrastructure resulting from the Project is predicated upon the creation and maintenance of the New Jobs and, if required, the maintenance of the Baseline Number of jobs; the Business' failure to create and/or maintain such New Jobs or maintain this Baseline Number of jobs will constitute a material default of this LBC; and that the amounts of payments for which the Business may become liable under Paragraphs 13(b)i and 13(b)ii below reasonably and accurately represent the value of the benefit the Business has received from the improved public infrastructure resulting from the Project.
 - i. If the Business fails to create and maintain such New Jobs, then the Business shall pay to the Governmental Unit or Commerce, as directed, an amount equal to the product of (i) **\$5,524.86 for each job not created** (the amount of Grant funds divided by the number of New Jobs required to be created in Paragraph 3(a)) and (ii) the number of New Jobs required to be created in Paragraph 3(a), minus the number of New Jobs actually created, above the Baseline Number of jobs reported, that have been in existence for six (6) consecutive months, as reflected on the Business' NCUI101 filings with Commerce's Division of Employment Security.
 - ii. Additionally, in the event that the Business fails to maintain its Baseline Number of jobs as required under Paragraph 3(a), the Business shall lose credit for any qualifying New Jobs under this LBC by the same number of jobs that the Baseline Number of jobs is short. For example, if the Baseline Number of jobs falls short by three (3) jobs as of the date the Business has

created and maintained all required New Jobs, the number of New Jobs deemed created and maintained shall be reduced by three (3). The amount the Business must pay shall then be calculated in accordance with Paragraph 13(b)i.

- iii. Either Commerce or the Governmental Unit shall notify the Business in writing of the amount to be paid and direct the Business whether to pay such amount to the Governmental Unit for return to Commerce or repay the amount directly to Commerce. All such amounts shall be due immediately upon demand by the Governmental Unit or Commerce. If not paid within thirty (30) days following demand, the unpaid amount due hereunder shall bear interest at the rate of 10% per annum after demand until paid. Upon default in such payment, the Governmental Unit or Commerce may employ an attorney to enforce their respective rights and remedies, and the Business hereby agrees to pay the legal costs and reasonable attorneys' fees of the Governmental Unit and Commerce plus all other reasonable expenses incurred by such party in exercising any of its rights and remedies upon such defaults.

- 14. No Waiver by Governmental Unit or the State. Failure of the Governmental Unit or the State (including, without limitation, the Rural Authority and Commerce) at any time to require performance of any term or provision of this LBC shall in no manner affect the rights of the Governmental Unit or the State at a later date to enforce the same or to enforce any future compliance with or performance of any of the terms or provisions hereof. No waiver of the Governmental Unit or the State of any condition or the breach of any term, provision or representation contained in this LBC, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of that or any other term, provision or representation.
- 15. Waiver of Objections to Timeliness of Legal Action. The Business knowingly waives any objections it has or may have to timeliness of any legal action (including any administrative petition or civil action) by the Governmental Unit or the State (including Commerce) to enforce their rights under this LBC. This waiver includes any objections the Business may possess based on the statutes of limitations or repose and the doctrines of estoppel or laches.

16. Special Provisions and Conditions.

- (a). Nondiscrimination. The Business agrees that it will not discriminate by reason of age, race, religion, color, sex, national origin or disability related to the activities of this LBC or the Project.
- (b). Compliance with Laws. The Business shall at all times observe and comply with all laws, regulations, codes, rules, ordinances and other requirements (together, "Laws") of the State, federal and local governments which may in any manner affect the performance of the LBC or the Project.
- (c). Non-Assignability. The Business shall not assign or transfer any interest in the LBC without the prior written consent of the Governmental Unit and Commerce; provided however, that claims for money due to the Business from the Governmental Unit under this LBC may be assigned to any commercial bank or other financial institution without such approval.
- (d). Personnel. The Business represents that it has or will secure at its own expense all personnel required to monitor, carry out and perform the scope of services of this LBC and the Project. Such employees shall not be employees of the State (including, without limitation, the Rural Authority or Commerce) or the Governmental Unit. Such personnel shall be fully qualified and shall be authorized under State and local law to perform such services.
- (e). Separate Agreements – Business. The Business warrants that, if it is a party to a separate grant agreement or loan with the State, then it shall remain in full compliance with that separate grant agreement or loan and with this Grant Agreement. Any default under the separate grant agreement or loan during the term of this Grant Agreement, as it may be extended, may be the basis for Commerce to deny payment under this Grant Agreement or request repayment of any funds previously paid in the discretion of Commerce.
- (f). Separate Agreements – Governmental Unit. The Governmental Unit understands and consents that, if it is a party to a separate grant agreement or loan with the State, then full compliance with that separate grant agreement or loan and with this Grant Agreement is required. Similarly, the Governmental Unit understands that if the Business is a party to a separate grant agreement or loan with the State, then the Business's full compliance with that separate grant agreement or loan and with this Grant Agreement is required.

17. Notice. All notices required or permitted hereunder and all communications in respect hereof shall be in writing and shall be deemed given when personally delivered or when deposited in the United States Mail, certified, return receipt requested, postage prepaid, and addressed as follows:

To the Governmental Unit: Attn: _____

To the Business: Attn: _____

or addressed to such other address or to the attention of such other individual as either party above shall specify in a notice pursuant to this subsection.

18. Entire Agreement. This LBC supersedes all prior agreements between the Governmental Unit and the Business with regard to the Grant Agreement, the LBC and the Project and expresses their entire understanding with respect to the transactions contemplated herein, and shall not be amended, modified or altered except pursuant to a writing signed by both Parties.
19. Execution. This LBC may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and all such counterparts, together, shall constitute one and the same LBC which shall be sufficiently evidenced by one of such original counterparts.
20. Construction, Jurisdiction and Venue. This LBC shall be construed and governed by the laws of the State of North Carolina. The Parties agree and submit, solely for matters concerning this Grant Agreement, to the exclusive jurisdiction of the courts of North Carolina and agree, solely for such purposes, that the only venue for any legal proceedings shall be Wake County, North Carolina. The place of this Grant Agreement, and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract, tort, or otherwise, relating to its validity, construction, interpretation, and enforcement, shall be determined.
21. Severability. Each provision of this LBC is intended to be severable and, if any provision of this LBC is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect or impair any other provision of this LBC, but this LBC shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

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

GOVERNMENTAL UNIT NAME: _____

By: _____ [SEAL]

Title: _____

BUSINESS NAME: _____

By: _____ [SEAL]

Title: _____

NORTH CAROLINA
PITT COUNTY

AGREEMENT

This AGREEMENT (hereinafter referred to as the "Agreement"), is made and entered into on this ____ day of _____, 2024, by and between GREENVILLE UTILITIES COMMISSION of the City of Greenville, North Carolina, 401 South Greene Street, P.O. Box 1847, Greenville, Pitt County, North Carolina 27835, a body politic duly chartered by the State of North Carolina (hereinafter referred to as "COMMISSION"), and CITY OF GREENVILLE, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter referred to as "CITY").

W I T N E S S E T H :

THAT WHEREAS, both COMMISSION and CITY desire to encourage industrial growth and development inside and outside the city limits of the City of Greenville, including in Indigreen Corporate Park which currently already has significant utility infrastructure in place to attract industry; and

WHEREAS, COMMISSION and CITY have identified the need for additional infrastructure in Indigreen Corporate Park so as to provide assistance to new industry and existing industries such as ThermoFisher Scientific, Avient, and Catalent, which said existing industries have also experienced growth over the past several years, and anticipate future growth including a significant expansion of ThermoFisher within the next 3 – 4 years; and

WHEREAS, more specifically, COMMISSION and CITY have identified the need for a 60 megawatt (MW) substation to serve future and existing customers in Indigreen Corporate Park, which the parties have estimated will cost in the neighborhood of \$9 million; and

WHEREAS, COMMISSION and CITY and Greenville-ENC Alliance and others are active partners in economic development efforts in Greenville and Pitt County, and are seeking various

sources of monies to assist with the construction of and the materials needed for this particular public infrastructure; and

WHEREAS, the parties desire to reduce to writing their agreements with respect to COMMISSION's and CITY's efforts to build a new 60 megawatt (MW) substation in Indigreen Corporate Park.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration passing from each party to the other, receipt of which is hereby respectively acknowledged by each of the parties hereto, COMMISSION and CITY do hereby agree each with the other as follows:

1. Together, the COMMISSION AND CITY will seek a \$2 million grant from the North Carolina Department of Commerce, Commerce Finance Center, Industrial Development Fund, Utility Account. Although such funds may not be used for the acquisition of land for the substation site, other costs relating to the purchase and installation of a substation in Indigreen Corporate Park may be eligible for payment under the terms of such grant.

2. COMMISSION hereby agrees to transfer to CITY the sum of \$666,666.00 which is a matching grant which is necessary under the prerequisites to the CITY filing an application for \$2 million in industrial development funds.

3. Upon receipt of such monies, CITY agrees to file an application in its name with the North Carolina Department of Commerce, Commerce Finance Center, Industrial Development Fund, Utility Account, for \$2 million with the express understanding that if received, such monies shall be returned to COMMISSION for the purpose of constructing the 60 megawatt (MW) substation.

4. CITY agrees to go through the necessary steps to apply for such grant including any required Public Notice and Public Hearing and City Council action which may be necessary prior to submitting an application for a grant of \$2 million as herein provided.

5. Such \$2 million ultimately being returned to COMMISSION shall include the \$666,666.00 provided by COMMISSION to CITY by transfer as a match, which is a prerequisite to such application.

6. In order to have such monies transferred by CITY to COMMISSION, COMMISSION shall acquire a site for the installation of such substation, shall purchase such land, and shall install such substation and any necessary appurtenances thereto in order to create a 60 megawatt (MW) substation to cover anticipated growth in Indigreen Corporate Park.

7. It is agreed between the parties that once COMMISSION's allowable expenditures exceed \$2 million on the project, COMMISSION shall be eligible for reimbursement from CITY so long as CITY receives the grant for which it has applied.

8. This Agreement shall be executed in multiple originals, one of which shall be retained by each of the parties hereto.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized representative on the date set forth above by its duly authorized officials for the purposes herein expressed.

COMMISSION:

GREENVILLE UTILITIES COMMISSION
OF THE CITY OF GREENVILLE, NC

By: _____
Anthony C. Cannon
General Manager/CEO

ATTEST:

Amy Wade, Executive Secretary

(OFFICIAL SEAL)

CITY: CITY OF GREENVILLE

By: _____
P.J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

(OFFICIAL SEAL)

NORTH CAROLINA
PITT COUNTY

I, _____, a Notary Public for the aforesaid County and State, do hereby certify that Amy Wade personally appeared before me this day and acknowledged that she is the Executive Secretary of Greenville Utilities Commission, and that by authority duly given and as an act of Greenville Utilities Commission, the foregoing instrument was signed in its name by Anthony C. Cannon, its General Manager/CEO, sealed with its official seal, and attested by herself as the Executive Secretary, all pursuant to the authority of the Board of Commissioners of Greenville Utilities Commission.

WITNESS my hand and seal, this the _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

NORTH CAROLINA
PITT COUNTY

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

WITNESS my hand and seal, this the _____ day of _____, 20____.

Notary Public

My Commission Expires: _____